

INTER-AMERICAN COURT OF HUMAN RIGHTS

CASE OF LÓPEZ SOTO ET AL. V. VENEZUELA

JUDGMENT OF MAY 14, 2019

(Interpretation of the judgment on merits, reparations and costs)

In the case of *López Soto et al. v. Venezuela*,

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

Eduardo Ferrer Mac-Gregor Poisot, President;
Eduardo Vio Grossi, Vice President;
Humberto Antonio Sierra Porto, Judge;
Elizabeth Odio Benito, Judge;
Eugenio Raúl Zaffaroni, Judge; and
L. Patricio Pazmiño Freire, Judge;

also present,

Pablo Saavedra Alessandri, Registrar,

pursuant to Article 67 of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) and Article 68 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”), resolves the request for interpretation of the judgment on merits, reparations and costs issued by this Court on September 26, 2018, in this case (hereinafter “the judgment”), filed on February 15, 2019, by the representatives of Linda López Soto and family (hereinafter “the victims’ representatives” or “the representatives”).

I

REQUEST FOR INTERPRETATION AND PROCEEDINGS BEFORE THE COURT

1. On September 26, 2018, the Inter-American Court issued the judgment in this case, 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 16 of the same year.
2. On February 15, 2019, the representatives filed before the Court a request for interpretation of two aspects of the judgment: (1) the reparation ordered regarding the granting of a scholarship to Linda Loaiza López Soto so that she may conclude her professional training in a local or foreign university to which she is admitted; and (2) the reparation measures regarding the medical and psychological treatment and scholarships granted to the brothers and sisters of Linda Loaiza López Soto.

3. On February 18, 2019, on the instructions of the President of the Court, the Registrar forwarded copies of the request for interpretation to the Bolivarian Republic of Venezuela (hereinafter “the State of Venezuela,” “the State” or “Venezuela”) and the Inter-American Commission, inviting them to submit any written arguments they deem relevant by March 19, 2019.

4. On March 19 and March 22, 2019, the State and the Inter-American Commission, respectively, submitted their written arguments regarding the request for interpretation filed by the victims’ representatives.

II JURISDICTION

5. Article 67 of the Convention establishes 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.

6. In conformity with this article, the Court has jurisdiction to interpret its judgments. When reviewing a request for interpretation and deciding in that regard, the Court shall be composed, whenever possible, of the same judges who delivered the judgment, pursuant to Article 68.3 of the Rules of Procedure. On this occasion, the Court is composed of the judges Eduardo Ferrer Mac-Gregor Poisot, President; Eduardo Vio Grossi, Vice President; and Humberto Antonio Sierra Porto, Elizabeth Odio Benito, Eugenio Raúl Zaffaroni and L. Patricio Pazmiño Freire.

III ADMISSIBILITY

7. The Court must verify whether the request submitted by the representatives meets the requirements set forth in the rules applicable to a request for interpretation of judgment, namely: Article 67 of the Convention, cited above, and Article 68 of the Rules of Procedure of the Court, which indicates that:

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.

8. Furthermore, Article 31.3 of the Rules of Procedure establishes that “[j]udgments and orders of the Court may not be contested in any way.”

9. The Court notes that the victims’ representatives filed the request for interpretation of the judgment on February 15, 2019, within the term of 90 days set forth in Article 67 of the Convention, since notification took place on November 16, 2018. Consequently, the request is admissible as regards to the term for presentation. As for the other requirements, the Court will perform the corresponding analysis in its examination of the contents of this request for interpretation in the next chapter.

IV ANALYSIS OF THE ADMISSIBILITY OF THE REQUEST FOR INTERPRETATION

10. The Court will now examine the request by the representatives to determine whether, in accordance with the regulations and the standards developed in its case law, it is admissible to clarify the meaning or scope of any point of the judgment.

11. To analyze the admissibility of the request for interpretation, the Court takes into consideration its case law, clearly supported by the applicable body of law, insofar as a request for interpretation of judgment cannot be used as a means of challenging the judgment whose interpretation is requested. The request for interpretation of a judgment may not be used as a means of challenging it, but must be made for the sole purpose of working out the meaning of the decision when one of the parties maintains that the text of its operative paragraphs or its *consideranda* is unclear or imprecise, provided those *consideranda* affect the operative paragraphs of the judgment.¹ Hence, a request for interpretation may not be used to seek amendment or nullification of the judgment in question.²

12. Moreover, the Court upholds the inadmissibility of using the request for interpretation to submit considerations of fact and of law already raised at the proper point in the proceedings and adjudicated by the Court,³ or to have the Court reexamine matters already decided in the judgment.⁴ Similarly, this mechanism cannot be used to attempt to broaden the scope of a timely ordered reparation measure.⁵ Based on this understanding, the Court will examine the questions raised by the representatives, as well as the claims made by the State and the Commission, respectively, and shall determine their admissibility.

