REPORT No. 70/13
DECISION TO ARCHIVE
PETITION 12.272
ECUADOR
July 16, 2013

ALLEGED VICTIM: Eduardo Romeo Lagos Guerrero

PETITIONER: *Comisión Ecuménica de Derechos Humanos* (CEDHU) [Ecumenical Human Rights Commission]

VIOLATIONS ALLEGED: Articles 1(1), 5, 7, 8, 24 and 25 of the American Convention on Human Rights

DATE ON WHICH PROCESSING COMMENCED: July 8, 1999

I. THE PETITIONERS' POSITION

1. On July 8, 1999, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a complaint that the Ecumenical Human Rights Commission (hereinafter "the petitioner") filed on behalf of Eduardo Romeo Lagos Guerrero (hereinafter "the alleged victim") in which it claimed that the Republic of Ecuador (hereinafter "the State") bares international responsibility for having arbitrarily detained and incarcerated the alleged victim.

2. According to the petitioner, on June 19, 1992, Ecuador's National Police purportedly detained Eduardo Romeo Lagos Guerrero without an arrest warrant and during the course of "Operation Cyclone", an anti-drug operation. Thereafter, the petitioner claimed that the alleged victim was held incommunicado until July 23, 1992, the date on which he was allegedly transferred to the García Moreno Prison.

3. The petitioners observed that three orders were issued instituting an investigation in the case against the alleged victim for the crimes of unlawful enrichment, money laundering and fronting. The trials allegedly ended with final acquittals in 1998 and 1999.

4. The petitioners observed that the proceedings in the criminal cases had been delayed for a number of years, during which time a number of petitions of *habeas corpus* were filed (with the President of the Supreme Court and with the Mayor), but were not acted upon. On May 27, 1998, the Constitutional Court had ordered the alleged victim's immediate release based on the fact that he had allegedly served over a third of the maximum sentence.

II. THE STATE'S POSITION

5. The State presented its observations to the Commission on August 15, 2000 and April 2, 2001. In those observations it argued a failure to exhaust the remedies under domestic law and a failure to comply with the six-month time period stipulated in Article 46(1)(b) of the American Convention.

III. PROCESSING WITH THE IACHR

6. The Inter-American Commission received the original petition on July 8, 1999, and forwarded it to the State for its observations. The Commission received the Ecuadorian State's reply to the petition by notes presented on August 30, 2000 and March 15, 2001. The IACHR received additional information from the petitioner on January 4, 2000 and October 10, 2000. Those communications were duly forwarded to the State.

7. On May 30, 2001, the IACHR informed the parties that, pursuant to the Commission's Rules of Procedure in effect at that time (as amended on May 1, 2001), the case would be classified as petition P 12.272 and that, under the new rules of procedure, it would become a "case" once the Commission had declared it admissible.

8. The Inter-American Commission received additional information from the State on the following dates: April 2, 2001, August 13, 2001, August 29, 2001, October 8, 2001 and November 25, 2003. The Commission received additional information from the petitioner on the following dates: May 31, 2001, July 25, 2001, January 11, 2002, September 10, 2003 and June 16, 2004. Those communications were duly forwarded to the respective party.

9. On November 14, 2005, the Commission informed the parties that, in application of Article 37(3) of its Rules of Procedure, it had decided to open a case, which it classified as number 12,272. It also informed them that it had decided to defer treatment of the case's admissibility until the debate and decision on its merits. It also requested additional observations on the merits, which under Article 38(1) of the Commission's Rules of Procedure, were to be received within two months' time.

10. On January 30, 2006, the petitioner presented its additional observations on the merits. On May 30, the State asked the Commission for an extension, which was granted. On October 5, 2006, the Commission reminded the State of the former's request for additional observations. Then, on September 25, 2006, the State submitted its observations. On January 2, 2007, the petitioner filed its observations. Those communications were duly forwarded to the parties.

11. On May 5, 2009, the IACHR placed itself at the disposal of the parties with a view to reaching a friendly settlement. On September 4, 2009, the petitioner asked the Commission to continue to process the case. On September 7, 2009, the petitioner asked the Commission to hold a hearing on the merits. On October 6, 2009, the State advised the Commission that no friendly settlement could be reached with the alleged victim. On October 23, 2009, the IACHR advised that the request for a hearing had not been granted. On November 13, 2009, the petitioner asked the Commission to either proceed to issue its merits report or refer the case to the Inter-American Court of Human Rights. On December 23, 2009, the State notified the Commission that it had no additional information on the case. Those communications were duly forwarded to the parties.

12. On December 9, 2011, the petitioner asked the Commission to close the record on the case because the alleged victim, Eduardo Lagos Guerrero, was deceased.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

13. Article 41 of the Commission's Rules of Procedure provides that the petitioner may at any time desist from his or her petition or case, and shall so notify the Commission in writing. The petitioner's request will be analyzed by the Commission, which will order the petition or case archived if the grounds for it no longer exist.

14. In the present case, on December 9, 2011, the petitioner requested that the Commission archive case 12,272. Given the circumstances, and once the IACHR had examined the request, it decided to close the record on the case pursuant to Article 41 of its Rules of Procedure.

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