



File No./Dossier: A9-01353

**TRANSCRIPT OF DECISION AND REASONS  
TRANSCRIPTION DE DÉCISION ET DE RAISONS**

**Between/Entre:**

**The Minister of Public Safety and Emergency Preparedness  
Le Ministre de la Sécurité publique et de la Protection civile**

**And/Et**

**JOSE LUIS FIGUEROA**

**Date  
of Hearing**

MAY 05, 2010

**Date de  
l'audience**

**Place of Hearing**

VANCOUVER, BRITISH COLUMBIA

**Lieu de l'audience**

**Date of Decision**

MAY 05, 2010

**Date de la Décision**

**Member**

O. NUPPONEN

**Commissaire**

**For the Person Concerned**

K. KELLER

**Pour L'intéressé**

**Minister's Counsel**

S. TERAN

**Conseil de L'intimé**

1 --- DECISION

2

3 MEMBER NUPPONEN: This is the continuation of an Immigration admissibility hearing  
4 conducted at Vancouver, British Columbia on the 5th of May, 2010. My name is  
5 Otto Nupponen; I'm a member of the Immigration Division of the Immigration and  
6 Refugee Board of Canada. The hearing concerns Jose Luis Figueroa, who is present again  
7 in person. The Minister's counsel is Sandra Teran. Lay counsel appearing for  
8 Mr. Figueroa is Karl Keller. We have Claudio Kihien present on a standby basis as a  
9 Spanish interpreter.

10

11 Mr. Kihein, perhaps you can just confirm that you and Mr. Figueroa do understand each  
12 other in Spanish.

13

14 INTERPRETER: Yes.

15

16 PERSON CONCERNED: Yes.

17

18 MEMBER NUPPONEN: So in the event that your services are required -- or Mr. Figueroa  
19 will let us know if Mr. Kihien's services are required.

20

21 So we were to reconvene today for the rendering of my decision in the matter. The  
22 admissibility hearing itself was conducted on April 14th and April 29th of this year with  
23 evidence and submissions being made at that point.

24

25 --- [OTHER MATTERS SPOKEN TO]

26

27 MEMBER NUPPONEN: I am ready now to provide my decision.

28

29 I have carefully reviewed my notes from the submissions that were made at the last two  
30 sittings. I've gone over much of the documentary evidence, including the further  
31 documentation in the form of homilies that were given in the Exhibit P-7 by Mr. Figueroa.  
32 I have reviewed the law. I conclude the allegation is founded and I will issue a deportation  
33 order today.

34

35 I'm sure that's not the result that you were looking for, Mr. Figueroa. However, the  
36 obligation of this Division is to carefully consider allegations that are presented by the  
37 Minister and I believe I've very carefully considered it before reaching my decision. So  
38 I'll go through how I reached that decision.

39

40 So first of all, in Exhibit C-1 on page 2, we have the referral of the Minister dated

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1 July 21st, 2009 referring to a report of July 7th, 2009. That report is found at pages 3 and  
2 4 of Exhibit C-1. There the allegation is made respecting paragraph 34(1)(f) of the Act.  
3 Namely, alleging you are inadmissible on security grounds for having been a member of a  
4 particular type of organization, particularly in reference to paragraph (c); that is, an  
5 organization that is engaged in terrorism.

6

7 Again, there is mention in the report of the exemption which can be provided by the  
8 Minister in appropriate circumstances. This Division, again, is not the appropriate  
9 jurisdiction for trying to get an exemption. The exemption is handled elsewhere.

10

11 So first, in dealing with your status in Canada, clearly the evidence provides that you're  
12 not a permanent resident or a citizen. You were a refugee claimant; your claim is being  
13 turned down. At this point you are a foreign national for these proceedings.

