

Inter-American Court of Human Rights

Case of Raxcacó-Reyes v. Guatemala

Judgment of February 6, 2006 (*Interpretation of the Judgment of Merits, Reparations and Costs*)

In the case of *Raxcacó-Reyes*,

the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court"), composed of the following judges:**

Sergio García-Ramírez, President;
Alirio Abreu-Burelli, Vice President;
Oliver Jackman, Judge;
Antônio A. Cançado Trindade, Judge;
Cecilia Medina-Quiroga, Judge, and
Manuel E. Ventura-Robles, 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 "the Convention" or "the American Convention") and Article 59 of its Rules of Procedure (hereinafter "the Rules of Procedure"), resolves on the request for interpretation of the Judgment on the Merits, Reparations and Legal Costs delivered by the Court on September 15, 2005 in the case of Raxcacó-Reyes (hereinafter "the request for interpretation"), filed by the State of Guatemala (hereinafter "the State" or "Guatemala") on November 30, 2005.

I

JUDGMENT ON THE MERITS, REPARATIONS AND COSTS

1. On September 15, 2005, the Court rendered the Judgment on the Merits, Reparations and Costs in the instant case (hereinafter "the Judgment on the Merits"), by which, in its pertinent parts, it:

DECLARE[D]:

Unanimously, that:

** Judge Diego García-Sayán informed the Court that, for reasons beyond his control, he would be unable to be present at the deliberations and sign this judgment.

1. The State violated to the detriment of Raxcacó-Reyes the rights enshrined in Articles 4(1), 4(2) and 4(6) of the American Convention on Human Rights in relation to Articles 1(1) and 2 thereof, as set forth in paragraphs 54 to 90 of [the] Judgment.

2. The State violated to the detriment of Raxcacó-Reyes the Right to Humane Treatment enshrined in Articles 5(1) and 5(2) of the American Convention on Human rights, in relation to Article 1(1) thereof, as set forth in paragraphs 93 to 102 of [the] Judgment.

3. It has not been proven that the State violated to the detriment of Raxcacó-Reyes the Right to Judicial Protection enshrined in Article 25 of the American Convention on Human Rights, for the reasons set forth in paragraphs 110 to 113 of [the] Judgment.

4. [The] judgment is in and of itself a form of redress, as set forth in paragraph 131 [there]in.

AND RULE[D]:

Unanimously, that:

5. The State must amend, within a reasonable time limit, Article 201 of the Criminal Code in force to provide for different and specific crime definitions in order to determine the different forms of kidnapping or abduction on the basis of their characteristics, the seriousness of the events and the circumstances surrounding the crime, with the pertinent provisions as to the different proportional penalties, as well as the acknowledgment of the right of the judicial authorities to individualize the applicable penalties in consistency with the particulars of the event and the author, within a maximum and minimum penalty threshold to be established for each particular crime. Under no circumstances shall said amendment broaden the list of crimes punishable by death before ratification of the American Convention.

6. While the above mentioned amendments are still pending, the State must refrain from applying the death penalty and execute convicted prisoners for the crime of kidnapping and abduction, as set forth in paragraph 132 of [the] Judgment.

7. The State must adopt, within a reasonable time limit, a procedure that guarantees that any person sentenced to death is entitled to apply for and, if appropriate, be granted a pardon under certain rules that provide for the authority empowered to grant it, the legal basis for its granting and the related procedure. In these cases, the sentence must not be executed while the decision on a request for pardon or commutation is pending.

8. The State must vacate the sentence imposed on Raxcacó-Reyes under the judgment delivered by the Sixth Trial Court for Criminal, Drug-trafficking and Environmental Offenses [...] within a reasonable time limit and shall, without the need to conduct a new trial, issue another judgment that shall not, in any way, provide for a death penalty sentence. The State must guarantee that the new sentence is proportional to the nature and seriousness of the crime and consider any mitigating or aggravating factors. In doing so and prior to imposing a new sentence, the parties shall be afforded the opportunity to exercise the right to be heard in open court.

9. The State must adopt, within a reasonable time limit, the necessary measures to ensure that prison conditions conform to international standards.

10. The State must provide Raxcacó-Reyes, free of charge and at national health-care facilities, with his prior consent and for the necessary period of time from the date the notice of [the] Judgment is served upon it, with any medical and psychological treatment that duly qualified specialists might prescribe and which shall comprise provision of medicines.

11. The State must adopt, from the date the notice of [the] Judgment is served upon it, the necessary measures to allow Olga Isabel Vicente to regularly visit Raxcacó-Reyes.

