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Institution: Inter-American Commission on Human Rights
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Title/Style of Cause: Luis Alonzo Monge v. Honduras
Doc. Type: Resolution
Decided by: Chairman: Dr. César Sepúlveda
Members: Andrés Aguilar; Marco Gerardo Monroy Cabra; Gilda M. Russomano; Bruce McColm
Dated: 05 March 1985
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1. In a communication dated January 19, 1982, the Inter-American Commission on Human Rights received the following denunciation:

- i. Mr. Luis Alonzo Monge, a Honduran citizen, was imprisoned and ordered deported on July 21, 1981, without due trial by a competent authority. The person responsible was the Director General for Population and Migration Policies.
- ii. Mr. Monge is a Honduran by birth and the son of a Honduran mother.
- iii. He was accused of being a Salvadoran citizen, despite the fact that he had submitted personal documents certifying his Honduran nationality.
- iv. A petition for Habeas Corpus was presented but the fact of his arrest was denied; a remedy of amparo was also brought, which was declared to be unfounded.

2. In a note dated February 1e, 1982, the Commission asked the Government of Honduras for information on the case, as well as for any facts that would enable the IACHR to determine whether or not all domestic legal remedies has been exhausted.

3. In a letter of May 7, 1982, the claimant forwarded to the Commission a copy of the text of the remedy of amparo brought on behalf of Mr. Monge, together with the court's writ declaring it to be unfounded.

4. On May 12, 1982, the Commission asked the claimant for updated information on this case, particularly with regard to any administrative or judicial decisions presented, and his opinion as to whether friendly settlement could be reached with the Government of Honduras.

5. Through a communication dated May 24, 1982, the Commission informed the Government of Honduras of the possible application of Article 39 of the Regulations if the pertinent information was not received within a reasonable period of time.

6. By letter of July 13, 1982, the Government of Honduras informed the IACHR that the initial letter

dated February 1 that year had not been received through official channels and that said communication had been sent to the offices in charge of carrying out the required investigations.

7. On December 7, 1982, the Commission reported to the claimant that the IACHR had examined this case at its 58th Session and agreed that, before having recourse to Article 42 of the Regulations regarding the friendly settlement of problems, it would once again approach the Government of Honduras in order to learn what its position was with regard to the petition submitted.

8. Through a note dated December 7, 1982, the Commission informed the Government of Honduras that at its 58th Session it had been agreed to again ask the Government to provide information on this case.

9. In notes dated January 7 and February 14, 1983, the claimant added some observations to the denunciation, expanding on the original grounds for the complaint brought.

10. In a letter dated January 30, 1983, the Government of Honduras informed the Commission as follows:

If Mr. Monge satisfactorily proves his Honduran nationality beyond doubt, the country's authorities would have no objection to authorizing his entry into Honduras in accordance with the laws in force.

11. By letter dated February 9, 1983, the Commission acknowledged receipt of the Honduran Government's letter of January 30, 1983 in reply to the Commission's requests for information and proposed a friendly settlement of the matter as provided in Article 48 paragraphs d) and f) of the American Convention on Human Rights and in Article 42.1 of the Regulations of the Commission. The Commission stipulated that the answer regarding acceptance of the friendly settlement procedure should reach it before beginning of its next session.

12. The Commission replied to the claimant's letter of January 2, 1983, in a letter dated February 9, 1983, as follows:

The Commission has decided to offer its good offices to the Government of Honduras and the claimant, in his capacity as petitioner and legal representative of Mr. Monge, in order to arrive at a friendly settlement of this matter, in accordance with the provisions contained in Article 48, paragraph d) and f) of the American Convention on Human Rights and Article 42.1 of the Regulations of the Commission.

13. In a communication dated March 4, 1983, the Government of Honduras replied to the Commission as follows:

In this regard, I am pleased to inform you that my Government, in keeping with its democratic vocation and its respect for human rights, is studying said proposal; to this end, it must carry out a prior analysis of certain documents related to this case.

14. Subsequently, on March 24, 1983, the Government of Honduras requested additional information from the Commission, in the following terms:

From the documents presented by the Department of Migration, it has been attested that Mr. Luis Alonzo Monge, who worked as a CARITAS volunteer in the refugee camps set up for Salvadorans in Honduras, was arrested by the competent authority on evidence that he had provided the Salvadoran guerrillas with 80 bedspreads and 800 lbs. of corn removed from the storeroom of that Institution, a fact that was subsequently admitted by the accused.

In a statement made to the authorities, Mr. Monge declared that he was in Berlin, Department of Usulutlan, Republic of El Salvador, on October 30, 1938.

At the time of his arrest, he was found to be carrying documents that would make it appear that he was a Honduran national. The Director of the National Archives was asked to check the birth certificate against the original, but this proved impossible because the birth had not been recorded in the corresponding book. The search was carried out in the book covering the period from April 29, 1938 to May 28, 1939.

As a result of the foregoing, the Department of Migration subjected the birth certificate held by Mr. Monge to a thorough examination and reached the conclusion that said identity document was not absolute proof of his Honduran nationality, since it lacked the necessary references, such as page, book and year of registration.

