

May 22, 2012

Commission for the Control of Interpol's Files
200 quai Charles de Gaulle
69006 Lyon
France

Dear Sir or Madam:

RE: Application to the Commission on Behalf of Napoleon Gomez Urrutia

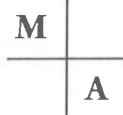
A. Overview

I write on behalf of Napoleon Gomez Urrutia who presently is the subject of a "Red Notice" published at the request of the Government of Mexico. I accept that the Commission does not have the power to order deletion of the notice, but I ask that the Commission issue a recommendation to the General Secretariat that that be done. I also ask, for the reasons articulated herein, that the Committee suspend the Red Notice as soon as possible pending a full decision on the merits of this application and the ratification of that recommendation by the General Secretariat.

There is great urgency to my request that this Red Notice be suspended forthwith given recent rulings of the Mexican Courts in Mr. Gomez's Urrutia's favor and the fact that he is required to attend an assembly of the international labor movement in Copenhagen, Denmark, commencing on June 19, 2012. At that time he will be elected to the Executive Committee of a new international entity to be formed following a merger of almost all of the international industrial labor unions as described in more detail in paras 14 and 15 of the Affidavit of Benjamin Davis, the International Director of the United Steelworkers, attached hereto. The Red Notice, which is based on a Mexican warrant that has now been quashed, prevents Mr. Gomez Urrutia from participating in this critically important event and violates his right to international mobility in accordance with the rule of law.

As detailed in my submission *infra*, it is clear that the Red Notice outstanding against Mr. Napoleon Gomez is unlawful for the following reasons:

- (1) It is *ultra vires* as it can no longer be seen to be directed "with a view to extradition" given that all of the spurious charges laid against Mr. Gomez Urrutia have repeatedly been deemed by Mexican courts to be without



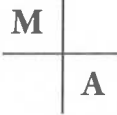
foundation, the outstanding warrant which underpins the Red Notice has been dismissed, and as such, extradition is not a real possibility;

- (2) It infringes Article 3 of the Organization's Constitution as it is based on charges that are politically motivated, and has been requested by Mexico as a political device for the purpose of compromising Mr. Gomez Urrutia's ability to fulfill his duties as the lawfully elected leader of the Mexican Miners Union;
- (3) It is contrary to the Universal Declaration of Human Rights enshrined in Article 2 of the Constitution as it restricts Mr. Gomez Urrutia's freedom of expression without justification;
- (4) It violates Condition 4 of Article 10.1 of the Rules on the Processing of Information, as it is issued on the basis of charges that have been determined to be without merit and charges that are clearly politically motivated, and as such, it prejudices the Organization's aims, image or interests.

I respectfully request that your office act with dispatch to rectify this situation, both to prevent further violations of Mr. Gomez's civil rights and to ensure the integrity of Interpol. Specifically, we request that the Commission:

- (1) Pursuant to Article 10(a) of the Rules on the Control of Information and Access to Interpol's Files, review compliance of the Gomez Urrutia Red Notice with Interpol's processing conditions (*viz* the Constitution, the Rules on the Processing of Information and the Implementing Rules for the Rules on the Processing of Information), and
- (2) Pursuant to Articles 6 and 10(b) of the Rules on the Control of Information and Access to Interpol's Files, issue a recommendation to the General Secretariat for the cancellation of the Gomez Urrutia Red Notice and the deletion of personal information relating to Mr. Gomez Urrutia, and
- (3) Suspend the Gomez Urrutia Red Notice forthwith, pending your own decision of the merits of the full application and pending the decision of the General Secretariat.

Without prejudice to the above, it is further requested that the Commission immediately disclose all personal information concerning Mr. Gomez Urrutia which the Organization has processed. I am attaching copies of the requisite written authority signed by Mr.



Gomez Urrutia, a copy of his identity documents, and an endorsed Request for Access to Interpol's Databases.

B. Background

1. Biography

Napoleon Gomez Urrutia is a Mexican citizen and a permanent resident of Canada. He is 67 years old. He has been married for 40 years and has three adult children. He graduated with Honors as an Economist from the National University of Mexico. He holds a Master's Degree in Economics from Oxford University, and was a Professor of Economics at UNAM in Mexico City from 1970-1972, and again from 1974-1984. From 1979 to 1992, he was the General Director of the Mexican Mint, and from 1986 to 1988 he was the elected President of the World Mints Organization. In May 2002, he was elected the General Secretary of the National Union of Mine and Metallurgical Workers of the Mexican Republic ("the Miner's Union"), a national industrial union representing workers in the mining, metal, steel and related industries.

