

REPORT No. 50/11
DECISION TO ARCHIVE
PETITION 12.164
PERU
March 23, 2011

ALLEGED VICTIM: Beatriz Roxana Espinoza Solís

PETITIONER: Richard Espinoza Solís

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

PROCESSING STARTING DATE: June 7, 1999

I. THE PETITIONER'S POSITION

1. The petitioner alleged that on June 17, 1993, Beatriz Roxana Espinoza Solís was arbitrarily detained, without a court order, by the National Counter-Terrorism Directorate [*Dirección Nacional Contra el Terrorismo*] (hereinafter "DINCOTE") as she was walking down the street, having been mistakenly pointed as a member of the insurgent group Communist Party of Peru – Shining Path (*Partido Comunista del Perú – the Sendero Luminoso*). The petitioner asserted that in August 1993, Mrs. Espinoza Solís was incarcerated in the Chorrillos Women's Prison for the crime of treason. He affirmed that while in prison, the alleged victim was tortured and accused of participating in the murder of an agent of Peru's National Police and in attacks on businesses, on orders from the *Sendero Luminoso*.

2. The petitioner maintained that the alleged victim was denied her right of defense, that the expert evidence was concealed from her, that testimony that would prove her innocence was disregarded, and that she was not fully identified by the witnesses, who did not show up to testify. He pointed out that Mrs. Espinoza Solís was nonetheless convicted by military judges and sentenced to thirty years in prison for the crime of treason. According to the petitioner, the alleged victim's conviction became final on August 9, 1993.

3. The petitioner stated that on September 7, 1993, the alleged victim filed a special appeal seeking a review of her conviction. The Special Supreme Military Tribunal declared the appeal out of order on June 6, 1996.

II. THE STATE'S POSITION

4. The State's contention was that the petition should be declared inadmissible on the grounds that the six-month time period required under Article 46(1)(b) of the American Convention had not been met. It alleged that the special appeal filed seeking a review of the conviction was declared out of order on June 6, 1996, while the petition was filed with the IACHR several years later.

III. PROCESSING BY THE IACHR

5. The petition was received on June 3, 1999, and was registered as number 12.164. On June 7, 1999, the Commission sent the relevant parts of the petition to the State and, in keeping with the Rules of Procedure then in force, requested the State's reply within 90 days.

6. The petitioner submitted additional communications on September 13 and December 14, 1999 and on June 5, 2001. The State, for its part, submitted its observations on September 23, 1999 and June 17, 2005.

7. On October 6, 2010, the IACHR asked the petitioner to provide updated information or any additional observations concerning this petition, and informed that if no response was received within one month, it would consider closing the record of the petition, pursuant to Article 48(1)(b) of the American Convention.

IV. GROUNDS FOR THE DECISION TO CLOSE THE RECORD

8. Article 48(1)(b) of the American Convention on Human Rights and Article 42(1) of the Commission's Rules of Procedure both provide that in processing a petition, once information has been received or after the time period has elapsed and the information has not been received, the IACHR will ascertain whether the grounds for the petition still exist and, if not, will order the record closed.

9. Despite the Commission's October 6, 2010 request seeking updated information, the petitioner did not submit any further comments. Therefore, and inasmuch as the available information is not sufficient to adopt a decision on the petition's admissibility, the Commission decides to close the record pursuant to Article 48(1)(b) of the American Convention and Article 42(1) of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 23rd day of March 2011. (Signed): Dinah Shelton, President; José de Jesús Orozco Henríquez, First Vice-President; Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero, and María Silvia Guillén, Commissioners.