REPORT No. 21/10
DECISION TO ARCHIVE
PETITION 1003-03
ARGENTINA
March 16, 2010

ALLEGED VICTIM:	Juan Carlos Ruiz Díaz
PETITIONER:	Ramona Ruiz Díaz
ALLEGED VIOLATIONS:	Articles 7.5, 8.1, and 8.2 of the American Convention on Human Rights
DATE OF INITIAL PROCESSING:	January 31, 2005

I. POSITION OF THE PETITIONER

1. On November 26, 2003, the Inter-American Commission on Human Rights received a complaint filed by Ramona Ruiz Díaz for the alleged violation of the rights of Juan Carlos Ruiz Díaz (hereinafter referred to as the alleged victim) to personal liberty and judicial protection by the State of Argentina.

2. In her communication, the petitioner states that the alleged victim was sentenced to life imprisonment as the co-perpetrator of the crime of attempted robbery resulting in murder, perpetrator of criminal homicide and minor injuries, and accomplice in the crime of causing serious injuries, all of which are concurrent offences, and that he was declared a repeat offender.

3. The petitioner alleges that the proceedings exceeded the limits of reasonableness, violating constitutional guarantees of due process and his right to a defense.

4. Furthermore, she indicates that, at the time the petition was filed, Juan Carlos Ruiz Díaz had been deprived of liberty without a final judgment since October 1988 and that the judge, when setting bail for the alleged victim's release, did not take his financial situation into account, thereby violating the guarantee of equality before the law. She adds that despite continual motions seeking reconsideration of the amount of bail or release on his own recognizance, no positive results have been obtained. The petitioner states that, even though real property had been offered to cover the amount of the bail, that offer was rejected because preference was given to the publicly assessed value of the property rather than to private appraisals.

5. Lastly, she indicates that despite the time elapsed, at the time the petition was filed, not only had his timely release not been granted, he had not even been permitted access to intermediate jurisdictional levels through the remedies provided in local legislation for the purpose of reviewing the legitimacy of his detention. She added that if someone else had been accused under the same conditions, except that that person was financially well off, he would have been able to obtain a provisional release. That was the most egregious show of inequality before the law, despite the existence of Article 177 of the CCP, which establishes that for purposes of setting bail secured by real estate, the financial situation of the accused shall be taken into account.

II. POSITION OF THE STATE

6. The State replied that the final decision regarding preventive custody had been made on May 16, 2002, by the Court of Cassation of the Province of Buenos Aires, upon rejection of an appeal filed against the resolution of the Departmental Court of Appeals and Guarantees, Courtroom I, of the Judicial Department of Morón, which had denied the defense's motion offering real property, as its value was insufficient to guarantee the bail set for Juan Carlos Ruiz Díaz.

7. The State indicated that the petition had not been filed within the six-month period calculated from the date of the final decision on the incidental proceedings for release in accordance with Article 46.1.b, since according to the foregoing, the six-month time period should have been calculated from the date of the final decision made within the framework of the incidental proceedings for release by the Criminal Court of Cassation on May 16, 2002.

8. The State also indicated that the requirement established in Article 46.1.b is closely related to that required by the same article in subparagraph (a), which states that in order for a petition to be filed with the Commission, all remedies available under internal jurisdiction must be exhausted according to generally recognized principles of international law. The remedies that must be exhausted are those that are appropriate in the specific context of the alleged violation of human rights. In this regard, over the course of the proceedings, the State alleged that the petitioner had presented an appeal *per saltum*, which does not formally exist under Argentine law. Consequently, it cannot be invoked as a starting point for calculating the time period indicated in the preceding paragraph. The State alleges that the petitioner filed the petition on November 26, 2003, a year and a half after the final decision on the defendant's incidental proceedings for release was issued. This would lead to the conclusion that the petition is inadmissible with regard to the grievance related to the unreasonableness of calculating the six-month period from the notification date of the decision made on the defendant's incidental proceedings for release.

9. Similarly, the State indicated that the petition does not present facts that constitute a violation of the rights guaranteed by the Convention according to its Article 47.b, as the proceedings themselves contradict the alleged violations of the right to a hearing (Article 8.1), the right to be assisted by legal counsel (Article 8.2.d) and the right to appeal (Article 8.2.h). Due to the foregoing, the Argentine State believes that the petition should be declared inadmissible due to its not having been presented within the time period set forth in Article 46.1.b of the American Convention, and due to the fact that it does not present facts that constitute a violation of human rights as established in Article 47.b of the American Convention.

III. PROCESSING BEFORE THE IACHR

10. The petition was received on November 26, 2003. On January 31, 2005, the IACHR transmitted the petition to the Argentine State, requesting a reply within two months.

11. On June 7, 2005, the observations made by the Argentine State were received and on March 6, 2006, they were transmitted to the petitioner. As no response was received from the petitioner, the Commission reiterated its request for information on February 2, 2009. Up until the date of this report, no response has been received.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

12. Both Article 48.b of the American Convention on Human rights and Article 30, paragraph 6, of the Rules of Procedure of the Inter-American Commission on Human Rights establish that, with regard to the processing of a petition, once the observations have been received or the period established has elapsed with no observations received, the IACHR shall verify whether the grounds for the petition exist or subsist, and, if it determines that they do not, it shall order that the case be archived.

13. Nearly four years have passed since the last step taken, on March 6, 2006, without a response from the petitioners regarding the observations made by the State. On February 2, 2009, the request for information from the petitioner was reiterated; however, to date no response has been received. Having made the corresponding analysis, the Commission believes that it does not have sufficient information to determine the admissibility or inadmissibility of the petition, or whether the grounds supporting the original complaint subsist. Accordingly, pursuant to Article 48.b of the Convention and Article 30, paragraph 6, of the Rules of Procedure of the IACHR, it decides to archive this petition.

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, Rodrigo Escobar Gil, and José de Jesús Orozco Henríquez, Members of the Commission.