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REPORT No. 81/14
PETITION 11.483
REPORT ON ARCHIVE

LEANDRO ZELADA MÉNDEZ
GUATEMALA

Approved by the Commission at its session No. 2002 held on August 15, 2014
152 Special Period of Sessions

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Guatemala. August 15, 2014.

REPORT No. 81/14
CASE 11.483
DECISION TO ARCHIVE
LEANDRO ZELADA MÉNDEZ
GUATEMALA
AUGUST 15, 2014

ALLEGED VICTIM: Leandro Zelada Méndez

PETITIONER: Human Rights Commission of El Salvador

ALLEGED VIOLATIONS: Articles 3, 4, 5, 7, and 8 of the American Convention on Human Rights

DATE OF INITIAL PROCESSING: May 3, 1991

I. POSITION OF THE PETITIONERS

1. On May 3, 1991, the Human Rights Commission of El Salvador (hereinafter “the petitioners”) filed a petition with the Inter-American Commission on Human Rights for the alleged violation of the rights to juridical personality, humane treatment, personal liberty, and a fair trial regarding Leandro Zelada Méndez (hereinafter, also “the alleged victim”), a young man who was reportedly victim of a forced disappearance. The petition was initially submitted with regard to El Salvador as the series of events had begun in that country, but it was later processed in connection with Guatemala (hereinafter “the State” or “the Guatemalan state”), because of the alleged involvement of that country’s authorities.

2. The petitioners reported that at 18:30 (6:30 in the evening) on November 27, 1990, Leandro Zelada Méndez, a 23-year old Guatemalan citizen and resident of the canton of Piletas, municipality of Santiago de la Frontera, department of Santa Ana, El Salvador (which borders Guatemala), had allegedly been taken into custody in his home by Salvadoran police agents –supposedly in order to give a statement– and subsequently disappeared.

3. The petitioners indicate that on November 28, relatives of the alleged victim went to the police to inquire about his whereabouts and were informed that he was being held for having reportedly committed a crime; the police did not specify what the charges were, nor were the family members allowed to see him. Later, the police informed them that the alleged victim had reportedly been transferred to Guatemala on November 30, “due to his nationality,” and turned over to Guatemala’s “G-2” force in Jutiapa military zone No. 10. The Guatemalan authorities, however, allegedly denied having him in their custody.

4. The petitioners reported that a number of Guatemalan human rights organizations had made efforts to find the whereabouts of the alleged victim, but unsuccessfully.

II. POSITION OF THE STATE

5. The Guatemalan state reported that, via the Presidential Commission to Coordinate Executive Policy on Human Rights (COPREDEH), it proceeded to coordinate the investigation by compelling the Ministries of National Defense and Government, the Office of the Attorney General, and the Office of the National Police to take the actions necessary to clarify the facts reported.

6. According to Guatemala’s Office of Immigration, there was reportedly no record of the alleged victim having entered Guatemalan territory in the period between November 27 and December 20, 1990. The State therefore claimed it lacked specific information that would enable it to verify and investigate the facts reported to the IACHR.

7. Guatemala further indicated that COPREDEH had sent a note to El Salvador's Office of the Prosecutor for the Defense of Human Rights asking it to forward all information related to the facts of the petition since the disappearance had allegedly occurred in El Salvador.

III. PROCESSING BY THE IACHR

8. The petition was received on May 3, 1991, and initially registered under No. 10.884. The IACHR forwarded the petition to the State of El Salvador on May 23, 1991. The State responded on August 8, 1991, and its response was forwarded to the petitioners the next day. The petitioners submitted their observations thereon on March 27, 1992.

9. On November 1, 1993, the Inter-American Commission, based on the updated information regarding the facts, sent a communication to the Government of Guatemala requesting information on the whereabouts of the alleged victim. This request for information was repeated on January 19, 1994. However, no response was received.

10. On May 17, 1995, the Inter-American Commission, pursuant to Article 34 of its Rules of Procedure in force at the time, forwarded the relevant portions of the petition (now identified under number 11.483) to the State of Guatemala, giving it 90 days to submit its response. On August 17, 1995, the State requested an extension, which was granted by the IACHR on August 21, 1995.

11. On September 6, 1995, the State's response was received, and forwarded to the petitioners for their observations. However, no response was received.

12. On February 20, 2002, the State was asked to provide updated information; on April 18, 2002, it was granted a 30-day extension. On June 3, 2002, the State's response was received.

13. On January 4, 2005, the State was asked to provide updated information; on February 2, 2005, it was granted a 30-day extension. However, no response was received.

14. On August 24, 2012, the IACHR asked the petitioners to provide up-to-date information in order to determine whether the grounds for the petition persisted. The petitioners were given one month and were informed that, absent a response, the Commission would make a decision as to whether to archive the petition. To date, the IACHR has not received the information necessary to reach a decision.

IV. BASIS FOR THE DECISION TO ARCHIVE

15. Both Article 48(b) of the American Convention on Human Rights and Article 42 of the Inter-American Commission on Human Rights Rules of Procedure provide that, at any time during the processing of a petition, once the information has been received or when the period granted lapses without such information having been received, the Commission shall ascertain whether the grounds for the petition still exist or subsist, and if it decides they do not, shall order the archiving of the case file.

16. The last communication from the petitioners was received on September 10, 1993. Subsequent thereto, the State of Guatemala's response to their petition was forwarded to them on September 8, 1995, and they were asked to provide additional information on August 24, 2012. Nevertheless, to date, and after more than 20 years, no word has been received from the petitioners.

17. Having conducted the corresponding assessment, the Commission believes it does not have sufficient information to reach a decision on the admissibility or inadmissibility of the petition, or on whether the grounds for the original petition subsist. Thus, in accordance with Article 48(b) of the Convention, as well as Article 42 of its Rules of Procedure, the IACHR hereby decides to archive this petition.

Approved by the Inter-American Commission on Human Rights in the city of Mexico on the 15th day of the month of August, 2014. (Signed): Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice-President; Felipe González, Second Vice President; José de Jesús Orozco Henríquez, Rosa María Ortiz, Paulo Vannuchi and James L. Cavallaro, Commissioners.