

OEA/Ser.L/V/II
Doc. 69
10 May 2023
Original: Spanish

REPORT No. 61/23
PETITION 996-10
REPORT ON INADMISSIBILITY

JUAN CARLOS CASTRO PORRAS
COSTA RICA

Approved electronically by the Commission on May 10, 2023.

Cite as: IACHR, Report No. 61/23. Petition 996-10. Inadmissibility.
Juan Carlos Castro Porras. Costa Rica. May 10, 2023.

I. INFORMATION ABOUT THE PETITION

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| Petitioner: | Juan Carlos Castro Porras |
| Alleged victim: | Juan Carlos Castro Porras |
| Respondent State: | Costa Rica |
| Rights invoked: | Articles 5 (right to humane treatment), 11 (right to privacy) and 24 (right to equal protection) of the American Convention on Human Rights ¹ |

II. PROCEEDINGS BEFORE THE IACHR²

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| Filing of the petition: | July 8, 2010 |
| Additional information received during the stage of initial review: | December 24, 2015 |
| Notification of the petition: | February 18, 2016 |
| State's first response: | June 20, 2016 |
| Additional observations of the petitioner: | March 30, 2016; April 29, 2019, and April 16, 2020 |
| Additional observations of the State: | October 7, 2019, and September 28, 2020 |

III. COMPETENCE

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| Competence <i>Ratione personae</i>: | Yes |
| Competence <i>Ratione loci</i>: | Yes |
| Competence <i>Ratione temporis</i>: | Yes |
| Competence <i>Ratione materiae</i>: | Yes, American Convention (instrument of ratification deposited on April 8, 1970) |

IV. DUPLICATION OF PROCEDURES AND INTERNATIONAL RES JUDICATA, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

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| Duplication of procedures and international res judicata: | No |
| Rights declared admissible: | Not applicable |
| Exhaustion or exception to the exhaustion of domestic remedies: | No, in the terms of Section VI |
| Timeliness of the petition: | Not applicable |

V. POSITIONS OF THE PARTIES

1. Mr. Juan Carlos Castro Porras, in his capacity as petitioner and alleged victim, alleges the violation of his right to personal integrity, due to the precarious conditions of imprisonment that he experienced while serving a preventive detention.

Background and preventive detention issued against Mr. Castro

2. Mr. Castro Porras reports that he worked as an official of the Alajuela Judicial Investigation Agency, and that between February and April 2005 he worked as an officer of the Narcotics Section of the Alajuela Judicial Investigation Agency; however, on April 20, 2005, he was arrested by the Costa Rican Public Ministry for his alleged responsibility in committing the crimes of drug possession and trafficking. That same day, the Criminal Court of the First Judicial Circuit of Alajuela imposed preventive detention on him for a six-

¹ Hereinafter "the American Convention" or "the Convention".

² The observations of each party were duly notified to the opposing party.

month term. Consequently, on April 22, 2005, he was transferred to the Seventh Police Station in Hatillo, in San Jose. It follows that against the pretrial detention ordered against Mr. Castro, his legal defense filed an appeal before the Alajuela Trial Court; however, on May 5, 2005, the aforementioned court confirmed the issuance of the aforementioned precautionary measure.

3. In relation to the foregoing, on November 6, 2009, three years, and nine months after the end of pretrial detention, the petitioner filed an amparo against the Police Chief of the Seventh Police Station in Hatillo alleging that the police station did not comply with the minimum conditions to safeguard his physical, moral and psychological integrity. However, in a judgment of December 3, 2009, the Constitutional Chamber of the Supreme Court of Justice denied the amparo, considering that the allegations related to the violation of their fundamental rights due to the precarious facilities of the Seventh Police Station in Hatillo lacked current interest, establishing that the alleged violations of his fundamental rights were committed in 2005 and 2006, this being the relevant period to resort to the constitutional jurisdiction.

