

REPORT No. 101/10
DECISION TO ARCHIVE
CASE 11.432
GUILLERMO SEVILLA SACASA AND LILIAN SOMOZA DE SEVILLA SACASA
NICARAGUA
July 15, 2010

ALLEGED VICTIMS: Guillermo Sevilla Sacasa and Lilian Somoza de Sevilla Sacasa

PETITIONERS: Guillermo Sevilla Sacasa and Lilian Somoza de Sevilla Sacasa

ALLEGED VIOLATIONS: Articles 7, 8, 9, 21, and 25 of the American Convention on Human Rights

DATE PROCESSING BEGAN: February 27, 1995

I. POSITION OF THE PETITIONERS

1. On August 10, 1994, the Inter-American Commission on Human Rights received the petition submitted by Guillermo Sevilla Sacasa and Lilian Somoza de Sevilla Sacasa, for the alleged violation of their rights to personal liberty, a fair trial, freedom from ex post facto laws, private property, and judicial protection by the State of Nicaragua.

2. In the petition, the petitioners said that the State of Nicaragua had expropriated their real and personal property without due process of law. They said that the expropriation occurred under Decree No. 3 of the Nicaraguan Government Junta on July 20, 1979, which authorized the Attorney General to seize, requisition, and confiscate all of the Somoza family assets.

II. POSITION OF THE STATE

3. In its reply, received on May 15, 1995, the State of Nicaragua requested that the petition be declared inadmissible for the following reasons: Firstly, it argued that the Commission lacked *ratione temporis* competence because the confiscation of the petitioners property was said to have occurred on July 20, 1979, under Decree Law No. 3; while the American Convention on Human Rights entered into force for Nicaragua on September 25, 1979. Secondly, it argued that the petition was not presented within the period established in Article 46.1.b of the Convention, because the final judgment was in July 1990 and the petition was presented on August 10, 1994.

4. In addition, the State referred to abuses committed by the Somoza regime in Nicaragua and the petitioners' fraudulent acquisition of properties to justify the expropriation of their assets.

III. PROCESSING BY THE IACHR

5. On August 10, 1994, the Commission received the petition of the same date and assigned it number 11.432. On February 27, 1995, it transmitted the pertinent parts to the State, requesting it so submit its response within 90 days, in accordance with the provisions of the Rules of Procedure of the Inter-American Commission on Human Rights then in force.

6. On May 12, 1995, the State of Nicaragua presented its observations, the pertinent parts of which were forwarded to the petitioners on May 15, 1995. The petitioners sent their observations on July 3, 1995.

7. The IACHR received additional information from the petitioners on August 2 and October 5 and 26, 1995; February 7, 8, and 12, March 13, and September 6, 1996; January 29 and July 25, 1997;

and December 17, 2002. These communications were duly forwarded to the State. In addition, the IACHR received observations from the State on August 24 and November 30, 1995; and January 6, February 14, and March 6, 2003. The communications were duly sent on to the petitioners.

8. In order to update the processing of the petition, on January 17, 2007, the IACHR asked the petitioners to submit the information they deemed appropriate within one month, noting that if the Commission did not receive a reply, it could decide to archive the petition. To date, the IACHR has not received the necessary information from the petitioners to update the processing of the petition as requested.

IV. BASIS FOR THE DECISION TO ARCHIVE

9. Article 48.1.b of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the IACHR stipulate that before the Inter-American Commission decides on admissibility, it shall ascertain whether the grounds for the petition exist or subsist. If it considers that they do not, it may decide to archive the file. In addition, Article 42.1.a of the Rules of Procedure provides that the IACHR may decide to archive the file whenever the information necessary for the adoption of a decision is unavailable.

10. The last communication from the petitioners was received in 2002. The Commission sent them a communication that they did not answer, and they did not contact it to provide corrected contact information.

11. The Commission thus lacks the necessary information to determine whether the grounds for the original petition still exist. Therefore, in accordance with Article 48.1.b of the Convention and Article 42 of the IACHR Rules of Procedure, the Commission decides to archive the present petition.

Done and signed in the city of Washington, D.C., on the 15th day of the month of July 2010. (Signed: Felipe González, President; Paulo Sérgio Pinheiro, Vice-President; Dinah Shelton, Second Vice-President; Luz Patricia Mejía Guerrero, María Siliva Guillén, José de Jesus Orozco Henríquez, and Rodrigo Escobar Gil, Members of the Commission).