2. The Miner's Union

As detailed in the Affidavits attached to this application, after assuming leadership of the Miner's Union in 2002, Mr. Gomez Urrutia had a significant impact on domestic policies in Mexico, playing a critical role in the union bloc that opposed the Fox administration's labour law "reform" package. In September 2005, the Miner's Union won a 46-day strike against two steel companies in Lazaro Cardenas, Michoacan, in one of the most important strikes in Mexico in a decade. The Union essentially broke the government-employer imposed wage ceiling. The Miner's Union also helped defeat President Fox's proposal to tax workers' benefits.

3. "Industrial Homicide" and the Laying of Corruption Charges

In January 2006, Mr. Gomez Urrutia announced his intention to run for the leadership of the Congress of Labor, raising the prospect that he would lead labor struggles at a national level. This declaration is described as having been the impetus for the Mexican government to begin taking steps to remove Mr. Gomez Urrutia from his position as the leader of the Miner's Union. On February 16, 2006, without notice, the Mexican government froze his personal bank accounts and those of the Miner's Union. Then, on February 19, 2006, 65 miners died in a huge explosion in the Pasta de Conchos coal mine in the northern state of Coahuila. Two days after the explosion, after rushing to the scene of this tragedy to inspect the mine, Mr. Gomez Urrutia accused the mine's operator

Grupo Mexico and the Mexican Secretary of Labor of “industrial homicide” in light of the government’s tacit acceptance of the unsafe working conditions at the Pasta de Conchos mine and abject failure to impose minimal mining safety standards on mining operators. On February 28, 2006, the Mexican Secretary of Labor, with the support of the mining companies, announced that they would withdraw legal recognition of Gomez Urrutia as the head of the Miner’s Union and the government then anointed as leader an individual who had been expelled from the Miner’s Union six years earlier on substantiated charges of treason and bank fraud. . In June 2006, the Government of Mexico formally charged Mr. Gomez Urrutia and others with money laundering relating to the disposition of a Union trust.

As Mr. Gomez Urrutia and his family had received death threats after his public condemnation of Grupo Mexico and the Mexican Government following the Pasta de Concho tragedy, they left Mexico and went to the United States until their safety in Mexico could be guaranteed. The Governor of Coahuila then made a public statement to the effect that President Fox was pressuring him to charge Mr. Gomez Urrutia despite the fact that the Governor was of the opinion that he had committed no crime. Then, shortly after his arrival in the U.S., corruption charges were laid against Gomez Urrutia and two other leaders of the Miner’s Union. Given that it was at that time becoming clear that the Mexican government was prepared to engage in a politically-motivated persecution of the leaders of the Miner’s Union and that he would not be legally entitled to bail pending trial in Mexico because of the nature of the charges Mr. Gomez Urrutia did not return to the Mexico and instead moved to Vancouver, Canada, in March 2006.

4. International Support and a Refusal to Extradite

The Canadian government has steadfastly refused to extradite Mr. Gomez Urrutia to Mexico to face these spurious charges despite inordinate public political pressure from the Mexican government.¹ To the contrary, in 2010, the Canadian government granted him permanent resident status in Canada notwithstanding the outstanding criminal accusations in Mexico. Specifically, after reviewing the matter thoroughly, Citizenship and Immigration found that there were not reasonable grounds to believe that he had

¹ In October 2009, Juan Miguel Alcantara, Mexico’s Vice Attorney General for International Affairs, suggested that the Canadian government’s refusal to extradite Mr. Gomez Urrutia was the result of improper political persuasion in Canada. In November 2011, Alejandro Ramos Flores, the Director of Legal and International Affairs for the Mexican Attorney General’s Office, and Francisco Barrio Terrazas, Mexico’s Ambassador to Canada, made similar accusations and called on the Canadian Department of Justice to approve Mexico’s request for the extradition of Mr. Gomez Urrutia.

committed an act in Mexico that constitutes an offence under the laws of Canada.² From his home in Vancouver, Mr. Gomez Urrutia continues to lead the Miner's Union, whose members have repeatedly reaffirmed his leadership through their National Convention process despite the fact that Mexican government has refused to recognize his leadership. At the union's convention in 2008, Mr. Gomez Urrutia was unanimously elected for a six-year term. The Labor Secretary again refused to recognize this election. The case was appealed to the Mexican Supreme Court, which conclusively ruled in Mr. Gomez Urrutia's favor on May 2, 2012, ordering the Labor Secretary to recognize his election. He enjoys the support of international labor unions, and at an assembly of the international labor movement in Copenhagen, Denmark commencing on June 19, 2012, he will be elected to the Executive Committee of a new international entity to be formed following a merger of almost all of the international industrial unions. As evidenced by the enclosed materials, the Mexican government's persecution of Mr. Gomez Urrutia has also been thoroughly condemned by numerous high-ranking democratically elected officials around the globe.³

