

Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 53/07; Petition 1193-03
Session: Hundred Twenty-Eighth Session (16 – 27 July 2007)
Title/Style of Cause: Maria Nicolasa Garcia Reynoso v. Mexico
Doc. Type: Decision
Decided by: President: Florentin Melendez;
First Vice-President: Paolo Carozza;
Second Vice-President: Victor Abramovich;
Commissioners: Sir Clare K. Roberts, Evelio Fernandez Arevalos, Freddy Gutierrez Trejo.
Dated: 24 July 2007
Citation: Garcia Reynoso v. Mexico, Petition 1193-03, Inter-Am. C.H.R., Report No. 53/07, OEA/Ser.L/V/II.130, doc. 22 rev. 1 (2007)
Represented by: APPLICANT: the Frente Mexicano Pro Derechos Humanos
Terms of Use: Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm

I. SUMMARY

1. On July 25, 2003, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the IACHR”) received a complaint lodged by the Frente Mexicano Pro Derechos Humanos [Mexican Front for Human Rights], (hereinafter “the petitioners”), in which they asserted the international responsibility of the State of Mexico (hereinafter “the State”) for alleged assaults, acts of intimidation, and threats against Ms. María Nicolasa García Reynoso, in reprisal for her work as a human rights defender in Mexico and for the subsequent lack of effective investigation of these acts. The petitioners allege that the facts constitute violations of the rights guaranteed in Articles 4, 5, 8, 13, 15, 16, and 25 of the American Convention on Human Rights (“the American Convention”) in connection with the obligations derived from Article 1(1) of that international instrument.

2. Concerning the admissibility of the complaint, the petitioners allege that this case should be exempt from the requirement for prior exhaustion of domestic remedies. According to the petitioners, the complaints lodged with competent authorities regarding the various acts of intimidation and threats have not proved effective for redressing the damage. Furthermore, they allege an unwarranted delay in the decisions on the domestic remedies pursued, so that the case should be admitted under the provisions of Article 46(2)(c).

3. The State holds that Ms. García Reynoso has not lodged complaints with the competent authorities of the Mexican State concerning the alleged threats against her life and humane treatment. The State says notwithstanding this, it provided police security for Ms. García Reynoso for the alleged threats on her life.

4. After analyzing the positions of the parties, without prejudging the merits of the case, the Commission concludes that it is competent to decide on the complaint presented by the petitioners, and the case is admissible under Articles 46 and 47 of the American Convention. The Commission therefore decides to transmit this decision to the parties and continue its analysis of the alleged violations of the American Convention and to publish this report on admissibility and include it in its Annual Report to the OAS General Assembly. The IACHR, exercising its authority granted in Article 41 of the American Convention and Article 37 of the Rules of Procedure of the IACHR, admits this case for alleged violations of the rights guaranteed in Articles , 5, 8(1), and 25 of the American Convention, in connection with Article 1(1) of the same international instrument, and declares the petition inadmissible as regards the rights set forth in Articles 4, 13, 15, and 16 of the American Convention. Without prejudging the merits of the case, the Commission considers that it satisfies the requirements established in Articles 47(b) and (c) of the American Convention.

II. PROCESSING BY THE COMMISSION

A. Petition

5. On July 25, 2003, the Commission received a complaint from the Frente Mexicano Pro Derechos Humanos, which it registered as number 1193/03. On April 6, 2004, the IACHR transmitted the petition to the State, asking it to submit its observations within 60 days. On June 8, 2004, the State asked for an extension to submit its observations. The IACHR received the State's observations on August 26, 2004. On September 3, 2004 the IACHR forwarded the State's observations to the petitioners. On May 21, 2005, the petitioners submitted their observations on the State's communication and requested precautionary measures; this information was duly forwarded to the State.

