

REPORT No. 52/12
DECISION TO ARCHIVE
PETITION 908-98
PERU
March 20, 2012

ALLEGED VICTIMS: Carlos Felipe Amézaga Mattos

PETITIONER: Carlos Felipe Amézaga Mattos

ALLEGED VIOLATIONS: Not specified

DATE THE PROCEEDING STARTED:

I. POSITION OF THE PETITIONER

1. The petitioner alleged that, on January 16, 1976, he started working for the company ELECTROPERÚ S.A. and that he retired under the pension system provided for by Decree Law No. 20530, according to which retirement pension payments had to be brought in line with the salaries of employees currently working. Nevertheless, he claimed that, on the basis of the measures adopted by the Executive Branch of Government at the end of 1991, his retirement pay was not adjusted accordingly for three years. He added that, after filing a complaint on constitutional grounds, the Supreme Court of Justices issued a final judgment on December 22, 1993, recognizing his right to receive an adjusted retirement pay, without any ceiling.

2. The petitioner provided a copy of the court's rulings with respect to the proceedings on constitutional grounds and stated that, although the ruling had been in his favor, it had not been implemented by the respondent, that is, the company ELECTROPERÚ.

II. POSITION OF THE STATE

3. The State argued that, on July 13, 1990, ELECTROPERÚ's Administrative Management issued a resolution incorporating the alleged victim into the public pension system provided for by Decree Law No. 20530, although he had worked under the system governing private-sector employment. It stated that, on December 15, 1991, ELECTROPERÚ suspended the pension, in conformity with Decree Law No. 763, which provided for the review and annulment of payments for those incorporated into the system of Decree Law No. 20530 but who did not meet the respective requirements.

4. The State indicated that, after a court ruling for the petitioner, Mr. Amézaga Mattos signed a civil agreement with the company ELECTROPERÚ on February 9, 1999. It stressed that, in this agreement, "refunds of the pensions paid were made plus legally stipulated interest payments in conformity with the pension adjusted to the pay scale without ceilings as provided for by Board of Directors Agreement No. 948 and in compliance with the judgment issued in the proceedings filed on constitutional grounds, with the payment amounting to 15,857.40 nuevos soles."

5. Finally, the State contended that, because the alleged victim had been awarded a favorable ruling for his complaint on constitutional grounds and signed an agreement with the respondent company, the case being examined by IACHR no longer came under its jurisdiction. It therefore requested that the petition be archived in conformity with Article 48(1)(b) of the Convention.

III. PROCEEDINGS WITH THE IACHR

6. On November 12, 1998, the petition was received and registered under number 908-98. On January 27, 2006, IACHR requested up-to-date information from the petitioner, but did not receive any

response. On March 8, 2006, at its 124th regular session, IACHR held a working meeting on various petitions alleging that the Peruvian State had not adjusted the retirement pension payments of former employees of public enterprises or decentralized government institutions in line with current pay scales, although the courts had issued final judgments for the petitioners. The present petition was one of the cases discussed at this working meeting.

7. On April 27, 2006, the petition was forwarded to the State, which was granted two months to submit a response. On July 7, 2006, Peru submitted its response, which was then sent to the petitioner on July 14, 2006. On May 9, 2011, the State submitted an additional document, requesting that the complaint be archived, because more than 12 years had elapsed and the petitioner had not sent any kind of communication whatsoever.

8. On June 13, 2011, the IACHR requested up-to-date information from the petitioner and indicated that, if it did not receive any reply within one month, it would be able to consider archiving the petition, in conformity with Article 48(1)(b) of the Convention.

IV. BASIS FOR THE DECISION TO ARCHIVE

9. Both Article 48(1)(b) of the American Convention on Human Rights and Article 42(1) of the Rules of Procedure of the IACHR provide that, in the processing of a petition, once the information has been received or the time-limits have expired without the information being received, the IACHR shall check whether or not there exist or subsist the grounds for the petition, and if these grounds do not exist or subsist, it shall order that the case file be archived.

10. In the present case, more than 13 years have elapsed since the initial petition was received, and since then the petitioner has not submitted any further documents. Despite the request for up-to-date information made on June 13, 2011, the petitioner has not sent any response. Under these circumstances, as available information is insufficient to take a decision on the petition's admissibility or inadmissibility, IACHR hereby decides to archive the present petition in conformity with 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 20th day of March 2012. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Felipe González; Second Vice-President, Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz and Rose-Marie Belle Antoine, Commission Members.