

OEA/Ser.L/V/II.150
Doc. 170
25 July 2022
Original: Spanish

REPORT No. 167/22
PETITION 1186-09
ARCHIVE

ADELA VILLAMIL
BOLIVIA

Approved electronically by the Commission on July 25, 2022

Cite as: IACHR, Report No. 167/22, Petition.1186-09. Archive. Adela Villamil. Bolivia. July 25, 2022.

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BOLIVIA

JULY 25, 2022

ALLEGED VICTIM: Adela Villamil
PETITIONER: Juan Francisco Bedregal Villanueva
ALLEGED VIOLATIONS: DISCRIMINATION¹
DATE PROCESSING BEGAN: March 4, 2010

I. THE PARTIES' POSITION

A. The petitioners position

1. On July 27, 2009, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition presented by Mr. Juan Francisco Bedregal Villanueva (hereinafter "the petitioner" or "the petitioners"), on behalf of Mrs. Adela Villamil (hereinafter "the alleged victim"), which alleged the responsibility of the Bolivian State (hereinafter "the State") for the alleged discrimination and lack of reparation for the murder and subsequent kidnapping and forced disappearance of the remains of the alleged victim's spouse, former congressman Juan Carlos Flores Bedregal, on July 17, 1980, by paramilitaries, allegedly under orders from agents of the Bolivian armed forces.

2. According to the petitioner, on the day of the events, a military assault was carried out on the headquarters of the Central Obrera Boliviana, during which Juan Carlos Flores Bedregal and other persons were forced to go out into the street, and the soldiers allegedly fired on the crowd, "killing in action" Marcelo Quiroga Santa Cruz and Mr. Flores Bedregal. Both bodies were allegedly taken to the Army General Staff, then to the Morgue, and later disappeared, with no certainty as to the location of their remains.

3. The petitioner alleged that she was unable to acquire the status of widow due to the impossibility of obtaining a death certificate, which is why she was unable to access the estate bequest and therefore the assets would have been disposed of in favor of third parties.

4. The petitioner alleged that in 1995, the National Congress resolved those nine widows of social leaders, including the widow of Marcelo Quiroga, would obtain a lifetime pension equivalent to the salary of a national representative. However, the alleged victim was not included in the decree in favor of the wives of the other leaders. The petitioner had made several approaches to the executive power and the legislature without success. In this regard, they stated that the purpose of their petition was "to obtain treatment similar to that of the other leaders and martyrs of Bolivian democracy," with the benefit of a lifetime pension that was granted to the other wives of the social leaders who died in this context.

B. The State's position

5. The State alleged that it has made efforts to ensure that the acts that took place during the dictatorship do not go unpunished and that it has punished those responsible for the acts and financially assisted the victims' next of kin. The State alleged that there was no violation of the right to equality before the law established in Article 24 of the American Convention on Human Rights, given that the alleged

¹ In the original petition the petitioner did not specify the articles of the alleged violations, however, the facts described in the original petition could characterize a violation of Article 24 (equality before the law) of the American Convention on Human Rights.

discrimination denounced by the petitioner refers to resolutions that benefit widows and martyrs of democracy in Bolivia, of which Mrs. Villamil was not a member. The State also indicated that Mrs. Villamil's situation cannot be compared to that of Mrs. Quiroga Santa Cruz, since they are situations that respond to different realities and that the alleged victim could go to the respective instances to obtain the possible economic benefits by following the corresponding requirements and procedures before the pertinent public instances. In that sense, the State alleged that there was no reason for discrimination against Mrs. Villamil, since, when the resolutions were approved for the benefit of the relatives of those who disappeared during the dictatorship, the alleged victim "was not in the country, nor was she residing there".

6. On the other hand, the State stated that the main facts that motivated the petition, such as the murder and forced disappearance of Juan Carlos Flores Bedregal, were already being dealt with by the IACHR in case No. 12.709, so a duplication of proceedings would exist.

7. In view of the foregoing, the Bolivian State stated that there were no well-founded reasons to prove the discrimination alleged by the petitioner and that the remedies under domestic jurisdiction had not yet been filed or exhausted.

II. PROCESSING BY THE IACHR

8. The IACHR received the petition on July 27, 2009, which was submitted to the State on March 4, 2010. On January 31, 2011, the State presented its observations on the admissibility of the case.

9. In 2014, the parties initiated a friendly settlement procedure, and entered into a first friendly settlement agreement on October 22, 2020 (hereinafter "agreement", "friendly settlement" or "ASA"), which the Commission considered it was not adjusted to the determinations made in its Merits Report No. [60/18](#), issued in Case 12.709 Juan Carlos Flores Bedregal. In this regard, it should be noted that, in said report, the Commission established that Mr. Flores Bedregal was the victim of a forced disappearance, and that "to date there has been no complete clarification of what happened [...], including the whereabouts of his mortal remains, a situation that has resulted from the activation of multiple mechanisms of concealment".