B. Request for precautionary measures

6. On May 21, 2005, the petitioners asked the IACHR to approve precautionary measures for Ms. María Nicolasa García Reynoso, given the threats and assaults against her life and humane treatment and the lack of investigation thereof. On June 15, 2005, the IACHR requested additional information from the petitioners concerning whether she still had federal agent escorts, in order to adopt the precautionary measures. On July 5 the petitioners provided the information requested by the IACHR. On August 31, 2005, the Commission asked again for information about the protection provided by federal agents and on the events that occurred on August 22, 2005. On August 14, 2005, the petitioners supplied the additional information requested. On June 9, 2006, the IACHR asked for updated information from the petitioners and identified the request for precautionary measures as SI-106/05. On June 25, 2006, the petitioners responded to the Commission's request for information. On July 14, 2006, the IACHR again requested information from the petitioners concerning the continuation of the threats described. On July 28 the petitioners replied to the request for information from the IACHR, and the note was forwarded to the State. On December 5, 2006, the State submitted its observations on the request for information. On February 1, 2007, the IACHR transmitted the State's observations to

the petitioners, and on that same date the petitioners submitted their comments on the State's observations.

III. POSITIONS OF THE PARTIES

A. The petitioners

7. The petitioners state that because of Ms. María Nicolasa García Reynoso's constant denunciation of commercial sexual exploitation of boys and girls in Puerto Vallarta, Jalisco, she has received many threats against her life and person. The petition indicates that the alleged victim is a Commissioner of the Federal Executive Council of the Frente Mexicano Pro Derechos Humanos for the defense of civil rights in the states of Jalisco and Nayarit. Ms. García Reynoso was said to have uncovered and denounced a network for prostitution, child pornography, and the supply of drugs to boys and girls, known as the "Casa Blanca" in Puerto Vallarta, Jalisco.

8. The petition states that in the first months of 2001, local news media broke the story of the "Casa Blanca," which led the public prosecutor's office to "process and open the preliminary investigation with the First Judge of the Criminal Court, who [had] opened criminal case 40/2001[FN1]" in February 2001, and issued a warrant for the arrest and detention of the suspect. The petitioners state that the alleged victim had filed complaints with the public prosecutor's office for various acts of prostitution and child pornography, for which "the Second Judge of the Criminal Court in Puerto Vallarta issued an arrest warrant" for the suspect. The petition adds that there was a third arrest warrant for the same person, issued by the Ninth Federal District Criminal Court Judge, in the city of Guadalajara, Jalisco, as documented in file 198/2001[FN2]". However, the petitioners say the suspect fled the country before the arrest warrants could be executed.

[FN1] Complaint filed with the IACHR on July 23, 2003, page 2.

[FN2] Complaint filed with the IACHR on July 23, 2003, page 2.

9. The petitioners state that in January 2001, when Ms. García Reynoso received an anonymous death threat from a person who ordered her to stop denouncing "Casa Blanca or else suffer the consequences,[FN3]" she filed a complaint with Office Number 3 of the public prosecutor's office of the court in Puerto Vallarta, Jalisco. The preliminary investigation was assigned number 0148/2001. In October 2001, the alleged victim was again threatened with death several times by telephone, which she reported in preliminary investigation 5467/2001 of the coordinating agency of the public prosecutor's office in Puerto Vallarta. On January 17, 2002, the alleged victim asked the federal Attorney General's Office (PGR) to take up the two cases, because the acts had not been investigated. The PGR issued a provisional order (acta circunstanciada) A.C. PGR/UEDO/011/2002, for Ms. García Reynoso to have a police escort from the Agencia Federal de Investigaciones [Federal Investigation Agency] (AFI).

[FN3] Complaint filed with the IACHR on July 23, 2003, page 2.

10. According to the petitioners, intimidation of Ms. García Reynoso is because of her work has not ceased, and on August 26, 2002, when she came home in the morning, accompanied by her escort guards, she found a 38-caliber weapon under her door. The petition says that on July 8, 2003, her bodyguards went to Mexico City to take exams at the Control and Confidence Center of the Attorney General's Office (PGR), and on the same day three unknown persons attempted to enter Ms. María Nicolasa García Reynoso's house, presumably for an attempt against her life or personal integrity, taking advantage of the fact that she was without her escort. The petition does not specify whether the alleged victim lodged complaints for these acts with the competent authorities.