12. The State must adopt, within a reasonable time limit, the education, labor and other necessary measures to allow Raxcacó-Reyes to resettle in society after compliance with the sentence to be imposed under operative paragraph eight of [the] Judgment.
13. The State must publish, in the Official Gazette and a national daily newspaper, at least once within one year from the date notice of [the] Judgment is served upon it, , , , the chapter on Proven Facts, paragraphs 65, 66, 72, 81, 82, 85, 86, 102 and 113 of chapters VIII, IX, X and XI, and operative paragraphs one to sixteen of [the] Judgment. The publication shall include the titles of said chapters without the corresponding footnotes.
14. The State must reimburse costs within one year from the date the notice of [the] Judgment is served upon it, as set forth in paragraph 138 of [the] Judgment.
15. The obligations of the State within the scope of the provisional measures ordered by this Court in the instant case shall be superseded by, exclusively with respect to Raxcacó-Reyes, the measures ordered in [the] Judgment, from the date the notice of [the] Judgment is served upon it.
16. In accordance with its usual practice and in compliance with its duties under the American Convention, it shall monitor the full compliance with [the] Judgment and shall consider the instant case closed upon full compliance by the State with the provisions therein. Within one year from the date the notice of [the] Judgment is served upon it, Guatemala shall submit to the Court a report on the measures taken to comply with the same.
2. The Judgment on the Merits was notified to the parties on October 5, 2005.

II

JURISDICTION AND COMPOSITION OF THE COURT

3. Article 67 of the Convention sets forth that
- [t]he 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.
4. Pursuant to the above-mentioned article, the Court has jurisdiction to interpret its judgments and, when considering a request for interpretation, it shall be composed, whenever possible, of the same judges who delivered the judgment of which the interpretation is being sought (Article 59(3) of the Rules of Procedure). On this occasion, the Court is composed of the same judges who delivered the Judgment on the Merits the interpretation of which has been requested by the State. *

III

INTRODUCTION OF THE REQUEST FOR INTERPRETATION AND ITS PURPOSE

5. On November 30, 2005, the State filed a request for interpretation of the Judgment on the Merits under Articles 67 of the Convention and 59 of the Rules of Procedure.

* Judge *ad hoc* Alejandro Sánchez Garrido did not take part in the deliberations of the instant Judgment at the venue of the Court in San José, Costa Rica; however, he was consulted prior to deliberations and ballot and agreed on the contents of the instant Judgment of interpretation.

6. In the request for interpretation, the State enquired whether the amount of US\$5,000 (five thousand United States Dollars) or an equivalent amount in Guatemalan legal currency, to be reimbursed to Raxcacó-Reyes for legal costs and expenses, should be paid directly to the representatives of Raxcacó-Reyes (hereinafter "the representatives"), as ordered by the Court in the case of *Fermín Ramírez v. Guatemala*,¹ or directly to the victim, as ordered in the instant case.

IV PROCEEDING BEFORE THE COURT

7. On December 2, 2005, pursuant to Article 59(2) of the Rules of Procedure and following the instructions of the President of the Court, the Secretariat of the Court delivered a copy of the request for interpretation to the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") and to the representatives, inviting them to submit any written arguments they deem relevant up to January 6, 2006. Likewise, the Secretariat sent a note to the State reminding it that, pursuant to Article 59(4) of the Rules of Procedure, "[a] request for interpretation shall not suspend the effect of the judgment."

8. On January 6, 2006, the Inter-American Commission filed written arguments on the request for interpretation by which it stated, *inter alia*, that "the submission of the State is in itself an enquiry on an implementation issue."

9. On January 6, 2006, the representatives filed written arguments on the request for interpretation, by which they requested the Court, *inter alia*, to grant, "in the instant case, the request for interpretation filed by the State."

V ADMISSIBILITY

10. The Court must now verify whether the terms of the request for interpretation comply with the applicable rules.

11. Article 67 of the Convention sets forth 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.

12. Article 59 of the Rules of Procedure sets forth, in its pertinent parts, that:

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

[...]

¹ *Case of Fermín Ramírez*. Judgment of June 20, 2005. Series C No. 126.

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.

13. Article 29(3) of the Rules of Procedure sets forth that “judgments and orders of the Court may not be contested in any way.”

14. The Court has found that the State filed the request for interpretation on November 30, 2005, within the time limit prescribed in Article 67 of the Convention (*supra* para. 11), as the Judgment on the Merits was notified to Guatemala on October 5, 2005.

15. Moreover, as previously indicated by this Court, a request for interpretation of a judgment should not be used as a means to contest the judgment, but rather its only purpose should be to clarify the meaning of a ruling when one of the parties maintains that the text in its operative parts or in its considerations lacks clarity and precision, provided that such considerations have a bearing on the operative parts and, therefore, modification or annulment of the respective judgment cannot be petitioned through a request for interpretation.²

16. Likewise, the Court has determined that a request for interpretation of a judgment cannot be based on the same arguments that the Court heard at the corresponding procedural moments, and that were examined in its deliberations when delivering judgment.³

17. In order to assess the validity of the request for interpretation and, in turn, clarify the meaning and scope of the Judgment on the Merits delivered by the Court (*supra* para. 1), the Court will now address the issue raised by the State (*supra* para. 6).

