

**REPORT No. 39/12**  
DECISION TO ARCHIVE  
PETITION 871-01  
FRANCISCO MOYA SOLANO ET AL.  
COSTA RICA  
March 20, 2012

**ALLEGED VICTIM:** Francisco Moya Solano *et al*

**PETITIONER:** Luis Guillermo Herrera Castro

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

**DATE PROCESSING BEGAN:** February 22, 2002

**I. POSITION OF THE PETITIONER**

1. On December 21, 2001, the Inter-American Commission on Human Rights received a complaint lodged by Luis Guillermo Herrera Castro on account of the alleged violation of the right to effective remedy to the detriment of Francisco Moya Solano and another 30 retired veterinarians.

2. The petitioner argued that a law enacted in 1987 stipulated that benefits established in favor of medical science professionals extended also to vets. However, the university where the alleged victims worked had refused to apply that law. That had led to a trial in which the judgment, handed down in 1993, had determined that the plaintiff veterinarians were entitled to the benefits of the 1987 law, in respect of their pensions.

3. The petitioner reported that, prior to that judgment, in October 1990, a law regulating the stock market had entered into force that raised the annual legal interest rate from 6% to 18%. The judgment in favor of the alleged victims established that the applicable rates would be based on the old 6%, and that is essentially what the petitioner contests. The petitioner also alleges that an appeal was filed against that decision and that all remedies had been exhausted in 2011, more than 11 years after the judicial proceedings began: an excessive length of time that, according to the petitioner, violated the rights of his clients.

**II. POSITION OF THE STATE**

4. The State's position was that in respect of the alleged victims all standards and principles of due process had been respected. It also argued that the Commission cannot act as a fourth instance to question final judgments by domestic courts.

**III. PROCESSING BY THE IACHR**

5. The petition was received by the Commission on December 21, 2001. On February 22, 2002, pursuant to Article 34 of its Rules of Procedure in force at that time, the Commission began processing the case and, on March 4 of that year, requested pertinent information from the State, to be provided within two months. The State presented its reply on May 3, 2002.

6. On November 21, 2002, the petitioner submitted his reply to the observations by the State and that reply was forwarded to the State on December 2, 2002. The state submitted its comments on February 7, 2003. They were forwarded to the petitioner on February 14, 2003. The petitioner submitted further information on June 22, 2005, April 12, 2006, and June 12, 2006.

7. On April 14, 2010, with a view to updating the processing of the petition, the IACHR asked the petitioner to send it any information he deemed pertinent within one month. That request for

information was reiterated by the IACHR on March 15, 2011, when the petitioner was told that if the information was not received within one month, the IACHR could archive the petition under Article 48.1.b of the American Convention on Human Rights and Article 42 of its Rules of Procedure. There was no reply.

#### **IV. BASIS FOR THE DECISION TO ARCHIVE**

8. Article 48.1 of the American Convention on Human Rights and Article 42 of the IACHR's Rules of Procedure establish that, before determining admissibility, the Commission shall ascertain whether the grounds for the petition still exist or subsist and if it believes they do not, it shall order the case to be closed. Likewise, Article 42.1.b of its Rules of Procedure establishes that the IACHR may decide to archive a case when the information necessary for the adoption of a decision is unavailable.

9. The last note from the petitioner in the instant case is dated June 2006. Furthermore, the petitioner has not replied to the IACHR's requests for further information made on April 14, 2010 and March 15, 2011. In that last request, the petitioner was also apprised of the possibility that the file could be archived.

10. Consequently, the Commission lacks the wherewithal for determining whether the grounds that gave rise to the original complaint subsist and for making a final decision regarding the alleged violation of human rights. Pursuant to Article 48.1 of the American Convention and Article 42 of the IACHR's Rules of Procedure, it therefore decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 20<sup>th</sup> 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.