11. The petitioners add that on July 19, 2003, Ms. García Reynoso went shopping with her bodyguards and left a bag in her car with cassettes of various recordings of police officers and citizens making statements to Puerto Vallarta police and denouncing offered protection to drug traffickers. The cassettes were stolen, which she reported; preliminary investigation 115/PGR/UEDO/2003 was opened.

12. In their submissions, the petitioners state that in July 2004 Ms. García Reynoso had another threat against her life. Unknown individuals fired on the vehicle carrying the federal agent escorts of the alleged victim; since the windows of the vehicle were polarized, the assailants did not detect that Ms. García Reynoso was not inside. Two of the bodyguards were wounded in this incident. The petitioners did not report the acts to the authorities.

13. The petitioners add that on August 8, 2005, when the alleged victim was in the public prosecutor's office expanding on her complaint she was once again threatened by telephone, allegedly by a person with an English accent who asked her the location of the suspect's victims.[FN4] On the same day Ms. García Reynoso was threatened by one of the suspect's defense lawyers named José María Ortega, who told her he would "beat her morally." [FN5] The petitioners say that "on September 13, 2005, Ms. García Reynoso was physically assaulted when she entered the office of the City Hall of Puerto Vallarta, Jalisco."

[FN4] Note submitted to the IACHR by the petitioners on September 14, 2005, page 2.

[FN5] Note submitted to the IACHR by the petitioners on September 14, 2005, page 2.

14. According to the petitioners, on March 5, 2006, telephone death threats against her life resumed and continued on March 6 and 7, 2006, so on March 7, 2006, the alleged victim filed a complaint concerning the acts, and preliminary investigation 1132/2006 was opened at the coordinating agency of special affairs in the public prosecutor's office of Puerto Vallarta.

15. Finally, the petitioners allege that there was no effective investigation of the facts denounced. Owing to the lack of timely legal investigation, the petitioners affirm that there was a violation of the right to a fair trial and judicial protection as guaranteed in Articles 8 and 25 of the American Convention.

16. On the matter of admissibility, the petitioners argue that their complaint should be exempt from the requirement for exhaustion of domestic remedies. According to the petition, although preliminary case numbers have been assigned for the alleged threats against Ms. García Reynoso there are no pending investigations, which could be considered unwarranted delay in rendering a final judgment, as provided in Article 46(2)(c) of the American Convention.

B. Position of the State

17. In the State's submissions, it says that Ms. María Nicolasa García Reynoso was given escort service in order to protect her right to life and humane treatment. The State also says that it has given the alleged victim judicial support in the judicial proceedings, through the State Human Rights Commission of Jalisco State (CEDH-JAL), and that staff of the CEDH-JAL interviewed six minors who were alleged victims of the acts denounced by Ms. García.

18. The State says the alleged victim has not filed complaints concerning all the acts of violence against her. The State adds that "the threats allegedly made by the accused person's attorneys to María Nicolasa García Reynoso were at no time reported to competent authorities, so the Mexican State cannot [...] make any comment on this allegation." [FN6]

[FN6] Observations submitted by the State to the IACHR on December 5, 2006, page 2.

19. In this same vein, the State maintained that according to the petitioners' statement concerning the assault allegedly suffered by Ms. García Reynoso on September 13, 2005, "María Nicolasa García Reynoso did not file any charge against her assailant." [FN7]

[FN7] Observations submitted by the State to the IACHR on December 5, 2006, page 2.

20. As for the rest of the investigations, the State affirmed that they are being conducted in accordance with Mexican procedural law, and that "the investigations undertaken to determine criminal responsibility of the suspect were conducted in accordance with domestic legal provisions, impartially and effectively, which resulted in his arrest, extradition, and subjection to criminal proceedings for the crimes."

IV. ANALYSIS OF ADMISSIBILITY

A. The Commission's competence *ratione materiae*, *ratione personae*, *ratione temporis* and *ratione loci*

21. Article 44 of the American Convention provides that: "Any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Commission containing denunciations or complaints

of violation of this Convention by a State Party.” Therefore, the petitioners are eligible to submit a petition to the Inter-American Commission, and the IACHR has *ratione personae* competence in this case.

