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Institution: Inter-American Commission on Human Rights
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Title/Style of Cause: Nancy Fiallo Araque v. Colombia
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Decided by: Second Vice President: Felipe Gonzalez;
Commissioners: Sir Clare K. Roberts, Florentin Melendez, Paolo G. Carozza.
Dated: 12 November 2009
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Represented by: APPLICANTS: Colombian Commission of Jurists / Center for Justice and International Law
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ALLEGED VICTIM: Nancy Fiallo Araque

PETITIONER: Colombian Commission of Jurists (CCJ)/Center for Justice and International Law (CEJIL)

ALLEGED VIOLATIONS: Articles 1(1), 5, 8 and 25 of the American Convention on Human Rights

PROCEEDING START DATE: March 24, 1995

I. POSITION OF THE PETITIONERS

1. On February 27, 1995 the Inter-American Commission on Human Rights received a petition filed by the Colombian Commission of Jurists and the Center for Justice and International Law (hereinafter “the petitioners”). Along with the initial petition, the petitioners filed a request for precautionary measures in favor of Nancy Fiallo Araque, which was granted by the Commission. The petitioners argued that as of July 23, 1992 Nancy Fiallo Araque – educator and human rights’ advocate – had been victim of attacks against her personal integrity and death threats, she had been followed and there had been attempts to abduct her, presumably perpetrated by members of the group Anti-Abduction and Extortion Unit - UNASE (Unidad Antisecuestro y Extorsión) under the Fifth Army Brigade based out of Bucaramanga, Department of Santander.

2. The petitioners argue that throughout the proceeding before the IACHR the content of their communications and the State’s responses have revolved around the issue of precautionary

measures. Under such circumstance, the petitioners consider that the petition is not susceptible of moving forward and thus they request that it is archived.

II. POSITION OF THE STATE

3. In its communications the State makes reference to the issue of Nancy Fiallo Araque's safety and provides information about the measures it has adopted to provide her the protection she requires. Likewise, the State provides information about the status of the criminal investigations that had been conducted aimed to identify the parties responsible for the attacks against Nancy Fiallo Araque.

III. PROCEDURE BEFORE THE IACHR

4. On February 27, 1995 the IACHR received the initial petition and a request for precautionary measures. These were filed under number 11.449; after conducting a preliminary analysis of the petition, on March 24, 1995 it granted the precautionary measures and sent copy of the relevant parts to the State, with a 90-day period to submit information pursuant to Article 34(3) of the Rules in effect. On June 28, 1995[FN1], the Commission received the State's comments in which it addresses the issue of the precautionary measures, which was subsequently notified to the petitioners for their comments.

[FN1] Note V.R./D.H. 21244 of the Ministry of Foreign Affairs of Colombia dated June 23, 1995.

5. On September 13, 1995 the IACHR received a communication from the petitioners, which was notified to the State for its comments. In response, the State requested a 30-day extension to submit its comments, which was granted by the IACHR. The State filed its comments on January 22, 1997, which were notified to the petitioners for their comments. On March 25, 1997 the IACHR received communication from the petitioners which was then sent to the State for its comments. In response, the State requested a 45-day extension to file its comments, which was granted by the IACHR.

6. On September 17, 1996 the State submitted its comments' communication, which was then forwarded to the petitioners for their observations. On November 12, 1996 the IACHR received a communication from the petitioners, which was sent to the State for its comments. On January 2, 1997 the State presented its comments' letter, which was sent to the petitioners for comments. On June 18, 1997 the IACHR reiterated its request of information to the petitioners. On July 23, 1997 the IACHR received communication from the petitioners, which was then forwarded to the State for comments.

7. On October 29, 1997 the State submitted its comments communication, which was sent to the petitioners for comment. On January 15, May 12 and July 23, 1998 the State filed communications that contained additional information, which were then sent to the petitioners for comment. On November 5, 1999 the IACHR received a comment letter from the petitioners,

which was forwarded to the State for comments. On February 9, 2000 the State submitted its comment communication, which was forwarded to the petitioners for comment.

8. On May 8, June 14, August 15, November 15, 2000; January 30, April 6, June 6, September 13, and December 17, 2001 the State submitted documentation with additional information, which were forwarded to the petitioners for comment. On November 27, 2002 the IACHR received a comments' letter from the petitioners, which was forwarded to the State for comment. On January 22, 2003 the IACHR received a communication with additional information from the petitioners, which was forwarded to the State for comment.

9. On March 27, 2003 the State submitted its comments, which were forwarded to the petitioners for comment. On October 12, 2004 the IACHR requested the petitioners to provide updated information on Ms. Fiallo Araque's situation. This request was reiterated on November 10, 2005 without result. On April 3, 2009 the IACHR requested the petitioners to provide updated information on whether the grounds for the petition exist or subsist, otherwise it may archive the petition. On May 4, 2009 it received a communication from the petitioners requesting the petition to be archived.

IV. LEGAL BASIS FOR THE DECISION TO ARCHIVE THE CASE

10. Both article 48 paragraph b of the American Convention on Human Rights and article 30(6) of the Rules of the Inter-American Commission on Human Rights, state that, within the processing of a petition, once the observations have been received or the period set has elapsed with no observations received, the Commission shall verify whether the grounds for the petition exist or subsist. If it considers that they do not exist or subsist, it shall order the case archived.

11. This petition argued the violation of the rights enshrined in articles 1(1), 5, 8 and 25 of the American Convention as a result of the alleged attacks to Nancy Fiallo Araque's personal integrity and threats issued. On the other hand, the State argues that it has adopted the necessary protective measures on her behalf.

12. After the petition proceeding started and the precautionary measures were granted, the communications that the petitioners and the State sent to the IACHR revolved to the precautionary measures proceeding. For extended periods of time there has been no information on Nancy Fiallo Araque's situation because she has been and continues to be out of the country – outside Colombia's jurisdiction. Neither one of the parties has substantiated or responded to the initial claim about the alleged violation of articles 1(1), 5, 8 and 25 of the Convention and the petitioners have specifically expressed their lack of interest in reaching a decision on that claim.

13. Under those circumstances and pursuant to the request to archive the case filed by the petitioners, the Commission notes that the reasons that gave ground to the initial petition no longer exist, and thus in accordance to Article 48 paragraph b) of the Convention and Article 30(6) of the Rules of the IACHR, it decides to archive this petition. Therefore, it is pertinent to lift the precautionary measures.

Done and signed in the city of Washington, D.C., on the 12th day of the month of November, 2009. (Signed): Felipe González, Second Vice-President; Sir Clare K. Roberts, Florentín Meléndez, and Paolo G. Carozza, members of the Commission.