5. Prosecutorial "Snakes and Ladders" and Judicial Declarations of Innocence

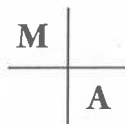
The essence of the criminal allegations against Mr. Gomez Urrutia and other union officials was that when they terminated a Trust on February 22, 2005 and transferred its assets to the Union they committed bank fraud because the monies should instead have been distributed directly to the miners. The initial investigation was carried out by the Federal Attorney General under a federal statute that required a technical opinion from the National Banking and Securities Commission ("the CNBV") confirming that a crime has occurred as a pre-condition to the commencement of a prosecution. In Mr. Gomez Urrutia's case, the Technical Opinion rendered by the NBSC on March 10, 2006, specifically stated that the termination of the trust agreement did NOT violate the Federal Law. The Government nonetheless chose to continue this prosecution.⁴

For the past six years the Government of Mexico has engaged in what can only be described as a shameful, politically-motivated, campaign aimed at silencing Mr. Gomez Urrutia. As detailed further *infra*, and in great detail in the attached affidavit of Mr. Gomez Urrutia's Mexican counsel, Marco del Toro, after the initial criminal charges that

² The history of Mr. Gomez Urrutia's interaction with the Canadian legal system, both for immigration purposes and with respect to his resistance of Mexico's attempt to extradite him, is detailed in the affidavit of Tamara Duncan which is attached for the Commission's consideration.

³ The affidavit of Benjamin Davis, attached for the Commission's consideration, details the support that Mr. Gomez Urrutia's receives from international labor organizations.

⁴ The affidavit of Marco del Toro, attached for the Commission's consideration, details the procedural history of the prosecution of Mr. Gomez Urrutia in Mexico.



were laid in 2006 alleging that Gomez Urrutia had misappropriated union monies completely failed to meet the requirements for a federal prosecution, Mexican prosecutors simply brought a myriad of new state charges in different jurisdictions based on exactly the same allegations. These state charges have now all been dismissed as the Mexican Courts, to their credit, have consistently held that no crime had ever been committed. The Government then attempted to bring yet another federal prosecution despite the fact that the CNBV was of the opinion that there had been no violation of the statute. The Federal Courts held that the Trust had operated in a completely legal manner and that all of Gomez Urrutia's actions were legal. As of the date of this letter, every single state and federal charge filed has been found to be groundless by the Mexican Courts. Nonetheless, in defiance of the Mexican judiciary, which has consistently held that neither Mr. Gomez Urrutia, nor any of his co-accused, did anything improper with respect to union funds, and that there was in fact no crime committed, the Government of Mexico has continued to make public accusations against Gomez Urrutia.

There have been two important developments in the Mexican courts in the past month germane to Mr. Gomez Urrutia's case. First, on April 20, 2012, the last of the outstanding warrants against him was found to be without merit by a Mexican Court and accordingly dismissed. By virtue of yet another baseless appeal by the Mexican government, and some peculiarities unique to Mexican law, the dismissal of this warrant has been suspended pending this appeal. So long as any one warrant remains outstanding, Mexico can effectively continue their campaign to attempt to silence Mr. Gomez Urrutia and consequently the voice, and health and safety of the members of the Miner's Union. Further, on May 2, 2012, the Supreme Court of Mexico, ruled that the Mexican government's refusal to recognize Mr. Gomez Urrutia's legal authority as the elected leader of the Miner's Union was unlawful with the result that the Court ordered that the Secretary of Labor issue a *toma de nota* formally recognizing his leadership for the 2008-2014 term.

As such, as matters stand today, it is respectfully submitted that there can be no doubt that there was never any basis for the Mexican government's prosecution of Mr. Gomez Urrutia and that its attempts to silence him as the voice of the Miner's Union have been, and continue to be, unlawful. It is only by virtue of yet another delay tactic by the Mexican government that there "technically" remains any action against Mr. Gomez Urrutia, and this warrant is virtually "hanging by a thread" based on an automatic stay of the lower Court's dismissal, apparently authorized by Mexican law, pending the Government's appeal. In any event, from the information in the possession of Mr. Gomez Urrutia's counsel, which we describe in more detail *infra*, it is our understanding that this last remaining warrant is not the warrant relied on in support of the Red Notice held by Interpol. That particular warrant has been quashed, and the Mexican government has exhausted their appellate rights in that case.

