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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 123/09, Petition 872-03
Session: Hundred Thirty-Seventh Regular Session (28 October – 13 November 2009)
Title/Style of Cause: Juan Antonio Diaz Diaz v. Chile
Doc. Type: Decision to Archive
Decided by: First Vice President: Victor Abramovich;
Commissioners: Sir Clare K. Roberts, Florentin Melendez, Paolo G. Carozza.
Commissioner Felipe Gonzalez, a national of Chile, did not participate in the deliberations or the decision of this petition, according to the provisions of article 17(2)(a) of the Rules of the Commission.
Dated: 12 November 2009
Citation: Diaz Diaz v. Chile, Petition 872-03, Inter-Am. C.H.R., Report No. 123/09, OEA/Ser.L/V/II., doc. 51, corr. 1 (2009)
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ALLEGED VICTIM: Juan Antonio Díaz Díaz

PETITIONER: Juan Antonio Díaz Díaz

ALLEGED VIOLATIONS: The petitioner does not make express reference to but infers possible violations of articles 5, 7, 10 and 22 of the American Convention on Human Rights

PROCEEDING START DATE: June 10, 2004

I. POSITION OF THE PETITIONER

1. On October 21, 2003, the Inter-American Commission on Human Rights received a claim presented by Juan Antonio Díaz Díaz for the presumed violation of his rights to personal integrity, personal liberty, right to compensation and to freedom of movement and residence by the Chilean State.

2. The petitioner alleges he was detained, tortured and expelled from Chile in 1977. He added that the Chilean State should pay him a compensation for the physical scars inflicted upon him through torture and ill treatment, which impeded him from working and caused him great pain, including a semi-paralysis.

3. Additionally, he states that prior to being detained and expelled from the country, he was fired from his job for political reasons. He indicates that later, apparently in 2005, he received some compensation for the firing, which, according to the petitioner was less than he was owed,

as the law for political exiles was misapplied in his case and he was not paid for all of the years his salary was denied to him.

II. POSITION OF THE STATE

4. The State asked the Commission to declare the petition inadmissible because it falls under the provisions of article 47(c) of the American Convention on Human Rights. In this regard, it alleges that the very claim presented by the petitioner is proof of its own inappropriateness, as it deals with events that occurred before Instrument of Ratification of the American Convention on Human Rights was presented and prior to its effective date of March 11th, 1990.

III. PROCEDURE BEFORE THE IACHR

5. The petition was received by the Commission on October 21st, 2003. The IACHR notified the Chilean State of it on June 10th, 2004 and requested it to send the information it felt necessary within two months.

6. The Chilean State presented its response to the petition on February 16th, 2005, pertinent parts of which the petitioner was notified of on March 16th, 2005. The petitioner presented his observations on May 31st, 2005.

7. The petitioner presented new information on August 2nd, 2004, March 4, 2005, December 21st, 2005 and January 17th, 2007.

8. Finally on June 20th, 2008, the Commission asked the petitioner for additional information, in order to determine if he receives any kind of pension and what his situation was at the time democracy returned to Chile, among other things. Due to a lack of response, the Commission reiterated its request of information on May 14th, 2009 and let the petitioner know that if he failed to respond, the case could be closed.

IV. LEGAL BASIS FOR THE DECISION TO CLOSE THE CASE

9. Both Article 48(b) of the American Convention on Human Rights and Article 30.6 of the Rules of Procedure of the Inter-American Commission on Human Rights provide that in the processing of a petition once the observations have been received or the period set has elapsed with no observations received, the IACHR shall verify whether the grounds for the petition exist or subsist, and if they do not it shall order the case archived.

10. To date, the petitioner has yet to respond to the request for additional information that the IACHR made on June 20th, 2008 and reiterated on May 14th, 2009. Regarding this, the Commission has had said communications returned by the postal service as undeliverable to the petitioner, as he seems to have changed address. Personnel of the Commission's Executive Secretariat attempted on various occasions to contact the petitioner by the phone number listed on the petition, without success.

11. Five years have elapsed since processing began on June 10th, 2004 and since the Commission has lost contact with the petitioner, it lacks the necessary elements to determine whether the grounds for the original petition subsist or to reach a decision on the alleged human rights violations, and pursuant to Article 48(b) of the Convention and Article 30.6 of the IACHR Rules of Procedure decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 12th day of the month of November, 2009. (Signed): Víctor Abramovich, First Vice-President; Sir Clare K. Roberts, Florentín Meléndez, and Paolo G. Carozza, members of the Commission.