

OPINION No. 9/2005 (MEXICO)

Communication addressed to the Government on 17 November 2004.

Concerning Mr. Alfonso Martín del Campo Dodd.

The State is a party to the International Covenant on Civil and Political Rights.

1. (Same text as paragraph 1 of opinion No. 20/2004.)
2. The Working Group conveys its appreciation to the Government for having provided the requested information in good time.
3. (Same text as paragraph 3 of opinion No. 20/2004.)
4. In the light of the complaints made, the Working Group welcomes the cooperation of the Government. The Working Group transmitted the reply provided by the Government to the source and received its comments. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto, as well as the comments by the source.
5. According to the information received:
 - (a) Mr. Alfonso Martín del Campo Dodd, a Mexican citizen, was arrested on 30 May 1992 and was sentenced to 50 years' imprisonment on 28 May 1993 by criminal court

No. 55 for murdering two people. He was convicted on the basis of his confession to murders because, in Mexican case law, the principle of procedural immediacy attaches special importance to a detainee's first statements;

(b) Mr. del Campo indeed confessed to the murders, but did so without even reading the statement which he signed under torture at Bureau of Investigation No. 10 of the Office of the Attorney-General in the Benito Juárez municipality of the Federal District;

(c) The acts of torture consisted of a beating, in which he was kicked and punched for more than five hours, followed by bouts of suffocation, in which a plastic bag was placed over his head;

(d) Mr. del Campo was brought before criminal court No. 55 on 1 June 1992. In his initial statement to the investigating judge, he complained of the acts of torture to which he had been subjected, but the judge took no action. On 12 December 1997, the fourth collegiate criminal court upheld his conviction;

(e) On 14 February 1994, the Internal Control Unit of the Office of the Attorney-General of the Federal District, initiated administrative proceedings against Juan Marcos Badillo Sarabia and Javier Zamora Cortés, officers of the Public Prosecutor's Office in Benito Juárez, and Sotero Galván Gutiérrez, an officer of the judicial police. The latter was found to have incurred administrative responsibility and was barred from public service for three years after it was proved that he had hit Alfonso Martín del Campo Dodd.

6. In its reply, the Government states that:

(a) In 1998, Alfonso Martín del Campo Dodd submitted a complaint to the Inter-American Commission on Human Rights alleging that he had received a final sentence from the high court of justice of the Federal District without benefiting from the minimum guarantees of a fair trial required by the Universal Declaration of Human Rights, despite the fact that Mr. del Campo's appeals for a review of the court's decision and recognition of his innocence had been conducted with full respect for procedural guarantees and human rights;

(b) In January 2003, the Inter-American Commission on Human Rights decided to bring the case before the Inter-American Court of Human Rights and lodged a complaint against the Government of Mexico concerning the alleged violations mentioned above;

(c) The Government of Mexico reacted to the complaint by raising preliminary objections to the competence of the Inter-American Court on the grounds that the events giving rise to the case had taken place in 1992, whereas Mexico had not recognized the adjudicatory jurisdiction of the Inter-American Court of Human Rights until 1998;

(d) On 13 September 2004, the Inter-American Court notified the Government of Mexico that it had rejected the complaint lodged by the Inter-American Commission;

(e) The Government therefore does not consider it appropriate that the Working Group on Arbitrary Detention should consider this complaint, since the Inter-American Court of Human Rights has already rendered a judgement;

(f) Moreover, the Government considers that it has not been proved that the criminal proceedings in any way violated the right to a fair trial. While it does not expressly deny that the torture complained of by Mr. del Campo took place, it contends that this would not have any bearing on the sentence whatsoever since, in the investigation into the murders in question, other evidence that justifies the sentence was produced;

(g) Lastly, the Government emphasizes that various inquiries were conducted into the complaint of torture and that Mr. del Campo could have availed himself of other procedural remedies, which he failed to do.

7. Although the Government considers that this Working Group is not competent to consider the complaint made by Alfonso Martín del Campo Dodd, the complaint is related to the specific tasks set forth in resolution 1991/42 of the Commission on Human Rights. The Working Group has in the past declared itself competent to deal with other cases which had also been considered by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights (in the cases of José Francisco Gallardo Rodríguez, opinion No. 28/1998 (Mexico) and Lori Berenson, opinion No. 26/1998 (Peru)).

8. Furthermore, perusal of the supporting documentation provided by the source and the Government indicates that the Inter-American Court of Human Rights rejected Mr. del Campo's claim on the grounds that, at the time when the facts took place, the Mexican Government was not bound by the adjudicatory jurisdiction of the Inter-American Court, which it did not recognize until 1998.

9. The accounts of the source and the Government reveal that Alfonso Martín del Campo Dodd was tortured on 30 May 1992 while he was in Bureau of Investigation No. 10 of the Office of the Attorney-General of the Federal District in Benito Juárez and that he confessed under torture to the murders of which he was convicted.

10. No kind of proceedings based on torture can be fair. All evidence for the prosecution in a criminal trial must be obtained in a manner in keeping with the guarantees established in article 10 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights.

11. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Mr. Alfonso Martín del Campo Dodd is arbitrary, being in contravention of articles 5, 9 and 10 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights, and falls within category III of the categories applicable to the consideration of the cases submitted to the Working Group.

12. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation and bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 25 May 2005