

REPORT No. 60/10
DECISION TO ARCHIVE
PETITION 10.741
PERU
March 24, 2010

ALLEGED VICTIM: Luis Efraín Peña Solar

PETITIONERS: Centro de Estudios y Acción para la Paz (CEAPAZ)

ALLEGED VIOLATIONS: Articles 4 and 5, in connection with Article 1.1 of the American Convention

DATE OF INITIATION OF THE PROCEEDINGS: November 30, 1990

I. PETITIONERS' POSITION

1. The petitioners alleged that on October 4, 1990, six officers of the Technical Police Force of Peru entered the Peña Solar family's home in the district of Ica, in the province and department of the same name. After searching the premises, the security agents took Luis Efraín Peña Solar, then a law student, to the Police Force facilities in Ica, stating that he was suspected of participation in the activities of the insurgent group Shining Path.

2. It is alleged that between October 4 and 6, 1990, the alleged victim's parents visited him in the Police Force's facilities in the district of Ica, accompanied by their lawyers. They indicate that on the October 6, 1990 visit, Luis Efraín Peña Solar was found dead, hung with knotted cloth suspended from the ceiling of his cell.

3. The petitioners state that after an expert examination was performed in the presence of a public prosecutor and the Peña Solar family's lawyer, the Forensic Office of Ica certified that the death of the alleged victim was caused by asphyxiation, due to "his hanging himself". However they pointed out that this result might have been tainted due to the fact that Mr. Luis Efraín Peña Solar had been detained on suspicion of being a member of Shining Path. They stated with little detail that the alleged victim's body showed signs of torture.

4. According to the allegations, in October 1990, the alleged victim's next of kin and the petitioners, Centro de Estudios y Acción para la Paz, presented complaints to the Public Prosecutor, the Interior Ministry, the National Police and the Technical Police Force requesting an investigation into the circumstances surrounding Luis Efraín Peña Solar's death. They indicate that those complaints were all dismissed by the respective authorities, which emphasized that it had been proved that Luis Efraín Peña Solar had committed suicide in the early hours of October 6, 1990, in the bath of his cell. The authorities argued that the evidence of suicide was confirmed by the absence of signs of aggression and other possible causes of death.

5. The petitioners confirmed that the Public Prosecutor corroborated the version of the Technical Police Force of Peru on Luis Efraín Peña Solar's death, without ordering a comprehensive investigation into the potential responsibility of the prison officers and without issuing the respective criminal complaints.

II. THE STATE'S POSITION

6. The State presented official report No. 448-IC, dated October 30, 1994, in which the Technical Police Force of Peru concluded that Mr. Luis Efraín Peña Solar died of asphyxiation with thick fabric (a rope) suspended from the bathroom ceiling adjacent to his cell. The report points out that the asphyxiation was caused by his own efforts, with no indications of outside involvement. The said report describes the result of the autopsy performed on the alleged victim, the statements of the general service officials of the Technical Police building in Ica and sub-officials and inmates present on the date of Luis Efraín Peña Solar's death.

III. PROCEEDINGS BEFORE THE IACHR

7. The initial petition was received on November 30, 1990, registered under number 10.741 and sent to the State on December 3 of the same year, with a deadline of 90 days to present a reply, in accordance with the IACHR's Rules then in force.

8. On December 7, 1993 up to date information was requested from the petitioners and on December 15 of the same year the request for a reply from the State of Peru was reiterated. On November 4, 1994, the State presented its reply, which was sent to the petitioners on November 17 of the same year, with a deadline of 45 days to present observations. On December 19, 1996, the request to the petitioners for observations was reiterated, with the indication that if no up to date information were received, the IACHR would consider archiving the petition.

9. On March 17, 1997, the petitioners presented an additional brief, repeating that the circumstances surrounding the death of the presumed victim had not been diligently investigated by the Technical Police Force of Peru and the Public Prosecutor.

10. On December 12, 2002, up to date information was requested from the petitioners within 30 days. On April 5, 2004, up to date information was requested from the petitioners with the indication that if no reply were received within one month, the IACHR would consider archiving the petition.

IV. BASIS OF THE DECISION TO ARCHIVE

11. Both Article 48.1.b of the American Convention as well as Article 42.1 of the Rules of Procedure of the Commission establish that, within the processing of a petition, after the information requested 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.

12. The present claim is related to an alleged denial of justice based on the conclusions reached by the Technical Police Force of Peru and the Public Prosecutor, in the context of the death of Mr. Luis Efraín Peña Solar in October 1990. These entities issued reports concluding that the death of the alleged victim was due to his own actions, with no indications of outside involvement. The last communication from the petitioners was received on March 17, 1997. In spite of two requests for additional and up to date information made on December 12, 2002, and April 5, 2004, the petitioners failed to present their reply; therefore, the IACHR lacks the necessary elements to reach a decision on admissibility or inadmissibility of the claim. Based on the preceding considerations, the IACHR has decided to archive the present petition in accordance with Article 48.1.b of the Convention and Article 42 of the Rules.

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, Commissioners).