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| Institution: | Inter-American Commission on Human Rights |
| File Number(s): | Report No. 107/01; Case 11.542 |
| Session: | Hundred and Thirteenth Regular Session (9 – 17 October and 12 – 16 November 2001) |
| Title/Style of Cause: | Angel Reiniero Vega Jimenez v. Ecuador |
| Doc. Type: | Decision |
| Decided by: | President: Claudio Grossman; First Vice-President: Juan E. Mendez; Second Vice-President: Marta Altolaguirre; Commissioners: Helio Bicudo, Robert K. Goldman, Peter Laurie. Commissioner Julio Prado Vallejo, of Ecuadorian nationality, did not participate in the discussion of this case, in keeping with Article 17 of the Commission's Rules of Procedure. |
| Dated: | 11 October 2001 |
| Citation: | Vega Jimenez v. Ecuador, Case 11.542, Inter-Am. C.H.R., Report No. 107/01, OEA/Ser./L/V/II.114, doc. 5 rev. (2001) |
| Represented by: | APPLICANT: the Comision Ecumenica de Derechos Humanos |
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I. SUMMARY

1. On November 8, 1994, the Comisión Ecuménica de Derechos Humanos (“CEDHU”) (hereinafter “the petitioner”) presented a petition to the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) against the Republic of Ecuador (hereinafter “the State”) in which it alleged the violation of the following rights protected by the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”): the right to life (Article 4), the right to humane treatment (Article 5), the right to personal liberty (Article 7), the right to a fair trial (Article 8), and the right to judicial protection (Article 25), in violation of the obligations that appear at Article 1(1), to the detriment of Mr. Angel Reiniero Vega.

2. The parties reached a friendly settlement agreement in this case on August 15, 2001. This report contains a brief presentation of the facts and the text of the agreement reached, in keeping with Article 49 of the Convention.

II. FACTS

3. On May 5, 1994, INTERPOL agents[FN1] in Loja forcibly entered the home of Angel Vega, and, without any arrest warrant, entered the house breaking down doors, and beating him as he was taken from his room to the yard, where he was taken, kicking him, under accusations

of drug trafficking. According to the complaint, Angel Vega was a drug user, which was known by the INTERPOL agents who blackmailed him, asking him for money. They detained him and later took him to the Hospital Isidro Ayora, where he died. According to the complaint, the autopsy confirmed that the death was probably caused by asphyxiation from suffocation; the possibility of a toxic cause of death was not ruled out. In addition, the autopsy indicates that the body had a series of hematomas, ecchymoses, and excoriations, as a result of the blows he received. The following persons witnessed what happened: César Cruz, Luis Sarango, Luis Romeo, and Marta Maita.

[FN1] INTERPOL is the International Criminal Police Organization.

4. A complaint was lodged with the First Criminal Judge of Loja, to have the facts investigated, in which it was stated, in addition to the foregoing, that María Alicia Cruz witnessed Angel Vega bleeding at the forehead and nose, due to the blows by the agents the day of the events. It was also stated that on that day Luis Alfonso Cruz was detained by the same agents, who confused him with a drug dealer, and that said Luis Alfonso Cruz led the agents to the place where Angel Vega lived.

5. In the conclusions of the autopsy performed on the corpse of Angel Vega, it states: "... one cannot discard the toxic origin of the death (acute intoxication), due to the anoxic signs found and the gastric material. With the toxicological result a definitive diagnosis will be determined, as it is very possible that narcotic or psychotropic substances were ingested. The external lesions (ecchymoses, excoriations, and hematomas) indicate violence carried out moments or hours before death, and provoked by the traumatic action of a hard and blunt object (hematomas and ecchymoses), and by friction against the skin of a hard and coarse surface (excoriations). Some small lesions indicate that they have been caused by the action of heat (burns)...."

III. PROCESSING BEFORE THE COMMISSION

6. On February 13, 1995, the Commission sent the respective notes to the State and petitioner. On September 19, 1995, the Government of Ecuador presented its answer to the complaint. The steps provided for in the Commission's Rules of Procedure were followed. On April 2, 2001, the Commission received a communication from the Government of Ecuador containing a list of cases for pursuing friendly settlement, including this one. The friendly settlement agreement was signed on August 15, 2001, with the presence of Commissioner Marta Altolaquirre, member of the IACHR and rapporteur for Ecuador, who had traveled to Quito to facilitate the agreement. The parties asked the Commission to ratify this friendly settlement agreement in its entirety and supervise its implementation.

IV. FRIENDLY SETTLEMENT AGREEMENT

7. The friendly settlement agreement signed by the parties indicates:

I. BACKGROUND

The Ecuadorian State, through the Office of the Attorney General, with a view to promoting and protecting human rights and given the great importance of the full observance of human rights at this time for the international image of our country, as the foundation of a just, dignified, democratic, and representative society, has decided to take a new course in the evolution of human rights in Ecuador.

The Office of the Attorney General has initiated conversations with all persons who have been victims of human rights violations, aimed at reaching friendly settlement agreements to provide reparations for the damages caused.

The Ecuadorian State, in strict compliance with the obligations it acquired upon signing the American Convention on Human Rights and other international human rights law instruments, is aware that any violation of an international obligation that has caused damages triggers the duty to make adequate reparations--monetary reparations and criminal punishment of the perpetrators being the most just and equitable form. Therefore the Office of the Attorney General and Mrs. Rosario del Carmen Jiménez Peña, mother of Mr. Angel Reiniero Vega Jiménez (deceased), have reached a friendly settlement, pursuant to the provisions of Articles 48(1)(f) and 49 of the American Convention on Human Rights and Article 41 of the Rules of Procedure of the Inter-American Commission on Human Rights.