6. Additional Evidence of Mexico's Improper Purpose

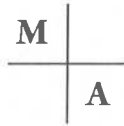
Further evidence that the prosecution of Mr. Gomez Urrutia and other Miner's Union officials is politically-motivated, came to light on May 31, 2010 at a meeting attended by Mr. Alvaro Castro, a representative of the Mexican Secretary of Labor, Mr. Marco del Toro, Gomez Urrutia's counsel, and Mr. Benjamin Davis, the Director of International Affairs for the United Steelworkers. At that meeting, as recounted in the affidavit of Benjamin Davis, Mr. Castro suggested that if the Miner's Union would resolve a long standing labor dispute at Mexico's largest copper mine that Juan Linares, one of the union officials who was being held in custody in relation to the corruption charges, might be released from jail.⁵ Needless to say, by any democratic or ethical standard, it is highly improper for a very senior representative of the Government of Mexico to link the outcome of a criminal proceeding against a union leader to a request for labor concessions.

7. Abuse of the Interpol Process

Finally, it is also important that the Commission be aware of the case of one of Mr. Gomez Urrutia's co-accused, in so far as it demonstrates that the Mexican government is using Interpol as a political tool to suppress the leaders of the Miner's Union. Mr. Juan Linares Montufar was also charged with offences relating to the alleged misappropriation of monies from the Miner's Union. He was imprisoned for more than two years pending trial. All of the charges against him were ultimately dismissed in February 2011, but Mexico did not inform Interpol of these developments and the Red Notice remained in effect. In May 2011, while traveling internationally on union business, he was temporarily detained subject to the Red Notice. As a result of this additional detention Mr. Linares brought an application in the Mexican Courts seeking an order that the Attorney General notify Interpol that there were in fact no charges pending against Linares. On August 31, 2011, the Court issued this Order. Incredibly, the Attorney General is appealing this order despite the fact that they acknowledge that there are no charges pending against Mr. Linares. In November 2011, Mr. Linares was again briefly detained by immigration authorities in Argentina while attending a union congress, based on the defunct Red Notice.

Mr. Gomez Urrutia is the democratically elected leader of one of the world's largest unions. He is regularly invited to participate in international labor conferences. His ability to carry out his responsibilities in this capacity has been severely curtailed by his inability to travel for fear of being arrested on the Interpol Red Notice. Similarly, on a

⁵ The affidavit of Benjamin Davis dated July 9, 2010, attached as an exhibit to the affidavit of Tamara Duncan



personal level, as a man who was educated in Europe and who has traveled extensively throughout his life, he has many friends and family members who reside outside of Canada and he is currently unable to travel to visit them as he cannot predict whether he will be arrested or detained at international borders.

C. Grounds

Article 10.1(a) of the Rules on the Processing of Information states that information can only be processed through the Organization's channels if all of the five conditions of that provision are met. It is our respectful position that the Gomez Urrutia Red Notice does not comply with most of these conditions.

1. The Red Notice is *Ultra Vires*

The second condition precedent to the issuance of a Red Notice is that the processing of information must be in accordance with one of the purposes referred to in Article 3 of the Rules on the Processing of Information for the Purposes of International Police Cooperation. It is respectfully submitted that the Gomez Urrutia Red Notice is not in accordance with the proper purpose of a Red Notice, or any other legitimate purpose.

Article 3.1 of the Rules on the Processing of Information provides that information may be processed by the Organization for seven enumerated reasons. These reasons correspond to the purpose of each type of notice as defined under Article 37 of the Implementing Rules for the Rules on the Processing of Information. Article 37 makes it clear that the purpose of a Red Notice is "the location and arrest of a person with a view to his/her extradition." As such, it is clear that information may be processed for a Red Notice only for locating or searching for a fugitive with a view to extradition.

This condition cannot be met in the case of Mr. Gomez Urrutia. His location is known as he has been living openly in Canada for the past six years while managing the Miner's Union from his home and the offices of the United Steelworkers, located in Vancouver. He has openly and regularly made public appearances at union affairs, Canadian political assemblies, and important Canadian civil society events. As Mr. Gomez Urrutia's counsel, I have made numerous submissions on his behalf to the Canadian Department of Justice, Office of International Assistance, updating it on the true state of legal affairs in Mexico in the face of relentless but unsuccessful political pressure from Mexico demanding that Canada accept and act upon Mexico's extradition request. In consequence, it cannot realistically be said at this point that extradition remains a real

possibility with respect to my client. Accordingly, the Red Notice should be preemptively suspended and then set aside for two independent reasons.