4. The petitioner alleges that from April 22, 2005 to February 3, 2006, during the 289 days he was in pretrial detention at the Seventh Police Station in the Hatillo district, San Jose province, he was the victim of torture and cruel and inhumane treatment, detailing that he was confined in an extremely small cell, dirty, damp, without light or natural ventilation; there was no bed, so he slept on a concrete bench and no toilets inside the cell; he received no medical attention of any kind; he could not do any recreational or outdoor activities; there were loud noises during the night, which prevented his rest; and his visits were extremely restricted.

Judicial process and criminal conviction

5. On the other hand, regarding the criminal proceeding against Mr. Castro, based on the information contained in the file, it can be deduced that on May 30, 2007, an order was issued to initiate a trial against him. Consequently, on September 11, 2007, the Criminal Court of the First Judicial Circuit of Alajuela determined Mr. Castro's responsibility for the crimes of possession of drugs for trafficking purposes; and procure impunity for persons related to drug trafficking, both included in the Law on Psychotropic Drugs in Material Contest, imposing a sentence of twenty-five years in prison. Dissatisfied with this, Mr. Castro's legal defense filed an appeal for cassation. In a resolution of July 4, 2008, the then Criminal Court of Cassation of the Third Judicial Circuit of Alajuela confirmed the sentence against him, corroborating his participation in one of the crimes for which he was accused, but reducing his sentence to ten years in prison for the lack of commission of the second crime charged against him. Subsequently, on July 19, 2010, Mr. Castro filed a review proceeding against the judgment that convicted him at first instance; however, on December 15, 2011, the Court of Appeal of the Judgment of the Third Judicial Circuit of Alajuela, First Section, declared inadmissible the aforementioned review procedure.

Position of the state of Costa Rica

6. The State, for its part, refers that the decision of the internal judges to determine compliance with Mr. Castro's preventive detention at the Hatillo Police Station, was made in order to ensure his integrity before third parties deprived of liberty, taking into account his status as a former police officer, thus preventing any attack against him. It also indicates that from July 4, 2008, when Mr. Castro was definitively sentenced, until January 21, 2009, he was a fugitive; and once captured by the ministerial authorities, he was sent to a prison in the province of Cartago.

7. On the other hand, it considers that the petition should be inadmissible: (i) due to the undue exhaustion of domestic remedies; (ii) because the petitioner wants the IACHR to act in what it calls a court of appeal or "fourth instance" court; and (iii) due to the late submission of the petition.

8. Regarding the failure to exhaust domestic remedies: on the one hand, it states that the petitioner filed an amparo appeal before the Constitutional Chamber of the Supreme Court of Justice against the Police Chief of the Seventh Police Station of Hatillo, establishing that although it is the appropriate domestic remedy to allege disturbances to his freedom and personal integrity, this appeal was presented on November

6, 2009 before the Constitutional Chamber, that is, three years and nine months after being released from pretrial detention. Along these lines, it alleges that the petitioner went before the domestic judicial authorities extemporaneously, as established in the reasoning that rejected the amparo appeal for not appearing at the appropriate procedural moment, in accordance with the following:

In the specific case and with respect to the alleged violation of his fundamental rights, the present appeal lacks current interest, since it is evident that the mentioned injury occurred between 2005-2006, which is why it does not warrant the intervention of this jurisdiction, since it was appropriate for the protected person to go to protect his constitutional rights, while the violation attributed to the defendants subsisted and not at this time, since from the same petition it can be deduced that he is currently being held in the Center for Institutional Care of Cocori, in Cartago [...].

9. On the other hand, it states that on July 19, 2010, Mr. Castro filed an appeal to review the sentence; however, this was after the petition was filed, arguing that the remedies initiated in the domestic jurisdiction had not been exhausted at the time of resorting to the Inter-American System.

10. The State also argues that the petition improperly asks that the Commission act as a court of appeal to review the decisions of the domestic courts regarding matters of ordinary legality that do not concern fundamental rights. For these reasons, it alleges that the Commission would violate its subsidiary nature if it agreed to hear the merits of the petition.

