

REPORT No. 53/11
DECISION TO ARCHIVE
PETITION P-670-98
PERU
March 23, 2011

ALLEGED VICTIM: Orlando Ascue Pozo

PETITIONER: Orlando Ascue Pozo

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

PROCESSING STARTING DATE: March 17, 2008

I. THE PETITIONER'S POSITION

1. It is alleged that Mr. Orlando Ascue Pozo was detained by the National Counter-Terrorism Directorate (hereinafter "DINCOTE") on September 24, 1994, accused of belonging to the insurgent group that called itself the Peruvian Communist Party – *Sendero Luminoso*.

2. The petitioner asserted that the detention was arbitrary and done without a court order, as Mr. Ascue Pozo was with a group of study companions from the university. The petitioner added that the alleged victim was tried in a summary proceeding, by a tribunal composed of "faceless judges" and that he was not accorded the guarantees of due process. He also stated that on June 13, 1995, the alleged victim was convicted of the crime of terrorism and sentenced to 20 years in prison and other accessory penalties. According to the petition, the alleged victim filed an appeal with the Supreme Court to have the lower court's ruling vacated, but the appeal was declared unfounded.

3. The petitioner subsequently reported that the alleged victim was granted a presidential pardon on May 20, 2001, after which he was released.

II. THE STATE'S POSITION

4. The State pointed out that the petition should be declared inadmissible on the grounds that the remedies under domestic law had not been exhausted. According to the State, the petitioner, after receiving the pardon, filed a suit seeking compensation for damages and injuries. However, the State claimed that Mr. Ascue abandoned his suit as he failed to attend the hearings of which he was notified and had reportedly filed no complaint since January 2004.

III. PROCESSING WITH THE IACHR

5. The petition was received on November 9, 1998, and registered as number P-670-98. The petitioner sent an additional communication on April 7, 2006. On March 17, 2008, the Commission forwarded that documentation to the State and asked a response within two months.

6. The State submitted its response on May 30, 2008, which was forwarded to the petitioner on June 26, 2008. The latter was given one month to present observations. On April 30, 2010, the request asking for observations from the petitioner was reiterated and he was given one month to respond.

7. On October 13, 2010, the IACHR requested updated information from the petitioner and advised him that if it was not received within one month, the Commission 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 requests dated June 26, 2008 and April 30, 2010, seeking the petitioner's observations, and the request for updated information, dated October 13, 2010, the petitioner has not submitted additional observations. 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, Commission Members.