

**INTER-AMERICAN COURT OF HUMAN RIGHTS**

**CASE OF MINA CUERO V. ECUADOR**

**JUDGMENT OF AUGUST 30, 2023**

***Interpretation of Judgment on Preliminary Exception, Merits,  
Reparations and Costs.***

In the case of *Mina Cuero v. Ecuador*,

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

Ricardo C. Pérez Manrique, President;  
Eduardo Ferrer Mac-Gregor Poisot, Vice President  
Humberto Antonio Sierra Porto, Judge  
Nancy Hernández López, Judge;  
Verónica Gómez, Judge;  
Patricia Pérez Goldberg, Judge, and  
Rodrigo Mudrovitsch, Judge;

also present,

Romina I. Sijniensky, Deputy Registrar,

in accordance with Article 67 of the American Convention on Human Rights (hereinafter also "the American Convention" or "the Convention") and Article 68 of the Rules of Procedure of the Court (hereinafter also "the Rules of Procedure") resolves the request for interpretation of the judgment on preliminary objections, merits, reparations, and costs issued by this Court on September 7, 2022, in this case (hereinafter also "the judgment"), filed on March 9, 2023, by the representative of the victims (hereinafter also "the representative").

**I**  
**REQUEST FOR INTERPRETATION AND PROCEEDINGS BEFORE THE COURT**

1. On September 7, 2022, the Inter-American Court issued the judgment in this case, of which the parties and the Inter-American Commission on Human Rights (hereinafter also "the Commission") were notified on December 16, 2022.

2. On March 9, 2023, the representative of Víctor Henry Mina Cuero<sup>1</sup> filed a request for interpretation of the scope of the reparations ordered, specifically on (i) Mr. Mina Cuero's right to social benefits, with a view to his future retirement, and (ii) the validity of the sanction imposed on him leading to his dismissal from the position of police officer.

3. On March 21, 2023, in accordance with Article 68(2) of the Rules of Procedure, and upon instructions from the President of the Court, the Office of the Registrar of the Court forwarded the request for interpretation to the State and to the Commission, and granted them a deadline of April 21, 2023, to submit any written observations they deemed pertinent. On April 21, 2023, the Commission and the State submitted their respective observations.

**II**  
**JURISDICTION**

4. Article 67 of the American Convention establishes as follows:

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.

5. In accordance with this article, the Inter-American Court is competent to interpret its judgments. To analyze a request for interpretation and resolve it as necessary, the Court must, if possible, have the same composition as when it handed down the corresponding judgment, in accordance with Article 68(3) of its Rules of Procedure. At this time, the Court is composed of the same judges that handed down the judgment of which interpretation is requested.<sup>2</sup>

**III**  
**ADMISSIBILITY**

6. It falls to the Court to verify that the request presented by the representative meets the requirements established in the norms applicable to a request for interpretation of judgment—that is, Article 67 of the Convention and Article 68 of the Rules of Procedure. Additionally, Article 31(3) of the Rules of Procedure establishes that "Judgments and orders of the Court may not be contested in any way."

7. The Court notes that the representative submitted the request for interpretation within the 90-day period established in Article 67 of the Convention. Indeed, the judgment was notified on December 16, 2022, and therefore, the request for interpretation—filed on March 9, 2023—is admissible as far as the deadline for its submission is concerned. With regard to the other requirements, the Inter-American Court will perform the corresponding analysis in

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<sup>1</sup> The victim is represented by César Duque, an attorney with the Comisión Ecuémica de Derechos Humanos (CEDHU).

<sup>2</sup> This judgment was deliberated and approved during the 160th regular sessions.

the next chapter.

#### **IV ANALYSIS OF THE ADMISSIBILITY OF THE REQUEST FOR INTERPRETATION**

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

9. The Court has found that a request for interpretation of judgment cannot be used to challenge a decision whose interpretation is being requested. The exclusive purpose of such a request is to determine the meaning of a judgment when one of the parties finds that the text of its operative paragraphs or its considerations are unclear or imprecise, as long as these considerations have an impact on the operative paragraphs. Therefore, the modification or annulment of the judgment in question cannot be sought through a request for interpretation.<sup>3</sup>

10. The Court has also held that it is inadmissible to use a request for interpretation to submit considerations on matters of fact and law that were already raised at the proper procedural moment and regarding which the Court has already issued a decision,<sup>4</sup> or to ask the Court to reassess matters that it has already ruled on in the judgment.<sup>5</sup> This proceeding can also not be used to broaden the scope of a measure of reparation ordered at the proper procedural moment.<sup>6</sup>

11. Hereinafter, the Inter-American Court will examine the issues raised in the following order: a) the request for interpretation in relation to the right to social benefits with a view to future retirement; and b) the request for interpretation in relation to the validity of the sanction imposed on the victim.