22. Mexico has been a state party to the American Convention since March 24, 1981, the date on which it deposited its instrument of ratification. The petitioners allege violations of rights guaranteed in the American Convention. In the instant case the IACHR therefore has *ratione materiae* competence.

23. The Inter-American Commission has *ratione loci* competence to consider the petition, because it alleges that the human rights violations took place in a state party to the American Convention. The Commission also has *ratione temporis* competence inasmuch as the duty to respect and guarantee the rights recognized in the American Convention was in force for the State at the time of the facts alleged in the petition.

B. Other requirements for admissibility

1. Exhaustion of domestic remedies

24. Article 46(1) of the American Convention stipulates that admission of a petition in accordance with Article 44 of the Convention requires that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law. This requirement has been recognized consistently in the Commission’s jurisprudence as a procedural requisite for the purpose of enabling States to consider alleged violations of a right protected in the framework of the American Convention, and if possible to have the opportunity to redress them within its jurisdiction, before they are brought to the international level.

25. The requirement for prior exhaustion of domestic remedies has an exception in Article 46(2), which states that the rule shall not be applicable when domestic legislation does not afford due process of law for the protection of the right guaranteed in the American Convention; when the alleged victim has been denied access to the remedies under domestic law; or when there has been unwarranted delay in rendering a final judgment under the aforementioned remedies. In the Commission’s Rules of Procedure, Article 31(3) stipulates that when the petitioner alleges one of the exceptions to the exhaustion of domestic remedies, it shall be up to the State concerned to demonstrate that the remedies under domestic law have not been previously exhausted, unless that is clearly evident from the record.

26. The IACHR, states the exceptions, to be timely, the argument that internal remedies have not been exhausted must be raised in the early stages of the procedure; otherwise, a tacit waiver of the argument on the part of the State may be presumed.[FN8] In the present case, the Mexican State alleged the case is actually in the national jurisdiction and the remedies are not exhausted.

[FN8] The Commission and the Court have established that “the early stages of the procedure” must be understood to mean “the admissibility stage of the procedure before the Commission, in

other words, before any consideration of the merits (...)." See, e.g., IACHR, Report No. 71/05, petition 543/04, Admissibility, Ever de Jesús Montero Mindiola, Colombia, October 13, 2005, which cites I/A Court H.R., Case of Herrera Ulloa. Judgment of July 2, 2004. Series C No. 107, para. 81.

27. In the instant case, the petitioners seek exception to the requirement for exhaustion of domestic remedies, set forth in Article 46(2)(c), owing to the lack of diligence by the authorities responsible for investigation of the various threats against the alleged victim from 2001 to date. In about five years, no person has been formally charged in the investigations, and the proceedings remain open in the preliminary investigation phase. The State has not submitted any information that would indicate progress in the investigations.

28. The Commission considers that the most relevant facts have been denounced to competent authorities, who according to international obligations assumed by the Mexican State must investigate the facts and, as appropriate, judge those responsible. In the proceeding before the Commission, the State has not specified—although this is part of its obligations—which measures have been taken in order to establish the facts, and why the investigations remain in the initial phase. On this matter, the Inter-American Court has held that “the duty to investigate is an obligation of means, not results. The same must be assumed by the State as its own juridical duty and not as a simple formality condemned beforehand to be fruitless.”[FN9] In other words, “[...]once the state authorities become aware of the fact, they must begin ex officio and without delay, a serious, impartial, and effective investigation.”[FN10]

[FN9] I/A Court H.R., Case of the Miguel Castro Castro Prison. Judgment of November 25, 2006. Series C. No. 160, para. 255; I/A Court H.R., Case of Ximenes Lopes. Judgment of July 4, 2006. Series C No. 149, para. 148; I/A Court H.R., Case of the Ituango Massacres. Judgment of July 1, 2006. Series C No. 148, para. 296; I/A Court H.R., Baldeón García Case. Judgment of April 6, 2006. Series C. No. 147, para. 93.

