
“Five Pensioners” v. Peru

I. COMPLIANCE AND FOLLOW-UP ADDENDUM¹

October 20, 2016: The Court ordered an investigation concerning the State’s prolonged non-compliance with the Judgment.² The State had failed to comply with the obligation, imposed by the Judgment, to investigate and apply appropriate sanctions to those found responsible.³ However, the Court stated it could not continue requiring the State to investigate because the State’s capacity to do so was inhibited by the lack of appropriate legislation and statute of limitations.⁴ Therefore, the Court decided to terminate compliance monitoring on this matter.⁵

In addition, the Court noted that the State had made considerable reductions to the pensions of the victims, which the Court declared to be in violation of the Judgment.⁶ The Court stated it would continue compliance monitoring until the State proved that the victims’ pensions were being paid in compliance with the Judgment.⁷ The State was ordered to adopt any measures necessary to comply with the Judgment and to submit an updated report by April 7, 2017.⁸ Additionally, the victims’ representative was ordered to submit observations within four weeks and six weeks of receiving the report.⁹

May 30, 2018: The Court held a compliance monitoring hearing.¹⁰ Prior to this, the State had presented a report concerning the victims’ pensions and a request by the State for a re-evaluation of the “Fourth, Fifth and

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² “Five Pensioners” v. Peru, Monitoring Compliance with Sentence, Order of the Court, Inter-Am. Ct. H.R. “Considering That,” ¶ 76 (Oct. 20, 2016).

³ *Id.* “Resolves” ¶ 1.

⁴ *Id.* “Considering That,” ¶¶ 91-92, 95.

⁵ *Id.* “Resolves” ¶ 2.

⁶ *Id.* “Considering That,” ¶ 73.

⁷ *Id.* “Resolves” ¶¶ 4-5.

⁸ “Five Pensioners” v. Peru, Monitoring Compliance with Sentence, “Resolves,” ¶ 6-7.

⁹ *Id.* ¶ 8.

¹⁰ *See generally* “Five Pensioners” v. Peru, Monitoring Compliance with Sentence, Resolution of the Court, Inter-Am. Ct. H.R. (May 30, 2018).

Sixth Operative Points of the Supervisory Resolution of Compliance” of October 20, 2016.¹¹ In addition, the Court had received a response brief by the victims requesting a hearing on compliance.¹²

The Court determined that the State’s request for reconsideration was inadmissible.¹³ According to the Court’s procedural rules, the State may not challenge the decisions of the Court unless the appeal is based on facts unknown to the Court at the time of the Judgment.¹⁴ The State did not refer to any unknown facts or circumstances at the time of the Judgment, but merely disagreed with the Court’s ruling.¹⁵ The Court chose to delay the compliance hearing until the State produced a report on measures taken to comply with the Judgment and after the Commission had submitted their own observations.¹⁶

The Court held the State was in breach of the Judgment of February 28, 2003.¹⁷ The State had yet to show evidence that the victims’ pensions had been restored to the correct amounts.¹⁸ The Court expressed concern with the speed of the judicial and administrative processes of the State, given that four of the five victims were deceased in the meantime.¹⁹ The Court ordered the State to prove it has taken the necessary actions and to file a report by April 4, 2022.²⁰ The Court decided to continue compliance monitoring until the State restores the victims’ pensions to the appropriate amount as decided in the Judgment.²¹

¹¹ “Five Pensioners” v. Peru, Monitoring Compliance with Sentence, “Seen,” ¶ 3.

¹² *Id.* ¶ 4.

¹³ *Id.* “Considering That,” ¶ 10.

¹⁴ *Id.* ¶¶ 7-8.

¹⁵ *Id.* ¶ 9.

¹⁶ *Id.* ¶¶ 3, 12.

¹⁷ “Five Pensioners” v. Peru, Monitoring Compliance with Sentence, Resolution of the Court, Inter-Am. Ct. H.R. “Declares That” ¶ 1 (Nov. 25, 2021).

¹⁸ *Id.* “Considering That,” ¶ 14.

¹⁹ *Id.* ¶ 19.

²⁰ *Id.* ¶ 20.

²¹ *Id.* “And Resolve,” ¶ 2.