

REPORT No. 20/13
DECISION TO ARCHIVE
CASE 12.090
ECUADOR
March 20, 2013

ALLEGED VICTIM: Jesús Enrique Valderrama Perea

PETITIONERS: Jesús Enrique Valderrama Perea and José Leonardo Obando Laaz

VIOLATIONS DECLARED ADMISSIBLE: Articles 1.1, 5, 7, 8, 10, 11, 24, and 25 of the American Convention on Human Rights

PROCESSING STATE DATE: September 21, 1998

ADOPTION OF ADMISSIBILITY REPORT: February 27, 2002

I. POSITION OF THE PETITIONERS

1. On September 21, 1998 the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the IACHR”) received a complaint submitted by Jesús Enrique Valderrama Perea and José Leonardo Obando Laaz (hereinafter “the petitioners”) on behalf of the Colombian citizen Jesús Enrique Valderrama Perea (hereinafter “the alleged victim”), alleging international responsibility on the part of the Republic of Ecuador (hereinafter “the State”) for the alleged detention and mistreatment at the time of detention and for alleged preventive imprisonment that was prolonged due to the courts’ delay in handing down a decision.

2. According to the petitioner, he was detained on May 2, 1996 in the city of Quito, Ecuador, as he was about to board a plane to Colombia. The detention was carried out by three individuals who did not identify themselves or present an arrest warrant and who beat and kicked him before taking him to the Interpol offices in Quito. There he was interrogated by Captain Mera, who said he had been arrested for drug trafficking and would spend the rest of his life in prison.

3. The alleged victim was forcibly and under threat of torture taken to a parking lot and then to the bathroom there, where he was allegedly made to kneel and was strung up by his thumbs, following which the police officers punched and beat him about his entire body using clubs wrapped in cloth, demanding that he confess to the crimes of which he was accused. He added that they gave him urine to drink. Finally, police officers Mera and Vargas told him they would take him to Guayaquil, that his parents were already at Interpol asking where he was, and that if he confessed to his crimes nothing would happen to them.

4. In a communication received on April 15, 1999, the petitioner indicated that he had spent 24 months in detention during which the court handling his proceeding failed to reach a decision on his case. He also indicated that Criminal Prosecutor No. 9 of Guayas issued an opinion on November 6, 1998 accusing him of narcotics trafficking crimes, having taken more than two years to reach that conclusion.

5. The petitioner asserts that from the moment of his arrest he asked to speak with his Embassy but that Captain Mera answered that he had no rights.

II. POSITION OF THE STATE

6. The State did not submit any response to communications from the Inter-American Commission nor did it express its position regarding the facts reported during the phase prior to the admissibility report.

7. On December 12, 2002 the Commission received observations from the Ecuadorian State, asking the Commission to reexamine its Admissibility Report No. 12/02, to declare the case inadmissible, and to proceed to archive the case, alleging a failure to exhaust domestic remedies. It also pointed out that on August 18, 1999 it had issued an order of release from prison in favor of the alleged victim, who had not appeared at the judgment hearing to which he was summoned.

III. PROCESSING BY THE IACHR

8. The parties were advised of Admissibility Report No. 12/02 on March 27, 2002 and on that date the IACHR asked the parties to submit additional observations regarding the merits of the case within a period of two months. It also made itself available for the purpose of reaching a friendly settlement in accordance with the provisions of Article 38.1 of the Commission's Rules of Procedures and Article 48.1.f of the American Convention on Human Rights (hereinafter "the American Convention").

9. On December 12, 2002 the State submitted a brief with its observations. This was forwarded to the petitioners on May 12, 2003, with a request that they submit their observations within a period of one month. The petitioners did not respond.

10. On August 5, 2009, petitioner José Leonardo Obando Laaz asked the Commission for information on the case. The IACHR responded on October 21, 2009, again forwarding the State's observations and reiterating its request to submit arguments on the merits.

11. Considering that it had not received additional observations on the merits or additional information from the petitioners, on August 29, 2011 and April 13, 2012 the Commission repeated its request and indicated that if that information were not received within one month, the Commission could proceed to archive the matter. To date, the IACHR has not received the petitioners' observations on the merits of the case.

IV. BASIS FOR THE DECISION TO ARCHIVE

12. Both Article 48.1.b of the American Convention and Article 42 of the Inter-American Commission's Rules of Procedure establish that during the processing of a petition, once information has been received or the established period has elapsed without receipt thereof, the IACHR shall verify whether or not the grounds for the petition or communication exist or subsist and if not, it shall order that the file be archived. In addition, Article 42.1.b of the IACHR Rules of Procedure establishes that the Inter-American Commission may archive the file at any time during the proceedings if the information needed to reach a decision in the case is not available.

13. Eleven years after the adoption of the admissibility report, additional observations have still not been received from the petitioners on the merits of the case. The petitioners' silence persists despite the request's having been repeated on three occasions, along with a warning on the possible archiving of the case. In addition, the IACHR notes that the information contained in the file that formed the basis for adoption of the admissibility report does not contain sufficient evidence to allow the IACHR to rule on the merits of the case. Accordingly, and in accordance with Article 42.1.b of its Rules of Procedure, the IACHR decides to archive this case.

Done and signed in the city of Washington, D.C., on the 20th day of March 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Felipe González, Rodrigo Escobar Gil, Rose-Marie Antoine, Commissioners.