

REPORT No. 170/10
DECISION TO ARCHIVE
PETITION 12.104
PERU
November 1, 2010

ALLEGED VICTIM: Alejandro Briceño Contreras

PETITIONERS: María Julia Valderrama de Briceño, Alejandro Briceño Contreras, APRODEH and CEJIL

ALLEGED VIOLATIONS: Articles 5, 7, 8, 9, 10, 11, 24, and 25 of the American Convention

DATE OF INITIAL PROCESSING: February 10, 1999

I. POSITION OF THE PETITIONERS

1. The petitioners alleged that Alejandro Briceño Contreras, a Peruvian Army colonel, served as the Deputy Commander of the *Casa Militar* [presidential security detail] of the then President of the Republic, Alberto Fujimori. They indicated that in March 1991, the then Minister of Defense, General Torres Aciego, falsely accused Mr. Briceño Contreras of committing common crimes against financial entities, ordered his removal from the Government Palace, and discharged him from the Armed Forces. The petitioners argued that, on orders of the Ministry of Defense, a number of administrative proceedings were instituted against the alleged victim, which would have ruled in his favor. They asserted that, following investigations initiated by the Congress of the Republic and in the local courts, these proceedings were then diverted to the military justice system, allegedly due to interference on the part of the sitting government administration. It is noted that on December 8, 1992, a military tribunal acquitted Mr. Alejandro Briceño Contreras, who was then released after being held in pre trial detention since October 7, 1991.

2. The petitioners asserted that early in 1993, the then president *de facto*, Alberto Fujimori, conducted a campaign to publicly discredit the alleged victim, and went so far as to question the decision of the military tribunal acquitting him. The petitioners alleged that, on orders of the Executive Branch, the members of said tribunal were removed, and that administrative and criminal proceedings were instituted against the presiding military magistrate of that tribunal, Army General Alberto Arciniega Huby. They added that as a result of the persecution suffered by Mr. Alejandro Briceño, he moved to Argentina with refugee status.

3. According to the allegations, in spite of the resounding decision acquitting Mr. Alejandro Briceño, military judicial authorities nevertheless ordered a new trial, condemning him *in absentia* to a six-year prison term in a final judgment handed down on March 3, 1993, by the Review Chamber of the Supreme Council of Military Justice (*Sala Revisora del Consejo Supremo de Justicia Militar*). It was noted that on April 29, 1993, attorneys for the alleged victim filed an appeal to the Supreme Court, receiving no response whatsoever.

II. POSITION OF THE STATE

4. The State argued that the submission date of the petition should be regarded February 10, 1999, as it was on that date that the IACHR forwarded a copy of the relevant parts of the communications submitted up to that time by the petitioners. Based on such reasoning, the State asserted that the domestic legal remedies were exhausted on March 3, 1993, when the Review Chamber of the Supreme Council of Military Justice handed down its final decision, and that the complaint is inadmissible pursuant to Article 46(1)(b) of the American Convention.

III. PROCESSING BEFORE THE COMMISSION

5. On April 24, 1992, the Commission received the petition and assigned it number 12.104. On June 16, 1994, and again on September 9, 1998, the petitioners submitted additional information. A copy of the relevant parts of that documentation was forwarded to the State on February 10, 1999, which was accorded a period of 90 days to submit a response pursuant to the IACHR Rules of Procedure in force at the time.

6. The State submitted its response on August 25, 1999 and presented additional communications on September 16, 1999; on March 3 and June 28, 2000; and on April 16, 2001. For their part, the petitioners submitted additional information on September 28 and October 1, 1999; on January 4, February 9 and 15, April 20, May 5, and September 21, 2000; and on February 13, 20, and 27, March 15, and August 15, 2001.

7. On March 6, 2000, a public hearing on the petition was held, during the 106th Regular Period of Session of the IACHR.

8. On May 20, 2010, the IACHR requested updated information from the petitioners, notifying them that in the absence of a response within a period of one month, the IACHR may proceed to archive the decision pursuant to Article 48(1)(b) of the Convention.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

9. Both Article 48(1)(b) of the American Convention and Article 42(1) of the Rules of Procedure of the Commission establish that at any stage of the proceedings, having received information from the parties, or having expired the deadline for receiving information, the IACHR will verify if the grounds for the petition exist or subsist and, if they do not, it will order the file to be archived.

10. In the case at hand, the petitioners have not responded to the Commission's request for updated information dated May 20, 2010. Given the lack of response, and the fact that the available information is not sufficient to adopt a decision on the admissibility or inadmissibility of the petition, the IACHR decides to archive it in accordance with Articles 48(1)(b) of the Convention and 42(1) of its Rules of Procedure.

Approved on the 1st day of the month of November, 2010. (Signed): Felipe González, President; Dinah Shelton, Second Vice-President; María Silvia Guillén, José de Jesús Orozco Henríquez and Rodrigo Escobar Gil, members of the Commission.