

Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 101/05; Petition 388/01
Session: Hundred Twenty-Third Regular Session (11 – 28 October 2005)
Title/Style of Cause: Alejandro Ortiz Ramirez v. Mexico
Doc. Type: Decision
Decided by: President: Clare K. Roberts;
First Vice-President: Susana Villaran;
Second Vice-President: Paulo Sergio Pinheiro;
Commissioners: Evelio Fernandez Arevalos, Jose Zalaquett, Freddy Gutierrez Trejo, Florentin Melendez.
Dated: 27 October 2005
Citation: Ortiz Ramirez v. Mexico, Petition 388/01, Inter-Am. C.H.R., Report No. 101/05, OEA/Ser.L/V/II.124, doc. 5 (2005)
Represented by: APPLICANT: the Mexican Commission for the Defense and Promotion of Human Rights
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I. SUMMARY

1. On June 13, 2001, the Inter-American Commission on Human Rights (“the Inter-American Commission” or “the IACHR”) received a communication from the Mexican Commission for the Defense and Promotion of Human Rights (“the petitioners”) claiming that Alejandro Ortiz Ramírez was arrested, absent an arrest warrant, along with of Daniel Olguín Hinojosa, on September 24, 1988, while they were in a commercial establishment in which a quarrel with police officers had taken place. They also claim that at the police station, the two were accused of the crimes of theft, bodily harm, and criminal conspiracy, and, later, of the murder of four young people on August 20, 1988. On August 21, 1989, a sentence was handed down finding Messrs. Ortiz Ramírez and Olguín Hinojosa criminally responsible for qualified homicide and the activation of firearms. They were sentenced to a 40-year prison term, later reduced on appeal to 16 years, six months. The petitioners further claim that in 1996 an order was issued for the arrest of a person suspected of the aforesaid August 1988 multiple homicide, and four judicial police officers accused of covering up the crime were sent to prison. On July 17, 1996, one day after the petitioners presented the facts of the case to the Inter-American Commission during its on-site visit to Mexico, Messrs. Ortiz Ramírez and Olguín Hinojosa were conditionally released. The Mexican courts said that the request for the recognition of his innocence filed by Alejandro Ortiz Ramírez was inadmissible, even though another individual had been identified as the murderer and the police officers who covered up the incident had been identified. Finally, the petitioners claim that there was no investigation whatsoever of the torture allegations made by Alejandro Ortiz Ramírez.[FN1]

[FN1] The petitioners note, in this regard, the publication of a story in the newspaper Cuestión of August 22, 1990.

2. The petition alleges that the United Mexican States (“the State”) is internationally responsible for violating the following rights protected by the American Convention on Human Rights (“the American Convention”): the right to humane treatment (Article 5), to personal liberty (Article 7), to a fair trial (Article 8), to compensation for miscarriages of justice (Article 10), to privacy (Article 11), and to judicial protection (Article 25). They also claim that the general obligation of respecting and ensuring those rights, set out in Article 1(1) of the American Convention, was violated.

3. On May 6, 2004, the parties signed an agreement whereby both sides assumed commitments aimed at working toward a friendly settlement. Subsequently, on December 7 of that year, a friendly settlement agreement was signed by the alleged victim, his representatives, and the representatives of the State. In this report, adopted under Article 49 of the American Convention, the IACHR summarizes the allegations, describes the agreement reached by the parties and the progress made in compliance with it, and resolves to publish it.

II. PROCESSING BY THE IACHR

4. On August 23, 2001, the Inter-American Commission conveyed the relevant parts of the complaint to the Mexican State and asked it to respond. The State’s reply, received on November 26, 2001, was conveyed to the parties, with which the exchange of information and comments provided for in the American Convention and in the Commission’s Rules of Procedure began.

5. The information furnished indicates that the representatives of the petitioners and of the State met on February 12, 2003,[FN2] and May 6, 2004,[FN3] on which occasions they reached agreements and commitments that were later used as a point of reference for the signing of a friendly settlement agreement on December 7, 2004. On December 8, 2004, the Mexican State submitted a copy of that agreement.

[FN2] Submission from the State, February 21, 2004.

[FN3] Submissions from the petitioners and the State of May 5 and May 20, 2004, respectively.

