

REPORT No. 59/10
DECISION TO ARCHIVE
CASE 11.452
ECUADOR
March 24, 2010

ALLEGED VICTIM: Francisco Llaguno Cobos

PETITIONER: Comisión Ecuémica de Derechos Humanos (CEDHU)

ALLEGED VIOLATIONS: Article 5 of the American Convention on Human Rights

INITIATION OF PROCESSING: July 20, 1995

I. POSITION OF THE PETITIONER

1. The petition filed on November 8, 1994, alleged a violation of the right to personal integrity of Francisco Llaguno Cobos by agents of the State of Ecuador.

2. With regard to the allegations, the petitioners point out that on May 3, 1993, three prison guards inflicted severe blows on Francisco Llaguno Cobos when he was imprisoned at the Central Coastal Penitentiary of the city of Guayaquil, causing a concussion.

3. They allege that according to a medical report¹ issued on May 26, 1993 by the doctors of the National Social Rehabilitation Department, Mr. Francisco Llaguno Cobos still exhibited medical disorders due to the trauma suffered 15 days before. The petitioners maintain that despite requests for information from the National Social Rehabilitation Department about the measures adopted to investigate the facts and punish those responsible, no reply had been received. The petitioners allege the violation of Article 5 of the American Convention on Human Rights.

II. POSITION OF THE STATE

4. The State indicated that it was unable to provide information on the status of the proceedings before the First Criminal Chamber of Guayas against Francisco Llaguno Cobos due to the archiving of the file, and presented police reports on the criminal history of Francisco Llaguno Cobos dating from 1974. Although throughout the proceedings in the present petition the State sent various communications in reply, it did not present information relating to the petitioners' complaint.

III. PROCEEDINGS BEFORE THE IACHR

5. On November 8, 1994, the IACHR received the petition, which was registered under number 11.452, and after undertaking a preliminary analysis, on July 20, 1995, it proceeded to send a copy of the relevant parts to the State for observations. On April 15, 1996, the IACHR repeated its request for information to the State. On August 28, 1996, the State presented its reply, which was sent to the petitioners for observations. On September 5, 1996, the State presented additional observations, which were sent to the petitioners. On January 23, 1997, the petitioners presented their observations, which were sent to the State. On March 11, 1997, the State sent additional information, which was sent to the petitioners. On June 9, the petitioners presented observations, which were sent to the State.

6. On February 16, 1999, the IACHR placed itself at the disposal of the parties in order to reach a friendly settlement. On April 4, 2001, the State agreed to initiate a friendly settlement procedure.

¹ Report # 126 - CRSVG – DM. Initial Petition received on November 8, 1994.

On October 24, 2008, the petitioners indicated to the IACHR that "if considered adequate, the petition could be archived." On April 17, 2009, the IACHR requested the petitioners to clarify within a month whether the grounds for the claim still existed in order to proceed to archive the request. On June 12, 2009, the petitioners requested the archiving of the petition.

IV. BASIS FOR THE DECISION OF THE COMMISSION

7. Both Article 48.1 subparagraph b of the American Convention on Human Rights as well as Article 42 of the Rules of Procedure of the IACHR establish that, within the processing of a petition, after the information has been received, or after the period established has elapsed and the information has not been received, the Commission shall ascertain whether the grounds for the petition or communication still exist. If they do not, the Commission shall order the record to be closed.

8. The present petition alleges a violation of the right to personal integrity enshrined in Article 5 of the American Convention as a consequence of the alleged blows inflicted by the prison guards of the Central Coastal Penitentiary of the city of Guayaquil on Mr. Francisco Llaguno Cobos.

9. The petition remained inactive for more than seven years, in view of which the IACHR requested information from the petitioners pursuant to the provisions of 30.6 of the Rules that were in force up to December 30, 2009, in order to determine whether the grounds for the petition still existed. In reply, the petitioners stated that they had lost contact with the victim and requested the archiving of the petition.

10. In view of the request to archive the petition presented by the petitioners, the Commission has decided to archive the present petition, in accordance with Article 48.1 subparagraph b of the American Convention, as well as Article 42 of the Rules of Procedure currently in force.

Done and signed in the city of Washington, D.C., on the 24th day of the month of March 2010. (Signed: Felipe González, President; Dinah Shelton, Second Vice-president; María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, members of the Commission).