



On the grounds of inaccuracy and insufficiency, the Constitutional Court revokes the declaration of internal disturbance

In its ruling of February 12, 2009, the Constitutional Court established that the state of internal disturbance declared by the Colombian government in October 2008 was unconstitutional. At that time, as a way of justifying the declaration of the state of disturbance, the government had claimed the need to ward off the strike of the judicial sector.

In its opinion the Court declared that the factual circumstances were not given that would authorize the executive to assume powers reserved for Congress in a democracy and that, therefore, the decree issued by the government violated the Constitution.

According to information made public by the Constitutional Court with regard to this decision, there appears to have been “noticeable inaccuracy and insufficient reasons alleged by the Executive for its declaration of the state of internal disturbance.” According to that High Tribunal, the requirements were not met in order to issue a declaration of this nature. The Court pointed out that no public disturbance had taken place affecting in a serious way the country’s institutions – as the Constitution stipulates in order to justify the exercise of extraordinary powers by the government. The president of the Constitutional Court highlighted also the serious nature of a situation that would warrant the declaration of the state of internal disturbance.

This ruling is a decision that curbs the arbitrary and abusive way in which the government meant to use the state of emergency to settle unilaterally and *de facto* the complaints of the workers of the judicial branch and to promote changes in the internal structure of that branch. Through its sentence, the Court maintains its jurisprudence regarding the strict requirements that must be met before the Executive declares the state of emergency.

The National Association of Judicial Employees (*Asociación Nacional de Empleados Judiciales - Asonal Judicial*), the Central Workers’ Union Federation (*Central Unitaria de Trabajadores - CUT*), and the Colombian Commission of Jurists took part in the constitutionality suit by the Constitutional Court, requesting that the state of internal disturbance be declared unconstitutional. According to these organizations, the non-existence of factual circumstances justifying the declaration of internal disturbance, the existence of possible ordinary alternative solutions to the strike, the government’s possibilities for preventing any negative effects of the strike, as well as the evident disregard of labor rights, all constitute powerful reasons to conclude that the government did not have the faculties to declare the state of internal disturbance.

The Court’s opinion coincides with the criteria established through General Observation 29 of the Human Rights Committee created by the International Covenant on Civil and

Political Rights, and it confirms that there is a tendency in international law to be more stringent about the requisites that must be met in order to declare the state of exception. This is binding for the Colombian State, and the Court ruled in this sense.

Attached are the text of the citizens' intervention that the before-mentioned organizations submitted to the Constitutional Court and the opinion of the Procurator General's Office (*Procuraduría General de la Nación*).

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