III. FRIENDLY SETTLEMENT AGREEMENT

6. The agreement signed by the parties on December 7, 2004, is transcribed below:

BACKGROUND

On August 20, 1988, Ernesto del Arco Parra and José Luis García Juárez, the sons of campaign members of the National Democratic Front political party's presidential candidate, were murdered; their friends, Jesús Ramos Rivas and Jorge Flores Vargas, were also killed.

On September 24, 1988, the Office of the Attorney General for Justice of the Federal District arrested Alejandro Ortiz Ramírez and Daniel Olguín Hinojosa and brought them before a judge; on August 21, 1989, they were both convicted of the crime of qualified homicide. Alejandro Ortiz Ramírez was also found guilty of discharging a firearm. They were both sentenced to 40-year prison terms. An appeal was brought against the sentence and the punishment was reduced to sixteen and a half years in prison.

In October 1988 Alejandro Ortiz Ramírez and Daniel Olguín Hinojosa told federal prosecutors that they had been tortured by officers of the Federal District judicial police, to make them confess their responsibility for the aforesaid crimes. As a result, the Office of the Attorney General of the Republic opened up preliminary investigation No. 4232/SC/88 for the crime of torture.

On July 16, 1996, on the occasion of the visit to Mexico of the Inter-American Commission on Human Rights, the Mexican Commission for the Defense and Promotion of Human Rights, A.C. (CMDPDH), representing Alejandro Ortiz Ramírez, presented the case to the IACHR. That same night, after eight years in prison, he was released.

Ortiz Ramírez's representatives have filed three extraordinary remedies for recognition of innocence with the Superior Court of Justice of the Federal District, which were all dismissed.

The Office of the Attorney General for Justice of the Federal District set up a special investigator's office which, in 1996, ruled on the probable responsibility of five of its judicial police officers and obtained the corresponding arrest warrants: four for the crime of concealment and one for homicide.

On June 29, 1999, and March 12, 2004, the Office of the Attorney General for Justice of the Federal District carried out the arrest warrants for two of the police officers accused of concealment, José Bárcenas Méndez and Andrés Arreguín Vázquez, who were subsequently convicted.

Later, on May 6, 2004, a meeting was held between the representatives of Alejandro Ortiz Ramírez and of the Government of Mexico, at which they agreed to continue the efforts to apprehend the three former judicial police officers involved.

On May 13, 2004, the Office of the Attorney General for Justice of the Federal District executed the arrest warrants for the other two former police officers wanted for concealment, Oscar González de la Vega and Antonio Infante Paulín, who have since been convicted for that crime; the warrant for the arrest of the suspected perpetrator of the homicides, former police officer Santiago Rodríguez Mata is still pending execution.

PROCESSING BY THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

On August 23, 2001, the Inter-American Commission on Human Rights (IACHR) sent the Government of Mexico the document titled “pertinent parts,” including the petition lodged by Alejandro Ortiz Ramírez and the CMDPDH against the Mexican State.

The petitioners submitted additional information and comments to the IACHR on January 9, April 5, August 8, and November 14, 2002, on February 12, 2003, and on January 12 and May 5, 2004.

The Mexican State, in turn, sent the IACHR information on November 23, 2001, on February 11, May 6, September 10, and December 18, 2002, on February 21, 2003, and on February 13 and May 20, 2004.

ONE. The Government of the Federal District, through the Office of the Attorney General for Justice of the Federal District, shall undertake the following actions:

- I. It shall issue a communiqué publicly acknowledging its responsibility in the incidents that gave rise to the petition; and this communiqué shall be published in its gazette and on its webpage, and in different media outlets.
- II. It shall process, before the Federal District Directorate for the Execution of Criminal Sanctions, the documentation supporting the definitive release of Mr. Alejandro Ortiz Ramírez, which he obtained on September 24, 2004.
- III. It shall step up its joint efforts with the competent authorities to locate and apprehend the suspected murderer Santiago Rodríguez Mata.
- IV. It shall encourage a debate in the local legislature regarding the amendment of Articles 614 and 615 of the Code of Criminal Procedure for the Federal District, regarding recognition of innocence in cases where statements obtained through torture constitute the sole evidence.
- V. Through the office of the Assistant Attorney for Victim Attention and Community Services, it will provide psychotherapeutic help for Mr. Alejandro Ortiz Ramírez and his family in connection with the incidents described in the background section.
- VI. It shall include Mr. Alejandro Ortiz Ramírez’s case in the human rights curriculum taught to candidates for admission to the judicial police at its Professional Training Institute, thereby establishing an academic precedent in that institute’s study plans and teaching materials as a way to prevent a repetition of this incident.

