

REPORT No. 129/11¹
DECISION TO ARCHIVE
PETITION 200-04
JOSE GUSTAVO PLAZA ROCÍO
MEXICO
October 19, 2011

ALLEGED VICTIM: José Gustavo Plaza Rocío

PETITIONERS: Antonio Plaza

VIOLATIONS ALLEGED Articles 5, 7, 8, and 25 of the American Convention on Human Rights.

DATE OF THE START OF THE PROCEEDING: April 5, 2004.

I. POSITION OF THE PETITIONER

1. On March 16, 2004, the Inter-American Commission on Human Rights received a complaint presented by Antonio Plaza against the State of Mexico over the alleged murder of his son, José Gustavo Plaza Rocío, a soldier, found dead on September 17, 1997.

2. In his complaint, the petitioner alleges that his son was working as a sergeant in the Mexican Air Force when he was assigned to inventory Air Force materials; that on having refused to sign false documents to cover up the absence of materials, he was harassed by two lieutenants; and that on September 13, the aforementioned individuals invited the petitioner's son to a party, where they supposedly murdered him and then threw his body off the Tula de Allende dam in the State of Hidalgo. His body was found four days later.

3. The petitioner alleges that based on these facts, on September 22, 1997, the Office of the Attorney General of the Military Courts launched the initial investigation with Official Letter N 18ZM-1897. On September 26, 1998, the military Office of the Attorney General declared itself without jurisdiction. For this reason, it remitted the initial investigation to the Office of the Public Prosecutor of Naucalpan de Juárez, in the civilian court system. On March 22, 1999, the Office of the Public Prosecutor ruled that it did not have jurisdiction and sent the case to the Office of the Public Prosecutor of Tula de Allende, where the proceeding was ongoing as of the complaint was submitted before the Commission.

II. POSITION OF THE STATE

4. The State alleges that the domestic remedies have not been exhausted. It argues that a violation of articles 8 and 25 cannot be alleged because the case is under investigation and that prior investigation 16/II/543/99, launched upon the discovery of the body of the victim, remains open.

¹ Commissioner José de Jesús Orozco Henríquez, of Mexican nationality, did not participate in the deliberations nor in the decision in this case, in keeping with the provisions of Article 17(2)(a) of the Rules of Procedure of the Commission.

III. PROCEEDING BEFORE THE IACHR

5. The petition was received by the Commission on February 12, 2004. Through a note dated on April 5, 2004, and pursuant to Article 34 of its Rules of Procedure in force at that time, the Commission began processing the case and asked the State for pertinent information, granting it a time period of two months to provide it.

6. On July 13, 2004, the State's response was received. Its pertinent parts were forwarded to the petitioner on August 20, 2004, for him to submit any appropriate comments within the time period of one month. There was no response from the petitioner.

7. On April 6, 2010, the IACHR repeated its request made on August 20, 2004, to the petitioner and asked for updated information to determine whether the basis for the petition persisted. Likewise, the petitioner was informed that on failing to receive information within the time period of one month, the IACHR could close the file on the petition, pursuant to Article 48(1)(b) of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the IACHR.

IV. BASIS FOR THE DECISION TO CLOSE THE FILE

8. Article 48(1)(b) of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the IACHR establish that, prior to determining admissibility, the Inter-American Commission must verify whether the basis for the protection continues to exist or persists and, in the event that it does not, order the case file closed. Likewise, Article 42(1)(b) of its Rules of Procedure established that the IACHR could rule to close the file on the case when the information necessary to make a decision is not available.

9. In this case, more than seven years have passed since the proceeding was opened in April of 2004 and close to one year since the request for updated information was made to the petitioner on April 6, 2010, when the petitioner was informed of the possibility of closing the case file.

10. Consequently, the Commission does not have the necessary information to determine whether the motivation behind the original complaint persists, nor to formulate a final decision on the human rights violation alleged. For this reason, pursuant to Article 48(1)(b) of the Convention and Article 42 of its Rules of Procedure, the Commission decides to close the file on this petition.

Dado y firmado en la ciudad de Washington, D.C., a los 19 días del mes de octubre de 2011.
(Firmado): Rodrigo Escobar Gil, Segundo Vicepresidente; Paulo Sérgio Pinheiro, Felipe González y María Silvia Guillén, Miembros de la Comisión.

Done and signed in the city of Washington, D.C., on the 19th day of the month of October, 2011.
(Signed): Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, and María Silvia Guillén, Commissioners.