First, because we believe the Red Notice is likely based upon a warrant that has been conclusively dismissed, namely a warrant issued by the First Federal Court of Criminal Procedure (Case No140/2008) in September 2008. This warrant was ordered cancelled on May 21, 2011 after the 12th District Judge for Federal Criminal Procedures in Mexico City held that the disputed Trust had operated in a completely legal manner, the accusers failed to demonstrate that they were injured, and that all of Gomez Urrutia's actions were legal⁶. If the Red Notice is based on these charges and this warrant, then the Red Notice can be dispatched promptly. All that would be involved would be for Interpol to confirm with the Mexican National Central Bureau that the September 2008 warrant was set aside on May 21, 2011.

Secondly, even if the Mexican government has amended the information grounding the Red Notice and limited it to the one warrant that is technically still outstanding by virtue of the fact that the Government has filed an appeal from the April 20, 2012 final dismissal order, the Red Notice should still be set aside in light of the repeated and unanimous judicial pronouncements in Mexico that Mr. Gomez Urrutia is innocent of any wrongdoing. These judicial pronouncements have been made by higher level Courts than the Courts that issued the warrants. Consequently, it is also clear that Mexico is violating the international legal principles of *res judicata/ne bis in idem* and is engaging in an abuse of process of the lower Mexican Courts by continuing to bring further criminal proceedings on the basis of the same allegations. There is simply no real possibility that any country governed by the rule of law would proceed with extradition proceedings on the basis of this warrant. While there can be no doubt that different countries will apply different standards in determining when to give effect to an extradition request, the rule of law and international convention would surely prohibit extradition in situations where the Courts in the requesting state have consistently held that the charges said to support extradition are without merit. The fact that even before the most recent judicial rulings in Mr. Gomez Urrutia's favor quashing the outstanding warrant and confirming his legal position as the leader of the Miner's Union, the Government of Canada has steadfastly refused to extradite him and instead granted him permanent residency at a time when there were numerous warrants still outstanding, illustrates this principle. The reality is that the Mexican government's attempts to persecute Mr. Gomez Urrutia have been thoroughly rebuffed by the Mexican courts, and it can no longer realistically be said that extradition is a possibility in light of this record. As such, the Gomez Urrutia Red Notice is not in accordance with any of the purposes referred to in Article 3 of the Rules and is *ultra vires*.

⁶ A copy of the Notification of this Order canceling the arrest warrant is attached as an exhibit to the Affidavit of Marco del Toro

2. The Red Notice Infringes Article 3 of the Constitution

The first condition that must be satisfied before information can be processed is that personal information should be processed in compliance with the Constitution. Article 3 of the Constitution provides that “it is strictly prohibited for the Organization to undertake any intervention or activities of a political, military, religious or racial character.” In the case of Gomez Urrutia, it is clear that the Red Notice is based on charges that are politically motivated. Further, the Red Notice is itself being used as a political device designed to limit Mr. Gomez Urrutia’s peaceful political activities.

(a) *The Notice is based on Politically-Motivated Charges*

As per Article 40 (a) of the Implementing Rules for the Rules on the Processing of Information for the Purposes of International Police Co-operation, to determine whether a specific intervention or activity is of a political, military, religious or racial character, all relevant information shall be examined, including the following:

- (i) The nature of the offence, namely the charges and underlying facts;
- (ii) The status of the persons concerned;
- (iii) The identity of the source of the information;
- (iv) The position expressed by a Member or international authorized entities other than the source of the information;
- (v) The obligations under international law;
- (vi) The implications on the neutrality of the Organization;
- (vii) The general context of the case.

Applying these considerations to the Gomez Urrutia Red Notice, I respectfully submit that it should be clear from the summary of the history of these proceedings as detailed *infra*, and as supported by the attached materials, that it is based upon charges that are politically-motivated.