#### ***A. Request for interpretation in relation to the right to social benefits with a view to future retirement***

##### ***A.1. Arguments of the parties and of the Commission***

12. The **representative** indicated that the judgment declared the Ecuadorian State internationally responsible for the violation of the right to work, in its labor stability dimension, recognized in Article 26 of the American Convention. He indicated that in previous rulings, which also found that the aforementioned Article 26 had been violated, the Court "has in

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<sup>3</sup> Cf. *Case of Loayza Tamayo v. Peru. Interpretation of Judgment on Merits*. Order of the Court of March 8, 1998. Series C No. 47, para. 16, and *Case of the National Federation of Maritime and Port Workers (FEMAPOR) v. Peru. Judgment on Preliminary Objections, Merits, and Reparations*. Judgment of November 21, 2022. Series C No. 480, para. 10.

<sup>4</sup> Cf. *Case of Loayza Tamayo v. Peru. Interpretation of Judgment on Merits, supra*, para. 15, and *Case of the national Federation of Maritime and Port Workers (FEMAPOR) v. Peru. Interpretation of the Judgment on Preliminary Objections, Merits, and Reparations, supra*, para. 11.

<sup>5</sup> Cf. *Case Salvador Chiriboga v. Ecuador. Interpretation of Judgment on Reparations and Costs*. Judgment of August 29, 2011. Series C No. 230, para. 30, and *Case of the national Federation of Maritime and Port Workers (FEMAPOR) v. Peru. Interpretation of the Judgment on Preliminary Objections, Merits, and Reparations, supra*, para. 11.

<sup>6</sup> Cf. *Case of Escher et al. v. Brazil. Interpretation of Judgment of Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 20, 2009. Series C No. 208, para. 11, and *Case of the national Federation of Maritime and Port Workers (FEMAPOR) v. Peru. Interpretation of the Judgment on Preliminary Objections, Merits, and Reparations, supra*, para. 11.

practice protected the right to job stability, and with it, the social security component." Accordingly, he argued that in the instant case, the harm caused by the wrongful acts committed by the State—resulting in the victim's loss of his employment—"must be redressed with the wages and social benefits lost" by the victim, including "[the] social benefits with a view to future retirement, not just [...] the wages lost".

13. He asked "because it is not clear in the judgment what the practical effects of finding a violation of the victim's right to job stability are for him" if the Court would clarify whether its judgment "means that the victim has the right to social benefits with a view to future retirement" and, if so, whether "the order to grant the contributions corresponding to social security payments for the purposes of a future retirement and unemployment should be issued by the [...] Court [...] or [whether] the victim should approach domestic courts" for such an order.

14. The **State** argued that the wording of paragraph 160 of the judgment—where the Court sets the loss-of-earnings amount to be paid to the victim—is clear and unambiguous, and its content is relevant, congruent, and precise with respect to the full text of the judgment. It indicated that the representative "asks in error" that the Court establish social benefits with a view to a future retirement in favor of the victim, as this constitutes a matter of the merits that neither can nor should be analyzed through a request for interpretation. It added that the representative's intent is to "confuse" the Court into amending the judgment, thereby "obtaining additional compensation." It asked that the request for interpretation be dismissed on the grounds that it is inadmissible.

15. The **Commission** indicated that, in its jurisprudence regarding arbitrary dismissals or dismissals from public office, the Court has ruled to recognize victims' lost wages and corresponding social retirement benefits, requiring the State make the respective social benefit payments so they will have access to social security. It added that "it would be pertinent" for the Court to clarify whether the reparations set forth in paragraphs 145 and 160 of the judgment, arise from the obligation to recognize the benefits the victim would have received had he not been arbitrarily dismissed—that is, dismissed in violation of articles 23(1)(c) and 26 of the Convention.

## ***A.2. Considerations of the Court***

16. The Court recalls that paragraph 160 of the judgment stated as follows:

Therefore, because the procedure culminating in the victim's dismissal was found to be in violation of his rights, the Court sets, in equity, for loss of earnings for the period from October 25, 2000—the date on which the Disciplinary Court imposed the above-mentioned sanction—to the date of issue of this judgment, the amount of USD 75,000.00 (seventy-five thousand United States dollars).<sup>7</sup>

17. The representative has requested clarification as to whether the judgment establishes the "right to social benefits with a view to future retirement" for the victim, and, if so, whether it should be ordered by this Court or the victim should seek to claim it before domestic courts.

