

REPORT No. 52/11
DECISION TO ARCHIVE
PETITION 12.166
PERU
March 23, 2011

ALLEGED VICTIM: Carlos Ortega López

PETITIONERS: Fundación Ecuémica para el Desarrollo y la Paz (Ecumenical Foundation for Development and Peace, FEDEPAZ)

ALLEGED VIOLATIONS: Article 8 of the American Convention

DATE PROCESSING BEGAN: June 7, 1999

I. POSITION OF THE PETITIONERS

1. They alleged that Carlos Ortega Lopez was first arrested on May 12, 1993, while working as technical staff member of the *Universidad Nacional de Educación Enrique Guzmán y Valle - La Cantuta*. They stated that members of the National Counter-Terrorism Directorate (DINCOTE) accused him of belonging to the Shining Path rebel group, because his name appeared on a list confiscated from a student from said university, who was investigated for the crime of terrorism.

2. The petitioners claimed that at trial, it was demonstrated that Carlos Ortega Lopez's name was not on any list, so the Superior Court of Justice of Lima acquitted him on December 10, 1993. That decision was upheld by the Supreme Court of Justice. The petitioners stated that on November 16, 1996, the alleged victim was again arrested and charged with illegal possession of weapons and for involvement in political propaganda activities for the Shining Path. The petitioners alleged that on April 28, 1997 the Superior Court of Justice sentenced him to 20 years in prison for the crime of terrorism. It was noted that this sentence was overturned by the Supreme Court of Justice, but that on September 29, 1997 the Superior Court of Justice of Lima sentenced him again, this time to 25 years in prison. They argued that on May 14, 1998 the Supreme Court of Justice ruled against overturning this decision.

3. The petitioners stated that on July 14, 2003 the National Terrorism Court voided the criminal action against Mr. Carlo Ortega López. They noted that this decision was based on the fact that Legislative Decree No. 926 of February 20, 2003 had overturned terrorism prosecutions in which judicial officers gave confidential testimony. According to the information provided, on December 22, 2003 the National Criminal Court handed down a new sentence for Mr. Carlos Ortega López, giving him 12 years in prison for crime of public disorder - terrorism. It was argued that on July 9, 2004 the Supreme Court of Justice upheld the aforementioned sentence, but increased the sentence to 20 years in prison.

II. POSITION OF THE STATE

4. In its initial briefs, the State argued that the petition was filed after the deadline established in Article 46(1)(b) of the American Convention. In subsequent briefs, it argued that Mr. Carlos Ortega Lopez was guaranteed the right to defense as established under Peruvian law in effect at the time the respective trials took place, and that he had at his disposal all the means to challenge decisions he considered arbitrary or contrary to the law.

III. PROCESSING BY THE IACHR

5. Petition No.12.166 was received on March 3, 1999 and forwarded to the State on June 7, 1999 with 90 days to submit its reply, in accordance with the IACHR Rules of Procedure in effect at the time. On September 28, 1999 the State submitted its response and provided additional information on

February 16, 2000, December 5, 2005 and July 31, 2006. For their part, the petitioners submitted additional briefs on December 8 and May 26, 1999, on May 25, 2000, January 7 and June 15, 2005, and May 9, 2006.

6. On August 19, 2010, the IACHR requested updated information from the petitioners and warned that if this was not received within a month, it could consider closing the record, in keeping with Article 48(1)(b) of the American Convention.

IV. BASIS FOR THE DECISION TO ARCHIVE

7. Both Article 48(1)(b) of the American Convention and Article 42(1) of the Rules of Procedure stipulate that at any time during the proceedings, after the information has been received from the parties, or after the deadline has lapsed and it has not been received, the IACHR shall ascertain whether the grounds for the petition still exist and, in either case, shall order the record to be closed.

8. In the present case, the petitioners have not responded to requests for information made by the IACHR on August 19, 2010. Given that more than four years have passed since the last communication from the petitioners, and since the available information is not sufficient to make a decision on the admissibility or inadmissibility of the complaint, the Commission hereby decides to archive it in accordance with Articles 48(1)(b) of the Convention and 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.