10. In view of the foregoing, the Commission informed the parties on November 4, 2020, that since the signed FSA described the facts as a "murder", it could not issue an approval report validating a friendly settlement agreement that did not recognize the constitutive elements of the violations of human rights declared in *Case 12,709 Juan Flores Bedregal*, and that refer to a forced disappearance and the shortcomings in the investigation. In the same sense, the Commission informed the parties that it could not validate, either, that the parties agreed in an FSA that the State has complied with its duty to investigate, when to date, the whereabouts of the victim or his remains, and the material truth of the facts have not been clarified, nor have those responsible for the crime of forced disappearance been tried.

11. In this regard, on March 17, 2021, the State submitted a second draft of the FSA, which the Commission did not consider could be homologated either, and therefore, on May 5, 2021, it reiterated the impossibility of homologation of the FSA to the parties and the need for its amendment.

12. On July 9, 2021, the parties signed a new version of the friendly settlement agreement, in which they decided to maintain the factual framework of the "death" of Deputy Flores Bedregal and to include a withdrawal clause for the petitioner once the agreed measures had been complied with². The aforementioned, in the understanding that said agreement could not be approved and the IACHR could not participate in any act related to said agreement in view of the incompatibility with the determinations of the report on the merits of *Case No. 12,709*.

² This agreement included the following measures of reparation: a) an act honoring Juan Carlos Flores Bedregal's death at the highest level, consisting of an official declaration as a martyr of democracy, the creation of a "Democracy Award" bearing his name, and a public act of apology and a commitment to continue the search for his remains; b) the payment of pecuniary reparation; and c) the granting of a life pension in favor of Mrs. Adela Villamil.

13. During the beginning of 2022, the technical team of the Executive Secretariat, followed up on the working route agreed between the parties for the withdrawal, under the understanding that the agreement could not be homologated by the Commission.

14. On April 23 and 25, 2022, the petitioning party sent communications withdrawing its intention to continue with the processing of the matter and subsequently, on May 11, 2022, the parties submitted a joint report in which they expressed to the Commission their understanding that the friendly settlement agreement had been fully complied with, requesting the Commission to assess its total compliance and asked the Commission to take into account the withdrawal sent by the petitioning party.

III. GROUNDS FOR THE DECISION TO ARCHIVE

15. Article 41 of the Commission's Rules of Procedure provides that the petitioner may withdraw their petition or case at any time, to which effect he must notify the Commission in writing. The petitioner's statement shall be analyzed by the Commission, which may close the petition or case if it deems it appropriate, or it may continue the proceeding in the interest of protecting a specific right.

16. In relation to what happened to Juan Carlos Bedregal, the Commission reiterates the conclusions of its merits report No. [60/18](#), in that he was the victim of a forced disappearance, and that "to date there has been no clarification". The Commission has sent said case to the Inter-American Court which, to date, is awaiting a ruling. In processing this case, the Commission has asked the Court, among other aspects, at the time of ordering the pertinent reparations, to order the State to adopt measures that allow the public and Bolivian society to know the truth of what happened, and it is recognized that the victim suffered a forced disappearance with the effects that continue to the present.

17. Regarding the petition that is the subject of this matter, having verified the withdrawal of the petitioning party and the existence of a friendly settlement agreement that was not susceptible of homologation in accordance with the American Convention and the Rules of Procedure³, the Commission decides to issue this report and file this petition.

IV. CONCLUSIONS

1. In virtue of the considerations and conclusions set out in this report,

THE INTERAMERICAN COMMISSION OF HUMAN RIGHTS

DECIDES:

1. To archive the petition No. 1186-09 and close the matter.
2. To communicate the archive decision to the parties.
3. To publish this report and include it in its Annual Report to the General Assembly of the OAS.

Approved by the Inter-American Commission on Human Rights on July 25, 2022. (Signed): Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice President; Margarete May Macaulay, Second Vice President; Esmeralda E. Arosemena de Troitiño; Joel Hernández García; Carlos Bernal Pulido and Roberta Clarke Members of the Commission.

³ According to Articles 48. F and 49 of the American Convention on Human Rights and Article 40 of the Commission's Rules of Procedure, "if a friendly settlement has been reached in accordance with the provisions of Article 48(1)(f), the Commission shall draw up a report which shall be transmitted to the petitioner and to the States Parties to this Convention and thereafter communicated, for publication, to the Secretary General of the Organization of American States. This report shall contain a brief statement of the facts and of the solution reached" and "in all cases, the friendly settlement shall be based on respect for the human rights recognized in the American Convention on Human Rights, the American Declaration and other applicable instruments."