14

15 So first of all, Minister's counsel dealt with the law relating to this case. Section 33 of the  
16 Act first provides that the test for looking at facts, that is, evidence, is on a reasonable  
17 grounds to believe basis. Ms. Teran referred to the case of *Chow* (phonetic) from the  
18 Federal Court found at C-4, tab 1. In *Chow*, it's noted that there needs to be more than a  
19 flimsy suspicion, but something less than what is required on the civil grounds of proof.  
20 There needs to be a possibility based on credible evidence. So the standard of proof for  
21 factual matters is lower than it is in many other proceedings before this Division because  
22 of section 33. Now, again you yourself affirm that you are not a citizen or permanent  
23 resident, I noted, during the hearing.

24

25 The next step of the exercise is to consider whether the FMLN is an organization that fits  
26 within the meaning of "organization" under section 34(1)(f) of the Act. Clearly, in my  
27 view it is an organization. In that regard, Ms. Teran referred us to *Sittampalam* at tab 3 of  
28 Exhibit C-4. She noted that the Federal Court of Appeal has taken a broad and unrestricted  
29 view of the definition of "organization". My own preference is that one consider it with a  
30 broad view as opposed to saying that it's an unrestricted view. An unrestricted view  
31 simply leaves things rather too broad and my preference is to simply refer to a broad  
32 interpretation, which can be given to the name "organization".

33

34 So *Sittampalam* refers to the other major case in the area, *Thanaratnam*, found at tab 2 of  
35 Exhibit C-4. It confirms that there are various ways of indicia of organization, including  
36 identity, namely: structure. It's noted that these various indicia are all significant, but none  
37 of them are essential. So you look at the overall circumstances of the group to see whether  
38 it's an organization that fits within the meaning of 34(1).

39

40 So the Minister's counsel directed our attention to various documentary evidence in

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1 Exhibit C-2 at tabs 2 to 4. We see from the materials that the FMLN was comprised of,  
2 I believe, five different opponent groups and they gradually coalesced together. The  
3 materials showed that each of them had their own independent structures, in fact. The  
4 materials talk of the number of members that were in the group. For instance, in 1980 it's  
5 suggested there were 7,500 members. The materials talk of how the organization got its  
6 funding. Based on the fact that it was a Marxist-type of organization trying to come into  
7 force, it is not surprising the funding came from Cuba, USSR and Vietnam.

8

9 At Exhibit C-2, tab 4, there is a good description of the various component organizations  
10 which comprise the FMLN. Again, there are notes that each had its own identity, but were  
11 seen together as being part of the FMLN. The materials note that the organization enjoyed  
12 stronger support in the cities. However, it did expand due to popular support.

13

14 The materials show that there clearly was organization within the organization. There  
15 were leaders. There were various different positions that were taken up by different people  
16 within the organization depending where in the organization they were. So there is really  
17 no doubt whatsoever that it was an organization.

18

19 So the second question is whether Mr. Figueroa was a member of the organization and I'll  
20 deal with what the organization did later. So there is again no doubt that Mr. Figueroa was  
21 a member of the organization within the context of 34(1)(f). The case law, again, says that  
22 one needs to take a broad look at membership to determine who was a member. There is  
23 really very little if anything, I would say, in the evidence that would suggest that  
24 Mr. Figueroa wasn't a member of the organization.

25

26 The materials include his Personal Information Form, at Exhibit C-1, tab 4. There we see a  
27 narrative of the type of involvement that Mr. Figueroa had with the FMLN. We know that  
28 at the refugee hearing, an expert witness was called to deal with matters respecting  
29 El Salvador, Mr. Aragon. He had made his own personal determination, at page 69 of tab  
30 4, Exhibit C-1. But he concluded that Mr. Figueroa was, in fact, a member of the FMLN.  
31 So I first take his comment into account. His determination that you were a member isn't  
32 conclusive evidence. But again, it helps to confirm that you were a member of the group.

33

34 I accept that you were involved with SECUO, S-E-C-U-O, a student group at the  
35 university and that was a forum by which you were able to try to garner public support for  
36 the group, as a student.

37

38 I accept that you were a member only of some political part of the organization.  
39 I completely accept your evidence and testimony that you had nothing to do with the more  
40 violent activities of the organization. You, for instance, stated, at page 107 of Exhibit C-1,

1 in the testimony that you had never killed, never carried weapons, didn't direct anyone else  
2 to do that. Your only purpose was to co-ordinate matters so as to open up the minds of the  
3 people to new and better political realities.

