

REPORT No. 30/10
DECISION TO ARCHIVE
CASE 11.617
PERU
March 17, 2010

ALLEGED VICTIM: Miners employed by Shougang Hierro Peru S.A.

PETITIONER: Union of Mine Workers of Shougang Hierro Peru S.A.

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

DATE OF INITIAL PROCESSING: March 6, 1996

I. POSITION OF THE PETITIONER

1. Petitioner claimed that under Article 29 of the Peruvian Constitution, Article 2 of Legislative Decree No. 677/1991, and their labor agreement, the workers of Shougang Hierro Peru S.A. were entitled to a share in the company's profits, which their employers had denied them.

2. According to the claim, in 1994 the alleged victims filed a suit before the Specialized Labor Court of Nazca, which ruled in their favor. That decision, was, however, overturned by the Civil Chamber of the Superior Court of Justice of Ica. The petitioner also reported that an appeal for annulment was ruled inadmissible by the Supreme Court on August 2, 1995. The petitioner argued that the judiciary incorrectly interpreted the provisions of domestic legislation and retroactively enforced the law in this case.

3. Based on the facts set out above, the petitioner held that the Peruvian State was responsible for violating the rights enshrined in Articles 8 and 25 of the American Convention.

II. POSITION OF THE STATE

4. The State submitted rebuttals to the petition on several occasions. In those comments, it held that the claim must be ruled inadmissible because it was manifestly groundless, there being no violation of any of the rights enshrined in the Convention. It said that the Peruvian courts acted within the confines of their jurisdiction and in accordance with the guarantees of due process.

III. PROCESSING BEFORE THE COMMISSION

5. The initial petition was received on February 9, 1996, and forwarded to the State on April 29, 1996, with a request for it to return its reply within the following 90 days. The State's reply was received on July 18, 1996, and forwarded to the petitioners on August 20, 1996.

6. On March 7, 1997, the State submitted an additional communication, which was forwarded to the petitioner on April 21, 1998. On May 10, 2004, the IACHR asked the petitioner for information on the subsistence of the facts claimed in the initial filing. In that communication, the petitioner was told that if no reply was received, the Commission could consider ordering the closure of the record, pursuant to Article 48.1.b of the Convention.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

7. 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 petition still exist or subsist and, if they do not, it shall decide to archive the case file.

8. In the instant case, ever since the complaint was originally filed on March 6, 1996, the IACHR has forwarded the State's replies and additional communications to the petitioners without their returning any comments. In addition, the IACHR requested up-to-date information on May 10, 2004, without obtaining any reply from the petitioner.

9. In those circumstances, the information available is insufficient to determine whether the grounds for the initial petition still subsist or to reach a decision on 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 Sérgio Pinheiro, First Vice-President; Dinah Shelton, Second Vice-President; María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, Commissioners).