

HUMAN RIGHTS COMMITTEE

Sánchez González v. Spain

Communication No. 1005/2001

21 March 2002

CCPR/C/74/D/1005/2001

ADMISSIBILITY

Submitted by: Ms. Concepción Sánchez González (represented by counsel, Mr. José Luis Mazón Costa)

State party concerned: Spain

Date of registered communication: 16 July 1999 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 21 March 2002,

Adopts the following:

Decision on admissibility

1. The author, Concepción Sánchez González, a Spanish national, claims to be a victim of violations by Spain of articles 14 and 26 of the International Covenant on Civil and Political Rights. She is represented by counsel.

The facts as submitted by the author

2.1 The author worked in an infant school in the municipality of Los Alcázares as an aide, although both she and her colleague Teresa Barranco Campillo discharged the functions of infant schoolteacher. Both filed a complaint against the municipality of Los Alcázares in which they claimed that they should be paid at the rate for staff in the infant schoolteacher category rather than the aide category, in which they were classified.

2.2 On 31 July 1995 the Murcia Court of First Instance dismissed the complaint, finding that the

author and her colleague were in the aide category and did not carry out higher-level functions. Both appealed against the decision before the Social Division of the Murcia High Court, which on 3 December 1997 handed down a judgement in favour of Teresa Barranco Campillo only, on the basis of the fact that she held a qualification as a primary schoolteacher, with a specialization in humanities, even though both she and the author discharged identical functions.

2.3 The author submitted an appeal for annulment to the Social Division of the High Court, which on 9 July 1998 dismissed the appeal. The author subsequently submitted an appeal for *amparo*, which was found inadmissible on 3 June 1999.

The complaint

3.1 The author regards the fact that, in the *amparo* proceedings before the Constitutional Court, she was denied the opportunity to appear without being represented by a *procurador*,¹ to be contrary to article 14, paragraph 1, and article 26 of the Covenant, since article 81, paragraph 1, of the Constitutional Court Organization Act allows a lawyer to appear without a *procurador*, whereas those who are not lawyers must be so represented.

3.2 The author alleges violation of article 26 of the Covenant since she and her colleague, although discharging identical functions in identical posts, have been treated differently by the courts on the basis of a university degree which is not relevant to the matter.

Issues and proceedings before the Committee

4.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

4.2 The Committee has ascertained that, as provided for in article 5, paragraph 2 (a), of the Optional Protocol, the same matter is not being examined under another procedure of international investigation or settlement.

4.3 The author claims that there was a violation of article 14, paragraph 1, and article 26 of the Covenant on the ground that she was denied the opportunity to appear before the Constitutional Court without being represented by a *procurador*. The author claims that it is discrimination not to require persons with a law degree to be represented before the Constitutional Court by a *procurador* when persons without a law degree are required to be so represented. With reference to its earlier case law,² the Committee recalls that, as the Constitutional Court itself has argued, the requirement for representation by a *procurador* reflects the need for a person with legal training to assume responsibility for proceedings in connection with appeals to that court. With regard to the author's claims that such a requirement is not based on objective and reasonable criteria, the Committee does not consider the allegations to have been satisfactorily substantiated for the purposes of admissibility. Accordingly this aspect of the communication is inadmissible under article 2 of the Optional Protocol.

4.4 Both the author and her colleague were employed as aides until the latter was promoted to infant schoolteacher as she held a qualification as a primary schoolteacher. With regard to the author's claims regarding violation of article 26 in that she and her colleague were treated differently because her colleague held a university degree while the author did not, the Committee points out that distinction does not necessarily imply discrimination, provided that it is based on objective and reasonable criteria. The Committee considers that the author's complaint regarding the violation of article 26 has not been satisfactorily substantiated for the purposes of admissibility; accordingly this aspect of the communication is also inadmissible under article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:

- (a) That the communication is inadmissible under article 2 of the Optional Protocol;
- (b) That this decision shall be communicated to the State party and to the author.

* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Louis Henkin, Mr. Ahmed Tawfik Khalil, Mr. Eckart Klein, Mr. David Kretzmer, Ms. Cecilia Medina Quiroga, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Martin Scheinin, Mr. Ivan Shearer, Mr. Hipólito Solari Yrigoyen, Mr. Patrick Vella and Mr. Maxwewll Yalden.

Notes

¹ A *procurador* is a person qualified in law and a member of the Bar Association whose function it is to represent [clients] in most judicial proceedings, see to the settlement of lawsuit costs and take an active part in all official decisions and proceedings.

² *Marina Torregruesa Lafuente et al. v. Spain*, Views adopted on 16 July 2001, and *Alejandro Marín Gómez v. Spain*, Views adopted on 22 October 2001.