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| Institution: | Inter-American Commission on Human Rights |
| File Number(s): | Communication No. 1895 |
| Session: | Thirty-Fifth Session (20 - 30 May 1975) |
| Title/Style of Cause: | Tulio Renan Fuentealba Moena v. Chile |
| Doc. Type: | Report |
| Decided by: | President: Dr. Andrés Aguilar (Venezuela) Vice-President: Dr. Carlos A. Dunshee de Abranches (Brazil) Members: Professor Manuel Bianchi (Chile); Dr. Gabino Fraga (Mexico); Dr. Justino Jimenez de Aréchaga (Uruguay); Mr. Robert F. Woodward (United States); Dr. Genaro R. Carrio (Argentina) |
| Dated: | 20 - 30 May 1975 |
| Citation: | Fuentealba Moena v. Chile, Comm. 1895, Inter-Am. C.H.R., OEA/Ser.L/V/II.37, doc. 20, corr. 1 (1975) |
| Editor's Note: | The decision refers to the applicant as Renan Montalba and Rehan Fuentealba. The proper name of the applicant appears to be Tulio Renán Fuentealba Moena, who was exiled to Costa Rica after Pinochet came to power in Chile in 1973. |
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[1] 1895, November 29, 1974 denounces the exile from Chile of Chilean Senator Mr. Renan Montalba on November 26, 1974.

[2] In communications dated December 3, the Secretariat acknowledged receipt to the claimants. In a note of December 17, 1974, the Commission requested the Government of Chile to provide the appropriate information. A copy of that note was sent to the Delegation of Chile to the OAS on December 18, 1974.

[3] Through a note dated January 24, 1975 (N1. 1587), the Government of Chile replied to the request for information filed by the Commission. The pertinent parts of that reply appear below:

[4] "In this regard, I am able to report that Mr. Rehan Fuentealba was exiled from Chile by virtue of the power granted to the Government under Article 2 of the Decree No. 81 of October 11, 1943.

"Subsequent to application of the power of expulsion, the lawyer for Mr. Fuentealba presented a writ of habeas corpus before the Court of Justice suggesting that the expulsion be revoked since the requirements established under Decree Law 81 had not been met. This writ was first presented to the Court of Appeals in Santiago which, after a length of discussion in which lawyers for both parties took part, stated that the writ of habeas corpus was not in order. Later the lawyer for Mr. Fuentealba requested the Supreme Court of Justice of Chile to reconsider the sentence handed down by the Court of Appeals, which after an exhaustive study of the background information provided by both parties, again stated that the writ of habeas corpus was not in line, declaring that the expulsion of Mr. Fuentealba was fully in accordance with the law."

[5] In a note dated February 6, 1975, the Secretariat acknowledged receipt to the Government of Chile. A copy of that note was sent to the Delegation of Chile to the OAS on February 7, 1975.

[6] In letters dated February 11, 1975, the claimants were informed of the pertinent parts of that report.

[7] The Commission examined this case during its thirty-fifth session (May 1975) together with the information provided by the Government of Chile and decided to file the case without prejudice to reopening examination thereof should Mr. Fuentealba provide some additional information to the Commission that justifies reopening the case. This decision was a majority decision with a reservation being cast by Dr. Justino Jiménez de Aréchaga, since he felt the exile of former Senator Fuentealba from his own country is a serious violation of human rights.

[8] The Government of Chile was informed of this decision on August 5, 1975, and the claimants were informed on August 25, 1975.

[9] During its thirty-fifth session the Commission looked into the state of this case and bearing in mind the fact that the individual referred to in the denunciation had not provided the additional information needed to carry out an examination of the case, it decided to file the case without further processing.