

REPORT No. 23/11¹
PETITION 12.003
DECISION TO ARCHIVE
BRAZIL
March 23, 2011

ALLEGED VICTIMS: Joaquim Marcelo Denadai and Luiz Renato Azevedo da Silveira

PETITIONERS: CEJIL/Brazil *et al.*

ALLEGED VIOLATIONS: The petitioners do not allege any specific violations

DATE OF INITIAL PROCESSING: April 10, 1998

I. POSITION OF THE PETITIONERS

1. On September 26, 1997, the Commission received a request for precautionary measures in favor of attorney Joaquim Marcelo Denadai and Public Ministry Prosecutor Luiz Renato Azevedo da Silveira. According to the petitioners, the life and personal integrity of attorney Joaquim Marcelo Denadai were in danger due to his role as a key witness to crimes committed by members of a death squad known as "*Scuderie Le Coq*" that was operating in the state of Espírito Santo and whose membership allegedly included lawyers, civilian police, military police, prosecutors and judges, as well as other State agents. Attorney Joaquim Marcelo Denadai was also a member of the federation of organizations that was promoting the dissolution of *Scuderie Le Coq* as a civil society entity and served as an assistant to the prosecution in the case of a 1992 disappearance allegedly perpetrated by members of *Scuderie Le Coq*. Luiz Renato Azevedo da Silveira was the prosecutor of the complaint in the proceedings concerning the aforementioned disappearance.

2. According to the petitioners, Mr. Denadai was summarily executed on April 15, 2002, and the criminal investigation and prosecution of his death have been ineffective.

II. POSITION OF THE STATE

3. In its response of August 10, 1998, the State claims that the Ministry of Justice created a Special Commission to investigate complaints against *Scuderie Le Coq* in Espírito Santo. According to the State, parallel to that measure, the Federal Police had opened a thorough investigation into the events and the Federal Public Ministry had instituted an Action of Dissolution of Civil Society in order to impede the activities of *Scuderie Le Coq*.

4. In its subsequent communications concerning the instant petition, the State refers only to the implementation of the precautionary measures granted in favor of Joaquim Marcelo Denadai and Luiz Renato Azevedo da Silveira.

III. PROCESSING BEFORE THE COMMISSION

5. This petition stemmed from a request for precautionary measures received by the IACHR on September 26, 1997, in favor of attorney Denadai and prosecutor Azevedo da Silveira. In a note dated October 7, 1997, the IACHR requested information from the State about the situation of those individuals, in order to obtain additional input for its decision on the request for precautionary measures. That information was received by the IACHR on October 21, 1997. On March 26, 1998, the requesters submitted additional observations and reiterated their request for precautionary measures.

¹ In accordance with Article 17.2.a of the IACHR's Rules of Procedure, Inter-American Commission member Paulo Sérgio Pinheiro, of Brazilian nationality, did not take part in the deliberations or vote on the instant report.

6. Based on the information received, on April 30, 1998, the IACHR decided *motu proprio*, to begin processing petition P-12.003, and forwarded the relevant portions of the petitioners' previous communications to the State. On August 10, 1998, the State submitted its initial response to the petition. The IACHR requested the petitioners to submit their observations on the State's response by August 24, 1998 and when the petitioners failed to respond, it reiterated its request on October 28, 1998, notifying them that if they did not submit a response, the consideration of the petition could be suspended.

7. On June 1, 1999, the petitioners submitted a brief concerning the request for precautionary measures, in which they described recent events that allegedly intensified the danger to the life and personal integrity of the two beneficiaries. On June 24, 1999, the IACHR decided to grant the requested precautionary measures in favor of the two beneficiaries.

8. On September 7, 1999, the petitioners informed the IACHR that Joaquim Marcelo Denadai still did not have police protection and on the same date, the IACHR reiterated to the State the need to adopt the precautionary measures necessary to safeguard the life and physical integrity of Joaquim Marcelo Denadai. On September 23, 1999, the State submitted additional information concerning the precautionary measures granted. The petitioners presented additional information on November 16, 1999.

9. On January 21, 2006, the petitioners submitted a new request for precautionary measures linked to this petition, in favor of Maria Aparecida Denadai. In their communication, they also notified the IACHR that Joaquim Marcelo Denadai had been executed on April 15, 2002, and stated that the beneficiary—Joaquim Marcelo Denadai's sister—was allegedly a witness to the summary execution of her brother.

10. On February 3, 2006, the IACHR decided to grant precautionary measures to protect the life and personal integrity of Maria Aparecida Denadai and her two daughters. Those precautionary measures were lifted on August 10, 2010, based on information submitted by the petitioners on June 16, 2010, to the effect that Mrs. Denadai was no longer interested in benefitting from precautionary measures and that the situation of emergency and danger that gave rise to the February 2006 request for precautionary measures had ceased to exist.

11. Based on the facts set out in the new request for precautionary measures, on March 18, 2008, the IACHR requested additional detailed and updated information from the petitioners concerning the identification of the alleged victim/s, the facts of their petition and the admissibility requirements, particularly with respect to the relevant domestic remedies. The IACHR also informed the petitioners that if it did not receive the requested information, it would not be able to continue to examine their petition, in accordance with Article 48.1.b of the American Convention. On March 19, 2009, the petitioners sent a brief communication to the IACHR stating that the criminal proceedings to investigate the death of Joaquim Marcelo Denadai had not been effective.

12. On March 31, 2009, the IACHR again requested additional detailed and updated information from the petitioners, specifically about: the facts set out in the petition, specifying the location and date of the alleged violations, and the respective identification of the alleged victim/s; the steps taken to exhaust domestic remedies; and in general, their compliance with the admissibility requirements for this petition. To date, the petitioners have not responded to the IACHR's request, nor have they submitted additional detailed and updated information concerning the admissibility of this petition.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

13. Both Article 48.1.b of the American Convention and Article 30.6 of the Rules of Procedure of the Inter-American Commission stipulate that when processing a petition, having received the information or having elapsed the time period for receiving it, the IACHR shall verify whether the grounds for the petition or communication exist or subsist and if they do not exist or subsist, it shall order the file archived.

14. Since lodging their initial request for precautionary measures on September 26, 1997, the petitioners have not provided detailed information on the exhaustion of domestic remedies or other admissibility requirements in relation to the instant petition. This has been the case even though the IACHR has expressly requested information about the State's response and the admissibility requirements on at least four different occasions: August 24, 1998, October 28, 1998, March 18, 2008 and March 31, 2009. To date the petitioners have not provided the necessary information.

15. Thirteen years have elapsed since processing began on April 10, 1998, and the Inter-American Commission still lacks the necessary elements to determine whether the grounds for the original complaint subsist. It also has no information about the exhaustion of domestic remedies and other admissibility requirements that would enable it to reach a decision about the admissibility of this matter. As a result, the IACHR decides to archive the instant petition in accordance with Article 48.1.b of the American Convention and Article 30.6 of its Rules of Procedure.