

REPORT No. 75/13¹
DECISION TO ARCHIVE
PETITION 12.185
MEXICO
July 16, 2013

ALLEGED VICTIM: Tomás de Jesús Barranco

PETITIONER: Tomás de Jesús Barranco and Liga Mexicana por la Defensa de los Derechos Humanos, LIMEDDH-FIDH

ALLEGED VIOLATIONS: Articles 1.1, 5, 7, 8 and 25 of the American Convention on Human Rights

DATE PROCESSING BEGAN: April 20, 1999

I. POSITION OF PETITIONER

1. On April 20, 1999, the Inter-American Commission on Human Rights received a petition lodged by the Liga Mexicana por la Defensa de los Derechos Humanos LIMEDDH-FIDH [‘Mexican League for the Defense of Human Rights’] (hereinafter “the petitioner”) alleging responsibility of the Mexican State (hereinafter “the State” or “Mexico”) for the alleged violation of the right to humane treatment and personal integrity in connection with the obligations of the State to adopt measures to enforce the American Convention on Human Rights (hereinafter “American Convention”), to the detriment of Tomas de Jesús Barranco.

2. The petitioners asserted that on August 29, 1996, agents of the Judicial Police of the State of Guerrero arbitrarily arrested Mr. Tomas de Jesús Barranco without a warrant. They contended that Mr. Barranco was subjected to physical and psychological torture during his detention in order to get him to sign a statement and plead guilty to a crime. Subsequently, he was tried and convicted for the crimes of terrorism and homicide and was sentenced to a forty-year prison term.

II. POSITION OF THE STATE

3. The State claimed that the petition was inadmissible because Mr. Barranco had the opportunity to defend himself and, at all times, his fair trial rights were respected and, therefore, the facts stated in the petition do not tend to establish human rights violations. With regard to the allegations of torture, it also argued that the petitioners had not exhausted domestic remedies. In this regard, it contended that the Mexican legal system allows alleged victims to file complaints of torture with the Office of the Public Prosecutor (*Ministerio Publico*). It argued that any irregularity in the conduct of the public servants, who handled the case, could be reported to the Office of the Internal Comptroller of the PGJE [Office of the Attorney General of the State]. It also noted that the law provides for the remedy of recognition of innocence, which was not pursued by Mr. Barranco.

¹ Pursuant to the Article 17.2.a of the Rules of Procedure of the Commission, Commissioner José de Jesús Orozco Henríquez, a Mexican national, did not take part in the discussion or the decision-making process of the instant case.

III. PROCESSING BY THE IACHR

4. The petition was assigned the number 12.185. After conducting a preliminary review, on June 25, 1999, the IACHR forwarded a copy of the relevant portions of the petition to the State, to provide its response, which was submitted on September 24, 1999. The petitioners then submitted observations on November 16, 1999 and March 24, 2000, and the State did so on February 8, 2000.

5. On February 20, 2003, the IACHR issued Admissibility Report 10/03, which was approved at the 117th Regular Session of the Commission. The parties were served notice of the report on March 10, 2003. On that occasion, the IACHR requested the petitioners to submit additional observations on the merits within the two months following the date of notification of the admissibility report. The petitioners did not respond. On September 9, 2008, the request made in the note of March 10, 2003 was reiterated and no response was submitted. On June 8, 2012, the petitioners were asked for up-to-date information and were advised that in the event that the information is not received within a period of one month, the IACHR could archive the case file of the petition, pursuant to Article 48.1.b of the American Convention and Article 42 of the Rules of Procedure of the Commission. The petitioners did not submit any information.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

6. Both Article 48.1 subsection b) of the American Convention on Human Rights and Article 42 of the IACHR's Rules of Procedure provide that in the processing of a petition, once the information has been received, or after the period established has elapsed and the information has not been received, the Commission shall ascertain whether the grounds for the petition or communication still exist and, if they do not, it shall order the case to be archived.

7. The instant petition alleged violations of the rights enshrined in Articles 1.1, 5, 7, 8, and 25 of the American Convention as a result of the alleged illegal detention of Mr. Tomás de Jesús Barranco. In response, the State claimed a failure to state facts, which tend to establish alleged violations of human rights, and failure to exhaust domestic remedies with regard to the alleged torture.

8. In the instant case, as of March 2003, the petitioners have not submitted any observations on the admissibility report nor have they added to or updated the information pertaining to their claims. The petitioners have not responded either to the request for up-to-date information made by the IACHR in September 2008 and June 2012.

9. Consequently, it is impossible to determine whether the grounds for the initial petition still exist and, therefore, it is impossible to continue to entertain the petition. Accordingly, as provided by Article 48.1 subsection (b) of the Convention and Article 42 of the IACHR Rules of Procedure, it is hereby decided to archive the instant petition.

Done and signed in the city of Washington, D.C., on the 16th day of July 2013. (Signed): Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Felipe González, Dinah Shelton, Rodrigo Escobar Gil and Rose-Marie Antoine, Commissioners.