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REPORT No. 109/14
PETITION 301-05
REPORT ON ARCHIVE

ELEAZAR GUEVARA JULIÁN
PERU

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November 7, 2014.

REPORT No. 109/14
PETITION 301-05
ARCHIVE REPORT
ELEAZAR GUEVARA JULIÁN
PERU
NOVEMBER 7, 2014

ALLEGED VICTIM: Eleazar Guevara Julián

PETITIONERS: Eleazar Guevara Julián

ALLEGED VIOLATIONS: Articles 1.1, 2, 5, 7, 8, 9, and 24 of the American Convention on Human Rights

DATE OF INITIAL PROCESSING: September 3, 2008

I. POSITION OF THE PETITIONERS

1. The petitioner declared that he was arrested by members of the National Police of Peru on June 9, 1993, together with two friends. He said that at the time of their arrest they were beaten and accused of terrorism. He indicated that he was taken to the police base in Jaén and subsequently to the DINCOTE facilities, where he remained for 40 days, during which he was tortured to get him to accept responsibility for the acts for which he was charged. The petitioner claims that the police fabricated a police report, in violation of his right to a fair trial, but primarily his right to defense since his attorney was not allowed to participate in all of the proceedings and was prevented from meeting with him in private. He also said that he was later brought before a military court, which sentenced him to 20 years in prison. He indicated that he was detained in the Pisci-Chilayo prison, where he was subjected to inhumane detention conditions, which included being obliged to remain in his cell for 23½ hours a day and being subjected to visiting regulations whereby he could only be visited by immediate family for 30 minutes. The petitioner stated that the trial before the military court was nullified as a result of the action of unconstitutionality of January 3, 2003, and a new trial was opened against him before ordinary courts, in violation of the freedom from ex post facto laws. In that trial, he was sentenced to 14 years of deprivation of liberty.

II. POSITION OF THE STATE

2. The State declared that the petitioner was initially tried by a military court for the crime of treason but that a new trial was opened against him before ordinary courts. It stated that on April 6, 2006, the National Criminal Chamber convicted the petitioner for the crime of terrorism and sentenced him to 14 years of deprivation of liberty, a term that would end on June 8, 2007, calculated from his initial detention in June 1993. It mentioned that the criminal liability of the petitioner was fully established during this trial by the statement he made in the presence of the representative of the Office of the Public Prosecutor and his defense counsel, in which he admitted to having been a member of the “Shining Path” armed group since 1993, as well as having his domicile be used as a meeting place. Following that declaration, the petitioner filed an affidavit affirming that what he had previously declared and signed had been extracted under torture and by blackmail. This notwithstanding the National Criminal Chamber convicted him, alleging that the evidence submitted fully established his criminal liability.

3. The State reported that, during this criminal trial, the petitioner was able to exercise his right to defense since he received legal counsel and likewise made use of the mechanisms in effect under procedural law. Further it stated that the court that convicted him was independent and impartial and that its trial was public, respecting at all times due process guarantees. The State declared that the petitioner served his sentence and had been freed from prison since June 9, 2007.

III. PROCESSING BY THE IACHR

4. On March 18, 2005, the original petition was received and was registered as number 301-05. On September 3, 2008, the Commission transmitted the petition to the State, granting it two months to submit its response, in keeping with the IACHR Rules of Procedure then in effect. In a communication dated November 24, 2008, the first response from the State was received, which was forwarded to the petitioner on January 14, 2009.

5. On November 24, 2009, and on March 4, 2013, the State submitted additional information on the petition, requesting in the second communication that the case be archived because of the absence of procedural activity by the petitioner for more than four years. These communications were transmitted to the petitioner on December 1, 2009, and April 1, 2013, respectively, to the private address proportionated by the petitioner, with a request that he present his observations on the additional information. In the second communication, he was told that the petition could be archived if updated information was not submitted. On August 4, 2014, the IACHR reiterated its request for updated information or for any additional information to determine whether the grounds for the present petition subsisted, indicating that if information was not sent within a month, the case could be archived. This notwithstanding, as of the date of publication of this report, the IACHR has not received any reply from the petitioner.

IV. BASIS FOR THE DECISION TO ARCHIVE

6. Both Article 48.1(b) of the American Convention and Article 42.1 of the Rules of Procedure of the Inter-American Commission establish that, at any stage in the proceedings, whether the information requested has been received or the period established has elapsed without its receipt, the IACHR shall determine whether the grounds for the petition still exist or subsist and, if they do not, shall order the case to be archived.

7. In the case at hand, the petitioner submitted the last communication to the IACHR on March 18, 2005, and to date has not responded to diverse IACHR requests for updated information. Thus, 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 petitioner's unjustified procedural inactivity, which constitutes a serious indication of his lack of interest in the processing of the petition, the IACHR hereby 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.