In corroboration of the above, I attach photocopies of the following documents:

1. Communication No. 148-82 dated August 6, 1982, from the Director General for Population and Migration Policies;
2. Two statements, both dated March 10, 1983, issued by the Director of the National Archives; and
3. One statement dated July 22, 1981, issued by the Migration Officer of the Toncontin Airport.
4. Note from the Department of Migration, dated March 23, 1983.

15. In a telex dated April 4, 1983, Mr. Luis Alonzo Monge's legal representative confirmed his acceptance of the friendly settlement procedure proposed by the Commission in accordance with the American Convention on Human Rights.

16. On August 2, 1983, the Commission addressed the Government of Honduras as follows:

Pursuant to our note dated February 9, 1983, the Commission would like to know whether your illustrious Government has reached a decision as to the acceptance of the friendly settlement proposal made by the Commission, in accordance with the provisions of the American Convention on Human Rights. We would appreciate a reply at your earliest convenience, to enable the Commission to consider this case at its next session, to be held in the month of June.

The Commission likewise requests that your distinguished Government comment on the claimant's assertion that Mr. Monge's mother, Mrs. Petronila Monge, is a Honduran national by birth, a fact that under Article 23 of the Constitution of the Republic grants her son Honduran citizenship. We attach copies of the corresponding birth and baptismal certificates. Lastly, we wish to inform Your Excellency that the claimant has expressed his willingness to accept the peaceful settlement procedure suggested by the Commission.

17. In a letter dated May 2, 1983, the IACHR wrote to the claimant to request his comments on the Government's reply dated March 24, 1983 and a certified copy of the birth certificate of Mr. Monge's mother.

18. In a communication dated June 19, 1983, the Government of Honduras informed the Commission as follows:

MINISTRY OF THE INTERIOR AND JUSTICE. DEPARTMENT OF POPULATION. May 24, 1983. Communication No. DGPE 264-83. The Minister of Foreign Affairs, Lic. Arnulfo Pineda Lypez. In reply to your Communication No. 605-DGPE enclosing photocopies from the Executive Secretary of the "Organization of American States for Human Rights", Edmundo Vargas Carreco, as well as the birth certificate of Mr. Monge's mother. In this regard, the Department of Population and Migration Policies has decided as follows: that Mr. Luis Alonzo Monge, of Salvadoran nationality and deported from this country, may, by virtue of being the son of a Honduran mother, proceed to take the necessary legal steps to obtain a birth certificate as a Honduran citizen. Dem. Inf. Col. Manuel Enrique Suarez Benavides.

Director General.

19. The Commission contacted the claimant in this case to transmit the reply received from the Government of Honduras and to request that he keep us informed of the progress made in the legal procedures required to obtain Mr. Luis Alonzo Monge's birth certificate as a Honduran citizen, to enable him to return to Honduras.

20. On May 4, 1984, the Commission telexed the Government of Honduras to enquire whether Mr. Luis Alonzo Monge had obtained Honduran nationality and whether he was already residing in that country.

21. By telex dated May 15, 1984, the Government of Honduras replied as follows:

MINISTRY OF THE INTERIOR AND JUSTICE. DEPARTMENT OF POPULATION. TEGUCIGALPA, MAY 15, 1984. P.O. BOX 494. COMMUNICATION No. DGP-229-84. HEAD CLERK, MINISTRY OF FOREIGN AFFAIRS, LIC. JUAN ALBERTO LARA BUESO. HEAD CLERK'S OFFICE. SIR: THIS IS IN RESPONSE TO YOUR NOTE No. 493-DGPE WITH WHICH YOU ENCLOSED COPY OF NOTE CIDH/84/038 FROM THE INTER-AMERICAN COMMISSION ON HUMAN RIGHT REQUESTING INFORMATION ABOUT MR. LUIS ALONZO MONGE SANCHEZ, OF SALVADORAN NATIONALITY. IN THIS CONNECTION, AN EXHAUSTIVE EXAMINATION OF OUR FILES WAS CARRIED OUT IN SEARCH OF MIGRATORY MOVEMENTS BY THE SUBJECT; NOTHING AT ALL WAS FOUND AND THE SEARCH WAS THEREFORE BROUGHT TO AN END. WITH NOTHING FURTHER TO REPORT, I REMAIN, SIR, YOURS SINCERELY, LIC. SERGIO FLORES TOSCANO. DIRECTOR GENERAL FOR POPULATION.

ON THE CASE IN POINT, I TAKE THIS OPPORTUNITY TO REPEAT THE TEXT OF MY COMMUNICATION No. 749-DGPE DATED JUNE 14, 1983, WHICH CONTAINS THE DECISION MADE BY THE DEPARTMENT OF POPULATION AND MIGRATION POLICIES TO THE EFFECT THAT MR. LUIS ALONZO MONGE, OF SALVADORAN NATIONALITY AND DEPORTED FROM THIS COUNTRY, MAY, BY VIRTUE OF BEING THE SON OF A HONDURAN MOTHER, PROCEED TO TAKE THE NECESSARY LEGAL STEPS TO OBTAIN A BIRTH CERTIFICATE AS A HONDURAN CITIZEN, WHICH DECISION I BEG BE TRANSMITTED TO THE CLAIMANT. IN ACCORDANCE WITH THE RULES OF PROCEDURE GOVERNING THE OPERATION OF THAT COMMISSION, SO THAT THE SUBJECT MAY INITIATE APPROPRIATE PROCEEDINGS IN CONFORMITY WITH THE LAWS IN EFFECT IN HONDURAS.

