

INTER-AMERICAN COURT OF HUMAN RIGHTS

CASE OF THE SUPREME COURT OF JUSTICE (QUINTANA COELLO *ET AL.*) v. ECUADOR

JUDGMENT OF AUGUST 21, 2014 *(Interpretation of the Judgment on preliminary objection, merits, reparations and costs)*

In the case of the *Supreme Court of Justice (Quintana Coello et al.)*,

the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”), composed of the following judges:¹

Humberto Antonio Sierra Porto, President
Roberto F. Caldas, Vice President
Manuel E. Ventura Robles, Judge
Eduardo Vio Grossi, Judge, and
Eduardo Ferrer Mac-Gregor Poisot, Judge;

also present,

Pablo Saavedra Alessandri, Secretary, and
Emilia Segares Rodríguez, Deputy Secretary,

pursuant to Article 67 of the American Convention on Human Rights (hereinafter also “the American Convention” or “the Convention”) and Article 68 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”), decides the request filed on January 29, 2014, by the representatives of the victims (hereinafter “the representatives”) for interpretation of the Judgment on preliminary objection, merits, reparations and costs in this case delivered by this Court on August 23, 2013 (hereinafter also “the Judgment”).

¹ Judges Diego García-Sayán and Alberto Pérez Pérez, who sat on the Court when it delivered the Judgment on preliminary objection, merits, reparations and costs, excused themselves from the deliberation of this judgment on interpretation; the former presented his excuses, and the latter for reasons beyond his control.

I REQUEST FOR INTERPETATION AND PROCEEDINGS BEFORE THE COURT

1. On August 23, 2013, the Court delivered the Judgment, which was notified to the parties and to the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) on November 4 that year.
2. On January 29, 2014, the representatives filed a request for interpretation of the Judgment in relation to the scope of compensation as a form of reparation, and its distinction from remuneration obtained as a result of positions held following the “dismissal that violated the rights” of the victims. The request focused on the analysis of paragraph 240 of the Judgment. In addition, the representatives requested an interpretation of the “criteria as regards helpful and necessary evidence” under Article 58 of the Court’s Rules of Procedure “when the parties fail to provide evidence of the facts they are alleging.”
3. On March 12 and 13, 2014, the Commission and the State, respectively, presented their written arguments on the said request for interpretation.

II COMPETENCE

4. Article 67 of the Convention establishes that:

The judgment of the Court shall be final and not subject to appeal. In case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment.

5. In accordance with this article, the Court is competent to interpret its judgments. Pursuant to Article 68(3) of the Rules of Procedure, when examining the request for interpretation and taking a decision in this regard, the Court shall be composed, if possible, of the judges who delivered the respective judgment. On this occasion, the Court is composed of the judges who delivered the Judgment of which interpretation has been requested by the representatives.

III ADMISSIBILITY

6. The Court must verify whether the request presented by the representatives complies with the requirements established in the norms applicable to a request for interpretation of judgment; namely, Article 67 of the Convention, cited above, and Article 68 of the Rules of Procedure, the relevant parts of which establish:

1. The request for interpretation referred to in Article 67 of the Convention may be made in connection with judgments on preliminary objections, on the merits, or on reparations and costs, and shall be filed with the Secretariat. It shall state with precision questions relating to the meaning or scope of the judgment of which interpretation is requested.
[...]

4. A request for interpretation shall not suspend the effect of the judgment.

5. The Court shall determine the procedure to be followed and shall render its decision in the form of a judgment.

7. In addition, Article 31(3) of the Rules of Procedure establishes that: “[j]udgments and orders of the Court may not be contested in any way.”

8. The Court notes that the representatives filed their request for interpretation of the Judgment on January 29, 2014, within the time frame specified in Article 67 of the Convention, because the Judgment was notified on November 4, 2013. Consequently, the request is admissible as regards compliance with the time established for its presentation.

IV

ANALYSIS OF THE ADMISSIBILITY OF THE REQUEST FOR INTERPRETATION

9. The Court will now examine the representatives' request to determine whether, in accordance with the regulations and also the standards developed in its case law, it is admissible to clarify the meaning or scope of paragraph 240 of the Judgment. In that paragraph the Court established that:

"As to the point that some judges held positions in the public sector after their dismissal, this Court recalls that the payment of back wages is a measure of reparation for their untimely loss of employment and their legitimate expectation of continuing to receive these earnings. In this case, the former judges had the legitimate expectation of receiving salaries for life provided they did not act in a manner that constituted grounds for dismissal, which may have led them to take on greater financial commitments and life expectations than they might otherwise have had [...]. In this regard, the State pointed out that some of the judges had held public office after their dismissal, which should have been taken into account when calculating their compensation. In particular, the State mentioned that Messrs. Donoso, Troya and Velasco had held other positions within the public administration. On this matter, the Court questioned the State about the applicable domestic regulations related to the prohibition to receive two salaries as a public official and expressly asked the State to provide evidence in order to determine which of the judges would have held other posts. On this point, the Court notes that, although the State referred to the positions that these judges apparently held after their dismissal from the Supreme Court, the fact is that the State did not provide evidence concerning the positions they held, the period for which they did so, or the amount of the salaries that Messrs. Velasco, Troya and Donoso would have obtained in the exercise of those positions. Therefore, the Court considers it necessary to set a period of three months, as of notification of this Judgment, for the State to establish and forward to this Court the exact amount allegedly received by judges Donoso, Troya and Velasco for holding other public positions, so that said amount may be deducted from the compensation that will subsequently be set after the victims have been heard and in the context of monitoring compliance with this Judgment [...]. If the State should fail to provide this information within the established period, the amount for pecuniary damages for Judges Donoso, Troya and Velasco shall be deemed to be that specified in this Judgment."

10. The Court will examine the questions raised by the representatives, as well as the arguments presented by the State, and the Commission.

Arguments of the parties and of the Commission

11. The representatives argued that compensation as a measure of reparation "cannot be equated with a possible remuneration in the form of salaries for future employment, even if these are in the public sector." They added that "nor can it be equated with the concept of holding more than one job, because reparation relates to compensation for the violation of rights, while remuneration relates to the income obtained from employment." Therefore, "remuneration for future positions held in the public sector after the human rights violation had occurred could not be deducted." They indicated that if "holding a public position was a way of redressing a human rights violation," the reparation "would be rather meaningless."

12. The representatives also indicated that the victims "were faced with unemployment," and that some of them obtained positions in the public administration, while others obtained paid employment in either the public or the private sector. The representatives argued that "the fact that three persons had gone back to work in the public sector and that a deduction from the compensation had been ordered, signified a differentiated treatment in relation to other victims" who "were also entitled to compensation, but not to a deduction from the amount of the reparation. This treatment could be considered discriminatory and w[ould]

make a distinction that prejudice[d] the legitimate right of the three victims [in this case] to receive full redress.”

13. Furthermore, the representatives argued that, “according to legal doctrine,” “remuneration is totally distinct from compensation”; hence, paying “compensation for a violation of rights declared in a judgment with the victim’s own remuneration, [would] not be fair or legally justifiable.” They added that, under the laws in force at the time the judges were dismissed, “there was no possibility of deducting income received when calculating compensation.” They mentioned that the compensation “is for the violation of a law and cannot be offset, reduced or subject to deductions, owing to possible subsequent employment, even if this should be in the same institution.”

14. In addition, the representatives stated that they “found it strange” that the Court had “considered a fact (remuneration received by some victims following an act that violated their rights)” presented in the public hearing and not in the answer to the motions and arguments brief, “without any probative support, and that, in order to prove this fact, the Court had granted a time frame for the presentation of evidence in the Judgment.” They indicated that the fact “should have been presented prior to the hearing and the State should have proved it opportunely,” so that the former judges concerned “would have been able to defend themselves, contest it, and avoid the surprise in the judgment.” Lastly, they indicated that “since the requested evidence prejudices the amount of the compensation resulting from a human rights violation declared in the judgment, it was neither helpful nor necessary to clarify the facts, or to constitute a right.”

15. In this regard, the State indicated that what the representatives sought “would be a modification or amendment of the Judgment,” and that “the fact that the judges held new public positions had been proved during the proceedings by the State’s arguments and the statements made during the hearing.” It added that it was not possible to allege the violation of the right to contest and challenge this, because paragraph 240 sets out the opinion of the parties on the information provided by the State. It also indicated that the representatives should have asserted [their argument] during the processing of the case.” The State also indicated that paragraph 240 of the Judgment “is written in simple and unambiguous terms.”

16. Meanwhile, the Commission considered that, in the context of the process for deciding the reparation established in paragraph 240 of the Judgment, “the arguments and questions submitted by the representatives are relevant as regards the scope of the compensation indicated in paragraph 240.”

