

Institution: Inter-American Court of Human Rights
Title/Style of Cause: Baruch Ivcher Bronstein v. Peru
Doc. Type: Order
Decided by: President: Antonio A. Cancado Trindade;
Judges: Maximo Pacheco Gomez; Hernan Salgado Pesantes; Alirio Abreu Burelli; Sergio Garcia Ramirez; Carlos Vicente de Roux Rengifo
Dated: 14 March 2001
Citation: Ivcher Bronstein v. Peru, Order (IACtHR, 14 Mar. 2001)
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HAVING SEEN:

1. The order of the Inter-American Court of Human Rights (hereinafter “the Court”) of November 21, 2000, in which it called on the State of Peru (hereinafter “the State” or “Peru”) to adopt provisional measures for Baruch Ivcher Bronstein, his wife, Neomy Even de Ivcher, and his daughters, Dafna Ivcher Even, Michal Ivcher Even, Tal Ivcher Even and Hadaz Ivcher Even, and also for Rosario Lam Torres, Julio Sotelo Casanova, José Arrieta Matos, Emilio Rodríguez Larraín and Fernando Viaña Villa, in order to ensure their physical, psychological and moral integrity and right to judicial guarantees.

2. The order of the Court of November 23, 2000, in which it ordered the State to expand the above provisional measures so as to protect Menachem Ivcher Bronstein and Roger González also.

3. The communication of the Inter-American Commission on Human Rights (hereinafter “the Commission”) of January 26, 2001, in which it stated that:

a) The State of Peru ordered the arrest warrants for Mr. Ivcher, his wife and daughters to be cancelled [... so that], the respective recommendation has been complied with.

b) [The State] has not fully complied with [the] right to judicial guarantees since, through the Judiciary, it has still not decided [...] that the proceedings in which [the] right to defense had been violated and impeded should be annulled [...].

c) [In] the case of Rosario Lam and Julio Sotelo, convicted in proceedings which were conducted without respecting their right to due process, the conviction has not been quashed and the proceedings in which they were convicted have not been reviewed [...].d) [In] the case of Emilio Rodríguez Larraín Salinas, the State has complied by annulling the order that prohibited him from leaving the country and declaring his innocence of the crime of which he was accused; Mr. Ivcher has also been declared innocent of that crime [...].

e) [In] the proceedings in which Mr. Ivcher is claiming the ownership of the actions that were taken from him by decisions adopted when he was stripped of his nationality, the Judiciary has not delivered the final decisions ordering the complaints he has filed to be admitted for trial [...].

f) [T]he Peruvian courts have decided to hand over the administration of the channel to Mr. Ivcher, on a provisional basis [...].

Lastly, the Commission requested the Court to ratify the provisional measures ordered on November 21 and 23, 2000.

4. The judgment in this case, delivered by the Court on February 6, 2001.

5. The State's report of February 9, 2001, in which it informed the Court that it had accepted the recommendations proposed by the Commission in its Report No. 94/98 of November 16, 2000, and had restored Mr. Ivcher's Peruvian nationality and his position as shareholder of Compañía Latinoamericana de Radiodifusión S.A., the company that operates Peruvian television's Channel 2. As a result of the said measures, the State considered that it had complied with the principal claim set out in the Commission's application.

6. The State's report of February 26, 2001, in which it informed the Court that:

a) [...] It had complied by canceling the arrest warrants that were pending against the victims. In this respect, Mr. Ivcher and his family had returned to the country and enjoy the full protection of their freedom and physical, psychological and moral integrity; consequently, they are not being legally prosecuted or harassed [...].

b) With regard to the annulment of the proceedings pending before the Judiciary, [the latter] has recovered its full institutional normality and independence [...]. In these circumstances, Mr. Ivcher is free to file legal proceedings to obtain compensation for the damages sustained.

c) The Government is committed to take the necessary steps before the Supreme Court and the justices who hear the proceedings involving the victims, so as to contribute to the prompt application of the judgment of the Inter-American Court in order to conclude these proceedings.

d) Since December 6, 2000, Mr. Ivcher has recovered [his shares] and, consequently, his status as shareholder and chairman of the Board of the [c]ompany Frecuencia Latina [...]. Although, in its comments, the Commission questions the provisional nature of this restitution – by a precautionary measure – the Government believes that the pertinence of that legal decision should be decided in the above-mentioned judicial proceedings, as has occurred to date.

e) Channel 2 has reinitiated its information and news programs, exercising unrestricted freedom of expression and information, and has even reincorporated some of the journalists who were dismissed during the previous administration.

CONSIDERING:

1. That Peru has been a State Party to the American Convention since July 28, 1978, and recognized the jurisdiction of the Court on January 21, 1981, in accordance with Article 62 of the Convention.

2. That Article 63.2 of the American Convention provides that, in cases of “extreme gravity and urgency and when necessary to avoid irreparable damage to persons”, the Court may take the provisional measures it deems pertinent, in matters submitted to its consideration.

3. That provisional measures have an exceptional nature and are therefore ordered having regard to the needs for protection and, once ordered, they must be maintained while the basic requirements mentioned in the previous considering paragraph exist.

4. That the changes that have occurred in Peru, the willingness of the State to respect the recommendations formulated by the Commission in its Report No. 94/98, the developments in the Ivcher Bronstein case, particularly the Ivcher family’s return to Peru, the canceling of the arrest warrants against them, the reinstatement of Mr. Ivcher as shareholder and chairman of the board of Compañía Latinoamericana de Radiodifusión S.A., the company that operates Peruvian television’s Channel 2, and also other relevant information submitted by the parties, lead this Court to conclude that the justification of “extreme gravity and urgency” and the probability of irreparable damage required by Article 63.2 of the Convention, which led to provisional measures being ordered in the instant case, no longer exist.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the authority conferred on it by Article 63.2 of the American Convention on Human Rights and Article 25 of its Rules of Procedure,

DECIDES:

1. To lift the provisional measures ordered by the Inter-American Court of Human Rights in its orders of November 21 and 23, 2000, for Baruch Ivcher Bronstein, his wife, Neomy Even de Ivcher, and his daughters, Dafna Ivcher Even, Michal Ivcher Even, Tal Ivcher Even and Hadaz Ivcher Even, and also for Rosario Lam Torres, Julio Sotelo Casanova, José Arrieta Matos, Emilio Rodríguez Larraín, Fernando Viaña Villa, Menachem Ivcher Bronstein and Roger González.

2. To inform the State of Peru and the Inter-American Commission on Human Rights of this order.

3. To close the file on provisional measures in this case.

Antônio A. Cançado Trindade
President

Máximo Pacheco Gómez
Hernán Salgado Pesantes
Alirio Abreu Burelli
Sergio García Ramírez
Carlos Vicente de Roux Rengifo

Manuel E. Ventura Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura Robles
Secretary