

REPORT No. 110/12
DECISION TO ARCHIVE
PETITION P-73-02
PERU
November 8, 2012

ALLEGED VICTIM: Carlos A. Romero Lostaunau
PETITIONER: Carlos A. Romero Lostaunau
ALLEGED VIOLATIONS: Article 25 of the American Convention
DATE PROCESSING BEGAN: October 2, 2002

I. THE PETITIONER'S POSITION

1. He alleged that the State of Peru violated his economic rights by failing to pay him a monthly benefit equivalent to three times the legal minimum salary, as established by law, in his capacity as "Victor of the Military Campaign of 1941." He indicated that on September 1, 2000, the Corporative Chamber Specialized in Public Law of the Supreme Court of the Republic ordered the Minister of Economy and Finance to provide the funds necessary for the Minister of Defense to be able to pay the existing debt with each of the former combatants, without the State having enforced the preceding judgment.

II. THE STATE'S POSITION

2. The State indicated in 2003 that so long as greater revenues than provided for in that budget exercise are not forthcoming, it could not authorize greater expenditures, and that the Contingency Reserve of the Minister of Economy and Finance was committed in its entirety.

3. It indicated in 2004, as regards an enforcement action filed by the petitioner on August 25, 2000, in which he sought the enforcement of Law No. 24640, which grants the non-pensionable benefit referring to the delivery of 80 gallons of gasoline per month as of July 1999 to officers of the Armed Forces and National Police, that the First Specialized Transitory Corporative Court found the action unfounded on November 13, 2000, and as that judgment was not appealed it became a firm judgment.

4. It asked to the Commission in 2011 that the petition be declared inadmissible for being manifestly groundless as it does not present a violation of any right enshrined in the American Convention, and that it be archived based on the failure of the petitioner to file an answer since 2004. In addition, the State noted that the Inter-American Commission on Human Rights (IACHR) does not sit as a court of fourth instance to review the decisions adopted by domestic courts.

III. PROCESSING BEFORE THE IACHR

5. On February 4, 2002, the IACHR received the petition, which was recorded under number P-73-02. On October 2, 2002, a copy of the complaint was forwarded to the State, which was given two months to file an answer, according to the Rules of Procedure of the IACHR in force at that time.

6. The State requested an extension to present its response in a communication of December 3, 2002, which was granted by the IACHR on January 6, 2003, for 15 days. Subsequently, on January 24, 2003, the State requested another extension, which was granted by the Commission on February 7, 2003, for 30 days. The IACHR received additional information from the petitioner on February

25, 2003. By communication of March 17, 2003, the State presented its response, which was forwarded to the petitioner on March 31, 2003; he was granted an additional 30 days to present observations, which were received on May 27, 2003.

7. On April 15, 2004, the IACHR requested updated information from the petitioner, which was presented on May 24, 2004. It was forwarded on June 16, 2004 to the State, which was given one month to submit observations. The State requested extensions of the deadline on July 22, 2004, and October 7, 2004, and filed its response by communication of November 29, 2004, which was forwarded to the petitioner on December 7, 2004, with a period of one month to submit observations. Subsequently, on December 21, 2004, the IACHR sent the petitioner the annexes to the communication from the State on November 29, 2004.

8. On May 26, 2011, the State forwarded additional information, which was sent by the IACHR to the petitioner on July 7, 2011. In addition, in the previous communication the Commission requested updated information from the petitioner and noted that if it did not receive a response within one month it could consider archiving the petition, in keeping 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 IACHR's Rules of Procedure establish that in the context of processing a petition, once the information is received or the time set has elapsed without it being received, the IACHR will verify whether the motives for the petition exist or subsist, and if they do not it will order that the matter be archived.

10. In the instant case more than seven months have passed since the last communication from the petitioner and despite the request for updated information made on July 7, 2011, the petitioner has not submitted additional briefs. In these circumstances, and considering that the information available is not sufficient to adopt a decision on the admissibility or inadmissibility of the petition, the IACHR decides to archive it in keeping 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 8th day 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 Belle Antoine, Commission Members.