

REPORT NO. 31/11¹

ARCHIVE
Petition 10.952
COLOMBIA
March 23, 2011

ALLEGED VICTIMS: Antonio Palacios Urrea, Camilo Palacios Romero, Yaneth Palacios, Blanca Emilia Palacios and Rodrigo Barrera Vanegas

PETITIONERS: *Centro de Investigación y Educación Popular* [People's Education and Research Center] (CINEP) and *Corporación Colectivo de Abogados José Alvear Restrepo* [José Alvear Restrepo Collective Association of Attorneys].

ALLEGED VIOLATIONS: Article 1 of the American Convention on Human Rights

INITIAL PROCESSING: October 4, 1991

I. POSITION OF THE PETITIONERS

1. On September 10, 1991, the Inter-American Commission on Human Rights (hereinafter "the Commission") received a petition filed by the *Centro de Investigación y Educación Popular* [People's Education and Research Center] (CINEP) (hereinafter "the petitioners") alleging that agents of the Republic of Colombia (hereinafter "the Colombian State" or "Colombia") are responsible for the extrajudicial execution of Antonio Palacios Urrea (65), Camilo Palacios Romero (27), Yaneth Palacios (20), Blanca Emilia Palacios (18), and Rodrigo Barrera Vanegas, presumably perpetrated on August 18, 1991 in Los Comuneros district of the municipality of Fusagasugá, Department of Cundinamarca.

2. The petitioners indicated that on August 18, 1991, at around 2:30 in the morning, some 40 men in military uniform travelling in two trucks arrived at the residence of Antonio Palacios Urrea, an "assumed sympathizer of the Unión Patriótica (UP), a legal leftist coalition." They reported that they surrounded the house, entered it, and killed five of its occupants: Antonio Palacios, his three children, Blanca Emilia, Yaneth, and Camilo, and the husband of Yaneth, Rodrigo Elías Barrera Vanegas.

3. They alleged that when Yaneth appeared, they shot her in the head as she tried to flee with her two-month old baby, and that her mother and at least two children who were in the house escaped unharmed. They further contend that two men, who were apparently brought there by the murderers and whose identity was unknown, were also found dead at the entrance to the house.

4. They further alleged that Maia Belarmina Romero de Palacios called the police, and so at around four in the morning, various agents arrived and "just looked around and left." They indicated that later they returned in three radio patrol cars, and searched the house and took various belongings of the victims away with them.

5. They reported that on August 20, 1991, an investigation was opened in Military Criminal Court 115 for Preliminary Proceedings [*Juzgado 115 de Instrucción Penal Militar*]. They indicated that on March 5, 1999, the Superior Military Tribunal confirmed the lower court decision in which proceedings were discontinued in favor of the eleven members of the military implicated in the investigation, and that only one was convicted, who was an absent defendant because he had not been detained.

¹ In accordance with the provisions of Article 17.2 of the Commission's Rules of Procedure, Commissioner Rodrigo Escobar Gil, a Colombian national, did not participate in the deliberations or in the decision of this case

6. They went on to report that on August 20, 1991, a disciplinary investigation was opened by the office of the prosecutor for human rights, which, on December 23, 1992, issued disciplinary sanctions for three of the army members investigated. Finally, on April 14, 1993, said disciplinary investigation was closed.

7. In view of the foregoing, the petitioners alleged that the State was responsible "for failure to comply with the obligation established in Article 1 of the Convention, namely, to ensure an appropriate investigation, prosecution, and punishment of the parties responsible for serious violations of the human rights guaranteed in the Convention."

8. The Commission understands that the petitioners are alleging the violation of the rights established in Articles 4, 5, 8, and 25 of the American Convention, considered in relation to its Article 1.1.

II. POSITION OF THE STATE

9. In response to the petitioners' complaint, the State considered the petition to be inadmissible, since the remedies under domestic law had not been exhausted as established in Article 46.1 of the American Convention on Human Rights, and in Article 31.1.

10. On this point, it argued that there was a proceeding pending in the contentious administrative courts, which was effective in that it sought to provide reparations for the family members of the alleged victims, and that to date, it was aware of only one contentious proceeding for reparations for two of the victims of the acts described in the petition had taken place.

III. PROCESSING BY THE IACHR

11. The IACHR registered the petition as number 10.952, and on October 4, 1991, it proceeded to forward a copy of the pertinent parts to the State for its response. The State submitted its response on November 5, 1991, and it was forwarded to the petitioners on December 6, 1991 for their observations, to be submitted within 30 days.