II. THE PARTIES

The following persons were present at the signing of this friendly settlement agreement:

- a. For the first party, Dr. Ramón Jiménez Carbo, Attorney General of the State, as indicated in his appointment and certificate of office, which are attached as qualifying documents;
- b. For the second party Mrs. Rosario del Carmen Jiménez Peña, with citizen identification number 190009668-4, mother of Mr. Angel Reiniero Vega Jiménez (deceased), which is attached hereto as qualifying documents.

III. STATE RESPONSIBILITY AND ACCEPTANCE

The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mr. Angel Reiniero Vega Jiménez, recognized in Article 4 (right to life), Article 8 (right to a fair trial), Article 5 (right to humane treatment), Article 7 (right to personal liberty), and Article 25 (right to judicial protection), in relation to the general obligation contained in Article 1(1) of the American Convention on Human Rights and other international instruments, considering that the violations were committed by State agents, which could not be disproved by the State, giving rise to State responsibility.

Given the above, the Ecuadorian State accepts the facts in case N° 11.542 before the Inter-American Commission on Human Rights and undertakes the necessary reparative steps to compensate the victims, or their successors, for the damages caused by those violations.

IV. COMPENSATION

In view of the foregoing, the Ecuadorian State, through the Attorney General, as the sole judicial representative of the Ecuadorian State, pursuant to Article 215 of the Constitution of Ecuador, enacted in Official Register No. 1 and in force since August 11, 1998, is awarding Mrs. Rosario del Carmen Jiménez Peña, with citizen identification number 190009668-4, mother of Mr. Angel Reiniero Vega Jiménez (deceased), a one-time compensatory payment in the amount of thirty thousand US dollars (US\$ 30,000), to be paid from the National Budget.

This compensation covers the consequential damages, loss of income, and moral damages suffered by Mr. Angel Reiniero Vega Jiménez, as well as any other claims that Mrs. Rosario del Carmen Jiménez Peña and Miguel Vega Jiménez, the parents of Mr. Angel Reiniero Vega Jiménez, or their family members may have regarding the subject of this agreement, under domestic and international law, and is chargeable to the National Budget. To this end, the Office of the Attorney General will notify the Ministry of Economy and Finance, for it to carry out this obligation.

V. PUNISHMENT OF THE PERSONS RESPONSIBLE

The Ecuadorian State pledges to bring civil and criminal proceedings and pursue administrative sanctions against those persons who are alleged to have participated in the violation in the performance of State functions or under the color of public authority.

The Office of the Attorney General pledges to encourage the State Attorney General, the competent judicial organs, and public agencies or private institutions to contribute legal evidence to determine the liability of those persons. If admissible, the prosecution will be subject to the constitution and laws of the Ecuadorian State.

VI. RIGHT TO SEEK INDEMNITY

The Ecuadorian State reserves the right to seek indemnity, pursuant to Article 22 of the Constitution of the Republic of Ecuador, from those persons found responsible for human rights violations through a final and firm judgment handed down by the country's courts or when administrative liability is found, in keeping with Article 8 of the American Convention on Human Rights.

VII. TAX EXEMPTION AND DELAY IN COMPLIANCE

The payment made by the Ecuadorian State to the other party to this agreement is not subject to any current or future taxes.

VIII. REPORTING

The Ecuadorian State, through the Office of the Attorney General, agrees to report every three months to the Inter-American Commission on Human Rights on compliance with the obligations assumed by the State in this friendly settlement agreement.

In keeping with its consistent practice and obligations under the American Convention, the Inter-American Commission on Human Rights will oversee compliance with this agreement.

IX. LEGAL BASIS

The compensatory damages that the Ecuadorian State is awarding to Mr. Angel Reiniero Vega Jiménez are provided for in Articles 22 and 24 of the Constitution of the Republic of Ecuador, for violation of the constitution, other national laws, and the standards in the American Convention on Human Rights and other international human rights instruments.

This friendly settlement is entered into based on respect for the human rights enshrined in the American Convention on Human Rights and other international human rights instruments and on the policy of the Government of Ecuador to respect and protect human rights.

X. NOTIFICATION AND CONFIRMATION

Mrs. Rosario del Carmen Jiménez Peña specifically authorizes the Attorney General to notify the Inter-American Commission on Human Rights of this friendly settlement agreement, so that the Commission may confirm and ratify it in its entirety.

XI. ACCEPTANCE

The parties to this agreement freely and voluntarily express their conformity with and their acceptance of the content of the preceding clauses and state for the record that they hereby end the dispute before the Inter-American Commission on Human Rights on the international responsibility of the State for violating the rights of Mr. Angel Reiniero Vega Jiménez.

V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

8. The Commission determined that the foregoing friendly settlement agreement is compatible with the provisions of Article 48(1)(f) of the American Convention.

VI. CONCLUSIONS

9. The Commission values the signing of a friendly settlement agreement in the terms of the American Convention, on which the State and petitioner reached agreement.

10. The IACHR will continue to monitor compliance with the commitment assumed by Ecuador regarding the proceedings to be brought against the persons implicated in the events alleged.

11. The IACHR ratifies that the option of friendly settlement provided for in the American Convention makes it possible to terminate individual cases in a non-contentious manner, and has proven, in cases regarding several countries, to be an important procedure for resolving alleged violations that can be used by both parties (petitioner and State).

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To certify compliance by the State with the payment of US\$ 30,000 to the petitioner in this case as compensation.
2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.
3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.
4. To make this report public and include it in its Annual Report to the OAS General Assembly.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., October 11, 2001. (Signed): Claudio Grossman, President; Juan E. Méndez, First Vice-President; Marta Altolaguirre, Second Vice-President; Commissioners Hélio Bicudo, Robert K. Goldman, and Peter Laurie.