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**REPORT No. 108/14**  
**PETITION 300-05**  
REPORT ON ARCHIVE

LUIS ALBERTO TIMOTEO ARGOTE  
PERU

Approved by the Commission at its session No. 2016 held on November 7, 2014  
153 Regular Period of Sessions

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Perú. November 7, 2014.

**REPORT No. 108/14**  
**PETITION 300-05**  
REPORT ON DECISION TO ARCHIVE  
LUIS ALBERTO TIMOTEO ARGOTE  
PERU  
NOVEMBER 7, 2014

ALLEGED VICTIM: Luis Alberto Timoteo Argote

PETITIONER: Luis Alberto Timoteo Argote

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

DATE PROCESSING BEGAN: September 3, 2008

**I. THE PETITIONER'S POSITION**

1. The petitioner stated that he was arrested by members of the National Police of Peru on July 2, 1994. He stated that at the time of his arrest he was not informed of the charges against him. He indicated that he was subsequently taken to the facilities of the JECOTE in Cajamarca, where he was held for 52 days during which he was a victim of torture for the purpose of getting him to incriminate himself in respect of the acts of which he was accused. He also alleged that the DINCOTE drew up the police investigative report in violation of his judicial guarantees, mainly his right to defense, as his attorney was not allowed to participate in all the proceedings that were conducted, and in addition petitioner was kept from meeting privately with his attorney. He stated that he was subsequently put at the disposal of the military jurisdiction. He indicated that he was convicted and sentenced to life in prison, and was held at the Piscsi-Chiclayo prison, where he was subjected to inhuman conditions of detention, including having to remain in his cell for 23½ hours daily, and subjected to a regime of visits in which he could only be visited by direct family members for 30 minutes. The petitioner stated that the trial in the military jurisdiction was annulled thanks to a constitutional motion filed on January 3, 2003, and that a new trial was brought against him in the regular courts, in which he was convicted and given a 20-year prison sentence.

**II. THE STATE'S POSITION**

2. The State argued that the facts described by the petitioner do not constitute a violation of the human rights enshrined in the American Convention. It declared that initially the petitioner was tried before a military tribunal for the crime of treason (*traición a la patria*), convicted, and sentenced to life in prison. It argued that subsequently a new trial was conducted before the regular courts. In that trial, on November 18, 2004, the Criminal Chamber of the Superior Court of Cajamarca convicted the petitioner and imposed a 20-year prison sentence. It also mentioned that in that proceeding the criminal liability of the petitioner was fully shown based on his statement before the representative of the Public Ministry in which he added that he had been a sympathizer of the armed group "Shining Path" since 1983 and that he owed allegiance to this group, but that they also took into account the statements made by several members of this subversive group in which they identified the petitioner, asserting that he participated in various terrorist acts and that he held a political commanding position within the organization.

3. The State reported that in response to that verdict, the petitioner filed a motion for annulment with the First Criminal Chamber, which in a resolution of May 26, 2005, found no nullity in the judgment appealed, affirming that the collegial court had correctly evaluated the evidence produced. In addition, the State indicated that at all times the petitioner received assistance of counsel, and that during his detention he was not the victim of torture, inhuman treatment, or any other act violative of his dignity, this according to information presented by the National Prison Institute (Instituto Nacional Penitenciario). Finally the State expressed that the rules of due process were respected in the criminal trial against the petitioner, and that it was held under the anti-terrorist legislation then in force in Peru.

### **III. PROCESSING BEFORE THE IACHR**

4. The initial petition was received on March 18, 2005; it was registered as petition 300-05. On September 3, 2008, the Commission forwarded the petition to the State, giving it two months to submit its response, in keeping with the IACHR's Rules of Procedure then in force. The State requested an extension in a communication of November 3, 2008. The first response from the State was received on December 5, 2008, and it was transmitted to the petitioner on December 31, 2008.

5. The State sent additional information on the petition on January 24, 2008, and November 24, 2009. These communications were forwarded to the petitioner on January 23, 2009, and December 1, 2009, respectively; each time he was asked to submit his observations regarding the additional information. On August 4, 2014, the IACHR requested updated information or any additional observations to determine whether the grounds for this petition subsist, as well as informing him that if no information were sent within one month, the case could be archived. Nonetheless, as of the date of publication of this report, the IACHR has not received any response from the petitioner.

### **IV. GROUNDS FOR THE DECISION TO ARCHIVE**

6. 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 procedure, once the information has been received or once the time set for receiving it has lapsed and it has not been received, the IACHR will verify whether the motives for the petition exist or subsist, and if not, it shall order that the record be archived.

7. In the instant case, the petitioner filed the last communication with the IACHR on March 18, 2005, and to date has not responded to the various requests for updated information made by the IACHR. Accordingly, pursuant to Article 48(1)(b) of the Convention and Article 42(1)(b) of the Commission's Rules of Procedure, and in view of the procedural inactivity of the petitioner without any justification, which is a serious indication of a 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 7<sup>th</sup> 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.