

REPORT No. 52/10¹
DECISION TO ARCHIVE
PETITION 509-05
COLOMBIA
March 18, 2010

ALLEGED VICTIM: Marina Concepción Ramírez

PETITIONER: Marina Concepción Ramírez

ALLEGED VIOLATIONS: The petitioner makes no direct reference thereto but implies possible violations of Articles 8 and 25 of the American Convention on Human Rights

DATE PROCESSING BEGAN: May 19, 2005

I. POSITION OF THE PETITIONER

1. On April 29, 2005 the Inter-American Commission on Human Rights received a petition filed by Mrs. Marina Concepción Ramírez (74) (hereinafter "the petitioner"). The petitioner states that she retired from *Universidad del Atlántico* and that in May 2003 the institution stopped paying her monthly pension and she therefore filed a protection claim. She alleges that on February 16, 2005, the Superior Court of the Barranquilla Judicial District ruled in favor of protecting her right to a living and to social security and ordered *Universidad del Atlántico* to pay the monthly arrears within 48 hours. She states, however, that the institution had not made the payment in question.

II. POSITION OF THE STATE

2. The State argues that, for reasons beyond its control, *Universidad del Atlántico* had been experiencing a fiscal deficit and cash flow situation that led it to resort to "cessation of payments," with a guarantee to meet its obligations and that this was the reason for non-payment of monthly pensions to Marina Concepción Ramírez. Accordingly, it notes, payment of the monthly pension was guaranteed through the mechanisms provided for in the liabilities restructuring law, as the monthly pension payments are special credit.

3. The State alleges that in compliance with the protection ruling by the Superior Court of the Barranquilla Judicial District, *Universidad del Atlántico* had taken the necessary steps to secure the funds and would have paid the monthly pension to the petitioner. It argues that the petition does not meet the requirement of prior exhaustion of domestic remedies and that, furthermore, none of the petitioner's rights protected under the American Convention had been breached, and it therefore requests Commission to declare the petition inadmissible.

III. PROCESSING BY THE IACHR

4. On April 29, 2005 the Commission received the initial petition, registered it as P509-05 and, after conducting a preliminary analysis of the petition, on May 19, 2005 it referred a copy of the relevant portions to the State with a deadline of 20 days for comments to be submitted, pursuant to Article 30.4 of the existing Rules of Procedure. On December 6, 2005,² the State filed its observation brief, which was referred to the petitioner for comment. On November 7, 2006 the IACHR received a letter from the

¹ In accordance with Article 17.2 of the Commission's Rules of Procedure, Commissioner Rodrigo Escobar Gil, a Colombian national, did not take part in the deliberation or decision of the present case.

² Note No. DDH 67875, dated December 5, 2005, from the Directorate of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs of the Republic of Colombia.

State.³ This was referred to the petitioner for comment, and reiterated the previous request for her to provide information.

5. On February 12, 2008 the State filed a brief reiterating its request for the petition to be declared inadmissible.⁴ This was referred to the petitioner for comment, reiterating as well the previous requests for information. On April 6, 2009 a communication was sent to the petitioner, requesting updated information, within a one month period, to ascertain whether the grounds for the petition subsisted and indicating that, if the information was not received within a one-month period, steps could be taken to archive the petition.

IV. BASIS FOR THE DECISION TO ARCHIVE

6. Both Article 48.b of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the Inter-American Commission on Human Rights state that, in proceedings on a petition, after the information has been received, or after the deadline passes and the information has not been received, the IACHR shall ascertain whether the grounds for the petition or communication still exist, and if they do not, it shall order the case archived.

7. This petition contains allegations of the alleged violation of rights enshrined in Articles 8 and 25 of the American Convention as a result of the failure to comply with the protection ruling by the Superior Court of the Barranquilla Judicial District for the petitioner to be paid monthly pensions owed her. The State, meanwhile, alleges that pursuant to the protection decision, *Universidad del Atlántico* had paid the monthly pension arrears.

8. After the proceedings commenced, the petitioner did not get back in touch with the Commission to inform it of her new address or contact details. Under such circumstances, it is not possible to determine whether grounds still exist to support the initial petition, and thus, in accordance with Article 48.b of the Convention and Article 42 of the Commission's Rules of Procedure, the decision is taken to archive this petition.

Done and signed in the city of Washington, D.C., on the 18th day of the month of March 2010. (Signed: Felipe González, President; Paulo Sérgio Pinheiro, First Vice-president; Dinah Shelton, Second Vice-president; María Silvia Guillén, and José de Jesús Orozco Henríquez, members of the Commission).

³ Note No. DDH. GOI/56580/2604, dated November 1, 2006, from the Directorate of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs of the Republic of Colombia.

⁴ Note DDH-GOI No. 5526/0308, dated February 5, 2008, from the Directorate of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs of the Republic of Colombia.