

REPORT No. 135/10
DECISION TO ARCHIVE
CASE 11.874
COLOMBIA¹
October 23, 2010

ALLEGED VICTIM(S): Oscar Miguel Sanez Ayala and Luis Rafael Sanez Ayala

PETITIONER: Luis Rafael Sanez Ayala

ALLEGED VIOLATIONS: Articles 4, 7, 11, 13, 15, 16, 17, 20, 21, 22, 24 and 25 of the American Convention on Human Rights

DATE OF INITIATION OF THE PROCEEDINGS: February 10, 1998

I. POSITION OF THE PETITIONER

1. On December 23, 1997, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition presented by Luis Rafael Sanez Ayala (hereinafter "the petitioner") alleging the responsibility of the Republic of Colombia for acts of harassment against him, as well as for the death of his brother, Oscar Miguel Sanez Ayala, allegedly committed by members of the Security Forces of Colombia.

2. The petitioner alleged that on November 2, 1996, Oscar Sanez was detained by four members of the National Police who killed him in the streets of the Municipality of Chinú. In addition, the petitioner stated that due to false information regarding his involvement in an attack against a paramilitary group, he was repeatedly threatened with death by members of the Security Forces, so that he had to travel to Costa Rica and request asylum.

3. He alleged that in Costa Rica he continued to be the victim of harassment by Colombian hit men hired by the State. Additionally, he alleged that he had lost the properties he left behind in Colombia and could not communicate with his family because his telephone calls were being intercepted.

II. POSITION OF THE STATE

4. In response to the petitioner's claim, the State alleged that the petition was inadmissible. With respect to the death of Oscar Sanez, it maintained that on March 6, 1998, the 22nd Sectional Prosecutor of Chinú ordered the indictment of three individuals for the crime of murder. In addition, it alleged that the supposed threats against Luis Sanez were not denounced before any competent authority. In this regard, Colombia considered that no international responsibility was attributable to the State given that the domestic remedies had not been exhausted.

III. PROCESSING BEFORE THE IACHR

5. On December 23, 1997, the IACHR received a petition, which was registered under No. 11.874. After making a preliminary analysis, on February 10, 1998, the IACHR proceeded to send it to the State, with a time limit of 90 days for its observations. On June 9, 1998, the State presented its response, which was sent to the petitioner on June 16, 1998, for its observations.

6. On February 26, 2004, the IACHR requested up-to-date information from the petitioner. On April 13, 2009, the IACHR requested current information to determine whether the grounds for the

¹ In accordance with the provisions of Article 17.2.a of the Commission's Rules, Commissioner Rodrigo Escobar Gil, of Colombian nationality, did not take part in either the deliberations or the decision in the present petition.

petition still existed. The petitioner was informed that should no information be received within a period of one month, it would proceed to archive the petition. As of the date of approval of this report, the petitioners have not responded.

IV. BASIS OF THE DECISION TO ARCHIVE

7. Both Article 48.1.b of the American Convention and Article 42 of the Commission's Rules provide that during the processing of a petition, after receiving information or once the time limit to receive information has elapsed, the IACHR shall verify whether the grounds for the petition or communication still exist, and if they do not exist or subsist it shall order the archiving of the case file.

8. In the present petition, there is an alleged violation of the rights enshrined in Articles 4, 7, 11, 13, 15, 16, 17, 20, 21, 22, 24 and 25 of the American Convention. For its part, the State maintained that the petition was inadmissible because the domestic remedies had not been exhausted in accordance with Article 46.1.a of the American Convention.

9. In the present proceedings the petitioner failed to submit observations in 1998; nor did he respond to the request for up-to-date information made by the IACHR in 2004. In addition, the petitioner failed to respond to the request for current information in April 2009 when he was informed that within a period of one month his petition would be archived. In such circumstances, it is not possible to determine whether the grounds supporting the initial petition still exist. Therefore, in accordance with Article 48.1.b of the American Convention, as well as Article 42 of the IACHR's Rules, the Commission decides to archive the present petition.

Done and signed in the city of Washington, D.C., on the 23rd day of the month of October, 2010.
(Signed): Felipe González, President; Dinah Shelton, Second Vice-President; Luz Patricia Mejía Guerrero, María Silvia Guillén, and José de Jesús Orozco Henríquez, members of the Commission.