TWO. The Government del Federal District, through the Federal District Housing Institute, shall present Mr. Alejandro Ortiz Ramírez and his family with a home, subsidized in the amount of 100% by that Institute.

THREE. The Government of the Federal District, through the Federal District Integral Family Development System, shall present the minor children Alejandra, Martín, and Miguel Ortiz Breña, the progeny of Alejandro Ortiz Ramírez, with academic scholarships for their different academic levels and until they reach adult age, consisting of a monthly amount for each one of them, in accordance with the pre-established programs that exist for minors at risk from dropping out of school.

FOUR. The Office of the Attorney General of the Republic, through the office of the Assistant Attorney for Human Rights, Victim Attention, and Community Services, shall present Anel Joana Ortiz Breña with two computer systems as a form of academic support.

FIVE. This agreement shall not curtail the right of the petitioners to bring any legal remedy that may be admissible under law in connection with the subject matter of the petition.

SIX. The deadline for compliance with the commitments entered into by means of this agreement shall be three months following the date of this document's signing.

SEVEN. The Government of Mexico and the petitioners shall submit this friendly settlement agreement to the Inter-American Commission on Human Rights for it to be published in compliance with Article 49 of the American Convention on Human Rights and Article 41.5 of the Rules of Procedure of the Inter-American Commission on Human Rights.

IV. COMPLIANCE WITH THE AGREEMENT

7. The State and the petitioners provided the Inter-American Commission with a report on the progress made with implementing the points of the agreement as transcribed above. In a submission dated December 28, 2004, the Mexican State conveyed copies of the following documents:

- (a) Public statement of responsibility in the case of Alejandro Ortiz Ramírez.
- (b) Press release of December 13, 2004, issued by the Office of the Attorney General for Justice of the Federal District (PGJDF), acknowledging the innocence of Mr. Ortiz Ramírez.
- (c) Copy of the posting on the PGJDF's webpage.
- (d) Copy of the deed signed by the head of the Directorate for the Execution of Criminal Sanctions on December 2, 2004, reporting the conclusion of that directorate's control and oversight functions as a result of the early release benefit.
- (e) Copy of the deed sent to the Judicial Orders Supervisor of November 23, 2004, requesting execution of the warrant for the arrest of Santiago Rodríguez Mata.
- (f) Copy of the deed of December 8, 2004, addressed to the Secretary of Government of the Federal District, presenting for consideration the preliminary draft Decree Initiative Amending Articles 614 and 615 of the Federal District Code of Criminal Procedure for conveyance, with his comments, for due processing by legislative procedure.
- (g) Copy of the deed of December 14, 2004, stating that, for personal reasons, Mr. Alejandro Ortiz Ramírez and his family will not be attending the Social and Legal Support Center for Victims of Violent Crime to receive the psychotherapeutic attention previously agreed on.
- (h) Copy of the curriculum of Unit 4, showing the incorporation of the Alejandro Ortiz Ramírez case as part of the training of judicial police applicants.
- (i) Copy of the deed of September 21, 2004, sent to the Director General of the Federal District Housing Institute by the representative of the Secretariat of Social Development, requesting the authorization and processing of a 100%-subsidized housing unit for Mr. Alejandro Ortiz Ramírez.

(k) Copy of the deed signed on December 10, 2004, recording the physical transfer of a house, chosen by him, to Mr. Ortiz Ramírez, who then expresses his satisfaction and signs the document.

8. On April 28, 2005, the State sent the IACHR another communication, reporting on its compliance with the following points of the agreement: the delivery of monthly educational assistance grants to Alejandro Ortiz Ramirez's children, until each of them reaches adult age; the delivery of computer systems as a form of academic support; actions to encourage a favorable result in the extraordinary recognition of innocence remedy filing; and steps taken to help Mr. Ortiz Ramírez obtain a job that will enable him to pursue gainful economic activity for him and his family. With this, the Mexican State asks the Inter-American Commission to rule the friendly settlement agreement complied with and to adopt the corresponding report.

