

INTER-AMERICAN COURT OF HUMAN RIGHTS

CASE OF DÍAZ PEÑA V. VENEZUELA

OFFICIAL SUMMARY ISSUED BY THE INTER-AMERICAN COURT

JUDGMENT OF JUNE 26, 2012

(Preliminary Objection, Merits, Reparations and Costs)

On June 26, 2012 the Inter-American Court of Human Rights issued the judgment on the Case Díaz-Peña V. Venezuela. The Court accepted the preliminary objection of non-exhaustion of domestic remedies regarding preventive detention and the duration of the proceedings. It also assessed the merits of the matter in relation to the detention conditions, and it declared that the State of Venezuela is internationally responsible for the violation of the right to humane treatment due to the inhumane and degrading treatment of Mr. Raúl José Díaz Peña.

On November 12, 2010 the Inter-American Commission on Human Rights submitted to the jurisdiction of the Inter-American Court the case of Díaz Peña v. Venezuela. The facts presented by the Inter-American Commission occurred within the framework of the protests that took place in Venezuela, particularly in the Plaza Francia de Altamira in Caracas, which began in October 2002 and extended through part of 2003. It is related to the facts occurred on February 25, 2003 when two bombs exploded at the Consulado General de la República de Colombia (General Consulate of the Republic of Colombia) and at the Oficina de Comercio Internacional del Reino de España (Spanish Office for International Commerce), located in Caracas, and specifically with the arrest of Mr. Raúl José Díaz Peña by his alleged role in these events. The Commission claimed his arrest was illegal and arbitrary, and that he was subject to a preventive detention regime that exceeded the limits established by criminal law, invoking a presumption of the risk that he would flee. During the time that he remained in custody at the headquarters of the then Dirección General de los Servicios de Inteligencia y Prevención, hereinafter "DISIP", (General Department of Intelligence and Prevention Services), there was no effective judicial review of Mr. Díaz Peña's situation. While he remained in custody of the State he was subjected to detention conditions that had serious effects on his health, and he did not receive prompt or appropriate medical attention.

In the proceedings before the Inter-American Court, the State filed a preliminary objection of non-exhaustion of domestic remedies. The Court admitted this exception in relation to the events surrounding the preventive detention of Mr. Díaz Peña and the duration of the proceedings, considering that the requirement of prior exhaustion of domestic remedies established in Article 46(1)(a) of the American Convention had not been met. The Court indicated that when the initial petition was forwarded by the Commission to the State on February 23, 2007 the decision of May 11, 2007 that had allegedly exhausted the domestic remedies had not been issued yet. The Court also found that it was not possible to consider that the exhaustion of domestic remedies was fulfilled through the requests filed by the defense counsel of Mr. Díaz Peña in criminal proceedings underway at that time. The appropriate remedy was to appeal the judgment that would be issued at the end of the proceedings; however, Mr. Díaz Peña expressly waived the filing of that remedy.

On the other hand, the Court rejected the preliminary objection filed by the State regarding the conditions of imprisonment and deterioration of the health of Mr. Díaz Peña, and considered the merits on this aspect. Consequently, the Court did review the alleged violation of the right to humane treatment in relation to the obligations to respect and ensure the rights. The Court verified that Mr. Raúl José Díaz Peña was held from February 25, 2004 until May 13, 2010 at the

Control de Aprehendidos (Detained Persons Control), located in El Helicoide, Caracas, DISIP headquarters at the time. In this regard, it deemed proven that the detention conditions were extremely poor, specifically due to the lack of access to natural light and ventilation, and the restricted time outdoors, for over six years, as well as the confinement at night and thus the restriction to access the only bathroom available for ten individual cells, for more than three years. Similarly, it considered proven that Mr. Díaz Peña suffered a serious progressive deterioration of his health, and that health care services were not provided promptly, or in an adequate and complete manner regarding issues that Mr. Díaz Peña had with his left ear, specifically, for which an ENT specialist indicated that he required a test and examination at an external center specialized in this type of ear problems, that had the adequate equipment to treat it, and to the delay of several months to perform CT scans of the middle ear and mastoids, as well as an audiometry.

In view of the aforementioned facts, the Court concluded that the detention conditions of Mr. Díaz Peña did not meet the minimum physical requirements of humane treatment and, consequently, constituted inhumane and degrading treatment in violation of that established in Articles 5(1) and 5(2) of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of Mr. Díaz Peña.

The Inter-American Court of Human Rights decided that its Judgment constitutes a form of reparation, and it also ordered as further remedies for the State to: a) publish the official summary of the Judgment, once, in the Official Gazette and in a newspaper of wide national circulation, as well as the Judgment in its entirety available for a period of one year on an official website; b) adopt the necessary measures to ensure that detention conditions at Control de Aprehendidos of the former Dirección General de los Servicios de Inteligencia y Prevención (DISIP), now called Servicio Bolivariano de Inteligencia (SEBIN), located at El Helicoide in the city of Caracas, Venezuela, comply with international standards on this matter, *inter alia*: i) ventilated cells and with access to natural light; ii) access to clean toilets and showers with sufficient privacy; iii) good quality food, with adequate nutritional value for the health and strength of the detainee; and iv) necessary, appropriate, decent and timely health care; and c) to pay certain sums as compensation for pecuniary and non-pecuniary damages and reimbursement of costs and expenses.

The Court will monitor full compliance with this Judgment, in exercise of its powers and in accordance with its obligations under the American Convention on Human Rights, and will conclude this case when the State has complied fully with its provisions.

The full text of the Judgment can be accessed through the following link:
http://corteidh.or.cr/docs/casos/articulos/seriec_244_ing.pdf