



INTER - AMERICAN COMMISSION ON HUMAN RIGHTS
 COMISION INTERAMERICANA DE DERECHOS HUMANOS
 COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS
 COMMISSION INTERAMÉRICAINÉ DES DROITS DE L'HOMME



ORGANIZACIÓN DE LOS ESTADOS AMERICANOS

WASHINGTON, D.C. 2 0 0 0 6 EEUU

December 5, 2013

Ref.: Case No. 12.214
Canales Huapaya et al.
Peru

Mr. Secretary:

I am pleased to address you on behalf of the Inter-American Commission on Human Rights in order to file Case No. 12.214 *Canales Huapaya et al. vs Peru* (hereinafter "the State", "the Peruvian State" or "Peru") before the jurisdiction of the Honorable Inter-American Court of Human Rights regarding the violations to the judicial guarantees and judicial protection in detriment of Carlos Alberto Canales Huapaya, José Castro Ballena and María Gracia Barriga Oré, as well as the lack of adequate and effective judicial response regarding the dismissal of their posts as permanent Congressional employees. With respect to Mr. Carlos Alberto Canales Huapaya, on August 6, 1998, the Constitutional Court ruled that his complaint was inadmissible because it considered that his claim could not be heard on the basis of an appeal on constitutional grounds. As for José Castro Ballena and María Gracia Barriga Oré, on September 25, 1998, the Constitutional Court declared that their appeal was without merits, because they felt that the dismissal was in strict compliance with the legal framework and the Constitution. The facts of the present case share the essential characteristics of the Case of the Dismissed Congressional Employees v. Peru at the Inter-American Court of Human Rights, where the Court concluded that those facts occurred in the context of a legal framework that prevented the victims to be clear about the way to which they were able to challenge their dismissals.

The State ratified the American Convention on Human Rights on July 12, 1978, and accepted the Court's contentious jurisdiction on January 21, 1981.

The Commission has designated Commissioner José Orozco Henríquez and Emilio Álvarez Icaza L., Executive Secretary, as its delegate. Likewise, Elizabeth Abi-Mershed, Deputy Executive Secretary, Silvia Serrano Guzmán and Daniel Cerqueira, attorneys of the Executive Secretariat of the IACHR, have been designated to serve as legal advisors.

Pablo Saavedra Alessandri, Secretary

Inter-American Court of Human Rights
Apartado 6906-1000, San José, Costa Rica

In accordance with Article 35 of the Rules of Procedure of the Inter-American Court, the Commission is enclosing a copy of Merits Report No. 126/12, prepared in compliance with Article 50 of the American Convention, as well as a copy of the entire file before the Inter-American Commission (Appendix I.) and the attachments used to prepare the Report on the Merits (Attachment). The Report was transmitted to the State on December 5, 2012, granting it two months to provide information on the measures adopted in compliance with the recommendations.

After the notification above mentioned, the Commission granted three extensions of three months each one to the state of Peru. In its extension requests the State indicated that one of the victims kept working with the Congress of the Republic and pending an assessment of the situation of each of the victims by the Congress to determine the relevance of fulfilling with the report's recommendation to fund the Commission. By mean of the communication granting the third extension to the Peruvian State, the Commission stated that in accordance with the provisions of Article 46 of the Regulations of the Commission, any additional extension requests would be conditioned on the State's express manifestation of fulfillment of the recommendation, and on the State's report on a concrete implementation proposal. On November 22, 2013, the State requested a fourth extension to the Inter-American Commission in which no information about substantive progress in implementing the recommendation was provided. In such circumstances, the Commission decided to deny the fourth extension request.

In accordance to the above mention, the Commission submits the instant case to the jurisdiction of the Inter-American Court out of the need to obtain justice for the victims. The Commission submits to the Inter-American Court all the facts and violations of Human Rights described on the Merits Report 126/12.

In this regard, the Commission requests the Court to adjudge and declare that the State of Peru is responsible for the violation of the rights enshrined in Articles 8.1 and 25.1 of the American Convention, in connection with articles 1.1 and 2 thereof international, to the detriment of Carlos Alberto Canales Huapaya, José Castro Ballena and María Gracia Barriga Oré. In consideration of the foregoing conclusions, the Commission recommended that the State:

Adequately repair the tangible and intangible damages caused as a result of the human rights violations stated in the present report, in conformity with what was decided by the Inter-American Court of Human Rights in its judgment of November 24, 2006 in the Case of the Dismissed Congressional Employees and by the Special Committee established by the Peruvian State for the purpose of enforcing said judgment.

Apart from the need to obtain justice, the Commission highlights that the facts of the case are the reflection of a context of legal uncertainty and consequent judicial helplessness from potential arbitrary acts of public authority under the collective dismissals that occurred at the time. Thus, the case goes beyond the victims in this case. In addition, the case will

allow an analysis by the Court regarding the absence of a response and reparation mechanism to the problem of lack of effective access to justice for collective dismissals, to the extent that the submission of the case to the Court shows that the measures taken by the State as part of the compliance with the judgment of the Dismissed Congressional Employees v. Peru has not impacted others in the same situation.

Since these matters affect in a significant manner the inter-American public order of human rights, pursuant to Article 35.1.f of the Rules of Procedure of the Inter-American Court, the Commission wishes to offer declarations by the following expert

A person whose name will be informed shortly, who shall testify on the standards to take into consideration in order to analyze the suitability and effectiveness of the reparations designed by a State to respond to a context of violation of the right to justice in relation to a context of collective dismissals in the public function.

The expert's CV will be included in the Merits Report 126/12.

Finally, the petitioners expressed the victims' interest in the submission of the present case to the Inter-American Court and informed that the following shall be representatives of the victims:

Carlos Alberto Canales Huapaya

[REDACTED]

Ronald Christiam Sánchez Fernández

[REDACTED]

José Castro Ballena

[REDACTED]

Nera Aparicio
Authorized by Executive Secretary