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| Institution: | Inter-American Commission on Human Rights |
| File Number(s): | Case No. 1874 |
| Session: | Thirty-Sixth Session (6 - 24 October 1975) |
| Title/Style of Cause: | Michel Selin Nash Saez, Luis Heriberto Contreras Escamilla, Eugenio Ruiz Tagle Orrego, Arsenio Poupin Oissel, Freddy Marcelo Taberna Gallegos, Mario Silva Iriarte and Absalon Wegner Millar 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: | 24 October 1975 |
| Citation: | Nash Saez v. Chile, Case 1874, Inter-Am. C.H.R., OEA/Ser.L/V/II.37, doc. 20, corr. 1 (1975) |
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[1] Case No. 1874, covers nine communiques or claims in connection with individuals who were allegedly executed in Chile by military or police authorities without trial or after trials in which, according to the denunciations, the principles upheld in Article XXVI of the American Declaration had been violated. The cases were denounced to the Commission during the course of the investigation on the status of human rights in Chile, conducted from July 22 to August 2, 1974, and they were classified in accordance with a decision taken by the CIDH at the thirty-third session in Chile.

[2] In a note dated October 11, 1974, the Commission requested the Government of Chile to provide the appropriate information, transmitting to it the pertinent parts of the denunciations, in accordance with Articles 42 and 44 of its Resolutions.

[3] The Commission examined this case at its thirty-fifth session (May 1975) and noting that the Government of Chile had not provided the information requested and that the period of time provided under Article 51 of the Regulations for transmittal of the information requested had elapsed, it agreed to presume the confirmation of the events denounced under case 1874, if by September 30, 1975, the Government of Chile had not yet provided the necessary data.

[4] At the thirty-sixth session (October 1975) the Commission continued its examination of case 1874, observing that the Government of Chile had not yet provided the information requested on October 11, 1974, and that the 180-day period provided for under Article 51 of the Regulations had elapsed as had the extension granted. Therefore, in keeping with the decision reached at its thirty-fifth session, it approved the following Resolution (OEA/Ser.L/V/II.36, doc.40 rev.1, of October 24, 1975):

WHEREAS:

[1] Communications and claims received by the Commission during its thirty-third session (special), held in Chile from July 22, to August 2, 1974, denounced execution of the following individuals, without due process and under the circumstances described in each case:

Michel Salin Nash Saez, 19 years of age, a recruit in the Granaderos Regiment No. 1, Company B, with headquarters at Iquique. Demoted, apparently on September 13, 1973, arrested and removed to Pisagua. Political affiliation: Marxist. Died on September 29, 1973, "For not having obeyed orders from above during an escape he attempted with other prisoners," according to a letter from General Carlos Forester, Chief of the VI Army Division.

Luis Heriberto Contreras Escamilla, 43 years of age, married, of Porto Alegre 5742, Poblacion Brasilia, San Miguel, arrested on November 10, 1973, in his home by uniformed agents from the San Bernardo Infantry School. Shot on November 15, his corpse was claimed on November 16 from the Institute of Forensic Medicine by his wife, Eloisa Pecaloza, who alleges that the corpse showed signs of beating and torture. The death certificate states that he died on the street, although the newspaper El Mercurio, the November 13th edition, reports: that he was arrested for 'suspicious activities.'

Eugenio Ruiz Tagle Orrego, 26 years of age, of Alcantara 944, Santiago, who voluntarily turned himself in on being summoned in the city of Antofagasta on September 13, 1973, was tortured to death. His mother, Mrs. Alice V. Orrego de Ruiz Tagle, after receiving the corpse of her son, describes physical signs of torture that caused his death on October 19, 1973, in Antofagasta. The fact was brought to the attention of General Joaquin Lagos and other military authorities in the area, the Deputy Secretary of the Interior, Mr. Enrique Montero, of whom permission to exhume the body was requested "in order to perform an autopsy to establish the circumstances under which he was killed." This request was read at the Cabinet Council of the Chilean Government on October 31, 1973. Mrs. Orrego herself adds that on October 38th she was informed that the body of her son had "two bullet wounds", which she reported, by telephone, to one of the Cabinet Ministers.