[FN10] I/A Court H.R., Case of the Miguel Castro Castro Prison. Judgment of November 25, 2006. Series C. No. 160, para. 255; I/A Court H.R., Case of Goiburú et al. Judgment of September 22, 2006. Series C No. 153, para. 117; I/A Court H.R., Baldeón García Case. Judgment of April 6, 2006. Series C. No. 147, para. 93; I/A Court H.R., Case of the Pueblo Bello Massacre. Judgment of January 31, 2006. Series C No. 140, para. 144.

29. Based on these considerations, and since the investigations opened some five years ago are still in the initial phase, the Commission concludes that the exception of unwarranted delay in the judgment on the recourses, established in Article 46(2)(c) of the American Convention, is applicable.

2. Deadline for lodging the petition

30. According to Article 46(1)(b) of the American Convention, in order for a petition to be admitted and analyzed by the Commission it must be lodged within six months from the date of the final judgment.

31. As provided in Article 32(2) of the IACHR Rules of Procedure, concerning an exception to the requirement for exhaustion of domestic remedies, the petition shall be presented with a reasonable period of time, as determined by the Commission. The article stipulates that when the Commission makes this determination it “shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.”

32. In the instant case, the Commission has concluded that the exception to the requirement for prior exhaustion of domestic remedies is applicable, owing to the unwarranted delay in judicial decisions, so the IACHR must consider whether the petition was presented within a reasonable period of time, in accordance with the circumstances. The Commission notes that the petition was lodged on July 25, 2003, after two years of persistent threats against the life and humane treatment of Ms. García Reynoso, with no progress whatsoever by that date in the investigations, and no charges placed against the responsible parties. Furthermore, the threats continued from that date to the present. Based on these facts, the Commission concludes that the complaint submitted for consideration was lodged within a reasonable period of time.

3. Duplication of proceedings and international *res judicata*

33. Article 46(1)(c) establishes that the admissibility of petitions is subject to the requirement that the subject “is not pending in another international proceeding for settlement,” and Article 47(d) of the Convention stipulates that the Commission shall not admit a petition that is “substantially the same as one previously studied by the Commission or by another international organization.” In this case, the parties have not adduced the existence of either of these two grounds for inadmissibility, and they cannot be deduced from the proceedings.

4. Nature of the allegations

34. The Inter-American Commission must decide whether the facts set forth in the petition constitute violations of the rights guaranteed in the American Convention, pursuant to the requirements of Article 47(b), or whether, as specified in Article 47(c), the petition should be inadmissible because it is “manifestly groundless” or “obviously out of order.” At this stage of the proceeding the IACHR must make a *prima facie* evaluation, not with a view to confirming alleged violations of the American Convention, but rather to considering whether the petition alleges facts that could potentially be violations of rights guaranteed in the American Convention. This examination does not imply prejudgment nor an opinion on the merits of the case.

35. Based on the statements of both parties, the Commission finds no indication that the petitioners have made allegations that are “manifestly groundless” or “obviously out of order.” If they are confirmed, they could constitute violations of rights guaranteed in the American Convention in Articles 5, 8(1), and 25, regarding the right to humane treatment, a fair trial, and judicial protection, respectively, in conjunction with Article 1(1) of that international instrument.

However, the IACHR considers that the petitioners have thus far submitted no de facto or de jure arguments that would substantiate for this stage of the proceeding alleged violations of the right to life, rights to freedom of thought and expression, the right of assembly, and freedom of association (Articles 4,13, 15, and 16, respectively, of the American Convention).

36. Concerning the right to humane treatment, guaranteed in Article 5 of the American Convention, the IACHR considers that the threats and harassment against Ms. Maria Nicolasa García Reynoso were intended against her physical integrity. Human rights are both positive and negative obligations for States. For the right of humane treatment, there is not only the presumption that the right not be violated (the negative obligation), but also “that the States take all appropriate measures to protect and preserve the right [to humane treatment] (the positive obligation),[FN11] as part of their duty to ensure full and free exercise of the rights by all persons under their jurisdiction.”[FN12] Therefore, considering the States’ positive obligation to guarantee human rights, the Commission considers that if the facts are proved, there would be a violation of the right established in Article 5 of the American Convention.

