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REPORT No. 106/14

CASE 11.777

REPORT ON ARCHIVE

DIEGO PATRICIO JACOME MALDONADO
ECUADOR

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REPORT No. 106/14
CASE 11.777
ARCHIVE
DIEGO PATRICIO JACOME MALDONADO
ECUADOR
NOVEMBER 7, 2014

ALLEGED VICTIM: Diego Patricio Jacome Maldonado
PETITIONERS: Centro Ecuatoriano Pro Derechos Humanos y Desarrollo
ALLEGED VIOLATIONS: Articles 5, 7 and 25 of the American Convention on Human Rights
DATE PROCESSING BEGAN: July7, 1997

I. POSITION OF THE PETITIONERS

1. On July7, 1997, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a petition from the Centro Ecuatoriano Pro Derechos Humanos y Desarrollo (hereinafter “the petitioners”) alleging the responsibility of the Republic of Ecuador (hereinafter “the State”) for the prolonged pretrial detention of Diego Patricio Jacome Maldonado (hereinafter “the alleged victim”) from August 13, 1990 to September 16, 1997, in a criminal case brought against him under the Drug Trafficking Control Act [*Ley de Control y Fiscalización del Tráfico de Sustancias Estupefacientes y Psicotrópicas*].¹

II. POSITION OF THE STATE

2. The State alleged that the petitioners’ claims were inadmissible for failure to exhaust domestic remedies. In addition, it maintained that “the violation concerning the excessive period of detention” of the alleged victim must be “considered from the time at which the statute of limitations expires in the criminal case.” The Ecuadorian State further indicated that the reasonableness of the time period should be determined according to “certain specific criteria to be taken into account in the particular case.”

III. PROCESSING BEFORE THE IACHR

3. On July7, 1997, the IACHR received the initial petition and assigned it number 11.777. On January 28, 1998, it forwarded a copy of the pertinent parts to the State, granting it 90 days to submit its observations. In a communication dated May 18, 1998, the State presented its reply, which was forwarded to the petitioners with a 45-day period for the submission of its observations. The petitioners submitted observations on November 17, 1998, which were in turn sent to the State, which was asked to submit its observations within 30 days. The State’s reply was received on January 11, 1999.

4. On August 8, 2005, the IACHR sent a communication to the petitioners requesting updated information on the matter in accordance with Article 26 of the Rules of Procedure in force at that time. On September 2, 2005, the petitioners requested a 30-day extension, which was granted by the IACHR.

¹ Law 108, published in Official Gazette No. 612 of January 27, 1987.

5. On April 9, 2009, and April 13, 2011, the IACHR requested updated information from the State. It was received on May 23 and June 2, 2011, and was forwarded to the petitioner for its observations on June 13, 2011.²

6. On November 2, 2011, the IACHR approved Admissibility Report No. 156/11 in this matter in relation to Articles 5.1, 7, 8, and 25 of the American Convention, read in conjunction with Articles 1.1 and 2 thereof. That report was transmitted to the parties on November 8, 2011, and they were given three months to submit their additional observations on the merits.

7. On April 13, 2012, the Commission reiterated its request to the petitioners for additional observations on the merits. Because its electronic and postal communications had been returned to sender since 2011, the IACHR issued a communication on April 16, 2014 requesting that the petitioners provide their current mailing address, email address, and telephone number in order to contact them. The communication went unanswered. On June 30, 2014 the IACHR reiterated its request.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

8. Both Article 48.1(b) of the American Convention and Article 42.1 of the IACHR's Rules of Procedure establish that, during its processing of a petition, the Inter-American Commission shall ascertain whether the grounds for the petition still exist or subsist. If it finds that they do not, it may decide to archive the case file.

9. In the instant case, the petitioners have failed to provide any updated information since November 17, 1998. Nor have they replied to the IACHR's requests since they asked for an extension on September 2, 2005, in spite of the requests made by the IACHR on August 4, 2011, November 8, 2011, April 13, 2012, April 16, 2014, and June 30, 2014.

10. Therefore, the IACHR notes that the unwarranted procedural inactivity of the petitioners is a serious indication of their disinterest in the processing of the petition. Accordingly, pursuant to Article 48.1(b) of the American Convention and Article 42.1(b) of the Rules of Procedure of the IACHR, the Commission decides to archive the case.

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.

² As of this date, the IACHR has been unable to establish contact with the petitioner, either by email or at the mailing address on record in the case file. Thus, in a communication dated August 4, 2011, the IACHR requested updated information from the petitioners to determine whether the grounds for the petition continue to exist, and informed them that their failure to reply within one month could result in the archiving of the case in accordance with Article 48.1(b) of the American Convention and Article 42.1(b) of the Rules of Procedure. That communication was subsequently returned to the sender via postal mail and electronic mail.