22. At its 62nd Regular Session, the Commission examined this case and agreed to ask Mr. Monge's legal representative to submit observations on the Government's reply transcribed in the foregoing paragraph, specifically addressing the following points:

- a) What are the legal procedures to be followed for Mr. Monge's status as a Honduran national by birth to be recognized, in accordance with the Honduran Government's letter?
- b) In view of the physical impossibility of securing a baptismal certificate attesting to the fact that Mr. Monge was born on Honduran territory, would Mr. Monge be willing to follow such a procedure, in order to be able to return to Honduras and join his family?
- c) Are there any legal or other well-founded impediments to compliance with the procedures established by law for Mr. Monge's registration as a Honduran national?

23. The Commission also decided to send the Government of Honduras a questionnaire to obtain data essential to an analysis of this case. The questionnaire covered the following:

- a) Is the illustrious Government of Honduras willing to accept the friendly settlement procedures suggested by the Commission in its notes dated February 9, 1983, and May 2, 1983, as provided in Article 48 f) of the American Convention on Human Rights? This with a view to complying with Articles 49 and 51 of the Convention which regulate procedures for individual petitions.
- b) The Commission would like to know what legal procedures and/or measures need to be taken by Mr. Monge in order to obtain Honduran nationality, since it would appear that Article 23 of the Constitution accords him that status with no further requirement.
- c) Bearing in mind the fact that Mr. Monge is living outside the country with very limited means at his disposal, could the Government of Honduras initiate and expedite the necessary legal procedures for his recognition as a Honduran national?
- d) It is of the highest importance for the Commission to have the above information and a reply from your illustrious Government before the start of its next regular Session, to be held in the month of September, 1984, at which time it is hoped that this case can be successfully concluded.

24. On August 24, 1984, the Government of Honduras sent copies of the opinions rendered by the Ministry of the Interior and Justice and the Department of Population and Migration Policies, which replied to points b) and c) above, but made no reference to the acceptance of the friendly settlement procedure.

25. In a communication dated August 30, 1984, the IACHR transmitted the Honduran Government's reply to Mr. Monge's legal representative, asking for his comments.

26. In a note dated October 3, 1984, the claimant observed that "the opinions of the Government of Honduras are not in keeping with the facts, for they take for granted that Mr. Monge was not born in Honduras, something the Government has been unable to prove to date."

27. On November 23, 1984, the Government of Honduras again addressed the Commission, transmitting the following decision:

...I am pleased to inform you that the competent authorities of my country, after again analyzing the case and with a view to allowing Mr. Luis Alonzo Monge to plead and prove according to law the facts on which the relevant portions of the claim were based, have decided to authorize the entry of said person into Honduran territory. I beg you to communicate this decision to the claimant, in accordance with the rules of procedure governing the operations of that Organization...

28. The above reply was transmitted to the claimant on December 12, 1984. Nothing further has been heard to date.

WHEREAS:

1. As is expressly stated in the background information given above, the Commission on its own initiative carried out negotiations with the parties involved in this case in an effort to reach a friendly settlement, based on the respect for human rights as set out in the American Convention on Human Rights.
2. The Government of Honduras has expressed its willingness to settle this case and to this end has decided to allow Mr. Monge to enter Honduran territory in order to plead and prove his Honduran nationality according to law.
3. The claimant informed the Commission that he accepted the conditions proposed by the Government which had been duly notified to him.

4. Article 49 of the American Convention on Human Rights establishes that if a friendly settlement has been reached in accordance with paragraph 1.f of Article 48 of the Convention, the Commission shall draw up a report which shall be transmitted to the States Parties to the Convention and communicated to the Secretary General of the Organization of American States for publication.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To exhort the Government of Honduras to grant Mr. Luis Alonzo Monge a safe conduct to enable him to enter Honduran territory, in accordance with the terms of its communication of November 23, 1984.
2. To exhort the claimant in this matter to carry out the necessary legal procedures to obtain Honduran nationality under the conditions accepted by the Government of Honduras.
3. To consider the friendly settlement procedure followed in the matter of Mr. Luis Alonzo Monge's nationality completed.
4. To express to the Government of Honduras and to the claimant the Commission's satisfaction at having reached a friendly settlement of this matter, based on the respect of human rights.
5. To thank the parties involved in this case for the cooperation they gave the Inter-American Commission on Human Rights in the performance of its duties.
6. To communicate this report to the Secretary General of the Organization of American States for publication, in accordance with Article 49 of the American Convention on Human Rights and Article 42 of the Regulations of the Commission.