There was never any merit to the allegation that Mr. Gomez Urrutia misappropriated union money. The National Banking and Securities Commission of Mexico made that determination in 2006, and their opinion is one that the Courts have consistently shared. The prosecution of Mr. Gomez Urrutia has thus been completely without merit. The only reasonable conclusion one can draw from the Government’s concerted attempts to prolong the prosecution of meritless charges, by relaying charges in different jurisdictions and appealing every ruling despite the fact that there is clearly no prospect of success, is that there are ulterior and improper purposes underpinning these prosecutions. Consider too, the timing of the laying of the initial charges: just a week after Mr. Gomez Urrutia

publically condemned the Mexican Government after the tragedy at Pasta de Conchos. This cannot be coincidental. Mr. Gomez Urrutia had a position of considerable influence in Mexico in 2006 and he was likely to become even more powerful by virtue of his involvement with the Congress of Labor. He was publically condemning the Government of Mexico for gross human rights violations. It was in the Government's interest to silence him.

Respectfully, for these reasons alone, it must be clear to any objective party that these charges were politically motivated. They clearly appear to have been laid, not because there had been any criminal wrongdoing by Mr. Gomez Urrutia, but rather, in an attempt to undermine the labor movement in Mexico. Further evidence of this abuse of the judicial process is the attempts by high ranking officials in the office of the Secretary of Labor to "trade" the freedom of a union official for labor concessions in a long standing dispute at a copper mine as detailed *supra*. It is an affront to the democratic process and the integrity of the judicial system when the threat of criminal prosecution is used for improper purposes. Accordingly we respectfully ask that you cancel the Gomez Urrutia Red Notice as it is clearly based on charges that were politically motivated.

(b) The Notice is being used as a political device

Not only is the Gomez Urrutia Red Notice based on politically-motivated charges, but the Notice itself is obviously being used as a political tool by the Mexican Government as it significantly affects Mr. Gomez Urrutia's ability to perform his duties as the democratically elected leader of the Miner's Union. As detailed *infra*, Gomez Urrutia has completely refrained from international travel since March 2006 as he is unable to ensure that he will not be arrested or detained at international ports of entry. As such, he has been unable to attend important meetings and conferences with his colleagues in the labor movement, to discharge his responsibilities as an elected Executive Board member of the International Metalworkers' Federation, and to receive awards and honors that have been bestowed upon him. He is forced to operate from his home in Vancouver via video conferencing and other forms of telecommunications. This is not an effective substitute for the ability to travel and conduct Miners Union business in person.

The Government of Mexico knows where Mr. Gomez and his family reside, and they have made a formal Request for extradition to the Canadian government. The Canadian government has heard this Request and it is reasonable for the Commission to infer that it has refused to extradite Mr. Gomez Urrutia because the charges leveled against him are completely without merit. The fact that Canada granted permanent residence to Mr. Gomez while the extradition procedure was pending creates a presumption that it perceived little merit in the extradition request. Canada is an advanced democracy. It has an extradition treaty with Mexico. As such, Mexico has recourse to extradite persons



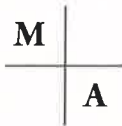
from Canada to face trial when there is a *prima facie* case that they have committed criminal offences in Mexico. That is simply not the case here as the Mexican courts have unanimously held that no crime was committed. Given that Mexico knows where Mr. Gomez Urrutia lives and has in fact made a formal Request of Canada for extradition, the continued publication of the Red Notice serves no valid purpose. As long as it exists however, it has the effect of significantly limiting Mr. Gomez Urrutia's ability to act on behalf of the Miner's Union.

It is important in this respect that the Commission be mindful of the fact that the Mexican Government has to date failed to notify Interpol that all charges against another Miner's Union official, Mr. Juan Linares, have been dismissed for more than a year now, and that the Linares Red Notice is no longer appropriate. As detailed *infra*, the Mexican Government has inexplicably left the Linares Red Notice outstanding despite an order from a Mexican Court directing that the Government ask Interpol to delete the Notice, and despite their obligations to this Organization to update information. The only conclusion that can reasonably be drawn from this course of conduct is that the Mexican government is more interested in silencing Mr. Linares and other representatives of the Miner's Union than it is in respecting the rule of law and its' international obligations. Accordingly, it is respectfully submitted that the Commission is fully entitled to infer and find that like the Linares Red Notice, the Gomez Urrutia Red Notice is being used as a political device by the Government of Mexico to attempt to silence Mr. Gomez Urrutia and to impede his work on behalf of the miners and steelworkers of Mexico.