A. Clarification regarding operative paragraph 15 of the judgment

A.1 Arguments of the parties and the Commission

13. The representatives made the following request for clarification regarding the reparation measure ordered in operative paragraph 15 of the judgment:

- a. "Clarify that the decision on whether to receive the reparation measure at a local university or a foreign university corresponds to the victim and not to the State of Venezuela," insofar as "[t]he purpose of the reparation is to allow Linda Loaiza López to resume her life plan and continue her professional education. To this end, it is essential to clarify that the decision regarding the university where she will enroll will be made by Linda Loaiza."

¹ Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the Judgment of Merits*. Order of the Inter-American Court of Human Rights of March 8, 1998. Series C No. 47, para. 16, and *Case of Vereda La Esperanza v. Colombia. Interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs*. Judgment of the Inter-American Court of Human Rights of November 21, 2018, Series C No. 367, para. 11.

² Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the Judgment of Merits*, *supra* note 1, para. 16, and *Case of Vereda La Esperanza v. Colombia. Interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs*, *supra* note 1, para. 11.

³ Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the Judgment of Reparations and Costs*. Judgment of June 3, 1999. Series C No. 53, para. 15, and *Case of Vereda La Esperanza v. Colombia. Interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs*, *supra* note 1, para. 12.

⁴ Cf. *Case of Salvador Chiriboga v. Ecuador. Interpretation of the Judgment of Reparations and Costs*. Judgment of August 29, 2011. Series C No. 230, para. 30, and *Case of Vereda La Esperanza v. Colombia. Interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs*, *supra* note 1, para. 12.

⁵ Cf. *Case of Escher et al. v. Brazil Interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs*. Judgment of November 20, 2009. Series C No. 208, para. 11, and *Case of Vereda La Esperanza v. Colombia. Interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs*, *supra* note 1, para. 12.

14. The Commission held that “in order to facilitate compliance with this measure of satisfaction, it is pertinent for the Court to clarify that it is the victim, Linda Loaiza López Soto, and not to the State, who shall decide on the university where she will study, whether local or foreign.”

15. The State pointed out that “the purpose of the measure of satisfaction ordered by the Court is to compensate for the alterations in Ms. Lopez Soto’s original plans of education upon her arrival to Caracas and to guarantee the completion of her studies and professional training”; consequently, “the university where she will be granted a scholarship shall be agreed upon between the State and the victim, considering that the judgment seeks the correct education of Ms. Lopez Soto and not to encourage a situation other than the final purpose of the reparation measure ordered, such as a change in residence outside the territory of [...] Venezuela.” It assured that “currently there are several universities in Venezuela that Ms. López Soto could attend to pursue her studies, both undergraduate and graduate, in the course of study or specialization of her choice, if and when she completes the selection and admission process.”

A.2 Considerations of the Court

16. In its judgment, the Court established that:

308. The Court has established in this judgment that the facts of the case harmed Linda Loaiza López Soto and her family, and caused significant changes in their lives and in their relationships, thus affecting their personal development [...]. Expert witness Ramírez Velasco indicated that “in discussions with the family, the difficulty they have had to pursue their academic studies due to the lack of financial resources due to the loss of the family’s assets is mentioned repeatedly.” She also indicated that “[a]ccording to them, the prolonged court proceedings and the results have affected them in the work environment, as well as in the choice of their professional careers, which had to differ from their original choices.” [...]

309. In particular, the Court stresses that the facts occurred when Linda Loaiza and her sister Ana Secilia were beginning their university studies, and they were obliged to change the study program[s] that had originally brought them to Caracas. According to Ramírez Velasco’s expert opinion, Linda Loaiza finally decided to study law, but her possibility of exercising this profession had been “curtailed” owing to the exposure she had had in her country as a result of her search to obtain justice. [...]

310. Based on the above, as it has in other cases, the Court finds it appropriate to order, as a measure of satisfaction in this case, that the State grant Linda Loaiza a scholarship so that she is able to conclude her professional training in the local or foreign university to which she is admitted. The State must cover the academic and maintenance costs previously, in keeping with the cost of living of the country in which Linda Loaiza will pursue her studies, so that the victim does not have to disburse the corresponding amounts for these items and then be reimbursed.

