

REPORT No. 101/13
DECISION TO ARCHIVE
CASE 11.169
VENEZUELA
November 4, 2013

ALLEGED VICTIM: Carlos Andrés Pérez

PETITIONERS: Rafael Pérez Perdomo, Alberto Sánchez and Héctor José Pérez Mora

VIOLATIONS ALLEGED: Article 8.1 of the American Convention on Human Rights

DATE PROCEEDINGS STARTED: August 19, 1993

I. POSITION OF THE PETITIONERS

1. On August 19, 1993, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a petition lodged by Rafael Pérez Perdomo, Alberto Sanchez and Héctor José Pérez Mora (“the petitioners”) on behalf of Carlos Andrés Pérez (“the alleged victim”)¹ alleging the international responsibility of the Bolivarian State of Venezuela (“the State” or “the Venezuelan State”) for alleged violations of his right to a fair trial.

2. According to the petitioners, on March 11, 1993, the Attorney General of the Republic filed charges with the Supreme Court of Justice accusing Mr. Carlos Andrés Pérez, then President of the Republic, and two of his former Ministers (Senator Alejandro Izaguirre and Deputy Reinaldo Figueredo Planchart) of having committed crimes of embezzlement and misappropriation of funds from the State security and defense budgets.

3. On May 20, 1993, the Supreme Court of Justice ruled that there were grounds for prosecution, and the Senate Chamber of Congress authorized that it proceed. The petitioners state that the Senate’s ruling was precipitate, in that it had been given before receiving or examining the materials that had served as the basis for the Court’s decision. They also indicate that at no time in the course of the pre-trial proceedings were the accused notified of the action proposed by the Attorney General. They therefore maintained that the decision of the Supreme Court of Justice of May 20, 1993 was a violation of the right to a proper defense, which is provided for both in domestic law and in international conventions ratified by the Venezuelan State².

II. POSITION OF THE STATE

4. The State argued that prosecution of the President of the Republic was provided for in Venezuelan law, both in the Fundamental Charter (Articles 215 and 150) and in several substantive and procedural laws, namely: Organic Law of the Supreme Court of Justice (Articles 42 and 146 et seq.), Organic Law of the Office of the Attorney General (Article 39), Code of Criminal Prosecution (Articles 361 et seq.) and Organic Law to Safeguard Public Assets (Articles 58 and 60).

¹ As is publicly known, Mr. Carlos Andrés Pérez died in December 2010.

² The petitioners did not present information on the trial of Mr. Carlos Andrés Pérez subsequent to the Supreme Court’s ruling of May 20, 1993.

5. It stated that on March 11, 1993, the Attorney General of the Republic, pursuant to subparagraph 3 of Article 39 of the Organic Law of the Office of the Attorney General, filed with the Supreme Court of Justice *en banc* formal charges of the crimes of misappropriation and embezzlement against citizens Carlos Andrés Pérez Rodríguez, who was holding the office of President of the Republic; Alejandro Izaguirre, Senator of the Republic, who was then serving as Minister of Internal Relations, and Reinaldo Figueredo Planchart, Deputy in Congress, who at that time was serving as Minister of the Secretariat of the Presidency of the Republic.

6. It indicated that on March 17, 1993, the charges and the request for a pre-trial hearing on the merits were allowed, and the file on the facts related to the charges was ordered to be retrieved from the Superior Court to Safeguard Public Assets. And on May 20, 1993, the Supreme Court of Justice found that there were grounds for the trial, and the following day, the Congressional Senate Chamber authorized that it proceed³.

III. PROCEEDINGS BEFORE THE IACHR

7. The initial petition was received in the IACHR on August 19, 1993, and on October 19, the Commission informed the petitioners that proceedings on the complaint, numbered 11.169, had begun, and requested that they present additional information on the facts of the complaint. It also transmitted the petition to the State, with the request that it provide such information as it might deem appropriate within a period of 90 days.

8. On January 11, 1994, the State requested an extension of 90 days, which was granted on the same day. On March 28, 1994, the State forwarded a copy of the report of the Supreme Court of Justice concerning the petitioners' complaint. On March 31, 1994, the Commission acknowledged receipt of the note, and forwarded it with a request that observations be transmitted.

9. On June 14, 1994, the petitioners presented their observations on the response from the State of Venezuela. The IACHR acknowledged receipt of that communication on June 16, and on June 20, 1994, transmitted it to the State so that it might take such steps as it felt advisable, within a period of 60 days, in order that the IACHR might be in possession of the necessary reports.

10. The State forwarded additional information on June 30, 1994, August 19, 1994, September 27, 1994, February 14, 1995, March 20, 1995, September 22, 1995, October 7, 1995, November 27, 1995, December 4, 1995 and March 1, 1996. All of these communications were transmitted to the petitioners for their observations.

11. The representatives presented their observations on December 9, 1994, January 18, 1995, August 10, 1995, September 27, 1995, February 26, 1996 and August 5, 1996. These observations were transmitted to the State for its observations.

12. On April 11, 2006, the Commission requested that the petitioners provide updated information on the matter in order to determine whether the grounds that gave rise to the petition still subsisted. The Commission further indicated that unless such information was received within a two month period, it would proceed to archive the file in accordance with Article 48.1.b of the Convention. The petitioners supplied updated information in a communication of June 1, 2006, which was transmitted to the State on June 7.

³ The State did not provide information on the trial of Mr. Carlos Andrés Pérez subsequent to the abovementioned order to proceed and the Supreme Court's ruling of May 20, 1993.

13. On September 20, 2011, the IACHR requested that the petitioners provide updated information on the matter, in order to establish whether the grounds that gave rise to the petition subsisted. It also indicated that unless such information was received within a one month period, it might archive the file pursuant to Article 48.1.b of the Convention and Article 42 of its Rules of Procedure.

14. By note received in the Commission on June 7, 2013, the State requested the Commission to archive the petition because of the petitioners' inactivity. The IACHR acknowledged receipt of the note on June 17, 2013 and transmitted it to the petitioners so that they might present their observations within a period of one month, and advised them that if that information was not received, the Commission might archive the petition pursuant to Article 48.1.b of the Convention and Article 42 of the Rules of Procedure. As of this date, the Commission has not received the observations of the petitioners.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

15. Both Article 48.1.b of the American Convention and Article 42 of the Rules of Procedure of the Inter-American Convention provide that during the proceedings on a petition, after the information has been received or the period established has lapsed without the information having been received, the IACHR will ascertain whether the grounds for the petition or communication exist or subsist, and if they do not exist or subsist, may order that the file be archived. Similarly, Article 42.1.b. of the Rules of Procedure of the IACHR provides that, at any time during the proceedings, the Inter-American Commission may archive the record if it does not have the information necessary to reach a decision on the case.

16. The petitioners have not provided information in the instant case since 2006, and did not respond to the IACHR's requests for information of September 20, 2011 and June 17, 2013. In these circumstances, it is not possible to proceed with the analysis or to determine whether the grounds that gave rise to the initial petition subsist, and hence, pursuant to Article 48.1.b of the American Convention and Article 42 of the Rules of Procedure of the IACHR, it decides to archive the present petition.

Done and signed in the city of Washington, D.C., on the 4th day of November 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Felipe González, Dinah Shelton, Rodrigo Escobar Gil, Rose-Marie Antoine, Commissioners.