3. The Red Notice Infringes Article 2 of the Constitution

The Gomez Urrutia Red Notice also infringes Article 2 of the Constitution, which provides that the organization's aim is "to ensure and promote the widest possible mutual assistance between all criminal police authorities...in the spirit of the Universal Declaration of Human Rights ("the UDHR"). Article 12 of the UDHR guarantees freedom from arbitrary interference with privacy, family and attacks on honour and reputation. Article 19 of the UDHR guarantees freedom of expression. The UDHR also guarantees trade union freedom of association which will be fundamentally compromised if Interpol does not amend it's records promptly. Mexico has failed in it's duty to Interpol. We simply request that the Commission embrace the rule of law standards that are at the foundation of it's authority and amend it's records to accord with the judicial rulings of the duly constituted independent Courts of Mexico.

There can be no question that Mr. Gomez Urrutia's family, honour, and reputation are compromised by virtue of the Red Notice. So long as the Notice is in effect, he is effectively deemed to be an international criminal, and he cannot travel to interact with family and friends, nor to carry out the important work that he is obligated to do by virtue



of his elected position as the leader of the Mexican Miner's Union (a position that the Supreme Court of Mexico has now held that he is legally and constitutionally empowered to perform).

While I accept that interference with these rights may on occasion be necessary in order for the operation of the Organization to carry out its laudable mandate, these interferences cannot be arbitrary. In Mr. Gomez Urrutia's case, in light of the overwhelming evidence that the allegations resulting in the issuance of the Red Notice are baseless and politically-motivated, the continued violation of his human rights as guaranteed by the UDHR cannot be justified.

4. The Red Notice Violates Condition 4 of Article 10.1 of the Rules as it Prejudices the Organization's Aims, Image and Interests

Condition 4 of Article 10.1 of the Rules on the Processing of Information for the Purposes of International Police Co-operation states that information may only be processed through the Organization where "it is not such that it might prejudice the Organization's aims, images, or interests..." We respectfully submit that now that the Commission understands the true state of affairs underlying the Gomez Urrutia Red Notice, that it is clear that the continued publication of this warrant would prejudice the Organization's laudable aims, image and interests. The existence of this Red Notice is one that has been highly publicized, and its cancellation is a cause that the international labor movement strongly endorses. In light of the overwhelming evidence that the prosecution of Mr. Gomez Urrutia is meritless and politically motivated the continued publication of this Red Notice would bring Interpol into disrepute. We ask that the Commission not be a party to Mexico's abuse of the democratic process and of the robust independence of the Mexican senior judiciary. We thus very strongly but respectfully urge you not to allow your Organization to be used by Mexico for improper purposes. Accordingly, we respectfully request that you recommend to the General Secretary that this Red Notice be cancelled forthwith.

If you require any further information, or if you have any questions with respect to this request, please do not hesitate to contact me at your convenience.

Yours truly,

David Martin

M A R T I N
|
A S S O C I A T E S
| Barristers

March 26, 2013

Commission for the Control of Interpol's Files
200 quai Charles de Gaulle
69006 Lyon
France

via email: ccf@interpol.int

Dear Sir or Madam:

RE: Application to the Commission on Behalf of Napoleon Gomez Urrutia

On March 4, 2013 I made further detailed submissions to you requesting that the Napoleon Gomez Urrutia Red Notice be immediately deleted from Interpol's database.

In support of these submissions I filed with you the Affidavit of Mr. Gomez Urrutia's Mexican counsel, Mr. Marco Del Toro, sworn February 26, 2013, which confirmed, at para. 18 thereof, that on February 14, 2013 the First Federal Collegiate Tribunal in Criminal Matters in Mexico City had issued a Judgment, with detailed Reasons to follow, ordering Mexico NCB to advise Interpol International to cancel the subject Red Notice.

The Reasons for Judgment of the First Federal Collegiate Tribunal have now been issued and are available at:

<http://sise.cjf.gob.mx/SiseInternet/Reportes/VerCaptura.aspx?TipoAsunto=11&Expediente=224%2F2012&Buscar=Buscar&Circuito=1&CircuitoName=Primer+Circuito&Organismo=7&OrgName=Primer+Tribunal+Colegiado+en+Materia+Penal+del+Primer+Circuito&TipoOrganismo=4&Accion=1>.

A paper copy of the "public version" of this Judgment is also attached hereto as Exhibit "A". The "formal version" of the Judgment containing the signatures of the Judges will be issued on Monday.

As you will immediately see from this Judgment the First Federal Collegiate Tribunal has not only made the Orders described by Mr. Del Toro, including requiring Mexico NCB to request that Interpol International cancel the Gomez Urrutia Red Notice, but it has also found that the Mexico NCB's continued support for the Red Notice over the last three years has violated Mr. Gomez Urrutia's constitutional rights.