17. Regarding the request made by the representatives, the Court considers it important to clarify the meaning of the reparation measure ordered in operative paragraph 15 of the judgment. In paragraph 310 of the judgment, the State was ordered to “grant Linda Loaiza a scholarship so that she is able to conclude her professional training in the local or foreign university to which she is admitted.” The Court establishes that, following the purpose for which this reparation measure was ordered, Linda Loaiza López Soto must be the one to choose the university where she will conclude her professional education, whether at a local or a foreign university. Therefore, once the victim has made her decision, she must advise the State concerning the university which she has chosen so that the State can “cover the academic and maintenance costs [...], in keeping with the cost of living of the country in which [she] will pursue her studies.” Consequently, the Court clarifies that it is Linda Loaiza López Soto who shall make the decision regarding the university where she will pursue her professional education.

B. Observations regarding operative paragraphs 10, 112 and 16 sixteen of the judgment

B.1 Medical, psychological and/or psychiatric treatment

B.1(a) Arguments of the parties and the Commission

18. Operative paragraph 10 of the judgment set forth that:

The State shall provide, free of cost and immediately, appropriate, adequate and effective medical and psychological and/or psychiatric treatment to Linda Loaiza López Soto and to the members of her family who have been declared beneficiaries of this judgment, to be provided by professionals of their choice in Venezuela, pursuant to paragraph 293 of this judgment.

19. The representatives expressed that "the situation of the health system has worsened"; therefore, "the implementation of this measure will represent serious challenges for the victims." In this regard, they requested "consider[ing] whether this service could be provided in another country, to be determined by the victim and her family."

20. The State, on the other hand, claimed that "the representatives seek an inappropriate, deceitful means of using the request for interpretation of judgment to obtain a modification to the merits of the judgment, given that the decision under question clearly and expressly indicates that the State's obligation is to provide, psychological and/or psychiatric care to Linda Loaiza López Soto and the family members declared beneficiaries, to be carried out in Venezuela."

B.1(b) Considerations of the Court

21. The Court points out that the question raised by the representatives (*supra* para. 19) does not agree with the grounds for interpretation set forth in Article 67 of the Convention, since it is not related to the meaning or scope of the judgment, but to "considering the provision of this service in another country," which entails modifying the reparation ordered in the judgment. In this regard, in paragraphs 292 and 293 the Court noted that:

292. The Court notes that the representatives emphasized that "the medical care provided to Linda while she was in the country's public hospitals to treat her physical and psychological ailments was neither opportune nor appropriate." The[y] indicated that "her confidence in the public health system has been affected."

293. Bearing in mind the preceding considerations, the Court finds it pertinent to order the State to provide, free of charge and immediately, appropriate, adequate and effective medical and psychological and/or psychiatric treatment to Linda Loaiza López Soto and the members of her family who have been declared beneficiaries of this judgment, which must be provided by professionals of their choice in Venezuela for the reasons indicated in the preceding paragraphs. This treatment must include the provision of any medicines they may eventually require free of charge. The beneficiaries have six months following notification of this judgment to advise the State of their intention to receive this measure and to indicate the institutions or professionals of their preference.

22. The Court deems that the text of the aforementioned paragraph is sufficiently clear and precise, since the judgment clearly establishes that the medical, psychological and/or psychiatric treatment must be provided by professionals chosen by the victims in Venezuela. This is in keeping with the representatives' own request that "these treatments be provided by the professionals preferred by the victims, irrespective of whether they belong to the private health sector or to international organizations."⁶ In sum, the Court notes that under the guise of a request for interpretation, the representatives' stance reveals disagreement with the Court's decision, since it seeks to modify the reparation measure ordered in the judgment. Therefore, it

⁶ Cf. *Case of López Soto et al. v. Venezuela. Merits, Reparations and Costs*. Judgment of September 26, 2018. Series C No. 362, para. 289.

declares that the representatives' request in this regard is unfounded, since the purpose of the interpretation of a judgment is to clarify a point that is ambiguous in meaning or scope, which is not the case of the paragraph cited above. The Court therefore holds inadmissible the request made by the representatives.

