

REPORT No. 134/10
DECISION TO ARCHIVE
CASE 11.642
COLOMBIA¹
October 23, 2010

ALLEGED VICTIM: José Fernando Torres Quinteros, Dairo Martín Agaton Rojas, Manuel de Jesús Lasprilla Yasno, Yesid Ortiz Alemesa, William Tabares Benjumea, Edgar Carreño Rodríguez, Guillermo Quintero Roballo, Joaquín Bautista Torres and Carlos Hernán Díaz Riano

PETITIONERS: Corporación Colectivo de Abogados – José Alvear Restrepo

ALLEGED VIOLATIONS: Articles 1.1, 4, 5, 8 and 25 of the American Convention on Human Rights

DATE OF INITIATION OF THE PROCEEDINGS: June 20, 1996

I. POSITION OF THE PETITIONERS

1. On May 30, 1996, the Inter-American Commission on Human Rights (hereinafter "the Commission") received a petition presented by the Corporación Colectivo de Abogados José Alvear Restrepo (hereinafter "the petitioners") alleging the responsibility of the State of Colombia for the alleged torture and extrajudicial execution of José Fernando Torres Quinteros, Dairo Martín Agaton Rojas, Manuel de Jesús Lasprilla Yasno, Yesid Ortiz Alemesa, William Tabares Benjumea, Edgar Carreño Rodríguez, and Guillermo Quintero Roballo and the attempted extrajudicial execution of Joaquín Bautista Torres and Carlos Hernán Díaz Riano by State agents.

2. The petitioners alleged that on March 7, 1996, José Fernando Torres Quinteros, Dairo Martín Agaton Rojas, Manuel de Jesús Lasprilla Yasno, Yesid Ortiz Alemesa, William Tabares Benjumea, Edgar Carreño Rodríguez, Guillermo Quintero Roballo, Joaquín Bautista Torres and Carlos Hernán Díaz Riano were out for a walk in the Tatacoa desert, on the outskirts of Neiva, Huila Department, where seven of them were killed by the "Tenerife" Infantry Battalion, belonging to the Ninth National Army Brigade. They indicated that Joaquín Bautista Torres and Carlos Hernán Díaz Riano managed to escape.

3. The petitioners stated that on March 20, 1996, the 35th Criminal Military Judge of Leiva initiated an investigation into the events. They alleged that on November 26, 1996, all proceedings against the soldiers connected with the process were closed. In addition, the petitioners indicated that on September 15, 1997, the Superior Military Court upheld the first instance decision.

4. On the other hand, they alleged that on December 5, 1996, the National Department for Special Investigations of the National Procurator General commenced a disciplinary investigation. Additionally, they pointed out that on March 5, 1998, the immediate families of the alleged victims lodged a complaint against the National Army before the Contentious Administrative Court of Huila, in order to claim compensation for material and moral damages.

5. With regard to the exhaustion of domestic remedies the petitioners maintained that given the ineffectiveness of the criminal military courts, the exception to the exhaustion of domestic remedies established in Article 46.2.b of the American Convention should apply.

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.

6. The petitioners alleged that the State was responsible for the violation of the rights to life, personal integrity, and judicial guarantees and protection set out in Articles 4, 5, 8 and 25 of the American Convention, in relation to Article 1.1.

II. POSITION OF THE STATE

7. In response to the petitioners' claim, the State argued that the petition was inadmissible due to lack of exhaustion of domestic remedies. In this respect, the State maintained that there were proceedings pending before the contentious administrative courts, which would be effective in seeking to provide reparations for the alleged victims' immediate families.

8. The State stressed that the effectiveness of the criminal military proceedings should be judged on a case-by-case basis, and that it could not be assumed that every criminal military proceedings violated the American Convention. In addition, it alleged that if the immediate family members of the alleged victims considered that there had been an obstruction of justice, they ought to have lodged the respective complaints in order that the decision of the criminal military courts could be reexamined.

9. In this way the State considered that domestic remedies had not been exhausted, as required by Article 46.1.a of the American Convention and that therefore, the petition was inadmissible.

III. PROCEEDINGS BEFORE THE IACHR

10. On May 30, 1996, the IACHR received a petition that was registered under number 11.642. After undertaking a preliminary analysis, on June 20, 1996, the IACHR proceeded to send it to the State with a time limit of 90 days to present its observations. On November 29, 1996, the State presented its response, which was sent to the petitioners for their observations.

11. On February 16, 1998, the petitioners presented their observations, which were sent to the State for its observations. On June 3, 1998, the State requested an extension of 30 days to present its observations, which was granted by the IACHR. The State presented its response on September 30, 1998, which was sent to the petitioners for their observations.

12. On February 1, 1999, the IACHR received the petitioners' observations, which were sent to the State on March 18, 1999, for its observations. On September 30, 1999, a hearing was held before the IACHR. On October 1, 1999, the petitioners sent additional information, which was sent to the State for its observations. The State presented its response on December 13, 1999, which was sent to the petitioners on December 20, 1999 for their observations.

13. On January 14, 2000, the petitioners presented their response, which was sent to the State on March 20, 2000 for its observations. The State presented its response on June 2, 2000, which was sent to the petitioners for their observations.

14. On April 2, 2009, the IACHR requested current information from the petitioners in order to determine whether the grounds for the petition still existed and informed them that should it not receive the information within one month, it would proceed to archive the petition. On May 7, 2009, the petitioners requested that the IACHR should supply "copies of the facts giving rise to the petition", which was done on May 11, 2009. On June 22, 2009, the petitioners sent a communication stating that at present they did not have any contact with the alleged victims.

IV. BASIS FOR THE DECISION TO ARCHIVE

15. 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.

16. In the present petition, the petitioners alleged a violation of the rights enshrined in Articles 4, 5, 8 and 25 of the American Convention in relation to its Article 1.1. For its part, the State alleged that the petition was inadmissible due to the failure to exhaust domestic remedies.

17. The Commission has not had updated information since June 2, 2000. The petitioners were not in a position to respond to the request for up-to-date information made by the IACHR in 2009. In such circumstances, it is not possible to determine whether the grounds justifying the original petition still exist, so that in conformity with Article 48.1.b of the Convention, as well as Article 42 of the IACHR's Rules, the Commission decides to archive the 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.