

**REPORT No. 130/10**  
**PETITION 358-01**  
**DECISION TO ARCHIVE<sup>1</sup>**  
**BRAZIL**  
October 23, 2010

**ALLEGED VICTIM:** Alex Argona

**PETITIONER:** Alex Argona

**VIOLATIONS ALLEGED:** The petitioner does not make specific reference, but possible violations of Articles 8 and 25 of the American Convention on Human Rights can be inferred.

**DATE OF INITIAL PROCESSING:** June 6, 2001

**I. POSITION OF THE PETITIONER**

1. The petitioner states that, in 1992, when he was serving as a military police officer for the State of São Paulo, he was prosecuted for, and convicted of, the crime of corruption (*Peculato*) by the Military Justice Tribunal of São Paulo and sentenced to five years under a semi-open regimen. According to the petitioner, he submitted a request for a criminal review lawsuit (*revisão criminal*) – nº 122/99 – on November 9, 1999; however, one year and six months after that request had been lodged, no action had been taken thereon by the Military Justice Tribunal of São Paulo.

2. Consequently, the petitioner maintains that domestic remedies are ineffective and that an unwarranted delay in processing the criminal review lawsuit has occurred.

**II. POSITION OF THE STATE**

3. The Brazilian State did not reply to the Inter-American Commission's request for information until March 13, 2009. In its reply, received by the IACHR on March 17, 2009, the Brazilian State asserts that criminal review lawsuit nº 122/99 was rejected by the Military Justice Tribunal of São Paulo on December 15, 2004. According to the State, that ruling became *res judicata* on February 16, 2005. The State attached a copy of that decision.

4. The State indicates, therefore, that no irregularity in the processing of that lawsuit has taken place, that the IACHR could not review that domestic decision, and that no violation of the human rights of the alleged victim has been committed.

**III. PROCEEDINGS BEFORE THE IACHR**

5. The petition was received by the Inter-American Commission on June 4, 2001. In a note dated June 6, 2001, the IACHR notified the Brazilian State of the complaint, so that it might provide any information it considered pertinent within two months. In the absence of a reply from the State, on January 14, 2009, the Commission reiterated its request for information. On that same date, the IACHR also asked the petitioner to submit updated information on the alleged events, specifically on the petition's admissibility requirements.

6. To date, the petitioner has not submitted more detailed and updated information on the events cited in the petition. On the other hand, the Inter-American Commission received the State's

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<sup>1</sup> In keeping with Article 17.2.a of the Rules of Procedure of the IACHR, Commission member Paulo Sérgio Pinheiro, a Brazilian national, did not participate in the deliberations or in the voting on this report.

response to this request on March 17, 2009. That communication was duly transmitted to the petitioner on March 19, 2009, so that he might provide any information he considered pertinent within one month. Nevertheless, as of the date of this decision, the petitioner has not submitted more detailed and updated information on the events cited in his petition.

#### **IV. GROUNDS FOR THE DECISION TO ARCHIVE:**

7. Both Article 48.1.b of the American Convention and Article 42 of the Rules of Procedure of the IACtHR provide that, in the processing of a petition, once the information has been received, or after the period established has elapsed and the information has not been received, the Commission shall ascertain whether the grounds for the petition or communication still exist, and that, if they do not, the Commission shall order the record to be closed.

8. According to the information presented by the State, a ruling on criminal review lawsuit n° 122/99 was issued on December 15, 2004, and the issues that had given rise to the complaint were thereby resolved.

9. Consequently, the Commission hereby resolves to archive this petition, in keeping with Article 48.1.b of the American Convention and Article 42.1.a of the Rules of Procedure of the IACtHR, since the grounds for the original petition no longer exist.

Done and signed in the city of Washington, D.C., on the 23<sup>rd</sup> day of the month of October, 2010.  
(Signed): Felipe González, President; Dinah Shelton, Second Vice-President; Luz Patricia Mejía Guerrero, María Silvia Guillén, and José de Jesús Orozco Henríquez, members of the Commission.