18. In response to the request presented, the Court recalls that in the judgment, compensation was awarded to the victim in view of the fact that it was impossible to reinstate him to the position he had held (para. 145). In addition, compensation was ordered for material damages for loss of income or loss of earnings. Based on this, the amounts set for

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<sup>7</sup> In paragraph 145 of the judgment, cited by the Commission, the Court ruled that, since it was not feasible to grant the victim's request for reinstatement to the position he had held, the State must pay him compensation in the amount of USD 30,000.00 (thirty thousand United States dollars).

both categories included everything that would fall under or emerge from a labor relationship during the period in question.<sup>8</sup> Therefore, the representative's request is denied.

***B. Request for interpretation in relation to the validity of the sanction imposed on the victim***

***B.1. Arguments of the parties and of the Commission***

19. The **representative** argued that because the decision of the Disciplinary Tribunal of the National Police ordering the dismissal of Mr. Mina Cuera from the position of police officer was declared arbitrary by the Inter-American Court, in his opinion, "there is no [...] order of dismissal [against the victim] that could have legal effects subsequent to the judgment."

20. He asked that, given that the dismissal of Mr. Mina Cuero has been declared arbitrary, the Court clarify whether the sanction issued by the Disciplinary Court on October 25, 2000, is still in force. He stated that if not—that is, if the act violating his rights remains in force—the State would need to issue an "administrative cancellation" based on the Court's judgment to establish the victim's status as a police officer who has opted for voluntary retirement, effective on a date subsequent to the judgment, as the violation of his rights persisted precisely until the issues of the administrative cancellation.

21. The **State** indicated that the representative was raising a matter of the merits that neither can nor should be analyzed through a request for interpretation. It added that the representative's intent is to modify the judgment, which is inadmissible. It asked that the request for interpretation be dismissed.

22. The **Commission** indicated that it would be pertinent for the Court to clarify the administrative situation of the victim with respect to his dismissal to facilitate compliance with the judgment, given that the judgment concluded that the sanction imposed was the result of multiple violations of the American Convention.

***B.2. Considerations of the Court***

23. The representative has asked for clarification as to whether, as of the judgment, the sanction imposed by the Disciplinary Court dismissing the victim from the position of police officer remains in force. He stated that should the sanction be understood to remain in force, it would be necessary to order the State to issue an "administrative cancellation" based on the Court's judgment to establish the victim's status as a police officer who has opted for voluntary retirement.

24. Regarding this, the Court notes that the representative refers in his request for interpretation to aspects that were not analyzed in the judgment due to a lack of specific arguments during the processing of this case. Effectively, the representative did not make a timely and concrete claim to reparations during the procedural phase that the interpretation would require, for which reason a pronouncement by this Court of the type sought is not possible. Consequently, the request is dismissed.

**V  
OPERATIVE PARAGRAPHS**

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<sup>8</sup> Cf. *Case of Casa Nina v. Peru. Interpretation of Judgment of Preliminary Objections, Merits, Reparations, and Costs.* Judgment of September 1, 2021. Series C No. 433, para. 26.

25. Therefore,

**THE COURT,**

pursuant to Article 67 of the American Convention on Human Rights and articles 31(3) and 68 of the Rules of Procedure,

**DECIDES:**

Unanimously,

1. To declare the request for interpretation of the Judgment of Preliminary Objection, Merits, Reparations, and Costs in the *Case of Mina Cuero v. Ecuador*, presented by the representative, admissible, pursuant to the terms of paragraph 7 of this Judgment of Interpretation.
2. To dismiss the request for interpretation of the Judgment of Preliminary Objection, Merits, Reparations, and Costs in the *Case of Mina Cuero v. Ecuador*, presented by the representative, as inadmissible, pursuant to the terms of paragraphs 16 to 18 and 23 to 24 of this Judgment of Interpretation.
3. To order the Office of the Registrar of the Court to notify the Republic of Ecuador, the representative of the victim, and the Inter-American Commission on Human Rights of this judgment of interpretation.

*I/A Court H.R. Case of Mina Cuero v. Ecuador. Interpretation of Judgment of Preliminary Objection, Merits, Reparations, and Costs. Judgment of August 30, 2023.*

Ricardo C. Pérez Manrique  
President

Eduardo Ferrer Mac-Gregor Poisot

Humberto Antonio Sierra Porto

Nancy Hernández López

Verónica Gómez

Patricia Pérez Goldberg

Rodrigo Mudrovitsch

Romina I. Sijniensky  
Deputy Registrar

So ordered,

Ricardo C. Pérez Manrique  
President

Romina I. Sijniensky  
Deputy Registrar