

Hypothetical Case for the

that they were dealing with chemicals that had only recently been placed on the market, its office did not possess sufficient technical resources to evaluate them definitively. The committee therefore ordered the company to adopt the safety measures that it deemed suitable for the prevention of possible harm to the workers. The company was advised that it would be subject to a fine and closure of its plant if it failed to comply.

8. Armando, dissatisfied with the CCA's response to the workers' petition, filed an *accion de tutela*" [this is a simple and prompt recourse within the terms of article 25 of the American Convention on Human Rights] on behalf of himself and his co-workers for the purpose of obtaining the required information regarding the production materials. He maintained in his claim that neither the company nor the CCA had provided the employees with sufficient information on the risks to which they were exposed by working in the plant, and that, consequently, the possibility that the danger of intoxication was real could not be eliminated. Furthermore, he requested that the manufacturers of the chemical products be required to disclose all of the information in their possession regarding the risks of handling the chemicals.

9. The judge rejected the workers' claim, finding that CCA's response was sufficient, considering the technical difficulties involved in conducting the chemical analyses. She added that the hazardous nature of the materials used in the manufacturing process had not been proven as a certainty. Likewise, she held that the CCA's order requiring the company to adopt appropriate safety measures was a sufficient guarantee of

bargaining agent status to that union which, cons

UTP at that particular moment, and that this circumstance was insufficient to demonstrate the sustained representation of the majority of the workers. The committee emphasized that the UTO had been the plant's representative union for the past 50 years, during which time it had participated in the General Labor Confederation of Alta Caledonia. The CCA also stated that, at the time of the election, the UTO had 130 members at the plant, which was three more than the UTP had. It further noted that some employees had not voted, and that the UTP was a newly-formed union which did not participate in any national confederation. As such, the CCA refused to certify the UTP as the representative authorized to negotiate the collective bargaining agreement, and continued to recognize the UTO as the workers' representative.

20. According to the labor laws, the UTP cannot again petition to be certified as the majority union until two years have elapsed from the time the CCA's decision was issued.

21. In his capacity as UTP representative, Armando challenged the CCA's decision before the labor court.

22. The Pagura labor court judge upheld the CCA's decision, and the Court of Appeals affirmed the labor court judge's decision. The appellate court upheld the validity of the CCA's decision by underscoring that the labor union system in Alta Caledonia was "characterized by a plurality of associations and the unity of its representation." The Supreme Court affirmed the appellate court's decision on March 30, 2000.

III.

23. On February 3, 2000, Armando and his 12 colleagues initiated a strike as a sign of protest against the CCA's January 27th decision denying the petition to recognize the UTP's bargaining agent status. During the demonstrations that accompanied the protest, certain property of the company was destroyed.

24. [The same day,]³ the strike was declared illegal by the Ministry of Labor. The next day, Automac fired the 13 striking workers, including Armando, in spite of the fact that he was registered with the CCA as a representative of the UTP. The employer alleged that the strike was illegitimate, that all of the union's complaints were unfounded, and therefore that the dismissals were justified.

25. Armando and his co-workers petitioned the labor court for their immediate reinstatement to the company. They maintained that the dismissals were contrary to the free exercise of trade union rights, and that the UTP strike could not be considered illegal since it is essential for a labor union to be able to manifest its grievances by exercising the right to strike, particularly during the union's formative stages. They further alleged that, in Armando's case, his rights as the representative of a trade union had been denied.

³ Added after Questions and Answers period.

Relevant Instruments

Alta Caledonia is a State party to the following treaties:

1. The Charter of the Organization of American States, ratified in 1965.
2. The American Convention on Human Rights, ratified in 1972 without reservations;