4

5 At tab 7 of Exhibit C-1 we have a UN document. It doesn't make any particular mention  
6 of your being a member of the FMLN. It makes some other types of comments. However,  
7 it does clearly point out that you were closely associated with the FMLN. So my  
8 conclusion is that you were a member of the FMLN from about 1985 to 1992.

9

10 The next step of the exercise is to consider more the substance of the allegation, and that is  
11 dealing with terrorist subjects. So the best place to start respecting that is to consider what  
12 is, in effect, the definition of "terrorism". The definition isn't provided specifically in the  
13 *Immigration and Refugee Protection Act*. There is some guidance provided as well in the  
14 *Criminal Code of Canada*. The Minister's counsel referred to that definition and I believe  
15 you made mention of it.

16

17 However, in my view, the simplest and most straightforward and also completely correct  
18 way of looking at it is to look at the *Suresh* definition, and that's at tab 4 of Exhibit C-4.  
19 So at paragraph 98, the Court states as follows:

20

21 "98 In our view, it may safely be concluded, following the  
22 *International Convention for the Suppression of the Financing of*  
23 *Terrorism*, that "terrorism" in s. 19 of the Act..."

24

25 That is the former Act.

26

27 "...includes any "act intended to cause death or serious bodily  
28 injury to a civilian, or to any other person not taking an active part  
29 in the hostilities in a situation of armed conflict, when the purpose  
30 of such act, by its nature or context, is to intimidate a population, or  
31 to compel a government or an international organization to do or to  
32 abstain from doing any act". This definition catches the essence of  
33 what the world understands by "terrorism". Particular cases on the  
34 fringes of terrorist activity will inevitably provoke disagreement.  
35 Parliament is not prevented from adopting more detailed or  
36 different definitions of terrorism. The issue here is whether the  
37 term as used in the *Immigration Act* is sufficiently certain to be  
38 workable, fair and constitutional. We believe that it is."

39

40 Now, the Court puts some stress on the fact that it is civilian populations which are being

1 put at risk when terrorism is at issue. So in that regard, Minister's counsel directed us to  
2 *Fuentes*, at tab 5 of Exhibit C-4. At paragraph 56, the Court states:

3  
4 “56 The definition of terrorism adopted by the Supreme Court of  
5 Canada focuses on the protection of civilians--a central element in  
6 international humanitarian law whose foundation rests in the four  
7 Geneva Conventions adopted on June 12, 1949, and its two  
8 additional Protocols, all of which have been incorporated into and  
9 made part of Canadian law.”

10  
11 At paragraph 59, it then discusses more the question of who is a civilian. It refers to article  
12 50 of Protocol I and states as follows. That Protocol:

13  
14 “59 ...defines a civilian as basically anyone not taking up arms in  
15 an armed conflict which excludes members of armed forces, militia  
16 and volunteer groups taking up arms, members of a resistance  
17 group and inhabitants of a non-occupied territory who, on the  
18 approach of an enemy, spontaneously take up arms to resist the  
19 invading forces.”

20  
21 Now, I do conclude that in the circumstances of El Salvador at this particular period, we  
22 are looking at an internal conflict.

23  
24 Mr. Justice Lemieux also deals with the specificity which is required respecting terrorist  
25 acts. At paragraph 69, he notes that the evidence in that particular case:

26  
27 “69 ...lacks the specificity of who, what, when and where and in  
28 what circumstances.”

29  
30 It noted that:

31  
32 “...those are [sic] necessary to meet the test of sufficiency in  
33 assessing the Minister's burden of proof gauged in relation to its  
34 appropriate standard.”

35  
36 The same question of specificity of the Act arose in *Al Yamani*, in tab 7 of Exhibit C-4.  
37 There, once again, at paragraph 35 the Court notes that we need to know “the who, what,  
38 when and where” and in what circumstances the acts arose.

