



Aranzazu Meneses de Jiménez v. Colombia

P2779-02, Inter-Am. C.H.R., Report No. 50/10 (2010).

Country: Colombia

Region: Americas

Year: 2010

Court: Inter-American Commission on Human Rights Inter-American Commission on Human Rights

Health Topics: Violence

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment, Freedom of movement and residence, Right to bodily integrity, Right to due process/fair trial, Right to liberty and security of person, Right to life, Right to work

Facts

Aranzazu Meneses de Jiménez, a General Service Operator at the Maria Inmaculada Hospital, filed a petition against the Republic of Colombia alleging a violation of article 4 (right to life), article 5 (right to humane treatment), and article 25 (right to judicial protection) of the American Convention on Human Rights and Articles 1, 2, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture. Further, the petitioner claims violations of article 7 (right to personal liberty), article 8 (right to a fair trial), and article 22 (right to movement and residence) of the American Convention on Human Rights and of article 6 (right to work) and article 7 (right to just, equitable, and satisfactory conditions of work) of the Additional Protocol to the American Convention in the Area of Economic, Social and Cultural Rights.

The petitioner argued that in three situations, the State had failed to protect the medical profession and the rights of health-sector workers. First, she claimed that she was the target of several death threats against her and her family, and in 2001, she suffered a physical attack in which an unidentified man attempted to kill her by discharging a firearm at her. Her demand to be transferred to another city was initially denied until the court ordered the hospital to do so. Further, she alleged that no investigation was conducted regarding her aggression. Second, the petitioner alleged that the State did not comply with a protective remedy intended to safeguard her right to security and employment. Finally, she argued that her forced displacement does not enable her to live with a stable source of income to satisfy her needs and those of her family.

The State argued that the petitioner provided insufficient evidence regarding the alleged attack and the threats suffered for the Commission to make a decision on the merits. The State claimed that the demand for relocation was taken into account according to the availabilities in the State at the time and that criminal investigations had begun as soon as the alleged attack was brought to the State's attention. The State held that the hospital had started the formalities to comply with the protective remedy to safeguard the petitioner's right to security and employment before the judgment but that no vacancies were available. Finally, the State asked the court to deny the admissibility of the petition for failure to exhaust domestic remedies.

Decision and Reasoning

After recognizing its competency and declaring the petition admissible, the Commission found that the State had failed to investigate the alleged attack and threats, which "could tend to establish possible violations" of the right to fair trial under the American Convention of Human Rights.

However, the Commission held that the petitioner failed to prove a breach of the rights to life, to human treatment, to personal liberty and to work, as the evidence submitted focused on the failure to investigate the alleged attack and threats. Further, the violation of the freedom of movement and residence was denied considering the context of internal displacement in Colombia and its manifestation at the time.

The Court decided to continue with the analysis of the merits of the petition.

Decision Excerpts

"9. They claim that at the time of the incidents, there was a pattern of failing to respect the special protection afforded the medical profession and the rights of health sector workers. They state, for example, that in September 2001, the management of the María Inmaculada Hospital in Florencia, department of Caquetá,

reported threats against four of its employees, including Aranzazu Meneses de Jimenez."

"31 (...) It also says that as soon as the alleged victim so requested, the State pursued administrative steps to offer her the opportunity of relocating to and working in other parts of the country, according to the possibilities then available to the State. In this regard it notes that on March 13, 2002, the hospital manager stated she had checked the availability of a vacancy for Aranzazu Meneses at other health facilities."

"62. Regarding the alleged displacement, the Commission notes that having seen the context of internal displacement in Colombia and its manifestations, and given the elements of fact in this petition, it must determine the State's possible responsibility for the alleged violation of the right of freedom of movement and residence enshrined in Article 22.1 of the American Convention, in conjunction with Article 1.1 thereof, in the displacement of Aranzazu Meneses."

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