11. Lastly, it alleges that the present petition was time-barred for failure to comply with the six-month deadline for submission since the decision that exhausted domestic remedies was issued, pursuant to the provisions of Article 46.1.b) of the American Convention. In particular, it states that the petitioner was notified of the last decision regarding the appeal on July 4, 2008, and the petition was filed on July 8, 2010, that is, more than two years later -in this regard, the Inter-American Commission notes that this appeal to which the State refers was filed on November 6, 2009; the sentence that denied it was issued on December 3, 2009; and the date of receipt of the notification is January 11, 2010.

12. 12. In response, the petitioner maintains, contrary to what was established by the State, that the resolution of the appeal was notified to him on January 11, 2010, while he was incarcerated in a criminal center in compliance with the judgment that sentenced him to ten years of imprisonment.

VI. ANALYSIS OF EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

13. The Commission observes that the petitioner alleges that he was the victim of acts of torture, cruel, inhuman, and degrading treatment at the Seventh Police Station in Hatillo while he was deprived of his liberty in compliance with the pretrial detention ordered against him. In particular, it details that said acts perpetrated against him derive, mainly, from the very poor conditions of the police station facilities and the cells where those deprived of liberty are kept. For its part, the State establishes that the domestic remedies filed by the petitioner in order to allege violations of his personal integrity while serving preventive detention were not filed in a timely manner. Likewise, it proposes the exception of extemporaneity of the petition for non-compliance with the six month term from the culmination of the appeal of cassation for submitting the petition.

14. For the purpose of evaluating the adequacy of the remedies available in the national legal system, the Commission usually establishes what is the specific claim that has been formulated, to then identify the judicial remedies provided by the domestic legal system that were available and adequate to analyze that particular claim. In this consists, precisely, the suitability and effectiveness of each remedy considered specifically, in that it provides a real opportunity for the alleged violation of human rights to be remedied and resolved by the national authorities before the Inter-American System of protection.

15. In particular, the Commission observes that the central claim of the petitioner is the violation of his personal integrity due to the conditions of confinement that he lived in the Seventh Police Station in

Hatillo, the petitioner has also invoked Articles 11 (right to privacy) and 24 (right to equal protection) of the American Convention; however, it has not provided specific information regarding events that have led to its violation. Likewise, based on the information provided by the parties, the IACHR notes that on November 6, 2009, the petitioner filed an appeal for amparo alleging the aforementioned violations of his personal integrity due to the prison conditions he lived during the period in which he complied with the pretrial detention; However, on December 3, 2009, the Constitutional Chamber of the Supreme Court of Justice rejected the amparo remedy, considering that said jurisdiction was not resorted to in a timely manner, in order to be able to reverse the alleged violations of his fundamental rights in the appropriate procedural moment, that is, while they were in force. In this regard, as established by the domestic judicial instances, the Commission concludes that the petitioner did not duly comply with the requirement of timely exhaustion of domestic remedies; considering, furthermore, that the internal remedies have been rejected on reasonable and non-arbitrary procedural grounds, such as the fact that the previously listed remedies have not been filed within the time limits established by domestic law.

16. For these reasons, the Commission concludes that this petition is inadmissible because it does not comply with the requirements of Article 46.1.a) of the American Convention. In this regard, for procedural economy, it is not pertinent to carry out an analysis regarding the deadline for submitting the petition based on the provisions of Article 46.1.b) of the aforementioned international treaty.

VII. ANALYSIS OF THE POSITIONS OF THE PARTIES

17. Given that in the preceding paragraph it was determined that the petition did not comply with the duty to exhaust domestic remedies, it is therefore unnecessary, due to procedural economy, to carry out an analysis to characterize possible violations of the American Convention.

VIII. DECISION

1. To declare the present petition inadmissible; and
2. To notify the parties of this decision; to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 10th day of the month of May 2023. (Signed:) Margarette May Macaulay, President; Roberta Clarke, Second Vice President; Julissa Mantilla Falcón and Carlos Bernal, Commissioners.