39  
40 So in attempting to provide particulars with respect to those specifics that are required,

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1 Minister's counsel first directed our attention to a number of specific occurrences. These  
2 occurrences were found in Exhibit C-2, tab 3. This is information from the Terrorism  
3 Knowledge Database. So there, starting with an occurrence, at page 24, which occurred on  
4 May 25th, 1983, a number of different occurrences are cited. We see the particular  
5 occurrences at page 28, 32, page 30, 34, 38. Each of these occurrences provides a  
6 relatively good detail of what it was that happened.

7

8 Now, the reason why I don't rely a great deal on these particular occurrences is because  
9 there was an armed conflict going on and some of these particular occurrences may have  
10 been in relation to military-types of occurrences. And we know that from the definition of  
11 "terrorism" in *Suresh*, it needs to deal with civilian-types of attacks. So I acknowledge that  
12 those occurrences noted at that part of Exhibit C-4 do provide particulars. However, I'm  
13 not going to spend any time analyzing those. I believe there is more direct and better  
14 evidence on the issue of specificity.

15

16 The Minister's counsel made submissions and directed our attention to evidence respecting  
17 attacks on mayors. So I believe the first reference to that, in particular, was at Exhibit C-2,  
18 tab 5, page 58. So there on a particular date it appears that mayors' offices in a particular  
19 town were dynamited. So there is some information about the attacking of mayors.  
20 However, I don't see that there is any particular reference to FMLN.

21

22 Now, the matter of the attacks on mayors was, in fact, researched to a very specific degree.  
23 And in that regard, I then direct your attention to the report of the Truth Commission,  
24 found at tab 6 of Exhibit C-2. There starting at page 101, in my view, is good, credible and  
25 trustworthy evidence of the nature of attacks and intimidation of mayors that was  
26 perpetrated by the FMLN in the context of the civil dispute. So the Commission went  
27 through a number of specific attacks on mayors in a number of different cities and towns.  
28 In each case there is, in my view, suitable specificity as to the facts, namely "the who,  
29 what, where, when, what circumstances", et cetera. It's clear that the Commission  
30 carefully reviewed all the evidence respecting those particular attacks. In my mind, there  
31 is no doubt that the FMLN did conduct a campaign of intimidation of mayors that were  
32 perceived to be not working in the best interests of what the objectives of the group were at  
33 that particular time.

34

35 So at page 105, the Commission makes certain specific findings based on the research that  
36 they had done respecting the killing and intimidation of mayors. It states as follows:

37

38 "The Commission finds the following:

39

40 1. There is full evidence that the FMLN general command

1 approved and adopted a policy of murdering mayors whom  
2 it considered to be working against it.

3

4 2. There is full evidence that members of the ERP leadership,  
5 among others, carried out the policy and ordered their local  
6 commanders to murder mayors whom they considered to be  
7 working against the FMLN.

8

9 3. There is full evidence that the following persons, among  
10 others, were part of the ERP leadership at various times  
11 when mayors within territory under ERP control were  
12 murdered, and that they were parties to the decisions to  
13 carry out and are therefore responsible for those summary  
14 executions.”

15

16 And then it names a number of individuals.

17

18 “4. There is full evidence that Joaquin Villalobos, as  
19 General Secretary of ERP, held the highest position in that  
20 organization and bears special responsibility for the murders  
21 of mayors by ERP.

22

23

24 6. There is full evidence that the murders of...”

25

26 Various mayors named.

27

28 “...were part of an established pattern, based on a deliberate  
29 FMLN policy and were carried out by local ERP  
30 commanders on orders from and with the express approval  
31 of members of the ERP leadership.

32

33 8. The execution of mayors by FMLN was a violation of the  
34 rules of international humanitarian law and international  
35 human rights law.”

36

37 Now, Minister's counsel did go into some detail in directing our attention to various other  
38 potentially problematic actions that took place, such as killing of American military  
39 advisors, bombing of infrastructures such as hydro installations, et cetera. I'm not going to  
40 analyze those. I don't need to do that. What I've done is I've carefully looked at the

1 situation respecting mayors. I think it's quite sufficient for me to base my decision on that  
2 analysis of what happened with the mayors.

