

REPORT No. 130/11¹
DECISION TO CLOSE THE FILE
PETITION 436-03
HONORIO GALLEGOS GONZÁLEZ
MEXICO
October 19, 2011

ALLEGED VICTIM: Honorio Gallegos González

PETITIONERS: Centro de Derechos Humanos Tepeyac (Tepeyac Human Rights Center) of the Tehuantepec Isthmus

VIOLATIONS ALLEGED: Articles 5, 7, and 24 of the American Convention on Human Rights.

DATE OF THE START OF THE PROCEEDING: August 12, 2003.

I. POSITION OF THE PETITIONER

1. On June 17, 2003, the Inter-American Commission on Human Rights received a complaint submitted by the Tepeyac Human Rights Center of the Isthmus of Tehuantepec over the alleged violation of Mr. Honorio Gallegos González' right to humane treatment by the State of Mexico.

2. In the complaint, the petitioner held that the alleged victim, a deaf-mute of Mexican nationality, was reported as disappeared by his relatives on February 23, 2001. Preliminary inquiries found that without having been identified, the alleged victim was transferred together with a group of Guatemalan immigrants to the inspection center of the National Immigration Institute in La Ventosa. In that center, he had been erroneously registered under the name Edmundo Pérez for later transfer to Guatemalan territory. The relatives found the alleged victim in a Guatemalan detention center, disoriented and with multiple wounds and bruises. Based on the facts denounced, the petitioner submitted a complaint before the Third General Inspectorate of the National Human Rights Commission on March 3, 2001.

II. POSITION OF THE STATE

3. The State alleges that domestic remedies have not been exhausted because multiple investigations toward determining the identities of the victim's attackers are in their preliminary phase. With regard to this, it indicates that two preliminary inquiries of a criminal nature - one before the Office of the Attorney General of the State of Chiapas and the other before the Office of the Attorney General of the Republic - are open and in process. Likewise, two administrative proceedings started before the Internal Control Body of the federal public sector and the National Human Rights Commission are also in their preliminary phase. Therefore, it asks that this petition be declared inadmissible based on the failure to exhaust domestic remedies.

¹ Commissioner José de Jesús Orozco Henríquez, of Mexican nationality, did not participate in the deliberations nor in the decision in this case, in keeping with the provisions of Article 17(2)(a) of the Rules of Procedure of the Commission.

III. PROCEEDING BEFORE THE IACHR

4. The petition was received by the Commission on June 17, 2003. Through a note dated on August 21, 2003, and pursuant to Article 34 of its Rules of Procedure in force at that time, the Commission began processing the case and asked the State for pertinent information, granting it a time period of two months to provide it.

5. On October 22, 2003, the State requested a deadline extension. With the time periods granted having passed, on March 17, 2004, the Commission reiterated its request for information. On April 7, 2004, the State submitted the information requested. That information was forwarded to the petitioner on April 14 of that year. There was no response from the petitioner.

6. On April 12, 2010, the IACHR repeated its request made on April 14, 2004, to the petitioner and asked for updated information to determine whether the basis for the petition persisted. Likewise, the petitioner was informed that on failing to receive information within the time period of one month, the IACHR could close the file on the petition, pursuant to Article 48(1)(b) of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the IACHR.

IV. BASIS FOR THE DECISION TO CLOSE THE FILE

7. Article 48(1)(b) of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the IACHR establish that, prior to determining admissibility, the Inter-American Commission must verify whether the basis for the protection continues to exist or persists and, in the event that it does not, order the case file closed.

8. In this case, nearly seven years have passed since the request for information was made to the petitioner on April 14, 2004, which was then repeated on April 12, 2010. As of this date, the IACHR has not received the necessary information to update the processing of the petition, as was requested.

9. Consequently, the Commission does not have the necessary information to determine whether the motivation behind the original complaint persists, nor to formulate a final decision on the human rights violation alleged. For this reason, pursuant to Article 48(1)(b) of the Convention and Article 42 of its Rules of Procedure, the Commission decides to close the file on this petition.

Done and signed in the city of Washington, D.C., on the 19th day of the month of October, 2011.
(Signed): Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, and María Silvia Guillén, Commissioners.