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Accordingly, in light of this Order by Mexico's highest Court, please now confirm by return that the Napoleon Gomez Urrutia Red Notice will be set aside forthwith.

Yours truly,


David Martin

Commission de Contrôle des Fichiers de l'O.I.P.C. - INTERPOL
Commission for the Control of INTERPOL's Files
Comisión de Control de los Ficheros de la OIPC-INTERPOL
لجنة الرقابة على محفوظات الم د ش ج - إنتربول



29 March 2013

Our ref: CCF/86/R133.12/C446.13

Subject: Your request concerning Mr Napoleon GOMEZ URRUTIA

Dear Mr Martin,

Your request has been processed according to the procedure described in our letter dated 20 June 2012.

The Commission studied your request at its 84th and 85th sessions which were held in September 2012 and January 2013.

We would like to inform you that based on the information in its possession and after an in-depth study, of your client's file, the Commission considered that the information recorded concerning him raised strong doubts concerning its compliance with INTERPOL's rules.

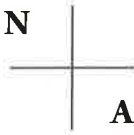
Following the Commission's recommendation, the information relating to Mr Napoleon GOMEZ URRUTIA which had been provided by Mexico was deleted from INTERPOL's files.

Yours sincerely,

Secretariat to the Commission
for the control of INTERPOL's files

Martin Associates
Mr David Martin
863 Hamilton Street
Vancouver, BC V6B 2R7
Canada

M A R T I N



A S S O C I A T E S

| Barristers

April 15, 2013

Secretariat to the Commission for the Control of INTERPOL's Files
200 quai Charles de Gaulle
69006
Lyon, France

Dear Sir or Madam:

RE: Napoleon GOMEZ URRUTIA
Your ref: CCF/86/R133.12/C446.13

On behalf of Napoleon Gomez Urrutia, I write to thank the Commission for its careful consideration of the issues we brought to your attention and for the corrective measures you have now taken in light of the Commission's conclusion that the data recorded by Mexico concerning Mr. Gomez Urrutia did not comply with INTERPOL's Rules.

I write now to simply ask you to confirm that further to your recommendation, and pursuant to Article 51 of the Rules, that all copies of data concerning Mr. Gomez Urrutia have now been deleted from all of the Organization's databases as well as from the databases of all of the National Central Bureau's that make up Interpol. I make this request for confirmation of comprehensive deletion because it is apparent from elements of the CCF 2011 Annual Report that affirmative steps sometimes need to be taken by individual NCB's to timely ensure that their databases have also been amended in accordance with Interpol's data management decisions.

Yours truly,



David Martin

Commission de Contrôle des Fichiers de l'O.I.P.C. - INTERPOL
Commission for the Control of INTERPOL's Files
Comisión de Control de los Ficheros de la OIPC-INTERPOL
لجنة الرقابة على محفوظات الم د ش ج - إنترپول



16 April 2013

Our ref: CCF/86/R133.12/C544.13

Subject: Your request concerning Mr Napoleon GOMEZ URRUTIA

Dear Mr Martin,

We acknowledge receipt of your letter dated 15 April 2013 in which you requested additional information relating to the deletion of information concerning your client.

Firstly, we hereby confirm that following the Commission's recommendation, the information relating to Mr Napoleon GOMEZ URRUTIA, which had been provided by Mexico, has been deleted from INTERPOL's files.

Your client's name remains recorded in an administrative database implemented by INTERPOL General Secretariat so that INTERPOL will be informed of any future red notice applications, or requests for police cooperation through INTERPOL's channels.

Furthermore, following the deletion of the information relating to your client, INTERPOL General Secretariat informed all INTERPOL's Members of the deletion, and stipulated that consequently, *"international police cooperation through INTERPOL's channels in this case would not be in conformity with its Constitution and Rules."*

Finally, we wish to draw your attention to the fact that the Commission's powers are limited to supervising the processing of information in INTERPOL's files. It is not, therefore, empowered to act with regard to national files. Only the competent national authorities may do so.

However, please note that when the Commission is informed by a requesting party that information processed through INTERPOL's channels remains recorded in a national file after it has been deleted by INTERPOL General Secretariat, the Commission informs INTERPOL General Secretariat which takes all necessary measures to ensure that the INTERPOL National Central Bureau updates its national files accordingly.

Yours sincerely,

Secretariat to the Commission
for the control of INTERPOL's files

Martin Associates
Mr David Martin
863 Hamilton Street
Vancouver, BC V6B 2R7
Canada