3  
4 Again, because the actions need to be in relation to civilians, it could become a lengthy  
5 dissection of facts to start looking in those other circumstances whether or not they, in fact,  
6 were civilians or were they in fact military-types of operations in those other cases. On the  
7 other hand, with the mayors, my conclusion is that even though there was argument by the  
8 FMLN otherwise, the mayors were civilians and that they were the recipient of this  
9 unlawful activity by the FMLN.

10  
11 Now, the materials do, in a number of places, provide other good descriptions of this  
12 campaign of intimidation against mayors in the various cities and provinces. I could direct  
13 the parties' attention to Exhibit C-4, page 131 and also to page 278. The descriptions in  
14 those materials collaborates the type of information that was provided on the specific  
15 examples in the Truth Commission finding.

16  
17 Now, Mr. Figueroa and his counsel provided lots of documents. Their submissions really  
18 dealt with very specific issues and I was told that, rather than repeating those types of  
19 things from the voluminous document, the submissions could be relied on. So I will make  
20 specific comment of a number of the submissions that were made by Mr. Figueroa and by  
21 his counsel.

22  
23 First off, I will say that I carefully read the homilies. There is not really much to disagree  
24 with in the homilies. It's clear that the church was not happy with what was happening in  
25 El Salvador. The church felt that there needed to be change, that people needed to change  
26 what was going on. The church obviously was not happy about foreign intervention in  
27 El Salvador which was probably fuelling the problem. The homilies make reference to  
28 that.

29  
30 Reference was made to the letter that was sent, I believe, by the Archbishop, put to the  
31 President of the United States. The letter speaks of the repression of the El Salvadoran  
32 people. It looks to the United States to not be directly or indirectly involved in the whole  
33 debacle by providing further military pressure in the area.

34  
35 Now, there was some comment in reference to the materials by Mr. Figueroa and his  
36 counsel that if crimes or bad actions were taken, the penalty should fall on the institutions,  
37 not on the individuals, that the institutions were to blame. In that regard, I can only say  
38 that what I need to do or what I'm required to do is apply the facts that I find credible and  
39 trustworthy to the law that I've described. It may be that from your point of view, my  
40 applying of the law doesn't suitably address your situation. But what I'm doing is

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1 applying the law. So while you would invite me to lay all the blame, and there is some  
2 blame to be laid, solely on the FMLN, the fact is that this admissibility hearing needs to  
3 deal with your membership in the FMLN.

4  
5 I acknowledge that the commission never referred to the FMLN as a terrorist organization.  
6 That's clear. It referred to the group as a political organization. On the other hand, it did  
7 refer to the terrorism through the death squads of the government. Now again, it's up to  
8 me to decide what the nature of the group was. The Truth Commission wasn't charged  
9 with determining whether or not the FMLN committed terrorist acts or not. However, that  
10 is something that I am charged with.

11  
12 It was pointed out by you that there was a great deal of violence in El Salvador, and there  
13 is no denying that, none whatsoever. However, it was pointed out that 85 per cent of the  
14 violence, namely respecting a total of 22,000 complaints of violence, were perpetrated by  
15 agents of the state. Various percentages were given and it was noted that the FMLN were  
16 responsible only for five per cent. It was pointed out that the government was therefore  
17 responsible for 17 times more of this questionable activity than the group itself. I of course  
18 take note of that. That doesn't, however, deny the fact that the FMLN did commit some  
19 very bad acts. I fully acknowledge that the acts committed by the FMLN were far, far less  
20 than those committed by the government. However, there were some acts and I need to  
21 deal and analyze those acts.

22  
23 It was pointed out that you weren't involved in combat. It was pointed out that in civil war  
24 and in many cases, in many given times, there are a number of factions that are in conflict  
25 with each other. You brought up the example of Canadian forces in Afghanistan. I can't  
26 really comment much on that. I suppose at some point down the road in the future,  
27 historians will look back on the Afghanistan conflict and possibly compare it to  
28 El Salvador and what happened there. I don't know. That's not really for me to consider  
29 at this point.

