

REPORT No. 30/11¹
DECISION TO ARCHIVE
CASE 11.653
COLOMBIA
March 23, 2011

ALLEGED VICTIMS: Reinaldo Eustorgio Riveros Chaparro, Héctor Audelo Chaparro, Ismael Amaya Cárdenas, and María Flor Barrera

PETITIONER: Corporación Colectivo de Abogados José Alvear Restrepo

ALLEGED VIOLATIONS; Articles 4, 5, and 25 in connection with Article 1(1) of the American Convention on Human Rights

PROCEEDING START DATE: July 26, 1996

I. POSITION OF THE PETITIONERS

1. On May 20, 1996 the Inter-American Commission on Human Rights (hereinafter the "Commission" or "IACHR") received a petition submitted by the Corporación Colectivo de Abogados José Alvear Restrepo (hereinafter "the petitioners") alleging that agents of the Republic of Colombia (hereinafter "the Colombian State" or "Colombia") were responsible for the deaths of Reinaldo Eustorgio Riveros Chaparro, Héctor Audelo Chaparro, Ismael Amaya Cárdenas, and María Flor Barrera.

2. The petitioners alleged that at approximately 8:30 p.m. on September 29, 1992, a group of 25 heavily armed men in uniform, who identified themselves as members of the National Army's Silva Plazas Battalion, appeared at the residence of Reinaldo Eustorgio Riveros Chaparro located in the Soriano district, municipality of Aquitania in the Department of Boyacá. They indicated that Reinaldo Eustorgio Riveros Chaparro was a member of the district's Community Action Board.

3. They alleged that the army troops accused Reinaldo Eustorgio Riveros Chaparro and his family of being auxiliaries of the guerrilla forces, shut the family up in a room, tied up Reinaldo Eustorgio Riveros Chaparro with his hands behind his back, and took him away. They alleged that the body of Reinaldo Eustorgio Riveros was found the following day and that his throat had been cut. They also alleged that the bodies of Héctor Audelo Chaparro and Ismael Amaya Cárdenas were found on the same day.

4. The petitioners alleged that subsequently, at approximately 8:00 p.m. on October 27, 1992, a uniformed individual entered the restaurant "Nueva Zelandia" located in the Toquilla district, which was owned by María Flor Barrera. He then shot her several times and killed her.

5. They alleged that based on these events a disciplinary investigation was initiated in the Office of the Procurator General of the Nation and that the case was archived. They also alleged that an investigation is now in the preliminary stage in military criminal court, so that a civil suit was not possible. Finally, they stated that a petition for direct reparations was filed with the contentious-administrative courts in 1994.

6. Finally, they asked the Commission to declare the State responsible for violating the rights to life, humane treatment, and judicial protection protected in Articles 4, 5, and 25 in accordance with Article 1(1) of the American Convention on Human Rights.

¹ As provided in Article 17(2) of the Commission's Rules of Procedure, Commissioner Rodrigo Escobar Gil, a Colombian national, did not participate in the discussion or decision in this case.

II. POSITION OF THE STATE

7. In response to the petitioners' complaint, the State alleged that on July 28, 1999 the Contentious-Administrative Court of Boyacá denied the claims made in the petition for direct reparations because it felt that no responsibility had been established on the part of the State. The State indicated that the parties were informed of that decision on August 3, 1999 and that no appeal had been filed. It also alleged that the criminal investigation is being conducted in the ordinary jurisdiction and was reactivated on October 9, 2007 after being suspended in 2000. The State also indicated that on October 26, 2007, the Office of the General Prosecutor of the Nation ordered that various tests be conducted.

8. Finally, the State alleged that the petitioners had not exhausted the domestic remedies in accordance with Article 46(1)(a) of the American Convention.

III. PROCEDURE BEFORE THE IACHR

9. On May 20, 1996 the Commission received the initial petition, recorded it under number 11.653, and after a preliminary analysis proceeded on July 26, 1996 to forward copy of the relevant sections to the State for its observations. On November 13, 1996 the State asked for an extension, which the Commission granted. On November 15, 1996 the petitioners sent additional information, which was forwarded to the State for its observations. On March 25, 1997 the State requested an extension, which the Commission granted.

10. On June 19, 1997 the IACHR again asked the State for information. On July 25, 1997 the State submitted its response, which was forwarded to the petitioners for their observations. On July 16, 1998 the IACHR again asked the petitioners for information. On October 7, 1998 the petitioners submitted their observations, which were forwarded to the State for its observations. On August 20, 1999 the State asked for an extension, which the IACHR granted.

11. On September 23, 1999 the State submitted its observations, which were forwarded to the petitioners for their observations. On August 13, 2001 the IACHR again asked the petitioners for information. On October 7, 2008 the IACHR asked the State and the petitioners for updated information on the matter. On November 10, 2008 the State asked for an extension, which the IACHR granted. On December 19, 2008 the State submitted additional information. On February 12, 2009 the petitioners asked for an extension to submit updated information, which the IACHR granted.

12. On April 9, 2009 the Commission forwarded to the petitioners for their observations the State's brief received by the Commission on December 19, 2008. On August 11, 2010 the Commission sent a communication to the petitioners asking them to submit updated information within a month on whether the grounds for the complaint still exist and indicating that otherwise the Commission could proceed to archive the matter. On November 5, 2010 the petitioners submitted a brief in which they reported that they are not in contact with the relatives of the alleged victims.

IV. BASIS FOR THE DECISION TO ARCHIVE

13. Both Article 48(1)(b) of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the Inter-American Commission on Human Rights establish that in the processing of a petition, once information has been received or the deadline for its receipt has passed, the IACHR shall ascertain whether the grounds for the petition or communication still exist and, if they do not, shall order that the file be archived.

14. In this petition, the petitioners alleged that the State is responsible for the deaths of Reinaldo Eustorgio Riveros Chaparro, Héctor Audelo Chaparro, Ismael Amaya Cárdenas, and María Flor Barrera. For its part, the State alleged that the petitioners had not exhausted the domestic remedies in accordance with Article 46(1)(a) of the American Convention given that the criminal investigation was reactivated in 2007 and no appeal has been filed against the unfavorable decision from the contentious-administrative court.

15. The Commission has not received updated information from the petitioners since October 1998. The petitioners were unable to provide the information requested by the IACHR in 2010. Under such circumstances, it is impossible to continue with the analysis or determine whether the grounds that formed the basis for the initial petition subsist, so that in accordance with Article 48(1)(b) of the American Convention as well as Article 42 of the IACHR Rules of Procedure, the decision is made to archive this petition.

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 Sílvia Guillén, Commissioners.