12. On December 11, 1991, the State sent additional information, which was forwarded to the petitioners on January 3, 1992 for their observations, to be submitted within 30 days. On January 19, 1992, the State sent further information, transferred to the petitioners on February 24, 1992 with a 30 day period for response.

13. On December 30, 1996, the IACHR reiterated its request to the petitioners for information, and on that same day, it requested the State to update the information on the case. On June 17, 1997 and July 16, 1998, the IACHR repeated its request to the State for information.

14. On July 6, 2001, the IACHR made itself available to the parties to initiate a friendly settlement process, and granted them one month to respond. On August 6, 2001, the State requested an extension, which was granted by the IACHR on August 8 for an additional 20 days. On August 28, 2001, the State requested a second extension, which was granted by the IACHR on September 11, 2001 for another 30 days. On October 12, 2001, the State submitted its response, without giving its views on a friendly settlement.

15. On April 2, 2002, the *Corporación Colectivo de Abogados José Alvear Restrepo*, as co-petitioners, submitted its brief, without giving its views on the friendly settlement, and this document was submitted to the State on April 9, 2002 for its response, to be submitted within 30 days.

16. On April 13, 2009, the IACHR requested both parties to submit updated information within one month's time. On May 13, 2009, the State requested an extension, in response to which the IACHR granted a 30-day extension on May 15, 2009. On June 4, 2009, the petitioners submitted their response.

17. On June 10, 2009, the State submitted updated information. On June 12, 2009, the State sent more information and requested that the petition be combined and considered jointly with case 11227 (Unión Patriótica). On June 26, 2009, the State once again sent additional information, and on July 30, 2009, it submitted the attachments to its communication of June 12, 2009. On April 30, 2010, the IACHR forwarded that information to the petitioners for their response to be submitted within a month's time and, on the same date, it responded to the State that "since the petition is in the admissibility stage, it would not be possible to consider it jointly with a case in the merits stage."

18. On August 30, 2010, the petitioners submitted their response and requested the IACHR "to verify that the events known as the Massacre of Fusagasugá are included in case 11.227. If that is true, they would withdraw the present petition and request the Commission to apply Article 41 of its Rules of Procedure." They further informed the IACHR that the alleged victims were being advised by the *Corporación Reiniciar* "and that it is in the interest of both parties that this relationship continue on the understanding that for several years" they have not had any contact with the original petitioners.

IV. GROUNDS FOR THE DECISION TO CLOSE THE CASE

19. Both Article 48.1.b of the American Convention and Article 42 of the Commission's Rules of Procedure establish that during the processing of a petition, once the information has been received or after the deadline established for receiving the information has lapsed, the IACHR will ascertain whether the grounds for the petition or communication still exist; if it finds that they do not, it will order the case closed.

20. As regards withdrawal of a case, Article 41 of the IACHR Rules of Procedure indicates that the petitioner may at any time desist from his or her petition or case, to which effect he or she must so notify the Commission in writing. The Commission may then close the petition or case, if it deems it appropriate.

21. In the present petition, the petitioners alleged that the State was responsible for failure to adequately investigate, prosecute, and punish the parties responsible for violations of the human rights guaranteed in the Convention. The State, for its part, alleged that the petition was inadmissible on the grounds of failure to exhaust domestic remedies.

22. During the processing of this case, on August 30, 2010, the petitioners submitted information and requested the IACHR to verify whether the facts set forth in the petition were contemplated in case 11227 (Unión Patriótica), which was in the merits stage at the time this report was approved. They indicated that if that were the case, they would withdraw the present petition.

23. The IACHR has verified that the five alleged victims of this petition are included as alleged victims in the records of case No. 11227 (Unión Patriótica), whose admissibility report No. 5/97 was approved on March 12, 1997.

24. The Commission has taken into account that the situation of the alleged victims has been processed simultaneously in case 11.227 (Unión Patriótica) and in the present petition, and that the petitioners have stated that the alleged victims are being advised by *Corporación Reiniciar*.

25. In view of the request for withdrawal submitted by the petitioners, in accordance with Article 41 of the Commission's Rules of Procedure, as well as Article 48.1.b of the American Convention and Article 42 of the IACHR Rules of Procedure, the Commission has decided to archive this petition.

26. In addition, the Commission has decided to incorporate the information of this case record into the file of case 11.227 (Unión Patriótica).

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; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero, and María Silvia Guillén, Commissioners.