30  
31 I, in fact, readily accept that change in all likelihood would not have come as quickly as it  
32 did to El Salvador had the FMLN not carried out a very strong action opposing the  
33 government. I accept that. So the argument was that the group was therefore right to do  
34 everything that it did to bring about that change. I can't argue that a repressive regime that  
35 makes use of death squads needs to be changed. Nobody can argue with that. The  
36 question is how the change is brought about.

37  
38 From Mr. Figueroa's point of view, his personal actions, in my view, were fine. There was  
39 nothing wrong with trying to promote people joining a political group that would provide a  
40 good change in government. That is what democracy is about. The problem that we have

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1 in this scenario is dealing with those particular bad activities of the FMLN. Now, the  
2 problem is that you can't hope to effect change by using absolutely any means. Our  
3 immigration law tells that that isn't a viable option. There needs to be limits.

4

5 In submissions, you pointed out quite correctly that the FMLN is not on any terrorist list  
6 and people haven't referred to it as a terrorist organization. That's quite true. Ms. Teran,  
7 on the other hand, pointed out that getting an organization on the various lists is a time-  
8 consuming laborious political process and organizations quite apart from being on the list  
9 have, on many, many occasions, been determined to be terrorist organizations within the  
10 context of Immigration proceedings. The fact that an organization is listed is simply one  
11 piece of evidence that this tribunal needs to look at. It's by no means determinative.

12

13 Now, I accept that the church wanted change. The rising populace of El Salvador wanted  
14 change. There was a repressive regime that needed to be changed. The question was how  
15 to do it.

16

17 In looking at the homily of March 23rd, 1980, which is part of the package at Exhibit P-7,  
18 it provides guidance there and the guidance that it provides unfortunately doesn't support  
19 what the FMLN did. And I'll quote from the homily. This is at page 17 of 17 in the  
20 printout.

21

22 Now, I believe this homily was translated from the internet, I believe?

23

24 PERSON CONCERNED: Yes.

25

26 MEMBER NUPPONEN: By an automatic translation type of --

27

28 PERSON CONCERNED: Yes. There is official database. Yeah.

29

30 MEMBER NUPPONEN: Okay. So I accept that this is a translation done by an automatic  
31 translating type of program. So the language isn't necessarily exactly the Queen's English.  
32 In any case, the gist is quite clear. It says as follows:

33

34 I would like to make a special appeal to men in the army and in  
35 particular to the bases of the National Guard Police barracks.  
36 Brothers are of our own people. Killing your own brother farmers  
37 before in order to kill a man should prevail God's law, which says,  
38 "Do not kill". No soldier is obliged to obey an order contrary to  
39 the law of God. In a moral law, nobody has to comply. It is time  
40 to recover His conscious and obey your conscious that the order of

1 sin, the church, the defender of the rights of conscious and obey  
2 your conscious.

3

4 I'm sorry.

5

6 The church, the defender of the rights of God, the law of God,  
7 human dignity, the person cannot remain silent before such  
8 abomination. We want the government to take seriously that  
9 reforms are useless if they are stained with much blood. In the  
10 name of God for and on behalf of the suffering people, whose cries  
11 rise to heaven each day more tumultuous, I beg, I beseech you. I  
12 order you in the name of God, stop the repression.

13

14 So I presume it's Domingo De Crosserma (phonetic) whom that came from. I presume  
15 that's perhaps an Archbishop. I don't know. Clearly, he says that change is needed. The  
16 killing needs to stop, but he also says do not kill.

17

18 Now, the evidence is clear that in the context of the intimidation of mayors, killing took  
19 place. It appears that that killing was authorized at a relatively high level and the  
20 organization took part in it. I'm sure that the organization at that time thought that it was  
21 warranted, that that would bring about the change that was required. However, the homily  
22 itself says do not kill and the organization took part in it.

