

REPORT No. 32/10
DECISION TO ARCHIVE
CASE 11.178
PERU
March 16, 2010

ALLEGED VICTIM: Carlos Masias Chiroque

PETITIONER: Association for Human Rights (APRODEH)

ALLEGED VIOLATIONS: Articles 7, 8, and 25 of the American Convention, in conjunction with Article 1.1

DATE OF INITIAL PROCESSING: July 23, 1993

I. POSITION OF THE PETITIONERS

1. The petitioners claimed that on October 2, 1992, Carlos Masias Chiroque was arrested at his home and accused of being an accessory in the concealment of explosives. They stated that the alleged victim was convicted to a 20-year prison term for the crime of treason, in a judgment handed down by a military court on March 24, 1993. They reported that on December 24, 1997, an *ad hoc* commission established to review the cases of individuals convicted under the antiterrorist legislation granted him a pardon.

2. The petitioners stated that although the alleged victim has been released, the State has not offered any redress for the harm inflicted during his imprisonment. They noted that other individuals in situations similar to that of Mr. Carlos Masias Chiroque have sought redress for miscarriage of justice before the Peruvian courts, but that those claims have been denied on the grounds that there is no law that equates a pardon with a miscarriage of justice.

II. POSITION OF THE STATE

3. In its first communications, the State said that the competent authority for judging the case was the military courts and that it had asked the Supreme Military Justice Council (*Consejo Supremo de Justicia Militar*) for information about the lodging of an extraordinary appeal for review.

III. PROCESSING BEFORE THE COMMISSION

4. The initial petition was received on July 23, 1993, and forwarded to the State on July 29, 1993, with a request for it to return its reply within the following 90 days. The State's reply was received on October 14, 1993, and forwarded to the petitioners on October 29, 1993. The petitioners were asked to submit up-to-date information on October 23, 1998, and they returned their comments on June 4, 1999.

5. The IACHR again asked the petitioners for up-to-date information on January 9, 2003, and on April 5, 2004. On May 11, 2004, the petitioners reported that although Mr. Carlos Masias had been pardoned, he was not compensated for the violations of his rights incurred during his imprisonment.

6. On November 22, 2004, the Commission asked the petitioners to indicate "whether any legal action had been brought in connection with the compensation sought from the Peruvian State and, if so, what results had been obtained." On December 31, 2008, the petitioners were again asked for up-to-date information and were told that if no reply was received, the Commission could consider closing the record per Article 48.1.b of the Convention.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

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

8. In spite of the requests for information made by the IACHR on November 22, 2004, and on December 31, 2008, the petitioners have submitted no up-to-date information. In those circumstances, and having seen that the information available is insufficient to reach a decision on the admissibility or inadmissibility of the petition, the IACHR decides to order the record closed 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 Sérgio Pinheiro, First Vice-President; Dinah Shelton, Second Vice-President; María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, Commissioners).