REPORT No. 167/10
DECISION TO ARCHIVE
PETITION 402-03
CHILE[1]
November 1, 2010

ALLEGED VICTIMS	Leopoldo Leonidas Letelier and other Chilean citizens exiled between 1973 and March 1990
PETITIONER:	Adil Brkovic Almonte
ALLEGED VIOLATIONS:	The petitioner makes specific reference to alleged violations of Articles 1(1) and 25 of the American Convention on Human Rights. The petitioner also makes specific reference to alleged violations of Article VIII of the American Declaration of the Rights and Duties of Man
DATE OF INTIAL PROCESSING:	June 8, 2004

I. POSITION OF THE PETITIONER

1. On June 2, 2003, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a petition lodged by Adil Brkovic Almonte (hereinafter "the petitioner") alleging that the Chilean State had violated the rights to legal protection and to freedom of movement and residency of Leopoldo Leonidas Letelier *et al* (alleged victims).

2. The petitioner contends that during the military dictatorship, 390 Chilean citizens were exiled indefinitely and banned from returning to the country between 1973 and 1990. Following the country's return to democratic governance in 1990, the State enacted Law No. 18.994, which allowed exiles to return, but provided no compensation to victims.

3. The petitioner also contends that the Chilean legal system does not provide an appropriate legal remedy for the compensation of victims. The petitioner further contends that, with regard to the jurisprudence of the Supreme Court in cases involving reparations for exiles, a statute of limitations [*prescripción común*] is placed on civil suits for damages: five years from the date the obligation became legally binding. According to this understanding, such suits would be inadmissible.

II. POSITION OF THE STATE

4. The State requested that the Commission declare the petition inadmissible on the grounds that the petitioner's claims were inadmissible, inasmuch as the complaint concerns events occurring prior to the date the Chilean State deposited its instrument of ratification of the Convention and, therefore, the Commission would not have competence to hear them.

[1] Commissioner Felipe González, a Chilean national, did not participate in the consideration of or vote on the case, pursuant to Article 17(2)(a) of the IACHR Rules of Procedure.

III. PROCESSING BEFORE THE COMMISSION

5. The Commission received the petition on June 2, 2003. The IACHR then forwarded the petition to the Chilean State on June 8, 2004, requesting that it submit its observations within a period of two months.

6. The State submitted its response on February 16, 2005, which was forwarded to the petitioner on March 16, 2005. The petitioner submitted his observations on April 5, 2005.

7. The petitioner submitted additional information on July 12, 2004, August 10, 2004,and May 27, 2005, which was duly forwarded to the Chilean State.

8. On August 21, 2008, the Commission requested that the petitioner furnish additional information in order to establish the dates the alleged victims had been exiled and when they returned, *inter alia*, if they had reported any other human rights violations on the part of the Chilean State; if the alleged victims or their family members had received benefits under any government program due to their status as exiles; and if they were currently receiving some type of pension. In the absence of a response, the Commission repeated its request for information on April 16, 2009 and again on November 2, 2009, notifying the petitioner that unless a response was received, the petition may be archived.

IV. LEGAL GROUNDS FOR THE DECISION TO ARCHIVE

9. Both Article 48(b) of the American Convention on Human Rights and Article 42 of the IACHR Rules of Procedure 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 shall order the case archived.

10. To date, the petitioner has not responded to the Commission's request for additional information dated August 21, 2008, which was repeated on April 16, and again on November 2, 2009. Having conducted the corresponding analysis, the Commission finds that it lacks the necessary elements to determine the admissibility or inadmissibility of the petition, or whether the grounds for the original petition subsist, and pursuant to Article 48(b) of the Convention and Article 42 of the IACHR Rules of Procedure, decides to archive this petition.

Done and signed in the city of Washington, D.C., on November 1st, 2010. (Signed): Dina Shelton, Second Vice-President; Luz Patricia Mejía Guerrero, María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, members of the Commission.