23

24 So the allegation is founded. I conclude that Mr. Figueroa was a member of the FMLN.  
25 I conclude that the particular activities that I've stressed today, namely the intimidation and  
26 killing of mayors, fits within the types of activities covered by the *Suresh* definition of  
27 "terrorism". So the allegation itself is founded.

28

29 I believe that the submissions that were made by Mr. Figueroa and his counsel were valid,  
30 understandable submissions. However, they're the kind of submissions that unfortunately  
31 didn't really help me at this level. At this level I have a very specific legal question to look  
32 at and that is your inadmissibility. I don't have any say or comment on the types of cases  
33 that the Minister prepares referrals and reports on. Those are decisions that are made in a  
34 different place and, I would expect, ultimately by very much higher officials in the  
35 government of Canada. My obligation is to consider the allegation once it's presented.

36

37 Now, as it has been pointed out, there is the possibility of an exemption provided in the  
38 statute. I'll profess that I know nothing about the exemption. I have never dealt with  
39 them. I don't know what the requirements are. I wouldn't even know who you would  
40 make it to. So my comments on that are rather limited.

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1 On the other hand, it seems to me that certain facts in your case would suggest that there  
2 wouldn't be harm in asking for an exemption and I'll point out very generally some of  
3 those.

4

5 First of all, you weren't involved in any of the bad activities that we've referred to. You  
6 were involved only in the political end of the organization, trying to get people to better  
7 understand new and potentially better political realities that might arise if they agreed to  
8 join a new political force. There's nothing wrong with that. You were young. You were  
9 very young at the time that these things took place.

10

11 Another thing which one might expect that would be considered on an exemption  
12 application would be the nature of the conflict in the country at the time. What the people  
13 appear to have been trying to do was to stop a regime that ran death squads. There's some  
14 legitimacy, I would say, in trying to arrange matters so that death squads can be eliminated.  
15 So the ultimate purpose of the organization is legitimate. The problem is that there were  
16 some very problematic actions that took place which fall within the description of  
17 "terrorism" in the context of this hearing.

18

19 Also which could possibly be noted by the person or persons who considers these  
20 applications are that the FMLN is now a quite legitimate political party in El Salvador and,  
21 in fact, has very important people in government from that party. So at this point in time,  
22 it could hardly be said that the organization currently would be seen as a terrorist  
23 organization, although I haven't looked at that aspect in the context of this hearing.

24

25 So there are those types of circumstances which perhaps might be looked at in an  
26 exemption application. Again, that's up to you whether you do that or not. I've done my  
27 job today. I've found you inadmissible and I will be issuing the order.

28

29 So other than that, Ms. Teran, anything you wish to add?

30

31 MINISTER'S COUNSEL: No, I don't. Thank you.

32

33 MEMBER NUPPONEN: No. This hearing is concluded.

34

35 PERSON CONCERNED: Your Honour.

36

37 MEMBER NUPPONEN: Yes.

38

39 PERSON CONCERNED: I guess that in part of this, there should be some questions  
40 allowed that need to be answered on this regard.

1 MEMBER NUPPONEN: Well, I've concluded my decision now. I should point out that  
2 if you're not happy with my decision, then your recourse is to seek leave for judicial  
3 review from the Federal Court.

4  
5 PERSON CONCERNED: Of course, during the proceedings, we presented an issue of --

6  
7 MEMBER NUPPONEN: Well, I'm not going to review or get into a discussion of what  
8 was presented and not. I've provided my decision and my decision rests on its own at this  
9 point.

10  
11 PERSON CONCERNED: Yes.

12  
13 MEMBER NUPPONEN: This hearing is concluded.

14  
15 --- PROCEEDINGS CONCLUDED

16  
17  
18  
19  
20 *[Edited for clarity, spelling, grammar and syntax.]*

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23  
24  
25 I, the undersigned, hereby certify that the preceding  
26 constitutes a transcript of proceedings, transcribed from  
27 taped proceedings, to the best of my skill and ability, of a  
28 Decision at an Immigration Division hearing held at  
29 Vancouver, British Columbia.

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Kathleen Lore

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