

Press Release

Inter-American Court of Human Rights
I/A Court H.R._PR-71/2023 English

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I/A Court H.R.
Protecting Rights

PERU IS NOT RESPONSIBLE FOR JUDICIAL DECISIONS CONTRARY TO THE WORKER'S CLAIMS OF A DISMISSED EMPLOYEE

San José, Costa Rica, October 06th, 2023. – In the Judgment in the *Case of Bendezú Tuncar v. Peru*, notified today, the Inter-American Court of Human Rights declared that Peru is not responsible for the violation of the rights to judicial guarantees and judicial protection of Leónidas Bendezú Tuncar.

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

Leónidas Bendezú Tuncar began working for Universidad de San Martín de Porres, a private institution, on January 20th, 1981.

On March 21st, 1996, a university student reported Mr. Bendezú Tuncar for the alleged alteration of documents related to the process for updating her registration. As a result, the University carried out a procedure in which it assessed the reported complaint and it decided to dismiss Mr. Bendezú. The dismissal was made effective on May 13th, 1996, and on June 2nd it was communicated to the Ministry of Labor and Promotion of Employment (Ministerio de Trabajo y Promoción Social).

Mr. Bendezú began three judicial proceedings to obtain reparations, since he considered the dismissal to be contrary to his rights. None of the proceedings had favorable outcomes for Mr. Bendezú.

Therefore, on June 6th, 1996, Mr. Bendezú Tuncar filed a worker's claim of "nullity of dismissal." On July 10th, 1997, the claim was admitted in the first instance as having grounds. However, the decision was appealed by the University and it was reversed in the second instance on December 29th, 1997, given that the reason for nullity invoked by Mr. Bendezú was not contemplated in the applicable laws.

On April 22nd, 1999, Mr. Bendezú started a trial to obtain compensation for his dismissal, which he considered to be arbitrary. On August 12th, 1999, the compensation claim was rejected due to expiration; the judicial body ruled that the claim was filed after the legal term to do so had elapsed. Mr. Bendezú filed an appeal, but on May 21st, 2002, the decision was confirmed.

On May 5th, 2000, Mr. Bendezú filed a legal action for damages. On May 26th, 2000, the Specialized Court rejected the action due to lack of jurisdiction. The remedies filed by Mr. Bendezú did not succeed in reverting this decision.

The Court, in conformity with its jurisdiction, assessed the behavior of the State, in this case that of the judicial authorities, not the dismissal process by the University. The Court called to mind that the mere fact that a domestic remedy does not bear a favorable outcome for the applicant does not demonstrate in and of itself the violation of the right to an effective remedy.

Regarding the first judicial claim of nullity of dismissal, the Court noted that the judicial bodies that intervened assessed the claims made by Mr. Bendezú. Therefore, he did have access to an appropriate judicial remedy to address his claim.

The other two judicial actions opened by Mr. Bendezú were rejected based on judicial determinations regarding the time period to file an action and the jurisdiction of the legal body. These are aspects specific to the domestic jurisdiction, related to the presumptions of admissibility of legal remedies, which are not contrary to the international obligations of the State.

The Court thus concluded that the State did not violate the rights to judicial guarantees and judicial protection of Mr. Bendezú.

Since the State was not found responsible, the Court ordered the closing and archiving of this case.

The Court's composition for the issue 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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