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REPORT No. 111/14
PETITION 1049-04
REPORT ON ARCHIVE

IAN ERICK CONCEPCIÓN ALVARADO
PERU

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Perú. November 7, 2014.

REPORT No. 111/14
PETITION 1049-04
REPORT ON DECISION TO ARCHIVE
IAN ERICK CONCEPCIÓN ALVARADO
PERU
NOVEMBER 7, 2014

ALLEGED VICTIM: Ian Erick Concepción Alvarado

PETITIONER: Ian Erick Concepción Alvarado

VIOLATIONS ALLEGED: Articles 1(1), 2, 5, 7, 8, 9, and 24 of the American Convention on Human Rights

DATE PROCESSING BEGAN: August 20, 2008

I. THE PETITIONER'S POSITION

1. The petitioner stated that he was arrested on November 21, 1993, by members of the National Police of Peru when leaving his home. He said he was taken to the installations of the Jefatura Contra el Terrorismo (JECOTE) of Trujillo, where he remained for 30 days. He also mentioned that the Police fabricated an investigative report in violation of his judicial guarantees, for his attorney was not allowed to be present in all of the investigative steps that were performed, nor was the petitioner allowed to meet with his attorney in private. The petitioner indicated that subsequently he was placed at the disposal of a Military Court, which sentenced him to life imprisonment for the crime of treason (*traición a la patria*). He also said that he was locked up in the "El Milagro" prison in the city of Trujillo, where he was held under an inhuman prison regime, for he was confined to his cell 23½ hours a day, and his visits were limited to close relatives for only 30 minutes.

2. Finally, the petitioner indicated that this proceeding in the military jurisdiction was annulled thanks to the constitutional motion of January 3, 2003 in which the Peruvian Constitutional Court voided the proceedings before military tribunals or before "faceless-judge" courts. It found that as a result, a new trial was instituted against him, which was a violation of the principle of legality and non-retroactivity, since it was based on provisions that are unconstitutional and violate human rights. He also mentioned that in this new trial he was convicted and sentenced to a prison term of 12 years and six months, which was counted from his detention on November 21, 1993, thus at the time he filed his last brief he had already been released.

II. THE STATE'S POSITION

3. The State argued that the instant case does not describe facts that tend to establish a violation of human rights enshrined in the American Convention. The State indicated that the petitioner was convicted initially by military tribunals and given a life sentence for the crime of treason, but that nonetheless that trial was annulled and a new criminal trial was begun before ordinary courts in which due process guarantees were respected. It also alleged that this new procedure was subjected to provisions pre-established in the national legislation and so the principle of legality was respected. It also noted that in addition the principle of having a court previously established by law was respected, for the trial was held before regular, career-service judges who had been performing their functions for the judicial branch before the special tribunals were established. It also argued that creating courts and criminal chambers specialized in crimes of terrorism did not violate this right. In addition, the State declared that changes were introduced to the provisions that regulated the statutory definition of the crime of terrorism to bring the provisions into line with international human rights standards. The State also indicated that the petitioner had a defense attorney who assisted him during the trial, with no restrictions whatsoever.

4. It stated that on September 28, 2006, the First Criminal Chamber of la Libertad convicted the petitioner for the crime of terrorism and imposed a prison term of 12 years and six months. It also indicated that the petitioner did not challenge this conviction, but that a third person filed a motion to have the verdict annulled. It indicated that the Supreme Court affirmed the judgment and the petitioner expressed his conformity with it. Finally, it indicated that the petitioner was released by order of the First Criminal Chamber of Trujillo on May 30, 2006 as the penalty imposed was served out with the years he had remained in detention since November 21, 1993.

III. PROCESSING BEFORE THE IACHR

5. The initial petition was received on December 29, 2005; it was registered as petition 1049-04. Additional information was received from the petitioner on March 29, 2006. Subsequently, on August 20, 2008, the Commission transmitted the petition to the State, which was given two months to submit its response, in keeping with the Rules of Procedure of the IACHR then in force. In a communication of October 21, 2008, the State asked for an extension, which was granted until October 21, 2008. The first response from the State was received on December 9, 2008; it was transmitted to the petitioner on January 14, 2009.

6. On March 16, 2009, additional information was received from the petitioner. Subsequently the State forwarded updated information on April 7 and 17, 2009, and on November 2 and 24, 2009. On July 19, 2011, the petitioner was asked to submit additional information, and it was communicated to the petitioner that if he did not send information within one month, the petition could be archived. Finally, on April 12, 2013, and March 27, 2013, two new communications were received from the State in which it asked that the instant petition be archived due to the failure of the petitioner to give any procedural impetus to the matter for more than six years. That communication was transmitted to the petitioner on April 29, 2013, whereupon the IACHR once again requested that he submit the corresponding observations and updated information, and was informed that if information was not sent within one month, the petition could be archived. Nonetheless, the IACHR did not receive any response from the petitioner.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

7. Both Article 48(1)(b) of the American Convention and Article 42(1) of the Inter-American Commission's Rules of Procedure establish that at any stage of the proceedings, after the information has been received, or after the period established has elapsed and the information has not 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 exist or subsist and, if they do not, will order the petition to be archived.

8. In the instant case, the petitioner submitted the last communication to the IACHR on March 16, 2009, and to date he has not responded to the various requests for updated information made by the IACHR. Accordingly, in keeping with Article 48(1)(b) of the Convention and Article 42(1)(b) of its Rules of Procedure, and in view of the procedural inactivity on the part of petitioner without any justification, which is a serious indicator of lack of interest in processing the petition, the IACHR decides to archive it.

Done and signed in the city of Washington, D.C., on the 7th day of the month of November, 2014.
(Signed): Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice President; Felipe González, Second Vice President; Rosa María Ortiz, and James L. Cavallaro, Commissioners.