VI

REIMBURSEMENT OF LEGAL COSTS AND EXPENSES

Arguments of the State

18. The State considers that the amount of US\$5,000 (five thousand United States Dollars) to be reimbursed to Raxcacó-Reyes, as ordered by the Court, should

² Cf. *Case of Serrano-Cruz Sisters. Request for an Interpretation of the Judgment on the Merits, Reparations and Costs* (Art. 67 American Convention on Human Rights). Judgment of September 9, 2005. Series C No. 131, para. 14; *Case of Lori Berenson-Mejía. Request for an Interpretation of the Judgment on the Merits, Reparations and Costs* (Art. 67 American Convention on Human Rights). Judgment of June 23, 2005. Series C No. 128, para. 12 and *Case of Juan Humberto Sánchez. Request for an Interpretation of the Judgment of Preliminary Objections, Merits and Reparations*. (Art. 67 American Convention on Human Rights). Judgment of November 25, 2003. Series C No. 102, para. 14.

³ Cf. *Case of Serrano-Cruz Sisters. Request for an Interpretation of the Judgment on the Merits, Reparations and Legal Costs*, *supra* note 2, para. 15; *Case of Lori Berenson-Mejía. Request for an Interpretation of the Judgment on the Merits, Reparations and Costs*, *supra* note 2, para. 11, and *Case of Juan Humberto Sánchez. Request for an Interpretation of the Judgment on Preliminary Objections, Merits and Reparations*, *supra* note 2, para. 40.

be paid “directly” to his representatives, as it was ruled in the case of *Fermin Ramírez v. Guatemala*. Furthermore, the State pointed out that “if the Court awards costs in the instant case, the compensation amount should be forwarded directly [to the organizations representing the victim], to cover the attorney’s fees paid by each of said organizations.”

Arguments of the Inter-American Commission

19. The Commission stated that the issue raised by the State “is in itself [...] an enquiry on an implementation issue” and, to that respect, it asserted that “in the absence of other instructions by Ronald Raxcacó-Reyes,” the State’s willingness to comply with the Judgment on the Merits delivered by the Court through payment of the amount payable as legal costs and expenses to the representatives of the victim, “should be deemed an adequate way of performing the State’s duty to compensate the costs incurred by the injured party in the judicial proceedings.”

Arguments of the representatives

20. The representatives, in turn, requested the Court to consider “the adoption of general criteria to order direct payment to the representatives of the victims of the amounts awarded as legal costs and expenses once it has been irrefutably proven that said costs and expenses were incurred by the representatives and after the amount thereof has been determined.” Furthermore, the representatives pointed out that “[s]hould such a determination be impossible or lacking, the Court [must] carefully assess, taking into account the particular situation of the victim and his representatives, the scope and content of the order to pay legal costs and expenses, awarding an equitable portion to each party based on their participation in the domestic and international proceedings.”

Considerations of the Court

21. The Court has found that the issue raised by Guatemala in its request for interpretation is not intended to seek an interpretation by the Court of the meaning and scope of the Judgment on the Merits. On the contrary, the State declared that the amount payable to Raxcacó-Reyes as legal costs and expenses, as ordered by the Court, “should be directly paid to the *Instituto de Estudios Comparados en Ciencias Penales* (Institute of Comparative Studies of Criminal Sciences)–IECCP- and the *Centro por la Justicia y el Derecho Internacional* (Center for Justice and International Law)–CEJIL-, representatives of Raxcacó-Reyes;” therefore, the State is using the request for interpretation as a means to contest the Judgment on the Merits in order that the Court might redefine the beneficiary of the reimbursable amounts as legal costs and expenses.

22. In conclusion, as stated in paragraph 138 of the Judgment on the Merits, the Court decided that the State should reimburse Raxcacó-Reyes the amount of US\$5,000 (five thousand United States Dollars), or an equivalent amount in Guatemalan legal currency, as legal costs and expenses, and that “Raxcacó-Reyes shall give to his representatives any amount that may be equitably prorated depending on the assistance they might have given to him.” Accordingly, Raxcacó-Reyes may decide to give said amount in full to his representatives or authorize them to directly collect the same. However, this issue has a bearing on the implementation of the Judgment, rather than on its interpretation.

23. Based on the foregoing considerations, the Court decides to dismiss the request for interpretation filed by Guatemala because it fails to conform to the provisions of Article 67 of the Convention and Articles 29(3) and 59 of the Rules of Procedure.

VII OPERATIVE PARAGRAPHS

24. Therefore,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

in accordance with Article 67 of the American Convention on Human Rights and Articles 29(3) and 59 of the Rules of Procedure

DECIDES:

Unanimously,

1. To reject as inadmissible the request for interpretation of the Judgment on the Merits, Reparations and Legal Costs in the case of Raxcacó-Reyes, as established in paragraphs 21 to 23 of this Judgment.

Sergio García-Ramírez
President

Alirio Abreu-Burelli

Oliver Jackman

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri

Secretary