

REPORT No. 32/11¹
DECISION TO ARCHIVE
CASE 11.651
COLOMBIA
March 23, 2011

ALLEGED VICTIM: Luz Beatriz Pedraza Bernal

PETITIONER: Luis Gonzalo Mejía Uribe

ALLEGED VIOLATIONS: Article 11(1) of the American Convention on Human Rights

DATE PROCESSING BEGAN: July 19, 1996

I. POSITION OF THE PETITIONER

1. On February 12, 1996, the Inter-American Commission on Human Rights (hereinafter, “the Commission” or “the IACHR”) received a petition lodged by Luis Gonzalo Mejía Uribe (hereinafter, “the petitioner”), which alleged the responsibility of the Republic of Colombia for failure to reinstate Luz Beatriz Pedraza Bernal as an official of the Ministry of Foreign Affairs and for failure to pay her the wages and benefits that she was due.

2. The petitioner said that Luz Beatriz Pedraza Bernal was an official of the Ministry of Foreign Affairs from October 14, 1974, until March 17, 1988, and that her last post was at the Embassy of Colombia in Barbados. The petitioner held that on March 8, 1988, Luz Beatriz Pedraza Bernal was forced to resign as a result of the lack of response from the Ministry of Foreign Affairs to numerous requests by the alleged victim for medical leave, unpaid leave, or transfer to Bogota on the grounds of serious illness. The petitioner said that on March 30, 1988, Luz Beatriz Pedraza Bernal brought an administrative action to have the decree that accepted her resignation declared void on the ground that it was not voluntarily offered, as it stemmed from a “nervous breakdown.”

3. He said that on July 7, 1994, the Cundinamarca Administrative Tribunal voided Luz Beatriz Pedraza Bernal’s resignation and ordered the Ministry of Foreign Affairs to reinstate the alleged victim, specifically in the position of Counselor or at an equal or higher rank. The Tribunal also instructed the Ministry to acknowledge and pay her all back pay and benefits not received. The petitioner says that Luz Beatriz Pedraza Bernal was reinstated in the Ministry of Foreign Affairs by Decree 0392 of February 28, 1996. However, he claimed that the conditions did not comply with the judgment. He mentioned that on March 5, 1996, the alleged victim filed an appeal for reinstatement, which was refused by the Ministry of Foreign Affairs on May 7, 1996, for failure to meet all the formal requirements.

4. The petitioner claimed that Colombian domestic law offers no remedy protecting Luz Beatriz Pedraza Bernal against the alleged violation of her rights. Finally, the petitioner claims that the State is responsible for violation of Luz Beatriz Pedraza Bernal’s right to protection of her honor and dignity under Article 11 of the American Convention.

II. POSITION OF THE STATE

5. In response to the petitioner’s complaint, the State argued that the petition is inadmissible. It contended that the situation described in the petition was settled by a ruling of the Cundinamarca Administrative Tribunal of July 7, 1994, which ordered, *inter alia*, the reinstatement of Luz

¹ In accordance with Article 17(2) of the Rules of Procedure of the IACHR, Commissioner Rodrigo Escobar Gil, a Colombian national, did not participate in the discussion or decision in the present case.

Beatriz Pedraza Bernal in the Ministry of Foreign Affairs of Colombia, in the position of Counselor or at an equal or higher rank and that she be acknowledged and paid all the back pay and benefits that she did not receive following her termination. The State claimed that the Ministry of Foreign Affairs had complied with what the ruling ordered by adopting decree 0392 of February 28, 1996, and resolution 2639 of September 2, 1996.

6. The Colombian State said that the mere fact that the domestic courts had not ruled favorably on all of Luz Beatriz Pedraza Bernal's claims did not mean that there were no suitable and effective remedies at the domestic level and that the petitioner now intended that the Commission act as a court of fourth instance. It also argued that even though domestic remedies had been exhausted by the judgment of the Cundinamarca Administrative Tribunal, if the alleged victim believed that her rights had been infringed she had adequate and effective domestic remedies available to her, such as a writ of protection of fundamental rights, which had not been attempted.

7. Finally, the State argued that the petition does not raise colorable claims of violations under the American Convention and, therefore, requested that the IACHR declare the petition inadmissible.

III. PROCESSING BY THE IACHR

8. The IACHR received the petition on February 12, 1996, and registered it as number 11.651. After a preliminary analysis of the petition, on July 19, 1996, the IACHR proceeded to transmit it to the State, giving it 90 days to submit its comments. The petitioner sent additional information to the IACHR on June 21, September 6 and November 7, 1996, which was relayed to the State on July 24, September 11, and November 22, 1996, respectively. The State presented its response on November 25, 1996, and it was transmitted to the petitioner for comment. On February 19, 1997, the petitioner submitted his comments, which were forwarded to the State for comment.

9. On March 3, 1997, the petitioner presented additional information which was conveyed to the State. The petitioner presented further information on March 12, 1997, and that, too, was transmitted to the State. On April 24, 1997, the IACHR received a request from the State for an extension, which it granted. On June 12, 1997, the petitioner sent additional information to the IACHR, which was relayed to the State for comment. On July 8, 1997, the petitioner submitted additional information, which the IACHR relayed to the State for comment. On July 9, the Commission received the State's response, which was conveyed to the petitioner for comment.

10. On July 24, 1997, the petitioner presented further information, which the IACHR transmitted to the State for comment. On August 18, 1997, the IACHR received the petitioner's comments and passed them on to the State for it to submit such observations as it deemed appropriate. On September 24, 1997, the petitioner sent additional information, which the IACHR transmitted to the State for comment. On January 28, 1998, the IACHR received a request from the State for an extension, which was granted. On March 19 and June 10, 1998, the petitioner presented briefs containing additional information, which were relayed to the State for its observations. On August 6, 1998, the petitioner submitted additional information, which was relayed to the State for comment. The State presented its comments on November 24, 1998. On February 16, 2010, the IACHR sent a communication to the petitioner in which it gave it one month to submit up-to-date information indicating if the grounds for the petition still existed and that if there was no response the Commission could proceed to archive the matter, without receiving any reply.

IV. BASIS FOR THE DECISION TO ARCHIVE

11. Both Article 48(1)(b) of the American Convention and Article 42 of the Rules of Procedure of the IACHR provide that in the course of processing a petition, after the information has been received, or after the period established has elapsed and the information has not been received, the IACHR shall ascertain whether the grounds for the petition still exist. If they do not, it shall order the record to be archived.

12. The instant petition alleged a violation of the right to protection of honor and dignity recognized in Article 11 of the American Convention. The State, for its part, holds that the petition is inadmissible as it does not present a colorable claim of violations under the American Convention.

13. The last brief from the petitioner was received in 1998 and he has not contacted the Commission since then to provide it with his new address or contact information. In these circumstances it is not possible to determine if the grounds for the initial petition still exist. Therefore, in accordance with Article 48(1)(b) of the American Convention and Article 42 of the Rules of Procedure of the IACHR, the Commission has decided to archive the instant petition.

Done and signed in the city of Washington, D.C., on the 23rd day of March 2011. (Signed): Dinah Shelton, President; José de Jesús Orozco Henríquez, First Vice-President; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero, and María Silvia Guillén, Commissioners.