B.2. Medical treatment and education for Emmanuel Adrián López Soto and scholarships for the family members of Linda López Soto

B.2(a) Arguments of the parties and the Commission

23. Operative paragraph 12 of the judgment ordered:

The State shall, through its specialized institutions, conduct a comprehensive evaluation of Emmanuel Adrián López Soto, in order to provide him with adequate medical and educational treatment, free of charge and immediately, so that he may develop his linguistic, cognitive and motor skills, pursuant to paragraph 296 of this judgment.

24. Moreover, operative paragraph 16 of the judgment indicated:

The State shall grant a scholarship in a Venezuelan public institution of their choice to Ana Secilia, Anyi Karina, Nelson Enrique, Elith Johana, Yusmely del Valle, Luz Paulina and José Isidro, all with the last name López Soto, so they may pursue technical or university higher education, or professional training, pursuant to paragraphs 311 and 312 of this judgment.

25. In this regard, the representatives expressed their "disconformity with the reparation granted, since it will contribute very little to the victims' reparation"; consequently, they requested the Court to "assess its observations and consider the possibility of implementing the measure in an educational institution in another country."

26. The Commission found "these concerns relevant, bearing in mind the facts of the case and the seriousness of the current context in Venezuela." Accordingly, it asked the Court to "take into consideration the victims' concerns" and to "assess whether the correct mechanism for making these decisions should be interpretation of judgment or instead, should be determined during the stage of [monitoring] compliance with the judgment."

27. The State pointed out that "the request [...] undeniably demonstrates the representatives' intention to obtain a modification of the merits of the judgment issued by [the] Court and not the interpretation of an ambiguous point thereof," noting that "the 'disconformity with the reparation granted' [...] is evidently not a case of uncertainty or a need to clarify a point in the judgment, but an intention to challenge the Court's ruling and to have the judgment reviewed and modified."

B.2(b) Considerations of the Court

28. The Court notes that in paragraph 311 of the judgment it was clearly established that the State "must grant a scholarship in a Venezuelan public institution of their choice." The Court reiterates the position it expressed in paragraph 22 of this judgment of interpretation regarding the inadmissibility of using the request for interpretation to raise questions already adjudged by the Court,⁷ or to use it as a means to challenge the judgment.⁸ In this regard, the Court notes that under the appearance of a request for interpretation, the representatives' position indicates

⁷ Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the Judgment of Reparations and Costs*, supra note 3, para. 15, and *Case of Vereda La Esperanza v. Colombia. Interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs*, supra note 1, para. 26.

⁸ Cf. *Case of Loayza Tamayo v. Peru, Interpretation of the Judgment of Reparations and Costs*, supra note 3, para. 16, and *Case of Vereda La Esperanza v. Colombia. Interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs*, supra note 1, para. 26.

a disagreement with the Court's ruling, as they clearly declare their "disconformity" with the reparation measure ordered and seek to modify it.

29. The Court, having addressed the representatives' questions regarding operative paragraphs 10, 12 and 16, declares their request inadmissible, with no points requiring clarification.

V OPERATIVE PARAGRAPHS

30. Therefore,

THE COURT,

In conformity with Article 67 of the American Convention on Human Rights and Articles 31.3 and 68 of the Court's Rules of Procedure,

DECIDES:

unanimously,

1. To declare admissible the request for interpretation of the judgment on merits, reparations and costs, issued in the case of *López Soto et al. v. Venezuela*, filed by the victims' representatives.
2. To clarify by means of interpretation the judgment on merits, reparations and costs issued in the case of *López Soto et al. v. Venezuela*, under the terms of paragraphs 16 and 17.
3. To declare inadmissible the request for interpretation of the judgment on merits, reparations and costs issued in the case of *López Soto et al. v. Venezuela*, submitted by the victims' representatives, under the terms of paragraphs 21, 22, 28 and 29.
4. To order the Court Registrar to extend notification of this judgment of interpretation to the Bolivarian Republic of Venezuela, the victims' representatives and the Inter-American Commission on Human Rights.

Inter-American Court of Human Rights. *Case of López Soto et al. v. Venezuela. Interpretation of the judgment on merits, reparation and costs.* Judgment of May 14, 2019.

Eduardo Ferrer Mac-Gregor Poisot
President

Eduardo Vio Grossi

Humberto A. Sierra Porto

Elizabeth Odio Benito

Eugenio Raúl Zaffaroni

L. Patricio Pazmiño Freire

Pablo Saavedra Alessandri
Registrar

So ordered,

Eduardo Ferrer Mac-Gregor Poisot
President

Pablo Saavedra Alessandri
Registrar