

Press Release

Inter-American Court of Human Rights

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I/A Court H.R.
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PERU IS NOT RESPONSIBLE FOR THE DISMISSAL OF A JUDGE THROUGH DISCIPLINARY PROCEEDINGS

San José, Costa Rica, January 18, 2024. – In the Judgment in the *Case of Cajahuanca Vásquez v. Peru*, notified today, the Inter-American Court of Human Rights declared that the State of Peru is not responsible for the violation of the right to a fair trial (article 8), freedom from ex post facto laws (article 9), right to participate in government (article 23) and right to judicial protection (article 25) of the American Convention on Human Rights to the detriment of Humberto Cajahuanca Vásquez.

The official summary and the full text of the Judgment can be accessed [here](#).

On June 21, 1995, Mr. Cajahuanca Vásquez, then President of the Superior Court of Huánuco, convened a meeting of the Full Court to analyze a leave request submitted by a Judge. The Full Court granted the leave and appointed a substitute Judge, the most remote duty judge, corresponding to the Fifth Criminal Court. However, the position was given to Mr. Héctor Fidel Cordero Bernal, Judge of the Fourth Criminal Court.

On July 11, 1995, the Judge in charge granted unconditional release to two individuals who were being processed for drug trafficking. Consequently, the Control Office of the Judiciary opened an investigation whereby it found a number of irregularities in the appointment of the Judge in charge, and it proposed the removal of Mr. Cajahuanca Vásquez from his position. The Executive Council of the Judicial Branch approved the proposal for removal and requested the National Council of the Judiciary to dismiss the alleged victim, which was performed on August 14, 1996. Mr. Cajahuanca Vásquez filed the available remedies, but the rulings were not favorable.

In adopting this Judgment, the Court noted that preserving the dignity of the position and maintaining judicial integrity is not only key to performing judicial functions but is also the cornerstone of judicial systems and a requirement for the validity of the rule of law, the right to a fair trial and also trust in the judicial branch, which entails that judges and prosecutors must ensure that their behavior is beyond reproach in the eyes of a reasonable observer.

Regarding the alleged violation of the rights to judicial guarantees (right to a fair trial) and freedom from ex post facto laws, the Court noted that the disciplinary proceedings regarding Mr. Cajahuanca Vásquez enumerated the irregularities in detail and the legal grounds for his dismissal, specifically the reasons why his behavior affected the judicial function and why it should be qualified as disciplinary gross misconduct, requiring the most severe punishment. Accordingly, it considered that the resolution that dismissed Mr. Cajahuanca Vásquez had adequate legal grounds and did not disregard the principle of freedom from ex post facto laws in disciplinary proceedings.

Regarding the application of the most favorable punitive law, the Court found that Mr. Cajahuanca Vásquez's dismissal was performed according the law in effect regarding the removal of judges at

the time of the facts, and that law was effective prior to the reproachable behavior. Therefore, in the instant case analyzing the scope of the principle of application of the most favorable punitive law was not applicable, given that at the time when the punishment was imposed only one law was in effect, not two different ones.

Since the Court found that this case did not constitute a violation of the right to a fair trial or the principle of freedom from ex post facto laws, it concluded that the State did not infringe the right to access to public office and to remain in that position under general conditions of equality.

Lastly, the Court determined that, in the context of the appeal process initiated by Mr. Cajahuanca Vásquez, the conclusions reached by the judges were neither arbitrary nor unreasonable. The Court also noted that the decision whereby Mr. Cajahuanca Vásquez was dismissed was heard and reviewed by several authorities in the judicial branch, who considered his defense arguments before adopting a final decision. Based on the foregoing, the Court deemed that the State did not violate the right to judicial protection.

Judges Eduardo Ferrer Mac-Gregor Poisot and Rodrigo Mudrovitsch disclosed their joint dissenting opinion.

The Court's composition for the issuing of this Judgment was as follows: Judge Ricardo C. Pérez Manrique, President (Uruguay); Judge Eduardo Ferrer Mac-Gregor Poisot, Vice President (Mexico); Judge Humberto Antonio Sierra Porto (Colombia); Judge Nancy Hernández López (Costa Rica); Judge Verónica Gómez (Argentina); Judge Patricia Pérez Goldberg (Chile) and Judge Rodrigo Mudrovitsch (Brazil).

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