

REPORT No. 33/10
DECISION TO ARCHIVE
CASE 11.806
PERU
March 16, 2010

ALLEGED VICTIM: Demetrio Limonier Chavez Peñaherrera

PETITIONER: José Pablo Castro Mora

ALLEGED VIOLATIONS: Articles 5, 8, 25, and 1.1 of the American Convention

DATE OF INITIAL PROCESSING: September 11, 1997

I. POSITION OF PETITIONER

1. Petitioner claimed that in May 1994, the alleged victim was convicted on final appeal by the Supreme Military Justice Council (*Consejo Supremo de Justicia Militar*) to a 30-year prison term for the crime of treason. He claimed that a constitutional writ (*amparo* relief) was filed before the regular courts on December 27, 1995.

2. The petitioner indicated that on April 17, 1996, a new trial was brought against the alleged victim for drug trafficking, during which he was denied the right to meet privately with counsel, along with other alleged violations of his right of defense. He claimed that after August 1996, following the alleged victim's accusation of Vladimiro Montesinos Torres for having facilitated drug trafficking, he was denied the right to meet with his attorney at all and began to be tortured at the hands of prison officers.

3. Finally, he reported that in October 1996, Demetrio Limonier Chavez Peñaherrera was sentenced to a 25-year prison term for the crime of drug trafficking, in proceedings that were rife with violations of the right to a fair trial.

II. POSITION OF THE STATE

4. In its initial reply, the State argued that domestic remedies had not been exhausted, because the proceedings brought against the alleged victim had not yet been ruled on at final appeal. The State requested that the petition be declared inadmissible under Article 46.1.a of the American Convention.

III. PROCESSING BEFORE THE COMMISSION

5. The initial petition was received on September 11, 1997, and conveyed to the State on October 2, 1997, with a request for it to return its reply within the following 90 days. In notes dated February 23 and March 13, 1998, the State returned its reply, which was forwarded to the petitioner on April 21, 1998.

6. The petitioner submitted additional communications on January 2 and 15, February 20, June 8 and 30, October 29, November 2, and December 31, 1998; March 15 and August 6, 1999; and March 27, 2001. Similarly, the State submitted additional filings on May 21, June 23, and September 14, 1998.

7. On December 16, 2009, the IACHR asked the petitioner to report whether the facts alleged in the petition still subsisted, indicating that if no reply was received, it could consider ordering the closure of the record in compliance with Article 48.1.b of the Convention.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

8. Both Article 48.1.b of the American Convention on Human Rights and Article 42.1 of the Rules of Procedure of the Inter-American Commission stipulate that at any time during processing, after receiving the information or once the time limit for its submission has expired, the IACHR is to determine whether the grounds for the initial petition still exist or subsist and, if they do not, it shall decide to archive the case file.

9. The information available in this petition is insufficient to determine whether or not the grounds on which the original claim were based still subsist or to reach a decision regarding its admissibility or inadmissibility. Consequently, the IACHR decides to close the record in respect of this petition in accordance with Articles 48.1.b of the Convention and 42 of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 16th day of the month of March, 2010.
(Signed: Felipe González, President; Paulo Sergio Pinheiro, First Vice-President; Dinah Shelton, Second Vice-President, María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, Commissioners).