

REPORT No. 106/12¹
DECISION TO ARCHIVE
PETITION 12.317
MEXICO
November 8, 2012

ALLEGED VICTIMS: Mikel Arrieta Llopis and José Ángel Ochoa de Eribe Landa

PETITIONERS: Miguel Agustín Pro Juárez Human Rights Center A.C. (PRODH) and Legal Services and Juridical Research and Studies A.C. (SLIEJ)

ALLEGED VIOLATIONS: Articles 5, 7, 8, 11, 24, and 25 of the American Convention on Human Rights

DATE PROCESSING BEGAN: July 17, 2000

I. POSITION OF THE PETITIONERS

1. On July 17, 2000, the Inter-American Commission on Human Rights received a complaint alleging that on January 16, 2000, the alleged victims, foreigners of Basque origin, had been detained by the police of the National Institute of Migration of Mexico because they lacked documentation allowing them to be present legally in the country. The attorneys for the alleged victims allegedly filed for amparo with the 11th District Criminal Court for incommunicado detention, expulsion, or deportation on the same day. They claimed that, despite the action filed and the presence of the officer of the court, as well of the notice given to the immigration personnel at Mexico City's international airport about an "automatic provisional suspension" ordering prohibition of the expulsion, the alleged victims had been taken to Madrid the same day by officers of the Federal Preventive Police of Mexico and turned over to Spanish police at Barajas International Airport. They stated that in Spain the alleged victims were being accused of collaborating in armed activity: Mikel Arrieta in the Bizkaia Commando in 1982 and Ochoa de Eribe in the Araba Commando in 1989. In addition, they said that the authorities had forced entry into the apartment in which the alleged victims were living.

2. According to the petitioners, after those events, the State's immigration control coordinator publicly declared that the alleged victims had been expelled for having violated the General Population Law, that they had not gone missing or been held incommunicado, but rather that what occurred was due to "confusion in that they were being looked for at the airport, while the detainees were in the immigration detention center in Iztapalapa".

II. POSITION OF THE STATE

3. The State maintained that the petition should be declared inadmissible because there were no confirmed violations of the American Convention on Human Rights and because the petitioners had not exhausted domestic remedies. Specifically, it said that the complaint appeal was filed against the decision of the District Judge to suspend the proceeding. Furthermore, it argued that after a careful search it did not find any indication in the immigration records that notice had been given on January 16, 2000, of the "automatic provisional suspension," as the petitioners had stated. It affirmed that the authorities had not been formally notified that the amparo appeal had been filed until January 17, 2000, the date on which it would have started to take effect.

4. As concerns the facts, it said that the alleged victims were handed over to the immigration authorities on January 16, 2000, because they were on Mexican soil illegally. It said that it

¹ In keeping with Article 17.2.a of the Rules of Procedure of the Commission, Commission member José de Jesús Orozco Henríquez, a Mexican national, did not participate in the discussions or the decision on this case.

was openly on the street, where they had shown signs of nervousness, that the Federal Preventive Police, and not the immigration authorities, had asked them for identification; and once it was proven that they were in the country illegally, a decision was made to expel them. The State also denied that the alleged victims had been under surveillance.

III. PROCESSING BY THE IACHR

5. On July 17, 2000, the IACHR received the petition and classified it as number 12.317. On August 11, 2000, it transmitted a copy of the complaint to the State, giving it a period of 90 days to submit its response, in keeping with the Rules of Procedure of the IACHR then in force. On November 10, 2000, the State submitted its response. The petitioners transmitted additional information on February 16, 2001, December 26, 2001, and April 11, 2002. The States transmitted additional information on June 18, 2001, September 3, 2001, October 27, 2001, and February 14, 2002.

6. On February 17, 2011, the IACHR requested updated information from both parties. The parties did not respond. On March 14, 2011, the IACHR requested updated information from the petitioners to determine whether the grounds for the petition subsisted. Likewise, it informed them that if it did not receive the information within a period of one month, the IACHR could archive 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 ARCHIVE

7. Both Article 48.1.b of the American Convention on Human Rights and Article 42.1 of the Rules of Procedure of the IACHR establish that, in processing a petition, after the information has been received, or after the period set has elapsed with no information received, the Commission shall ascertain whether the grounds for the petition or communication exist or subsist. If they do not, the Commission shall order the case archived.

8. In the present case, more than 10 years have elapsed since the last communication from the petitioners and, notwithstanding the request for information made on February 17, 2011, and on March 14, 2011, to date the IACHR has not received the information needed to update the processing of the petition, as requested.

9. The Commission therefore lacks the necessary information to determine whether the grounds for the original petition subsist or to reach a final decision on the alleged human rights violation, and thus, pursuant to Article 48.1.b of the Convention and Article 42 of its Rules of Procedure, it decides to archive this petition.

10. Under these circumstances, and in view of the fact that the information available is not sufficient to reach a decision on the admissibility or inadmissibility of the petition, the IACHR decides to archive it pursuant to Articles 48.1.b of the American Convention and 42.1 of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 8th day of the month of November, 2012.
(Signed): José de Jesús Orozco Henríquez, President; Felipe González, Second Vice-President; Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz and Rose-Marie Antoine, Commissioners.