Arsenio Poupin Oissel, lawyer, residing at calle Agustinas 715, Office 210, Santiago; Deputy-Secretary General of the Government until September 11, 1973; arrested at La Moneda Palace together with Mr. Eduardo Paredes, Jorge Klein, Claudio Jimenez, Mr. Enrique Huerta, Mr. Enrique Paris Roa, Mr. Alfonso Barrios and other high Government officials under Dr. Allende. It is alleged that all were first taken to the headquarters of the Tacna Regiment in Santiago, and then to Peldehue Military Camp and that there they were executed after having been beaten. The Commander of the Tacna Regiment and the Commander of the Peldehue Military Camp were aware of these events. The Ministers of the Interior and Defense denied any official information in this regard in connection with the writ of amparo in the name of Mr. Poupin and the above-cited individuals, presented to the Santiago Bar Association, and to the Court of Appeals of Santiago, on September 23, 1973, admitted to the Court of Appeals as No. 500, on May 24, 1974, without results. "Some of the prisoners who passed through the Tacna headquarters saw all these individuals, but having regained their freedom they cannot serve as witnesses because of a fear of reprisal."

Freddy Marcelo Taberna Gallegos, of calle Pedro Pablo Mucoz 520, La Serena, Santiago. Arrested on September 16, 1973, in the city of Pisagua, Iquique. Taken to the Iquique Logistics Battalion and then to the Communications Regiment, and later removed to the Iquique Jail and held incommunicado until the War Council was held, where the defense Lawyer was not permitted to exercise his privilege, except to interview the accused the day before the Council was held. The sentence from the Council, confirmed by the Military Judge Advocate, condemned Taberna to ten years in prison, with no possibility of appeal; then, on October 30, he was executed.

His wife was arrested twice: first, on September 13, in order to force her husband Freddy to turn himself over; after being set free on September 17, she was reimprisoned on September 30, and this time taken to "Buen Pastor", where she was notified on October 30 --the very day on which the event occurred-- of the

execution of her husband. She remained in prison for two more days, and was then placed under house arrest and ordered to leave Iquique within 48 hours.

Mario Silva Iriarte, lawyer, residence at Las Gualtatas 6195, Antofagasta; General Manager of the "Corfo Norte" Company. He was in Santiago on September 11, 1973, and traveled that same day to Antofagasta, where he met his family composed of his wife and five small children. Once in Antofagasta he was arrested and then executed, "without due process and without any defense whatever", on October 9, 1973, at 1:30 a.m., as shown on the death certificate.

The military post commander at Antofagasta, Comandante Campos, was informed of the event. General Arellano Stark was responsible for the final decision.

Absalon Wegner Millar, surgeon, was executed on December 3, 1973, "without specifying charges nor bringing him to trial." The site where the event was alleged to have taken place is not mentioned.

[2] In accordance with the power conferred upon it by virtue of Article 9 (bis) of its statute, this Commission requested the Government of Chile, through a note dated October 11, 1974, to provide the necessary information, transmitting to that Government, in accordance with Article 42 of its Regulations, a list of the aforementioned individuals who, according to the claims or communications received, had been executed.

[3] The Government of Chile has not provided any information to this Committee and this information was requested more than a year ago.

[4] Given the nature of the corporeal thing damaged and the standards that were in force or are in force in Chile on the competence of courts in war time or during a state of siege, it is not fitting to demand of the claimants proof that they have exhausted the recourses provided for under internal law, inasmuch as causing a death constitutes a damage for which law cannot offer any compensation whatever, except punishment of those individuals responsible for violation of the law.

[5] With the documents it has in its possession, the Commission feels that there is sufficient evidence that citizens Michel Selin Nash Saez, Luis Heriberto Contreras Escamilla, Eugenio Ruiz Tagle Orrego, Arsenio Poupin Oissel, Freddy Marcelo Taberna Gallegos, Mario Silva Iriarte and Absalon Wegner Millar were executed by military or police authorities, either untried or after trials in which the requirements of due process were not satisfied.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

[1] In application of article 51 of the Regulations, to resume the events on which information has been requested to be confirmed.

[2] To include this resolution in the Annual Report that the Commission must submit to the General Assembly of the Organization (Article 9 (bis) c of its Statute) making known that the events denounced under case No. 1874 constitute a serious violation of the right to personal security provided for in Article I of the American Declaration of the Rights and Duties of Man.

[3] To urge the Government of Chile to conduct the appropriate investigations or to continue those it may have begun with regard to the executions of Michel Selin Nash Saez, Luis Heriberto Contreras Escamilla, Eugenio Ruiz Tagle Orrego, Arsenio Poupin Oissel, Freddy Marcelo Taberna Gallegos, Mario Silva Iriarte and Absalon Wegner Millar, assigning blame to those individuals who have violated their basic rights and informing this Commission as to the results of those investigations.

[4] To transmit the text of this resolution of the Government of Chile and to the claimants.

This resolution was brought to the attention of the Government of Chile on December 1, 1975, and of the claimants, on December 11, 1975.