

REPORT No. 112/13
PETITION 454-99
DECISION TO ARCHIVE
ARGENTINA
November 5, 2013

ALLEGED VICTIM: Pablo Eliseo Outes

PETITIONER: María Elena Jiménez de Outes

VIOLATIONS ALLEGED: Right to life, right to protection, right to judicial protection and right to humane treatment (torture).

DATE PROCESSING INITIATED: January 29, 2003

I. THE PARTIES' POSITIONS

A. The Petitioner

1. On December 8, 1999, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a petition filed by María Elena Jiménez de Outes (hereinafter "the petitioner"), wife of Pablo Eliseo Outes, the alleged victim reportedly murdered in the event known as the "Las Palomitas" massacre.

2. The petitioner alleged that eleven people were arrested by order of the Executive Branch, although no criminal proceedings were ever instituted against them. She stated that pursuant to a request from the judge, dated July 16, 1976, the detainees were moved to the Villa Las Rosas Prison in Salta. The petitioner further stated that the eleven were murdered some 50 kilometers outside Salta, in the "Las Palomitas" massacre. Two of the eleven, Georgina Graciela Droz and Evangelina Botta de Linares, are allegedly still missing, while the remains of the other nine alleged victims were reportedly found in cemeteries in Salta, San Miguel de Tucumán and Yala.

3. The petitioner added that in her opinion, an organization dedicated to committing acts of this kind was headed by the judge in question and by an Armed Forces colonel. Her contention was that the massacre was initially reported as a clash with subversives that started with the theft of a vehicle. The petitioner claimed that no member of the military was killed in that confrontation.

4. She indicated that in 1983, a political prisoner reported the events to a military judge in Rawson. She alleged that for seven years, the judge took no action on the case. The petitioner further alleged that on June 23, 1988, the Supreme Court declared criminal action in the case of "Menéndez, Luciano Benjamin *et al.* for alleged authorship of repression, to be time-barred under the "Full Stop Law", whereupon the "Palomitos-Cabez de Buey" case was allegedly closed.

5. The petitioner stated that the nongovernmental organization *Unidos por la Justicia* had

dismissed the complaint for lack of merit, arguing that the transfer was ordered by the National Executive Branch and the proceedings were referred to the Armed Forces' Supreme Council. In response to this decision, the petitioner filed a brief in her capacity as a complainant, in which she requested that, even though the case file had been referred to the Armed Forces Council, the necessary investigative measures be taken to shed light on what happened. She argued that because a civilian was involved, the military courts did not have jurisdiction.

6. The petitioner asserted that the Armed Forces' Supreme Council did not agree to take cognizance of the proceedings referred by Federal Judge No. 2, whereupon the case was presented to the Supreme Court of the Nation.

B. The State

7. The State described the events involved in the alleged massacre and asserted that the facts were never investigated under the military government because of the risk to the lives of those who reported it. The State claimed that the events were reported in 1983 and that the investigation into the events got underway on May 22, 2002, by a decision that declared that the criminal case brought against the aforementioned colonel and the judge was still open and that the case file was with the Appellate Chamber for a decision on the appeal brought by the petitioner.

8. The State argued that the petition is inadmissible because the criminal case is still ongoing, that there was no violation of due process and that the petitioner had had access to the remedies under domestic law. Its contention was that the State had not, therefore, violated its obligations and the rights set forth in the American Convention on Human Rights.

II. PROCESSING WITH THE IACHR

9. On January 29, 2003, the IACHR forwarded the relevant parts of the petition to the Argentine State. The State submitted its observations on April 4, 2003, which were forwarded to the petitioner on June 9, 2009, who was asked to present her observations within one month.

10. The IACHR requested updated information from the State on April 1, 2011. The State sent its reply on July 28, 2011, which was forwarded to the petitioner on August 9, 2011, for her observations. On June 5, 2012, the IACHR repeated its request to the petitioner seeking information and advised her that if the information was not received within one month's time, it might order the record in this matter to be closed.

III. GROUNDS FOR THE DECISION TO ARCHIVE

11. Both Article 48(1)(b) of the American Convention and Article 42 of the Rules of Procedure of the Inter-American Commission on Human Rights provide that while a petition is being processed, after 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, shall order the record to be closed.

12. As of the date of approval of this report, the petitioner had still answered the requests

needs to make a decision on the petition, despite its efforts to get that information. Furthermore, the unwarranted procedural inactivity on the part of the petitioner is a serious indication of disinterest in pursuing the petition. Therefore, in accordance with Article 48(1)(b) of the Convention and Article 42 of the Commission's Rules of Procedure, it decides to close the record on this matter.

Done and signed in the city of Washington, D.C., on the 5th day of November 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Dinah Shelton, Felipe Gonzalez, Rodrigo Escobar Gil and Rose-Marie Belle Antoine, Commissioners.