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| Institution:          | Inter-American Commission on Human Rights   |
| File Number(s):       | Report No. 69/01, Petition 329/01   |
| Session:              | Hundred and Twelfth Regular Session (14 – 15 June 2001)   |
| Title/Style of Cause: | Christian Scheib Campos v. Chile  |
| Doc. Type:            | Report  |
| Decided by:           | First Vice-Chairman: Juan E. Mendez;<br>Second Vice-Chairman: Marta Altolaguirre;<br>Commissioners: Robert K. Goldman, Peter Laurie, Helio Bicudo.<br>Commissioner Julio Prado Vallejo abstained.<br>Commissioner Claudio Grossman, a Chilean national, did not participate in the review and voting related to this petition, pursuant to Article 17(2)(a) of the Rules of Procedure of the IACHR. |
| Dated:                | 14 June 2001  |
| Citation:             | Scheib Campos v. Chile, Petition 329/01, Inter-Am. C.H.R., Report No. 69/01, OEA/Ser./L/V/II.114, doc. 5, rev. (2001)   |
| Represented by:       | APPLICANTS: Juan Pablo Olmedo Bustos and Ciro Colombara   |
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## I. PROCESSING BY THE IACHR

1. The petition, filed by Juan Pablo Olmedo Bustos and Ciro Colombara ("the petitioners"), was received on February 22, 2001. On March 30, 2001, the Executive Secretariat of the Inter-American Commission on Human Rights ("the IACHR" or "the Inter-American Commission") requested information from the petitioners regarding compliance with the admissibility requirements set forth in the American Convention on Human Rights and the Rules of Procedure of the IACHR. The petitioners responded with additional arguments on the exhaustion of domestic remedies on April 19, 2001, and on May 18, 2001, they requested a "hearing by telephone" with the Executive Secretary. On May 21, 2001, they were notified that their petition would be submitted to the Working Group on Admissibility of the Inter-American Commission. On June 13, 2001, the petitioners submitted a communication containing additional arguments and conclusions.

## II. ALLEGED VIOLATIONS

2. Articles 1, 2, 8, 21, 24, and 25 of the American Convention.

## III. DESCRIPTION OF THE FACTS AND ARGUMENTS OF THE PETITIONER

3. The petitioners state that their client, Cristián Scheib Campos, is a businessman who used to import used Japanese motorcycles into Chile, in accordance with the interpretation of a law in

effect since 1985. As a result of a new administrative interpretation by the Customs Administration, the importation of used motorcycles into Chile was banned, effective March 1999. Mr. Scheib filed an appeal for protection against this measure on April 10, 1999. He further sought and obtained from the court an order maintaining the status quo ante, which allowed him to continue the aforementioned commercial activity. On October 21, 1999, the Valparaíso Court of Appeal approved the order for protection. An appeal was filed against this decision by the Customs Office with the Supreme Court, and the latter denied the appeal for protection on December 27, 1999. As a result, on January 14, 2000, the order maintaining the status quo ante became null and void. In the December 1999 ruling, the Supreme Court indicated that regular judicial channels could be used to challenge the decision of the Director of Customs prohibiting the importation of motorcycles. Mr. Scheib took this course of action on July 21, 2000, by means of a request for nullification of this decision in the public law sphere. A first instance decision is pending with respect to these proceedings.

4. Before this legal decision was handed down, Mr. Scheib Campos had started and concluded the process to import 68 used motorcycles, which arrived in Chile on January 10, 2000, after a delay that was not attributable to the importer. On January 13, 2000, the Customs Office instituted administrative proceedings, called a preliminary hearing [antejuicio] for contraband, notification of which was never provided to Mr. Scheib, according to the petitioner. The final decision of the Customs Tribunal was that contraband activity could not be proven; however it decided to reexport the merchandise, based on a decision of July 21, 2000. Mr. Scheib filed a complaint appeal with the Supreme Court against this administrative decision. The Supreme Court rejected this appeal on October 31, 2000, based on legal precedents established in Chilean case law.

#### IV. ANALYSIS BY THE IACHR

5. In essence, the petitioners are challenging the procedure applied in Chile to Mr. Scheib Campos and the unfavorable ruling that resulted in the reexportation of the used motorcycles, with the attendant financial loss. However, based on the information available in the file, the alleged victim had access to the Chilean courts, which permitted him to challenge, on several occasions, unfavorable administrative and judicial decisions that were handed down against him. The IACHR notes that the events described by the petitioners, if accurate, would not constitute violations of due process or of other rights guaranteed under the American Convention.

6. The issue raised by the petitioner would therefore require a review by the IACHR of the interpretation of the rules governing the preliminary for contraband activity trial [antejuicio de contrabando] that was held by the administrative and judicial authorities of Chile. As noted earlier, this matter was submitted to the Chilean Supreme Court, which rejected the claim on the basis of the legal provisions and case law of that country.

7. The Inter-American Commission does not have jurisdiction to act as a fourth instance with respect to decisions made by legal entities that have adopted procedures that do not reveal violations of due process or other human rights guaranteed by the American Convention. The mere disagreement on the part of the petitioners with the interpretations of the Chilean

authorities is not sufficient to serve as proof of the alleged violation of the aforementioned international instrument.

## V. CONCLUSION AND DECISION

8. In accordance with the foregoing, the IACHR does not have jurisdiction, because of the nature of the matter, to process this petition. Consequently, the Inter-American Commission declares the petition of Mr. Cristián Scheib Campos inadmissible. The IACHR also approves the initial review of the requirements of the petition by the Executive Secretariat, in accordance with its Rules of Procedure.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in Washington, D.C, June 14, 2001. (Signed): Juan E. Méndez, First Vice-President; Marta Altolaguirre, Second Vice-President; Robert K. Goldman, Peter Laurie, Hélio Bicudo, Commissioners. Commissioner Julio Prado Vallejo abstained.