9. In a submission received by the Commission on July 13, 2005, the petitioners acknowledged compliance with the agreement in the public recognition of responsibility; the proceedings whereby Mr. Ortiz Ramirez's definitive release was certified; the offer of the Assistant Attorney for Victim Attention and Community Services, even though the beneficiaries chose to pursue treatment with a psychologist of their own; the inclusion of the case on the human rights curriculum of the Professional Training Institute, although they note their interest in being invited to those courses; and the handing over of educational assistance scholarships to Ortiz Ramirez's three under-age children on March 1, 2005. They also report that on March 10, 2005, the third judicial filing for the recognition of innocence brought by the petitioners was resolved in their favor, nullifying the judgment whereby Alejandro Ortiz Ramírez was convicted.

10. In that communication the petitioners state that no details had been given regarding concrete actions by the competent authorities to locate and arrest the suspected perpetrator of the murders. As for the legislative debate, they maintain this point has been partially implemented in that, as of the submission of the communication, they had no information about the amendment initiative or about its referral to the Legislative Assembly.[FN4] With respect to the house given to them by the State on December 10, 2004, they claim it has deteriorated at an unusual rate and so maintain that this item can be deemed implemented when they are given a "property fit for use as a home." [FN5] As regards the two computer systems, the petitioners state that this point must be deemed partially implemented, in that they have received neither the invoices nor the guarantees. Finally, the petitioners request that six months after the agreement was reached, the necessary steps be taken for due compliance with its points.

[FN4] After the present report was approved by the Commission, the Mexican state submitted a communication in which it informs:

Following up the Friendly Settlement Agreement to petition P388/01, Alejandro Ortiz Ramírez -- specifically the First Point of Agreement, paragraph IV-- on November 15 of this year the Legislative Assembly of the Federal District approved the reform to Articles 614 and 615 of the Code of Criminal Procedure for the Federal District.

In this regard, the Government of Mexico wishes to highlight that, although the commitment had been complied with by virtue of the presentation of the initiative for that legal reform, the result

that was now achieved must be considered as integral compliance on the part of the Mexican authorities.

As an annex to that communication, the State submitted the resolution issued by the Committee on Administration and Justice of the Legislative Assembly of the Federal District, which establishes that the recognition of innocence proceeds --among other cases-- “when the sentence is based fundamentally on a confession obtained under torture” (modification of Article 614 mentioned above); also, it establishes the procedure to appeal to the High Court of Justice (modification of Article 615). Communication of the Mexican State dated December 2, 2005.

[FN5] On September 23, 2005, the State submitted a copy of document DGDH/503/866/09-05 issued by the General Directorate for Human Rights of the Office of the Public Prosecutor of the Federal District, by which it informs about the “granting of a subsidy for the use of construction supplies for finishing details on the home of Mr. Ortiz Ramírez, which shall be applied as soon as it is included in the calendar of activities of the INVI-DF (Federal District Institute for Housing)” and that such resources would be applied during October, 2005.

V. CONCLUSIONS

11. The Inter-American Commission has closely followed developments with the friendly settlement reached in this case. The above information indicates that, in general terms, the agreement has been implemented in accordance with the terms of the American Convention and that there are only some outstanding issues still requiring settlement by the parties.

12. The achievements secured through the actions and good disposition of the two parties in this matter offer a significant example to be followed in other cases – both those that involve Mexico as well as other cases from other regions and countries of the hemisphere. The IACHR applauds the active and direct interest of the Mexican federal government and of the Federal District, in accordance with the terms of Articles 1, 2, and 28 of the American Convention. In a federally structured country such as Mexico, the national and local authorities alike are obligated to uphold in full the rights enshrined in the American Convention. In this case particular note has therefore been taken of the joint, complementary work carried out by the federal and local authorities – each within its sphere of competence – in pursuit of this goal. The IACHR also applauds the efforts made and flexibility shown by Mr. Ortiz Ramírez and his representatives, which made this agreement possible.

13. Based on the foregoing considerations of fact and law,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the friendly settlement agreement signed by the parties on December 7, 2004.
2. To monitor the points of the agreement that have not been met in full.
3. To publish this report and to include it in its Annual Report to the General Assembly of the OAS.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., on the 27th day of October 2005. (Signed): Clare K. Roberts, President; Susana Villarán, First Vice-President; Paulo Sérgio Pinheiro, Second Vice-President; Evelio Fernández Arévalos, José Zalaquett, Freddy Gutiérrez Trejo, and Florentín Meléndez, Commissioners.