Considerations of the Court

17. As this Court has decided previously in its consistent case law, a request for interpretation of judgment cannot be used as a means for contesting the decisions the interpretation of which is requested. The purpose of this type of request is exclusively to determine the meaning of a judgment when one of the parties asserts that the text of its operative paragraphs or of its considerations is unclear or imprecise, provided that those considerations have an impact on the said operative paragraphs.² Consequently, it is not

² Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the judgment on merits*. Order of the Inter-American Court of Human Rights of March 8, 1998. Series C No. 47, para. 16, and *Case of the Massacre of El Mozote and nearby places v. El Salvador. Interpretation of the judgment on merits, reparations and costs*. Judgment of August 19, 2013. Series C No. 264, para. 17.

possible to request the amendment or annulment of the respective Judgment by a request for interpretation.³

18. The Court has also indicated the inadmissibility of using a request for interpretation to submit legal and factual issues that have been brought up at the appropriate procedural moment and regarding which the Court has already taken a decision,⁴ or with the intention that the Court re-evaluate matters that it has decided in the Judgment.⁵ Similarly, this mechanism cannot be used to seek an expansion of the scope of a measure of reparation that has been ordered opportunely.⁶ Moreover, the Court has also indicated that the presentation of abstract or hypothetical situations bears no relationship to the purpose of a request for interpretation of Judgment.⁷

19. The Court notes that paragraph 240 of the Judgment refers to the situation of some of the judges who, following their dismissal, obtained posts in the public sector. The Judgment mentions that the State had been asked about this and that it had not provided any evidence concerning the positions the judges had held following their dismissal or the amount of the salaries that some of the judges would have obtained in the exercise of those positions. Consequently, the Court found it appropriate to indicate a time frame within which the State should forward this information so that, subsequently, it could establish the respective compensation, after receiving the observations of the victims, and in the context of monitoring compliance with the Judgment.

20. In this regard, the representatives seek a modification of the decision taken by the Court to grant the State a time frame for authenticating the amounts that Messrs. Donoso, Troya and Velasco would have received for holding public office. In addition, the representatives reject the decision, if these amounts are proved, to deduct them from the amounts established in the Judgment as compensation for pecuniary damage. Taking into account the determinations and clarifications made by the Court in paragraph 240, the request for interpretation is inadmissible because it represents a form of challenging the considerations and decisions adopted by the Court in relation to the information, arguments and evidence available when it took a decision on compensation. The Court considers that the representatives seek a re-assessment of matters that have already been decided by the Court, with no possibility that the Judgment may be amended or expanded, in accordance with Articles 67 of the American Convention and 31(3) and 68 of the Court's Rules of Procedure.

³ Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the judgment on merits*, para. 16, and *Case of the Massacre of El Mozote and nearby places v. El Salvador. Interpretation of the Judgment on merits, reparations and costs*, para. 17.

⁴ Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the judgment on reparations and costs*. Judgment of June 3, 1999. Series C No. 53, para. 15, and *Case of the Massacre of El Mozote and nearby places v. El Salvador. Interpretation of the Judgment on merits, reparations and costs*, para. 18.

⁵ Cf. *Case of Salvador Chiriboga v. Ecuador. Interpretation of the judgment on reparations and costs*. Judgment of August 29, 2011. Series C No. 230, para. 30, and *Case of the Massacre of El Mozote and nearby places v. El Salvador. Interpretation of the Judgment on merits, reparations and costs*, para. 18.

⁶ Cf. *Case of Escher et al. v. Brazil. Interpretation of the judgment on preliminary objections, merits, reparations and costs*. Judgment of November 20, 2009. Series C No. 208, para. 11, and *Case of the Massacre of El Mozote and nearby places v. El Salvador. Interpretation of the Judgment on merits, reparations and costs*, para. 18.

⁷ Cf. *Case of Cesti Hurtado v. Peru. Interpretation of the judgment on merits*. Judgment of November 19, 1999. Series C No. 62, para. 27, and *Case of the Massacre of El Mozote and nearby places v. El Salvador. Interpretation of the Judgment on merits, reparations and costs*, para. 18.

V
OPERATIVE PARAGRAPHS

21. Therefore,

THE COURT,

pursuant to Article 67 of the American Convention on Human Rights and Articles 31(3) and 68 of the Rules of Procedure,

DECIDES:

Unanimously,

1. To reject as inadmissible the request for interpretation of the Judgment on preliminary objection, merits and reparations delivered in the case of the Supreme Court of Justice (Quintana Coello *et al.*), filed by the representatives of the victims, for the reasons indicated in the relevant paragraphs of this Judgment.

2. To require the Secretariat of the Court to notify this Judgment to the State of Ecuador, the representatives of the victims and their next of kin, and the Inter-American Commission on Human Rights.

Done, at San José, Costa Rica, on August 21, 2014, in the Spanish and English languages, the Spanish text being authentic.

Humberto Antonio Sierra Porto
President

Roberto F. Caldas

Manuel E. Ventura Robles

Eduardo Vio Grossi

Eduardo Ferrer Mac-Gregor Poisot

Pablo Saavedra Alessandri
Secretary

So ordered,

Humberto Antonio Sierra Porto
President

Pablo Saavedra Alessandri
Secretary