

REPORT No. 22/13
DECISION TO ARCHIVE
PETITION 11.338
PERU
March 20, 2013

ALLEGED VICTIM: Jesús Vera Virgilio and others

PETITIONERS: Peace Action and Study Center (CEAPAZ)

ALLEGED VIOLATIONS: Articles 4, 5, and 7 of the American Convention on Human Rights

PROCESSING BEGAN: August 24, 1994

I. POSITION OF THE PETITIONERS

1. The petitioners contend that on April 1, 1994, the Peruvian Army launched countersubversive military actions along the Huallaga River, specifically in the areas adjacent to the settlements of Moyuna and Moena in the department of Huánuco. They state that members of the army discharged weapons at civilians from helicopters and that ground forces attacked the communities, tortured the survivors, and raped the women. On April 8, 1994, they claim, those attacks were stepped up and groups of soldiers entered the Venenillo and Bolognesi areas in boats and killed between 40 and 60 people, who are named as victims in the complaint. The facts were reported to the Prosecutor in Tingo María, who obstructed the investigation.

II. POSITION OF THE STATE

2. In its initial reply, received on November 23, 1994, the State claimed that the alleged facts were under investigation by the Public Prosecution Service (MP). It noted that under Peruvian law, the alleged violations could be investigated through criminal proceedings or a habeas corpus remedy. Consequently, domestic remedies had not been fully exhausted by the petitioners. Later, in a document dated June 25, 1998, the State reported that the criminal complaint against the suspected perpetrators of the crimes in question had been sent to the archive, under an extinction of criminal action following the amnesty extended to the accused.

3. On October 6, 2004, the State reported that pursuant to the report of the Truth and Reconciliation Commission, there was enough evidence to assume that the victims' deaths had occurred during countersubversive operations in the province of Leoncio Prado, Huánuco department, better known as the "Aries Plan."

III. PROCESSING BY THE IACHR

4. Petition 11.338 was received on August 11, 1994, and was conveyed to the State on August 24, 1994, with a deadline of ninety days in which to return its reply, according to the Rules of Procedure of the IACHR in force at the time. On September 8, 1994, the State requested an extension of that deadline.

5. The State sent its reply on November 23, 1994. On December 1, 1994, the IACHR sent a communication to the State, to which Peru replied on December 9, 1994. On February 25, 1995, the petitioners submitted additional information.

6. On January 7, 2003, the IACHR asked both parties to submit up-to-date information on the matter within the following 30 days. The State replied to that request on February 18 and March 5, 2003. That information was forwarded to the petitioners on March 13, 2003, with a one-month deadline for returning their

comments.

7. On May 19 and 20, 2004, the Commission informed the parties that under Article 37.3 of the IACHR's Rules of Procedure in force at the time, the analysis of the petition's admissibility had been deferred until the adoption of a decision on the merits, and it asked both parties to submit their additional comments on the merits within the following two months. On July 23, 2004, the State requested an extension, which was granted by the IACHR on August 30, 2004. The State submitted information on October 4, October 6, and October 20, 2004, which was conveyed to the petitioners on November 11, 2004, with a deadline of one month for returning their comments.

8. On April 28, 2011, the IACHR communicated with the parties to make itself available for reaching a friendly settlement agreement, and it asked them to submit their additional comments within a period of 30 days. On May 18, 2011, the State presented a report requesting that the IACHR ordered the record close regarding this petition on account of the petitioners' lack of procedural activity. That communication was conveyed to the petitioners on June 27, 2011, with a deadline of one month for them to return their comments. On July 31, 2012, the IACHR resent these communications to the petitioners, stating that if no information was returned within the following month, the case file could be closed. On February 6, 2013, the IACHR reiterated to the petitioners the requests for information of April 28, 2011, June 27, 2011, and July 31, 2012, and informed them that if no information was received within the space of one month, the case file could be closed.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

9. Both Article 48.1.b of the American Convention and Article 42.1 of the Rules of Procedure of the Inter-American Commission stipulate that at any time in the processing of a petition, after receiving the information or once the time limit for its submission has expired, the IACHR is to determine whether the grounds for the petition still exist or subsist and, if they do not, it may decide to archive the case file.

10. In the case at hand, the petitioners submitted their final communication to the IACHR on February 25, 1995, and, to date, they have not replied to the requests for information made on repeated occasions, most recently on July 31, 2012, and February 6, 2013. Hence, given that more than 17 years have gone by since that communication from the petitioners, and since the information available is insufficient for adopting a decision on the admissibility or inadmissibility and/or merits of the complaint, the IACHR decides to order the record closed in accordance 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 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, and Rose-Marie Belle Antoine, Commissioners.