

OEA/Ser.L/V/II.150
Doc. 29
4 April 2014
Original: Spanish

REPORT No. 25/14

CASE 12.016

REPORT ON ARCHIVE

CÉSAR EUGENIO JARAMILLO GUTIÉRREZ
ECUADOR

Approved by the Commission at its session No. 1980 held on April 4, 2014
150 Regular Period of Sessions

Cite as: IACHR, Report No. 25/14, Case 12.016. Archive. César Eugenio Jaramillo Gutiérrez.
Ecuador. April 4, 2014.

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ARCHIVE

CÉSAR EUGENIO JARAMILLO GUTIÉRREZ

ECUADOR

April 4, 2014

ALLEGED VICTIM: César Eugenio Jaramillo Gutiérrez

PETITIONERS: César Eugenio Jaramillo Gutiérrez and José Leonardo Obando Laaz

ALLEGED VIOLATIONS: Articles 2, 7, 8 and 25 of the American Convention on Human Rights

DATE PETITION FILED: May 12, 1998

I. POSITION OF THE PETITIONERS

1. On May 12, 1998, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a complaint filed by César Eugenio Jaramillo Gutiérrez and José Leonardo Obando Laaz (hereinafter “the petitioners”) for César Eugenio Jaramillo Gutiérrez (hereinafter “the alleged victim”) alleging that the Republic of Ecuador (hereinafter “the State” or “Ecuador”) had incurred in international responsibility regarding criminal proceedings filed against it.

2. According to the petitioners, on April 22, 1996, César Eugenio Jaramillo Gutiérrez, a Colombian national, had been illegally detained when armed Ecuadorian policemen searched his home without an arrest or search warrant. Afterwards, he was not allowed to see an attorney or his next of kin, he remained five days locked in a small room where he had been subject to psychological torture and physical restraints and his statement was taken outside due process of law without the presence of his attorney.

3. They alleged that, although there was no evidence substantiating his criminal responsibility, his preventive detention had been ordered and afterwards charges brought in accordance with an article of the Law on Narcotic and Psychotropic Substances that had been declared unconstitutional. They added that the alleged victim had been discriminated against because of his nationality and convicted to eight years imprisonment. Once he was released, the alleged victim wanted to file a complaint against the responsible authorities, which had been impossible because of Ecuador’s migratory laws, which required him to leave the country.

II. POSITION OF THE STATE

4. The State argued that the proceedings and court conviction against the alleged victim had been carried out guaranteeing due process of law and requested the Commission to declare the case inadmissible and to archive it.

III. PROCEEDINGS WITH THE IACHR

5. On May 12, 1998, the Commission received an initial petition filed by the petitioners, which was forwarded to the State for its observations. On June 4 and 29, July 23, August 24, September 18, and December 3, 1998; April 5, August 23, and December 7, 1999; January 28, February 22, and August 1, 2000; May 24 and June 13, 2001, the IACHR received information from the petitioners. These communications were duly forwarded and, on October 6, 1999 and on January 10 and November 20, 2000, the IACHR received observations from the State.

6. On August 24, 2005, the IACHR informed the parties that, in observance of Article 37.3 of its Rules of Procedure, it had decided to open a case with number 12.016 and had postponed addressing its

admissibility until a discussion had been held and a decision taken about its merits. In view of this, it requested additional observations on the merits of the case, with a two-month time-limit to respond, in line with Article 38(1) of its Rules of Procedure.

7. As it did not receive the additional observations on the merits or additional information from the petitioners, on December 3, 2007, July 22, 2009 and August 26, 2011, the Commission reiterated its request and indicated that, if it did not receive said information within one month, the Commission could proceed to archive the case. To date, the IACHR has not received any observations from the petitioners on the merits of the case.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

8. Both Article 48.1.b of the American Convention and Article 42 of the Rules of Procedure of the Inter-American Commission establish that, in the processing of a petition, after information is received or the time-limit stipulated for receiving it has elapsed without receiving it, the IACHR shall check to see if there are or continue to be grounds for the petition or communication and, if there are none or they do not persist, it shall order the case file to be archived. Likewise, Article 42(1)(b) of the Rules of Procedure of the IACHR establishes that, at any time during the proceedings, the Inter-American Commission can archive the case file if it does not have the information needed to reach a decision about the case.

9. In the present proceedings, the petitioners did not respond to the IACHR's request for information sent on December 3, 2007, July 22, 2009 and August 26, 2011. Under these circumstance, it is not possible to make any progress in reviewing the case or determining whether or not there continue to be reasons substantiating the initial petition; therefore, in accordance with Article 48.1.b of the American Convention, as well as Article 42 of the Rules of Procedure of the IACHR, it has been decided to archive the present petition.

Done and signed in the city of Washington, D.C., on the 4th day of the month of April, 2014. (Signed): Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice President; Felipe González, Second Vice President; José de Jesús Orozco, Rosa María Ortiz, Paulo Vannuchi and James Cavallaro, Commissioners.