

November 28, 2014

Ref.: Case No. 12.820
Manfred Amhrein et al.
Costa Rica

Dear Mr. Secretary:

I am pleased to write to you on behalf of the Inter-American Commission on Human Rights to submit to the jurisdiction of the Honorable Inter-American Court of Human Rights Case 12.820, *Manfred Amhrein et al.* in respect of the State of Costa Rica (hereinafter “the State,” “the Costa Rican State,” or “Costa Rica”).

The case involves Costa Rica’s international responsibility for the absence of a remedy to allow a broad review of the criminal convictions of 17 persons. According to the criminal procedure framework in place at the time of the aforementioned convictions, the remedy available was the appeals procedure, which was limited to matters of law, thus excluding the possibility of a review of matters of fact and evidence. Nor does the Commission consider that the two legislative amendments adopted by the State following those verdicts guaranteed the victims’ right to appeal the decisions, since the mechanisms available to persons convicted by final judgment before the adoption of said amendments were subject to the same limitations. The IACHR also considered that, as concerned some victims, the State violated the right to a fair trial in the criminal proceedings against them, the right to personal liberty in view of the unreasonable period of pre-trial detention, and the right to humane treatment because of the poor detention conditions in the prison in which they were held.

The State of Costa Rica ratified the American Convention on Human Rights on April 8, 1970, and accepted the contentious jurisdiction of the Court on July 2, 1980.

The Commission has designated Commissioner José de Jesús Orozco Henríquez and Executive Secretary Emilio Álvarez Icaza L. as its delegates. Likewise, Elizabeth Abi-Mershed, Deputy Executive Secretary, and Silvia Serrano Guzmán and Erick Acuña Pereda, attorneys of the Executive Secretariat of the IACHR, will serve as legal advisors.

Mr. Pablo Saavedra Alessandri, Secretary
Inter-American Court of Human Rights
P.O. Box 6906-1000
San José, Costa Rica

Attachments

In accordance with Article 35 of the Rules of Procedure of the Inter-American Court, the Commission has attached hereto a copy of the report on the merits, Report No. 33/14, prepared in compliance with Article 50 of the Convention, together with a copy of the complete record of the case before the Inter-American Commission (Appendix I) and the annexes used in the preparation of Report No. 33/14 (Annexes). Said report on the merits was notified to the State of Costa Rica in a communication dated April 28, 2014, giving the State two months to report on compliance with the recommendations. The State of Costa Rica, after having been granted two extensions, has not formally expressed its willingness to comply with the recommendations, primarily regarding the right to appeal the judgment, nor has it made any proposal to move toward compliance.

Accordingly, the Inter-American Commission submits to the jurisdiction of the Court all of the facts and human rights violations described in Report No. 33/14, in view of the need to obtain justice for the victims in the case.

In this connection, the Commission requests that the Court conclude and declare that the State of Costa Rica bears international responsibility for:

1. Violation of the right to appeal the judgment, as established in Article 8.2 (h) of the American Convention, in relation to the obligations set out in Articles 1.1 and 2 of the same instrument, to the detriment of Manfred Amhrein, Ronald Fernández, Carlos Osborne, Carlos González, Arturo Fallas, Rafael Rojas Madrigal, Carlos Eduardo Yopez Cruz, Luis Archbold Jay, Enrique Floyd Archbold Jay, Fernando Saldarriaga, Miguel Antonio Valverde, Guillermo Rodríguez Silva, Martín Rojas Hernández, Manuel Hernández Quesada, Damas Vega Atencio, Miguel Mora Calvo, and Jorge Martínez Meléndez.

2. Violation of the right to an impartial judge, as established in Article 8.1 of the American Convention, in relation to the obligations set out in Article 1.1 of the same instrument, to the detriment of Rafael Rojas Madrigal.

3. Violation of the right to personal liberty, as established in Articles 7.1, 7.2, and 7.5 of the American Convention, in relation to the obligations set out in Article 1.1 of the same instrument, to the detriment of Jorge Martínez.

4. Violation of the right to humane treatment, as established in Articles 5.1 and 5.2 of the American Convention, in relation to the obligations set out in Article 1.1 of the same instrument, to the detriment of Rafael Rojas Madrigal, with regard to the absence of access to health services, as well as to the detriment of all victims in the present case who served their terms in the CAI La Reforma prison, owing to the detention conditions in that facility.

Therefore, the Commission requests that the Inter-American Court establish the following reparation measures:

1. Provide comprehensive reparations for the violations declared in the report on the merits, including adequate compensation.

2. Adopt the measures necessary to ensure that, as soon as possible, the victims file an appeal to obtain a review of the convictions, in keeping with Article 8.2 (h) of the American Convention, pursuant to the standards established in the report on the merits.

3. Adopt the measures necessary to ensure that the detention conditions in the CAI La Reforma prison meet inter-American standards in this regard. In particular, ensure that persons deprived of liberty in said facility, including the victims in the present case, receive adequate medical care.

In addition to the need to secure justice, the IACHR underscores that the instant case involves issues of inter-American public order (*ordre public*). Specifically, the case could help ensure that the Costa Rican legislative framework grants persons convicted before the legislative amendments were adopted a full review of their convictions, without any exclusion of matters of fact or evidence. Although this question has been ruled on by the Inter-American Court, the present case raises issues about the legislative or other measures a State must adopt to see to it that legislative adjustments to the American Convention, in addition to providing solutions for the future, as occurred with the creation of the appeals procedure, make it possible for victims previously affected by a framework not based on the Convention to obtain a response to the violation of their rights.

Because these matters have an important impact on inter-American public order (*ordre public*), pursuant to Article 35.1 (f) of the Rules of Procedure of the Inter-American Court, the Commission would like to offer the following expert testimony:

An expert, whose name will be provided shortly, who will testify about the scope of the right to appeal, in light of international standards on the matter. The witness will examine the sequence of legislative amendments adopted in Costa Rica after the Inter-American Court's judgment was rendered in the case of *Herrera Ulloa* in respect of said State. The expert will focus on evaluating, in light of the aforementioned standards, the mechanisms provided by said legislative amendments to the group of persons convicted by final judgment prior to the amendments' entry into force. Lastly, the expert may make relevant considerations concerning reparations in this case, in particular with respect to suitable mechanisms for the group of persons in the same situation as the victims to be able to effectively exercise their right to appeal.

An expert, whose name will be provided shortly, who will testify about standards applicable to detention conditions, in particular on international obligations regarding water access, use, and availability for persons deprived of liberty.

The curricula vitae of the proposed experts will be included in the annexes to the report on the merits, No. 33/14.

The Commission hereby provides the Court with the following information on those who acted as petitioners throughout the proceedings:

Carlos Rafael Urquilla Bonilla

[Redacted signature]

Víctor Manuel Rodríguez Rescia

[Redacted signature]

Rafael Antonio Rojas Madrigal

[Redacted signature]

Damas Vega Atencio, Horacio Brusa,
Anabelle Alfaro Flores y otros

[Redacted signature]

Miguel Mora Calvo

[Redacted signature]

Ricardo Barahona Montero, Jorge
Alberto Martínez Melendez y
Lilliam Blanco Araya

[Redacted signature]

Guillermo Rodríguez Silva y Martín Rojas Hernández

I would like to take this opportunity to convey my highest regards.

Sincerely yours,

Signed in the original
Elizabeth Abi-Mershed
Deputy Executive Secretary