

REPORT No. 38/12
DECISION TO ARCHIVE
PETITION 689-04
EDUARDO JIMENEZ JIMENEZ
COSTA RICA
March 20, 2012

ALLEGED VICTIM: Eduardo Jiménez Jiménez
PETITIONER: Eduardo Jiménez Jiménez
ALLEGED VIOLATIONS: Articles 5 and 25 of the American Convention on Human Rights
INITIATION OF PROCESSING: May 30, 2007

I. POSITION OF THE PETITIONER

1. On August 2, 2004, the Inter-American Commission on Human Rights received a petition from Eduardo Jiménez Jiménez, for the alleged violation of his right to personal integrity and to an effective remedy.

2. The petitioner informed that he had been serving a prison sentence of 27 years. Since he was taken to prison, he presented a judicial recourse before the Court because he required daily insulation and diet control to regulate his chronic diabetes. The petitioner informed that after a Court ruled on his behalf, measures to safeguard his right to health, without implying an escape risk, were requested to the National Institute of Criminology. The petitioner reported that the Court's ruling was not enforced because he continued to be deprived of his liberty and had been relocated to a prison that was inadequate to meet his medical needs.

3. On May 12, 2007, the State reported that the petitioner passed away on February 17, 2007.

II. POSITION OF THE STATE

4. According to the State's response, notwithstanding the petitioner's death, the petitioner's rights were respected at all times. The State noted that according to the information provided by the Ministry of Justice, the petitioner received treatment for his several ailments in the various detention centers he was held. Based on the petitioner's autopsy, the State maintains that Mr. Jimenez died from an ischemic heart disease condition which is a natural cause and reiterates that the petitioner had been provided with all the medical treatment required.

III. PROCESSING BY THE IACHR

5. The petition was received by the Commission on August 4, 2004. In response to the petitioner's death on May 30, 2007, and in compliance with article 34 of the IACHR's Rules of Procedure in force at the time, the Inter-American Commission began processing the petition and informed Mr. Jiménez's family of its decision. The IACHR requested pertinent information from the State to be submitted in a two month period. On July 31, 2007, State submitted its response.

5. On October 11, 2007, the Inter-American Commission forwarded the State's response to the petitioner's family and requested them to provide their observations, but received no response. On June 10, 2008, in order to continue processing the petition, the IACHR requested further information from both parties and granted both parties one month period to respond. On June 20, 2008, the State submitted its response, which was then forwarded to the petitioner's family on July 30, 2008 for their

observations, but received no response. On April 16, 2010, the IACHR reiterated the request of information of August 15, 2008 to the petitioner's family and informed them that if it did not receive the information within one month, it could archive the complaint, as stipulated in article 48.1b of the American Convention on Human Rights and article 42 of the IACHR's Rules of Procedure. The petitioner's family did not submit the information.

IV. BASIS FOR THE DECISION TO ARCHIVE

6. Article 48.1 of the American Convention on Human Rights and article 42 of the IACHR's Rules of Procedure establish that prior to determining admissibility, the Inter-American Commission shall ascertain whether the grounds for the petition still exist or subsist, and that if it considers that they do not, it shall order the case to be archived. Further, Article 42.1.b of the Rules establishes that the IACHR may also decide to archive a case when the information necessary for the adoption of a decision is unavailable

7. To date, since October 2007, the petitioner's family has not responded to the State's observations nor has the family submitted further or updated information on the petitioner's claims, even after repeated requests for information were sent by the Inter-American Commission. The petitioner's family did not respond to the IACHR's request for additional information or assertion to the possibility of archiving the complaint that was sent on April 16, 2010.

8. Under these circumstances, the IACHR considers that it lacks the necessary elements to determine whether the grounds to support the initial petition subsist, or to reach a decision on the alleged human rights violations. Therefore, in accordance with Article 30 of its IACHR's Rules of Procedure, the Inter-American Commission decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 20th day of the month 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 Antoine, Commissioners.