[FN11] I/A Court H.R., Juan Humberto Sánchez Case. Judgment of June 7, 2003. Series C No. 99, para. 110; I/A Court H.R., Bámaca Velásquez Case. Judgment of November 25, 2000. Series C No. 70, para. 172; and I/A Court H.R., Case of the “Street Children” (Villagrán Morales et al.). Judgment of November 19, 1999. Series C No. 63. para. 139.

[FN12] I/A Court H.R., Juan Humberto Sánchez Case. Judgment of June 7, 2003. Series C No. 99, para. 110; I/A Court H.R., Cantoral Benavides Case. Reparations. Judgment of December 3, 2001 Series C. No. 88 para. 69; I/A Court H.R., Case of the “Street Children” (Villagrán Morales et al.). Reparations (Article 63.1 of the American Convention on Human Rights). Judgment of May 26, 2001. Series C No. 77, para. 99; and I/A Court H.R., I/A Court H.R., The “Panel Blanca” Case (Paniagua Morales et al.). Reparations (Art. 63(1) American Convention on Human Rights). Judgment of May 25, 2001. Series C No. 76, para 199.

37. As regards the right to a fair trial and to judicial protection, guaranteed in Articles 8 and 25 of the American Convention, considering the status of the investigations more than five years after the facts, the IACHR determines that without prejudging the merits of the case, it is admissible for alleged violations of the rights set forth in Articles 8 and 25 of the American Convention.

38. Concerning the right to life, the IACHR considers that the alleged facts denounced by the petitioners as pertaining Article 4 are included in the alleged violations of the Article 5 of the American Convention.

39. Concerning the right to freedom of thought and expression, it is necessary to note that this is indispensable for the work of defenders of human rights. They have the right to express their ideas (the individual aspect of freedom of expression), and to seek and receive information (the social or collective aspect).[FN13] The IACHR has held that States cannot legitimately impose a sanction that impedes or restricts the critical work of human rights defenders.[FN14] The petitioners have not submitted documentation that would enable the IACHR at this stage of

the proceeding to determine a possible violation of the right to freedom of thought and expression guaranteed in Article 13 of the American Convention.

[FN13] IACHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124 Doc-5 rev. 1 March 7, 2006, para. 79.

[FN14] IACHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124 Doc-5 rev. 1 March 7, 2006, para. 81.

40. As for the right of assembly, for human rights defenders this right implies that they can meet freely in private places with the consent of their owners, public places, and workplaces. Human rights defenders have the right to participate in the organization and conduct of a meeting or demonstration and to take part in it.[FN15] From the petitioners' submissions it cannot be concluded that the State has failed to guarantee, or has obstructed, the right of assembly, so the IACHR considers that there is insufficient evidence to admit this case as regards that right.

[FN15] IACHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124 Doc-5 rev. 1 March 7, 2006, para. 53. In the same vein, see European Commission on Human Rights, *Christians against Racism and Fascism v. United Kingdom*, No. 8440/78, Commission decision of 16 July 1980, DR p. 138, p. 148.

41. The IACHR has held that freedom of association includes protection against arbitrary interference by the State when persons decide to associate with others, which is basic for the existence and functioning of a democratic society.[FN16] The petitioners' submissions present no evidence that would establish a presumed violation of freedom of association.

[FN16] IACHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124 Doc-5 rev. 1 March 7, 2006, para. 50; Report on Terrorism and Human Rights OEA/Ser.L/V/II.116 Doc. 5 rev. 1 corr. October 22, 2002, para. 359.

42. The IACHR, exercising its authority granted in Article 41 of the American Convention and Article 37 of the Rules of Procedure of the IACHR, admits this case for alleged violations of the rights guaranteed in Articles 5, 8(1), and 25 of the American Convention, in connection with Article 1(1) of the same international instrument, and declares the petition inadmissible as regards the rights set forth in Articles 4, 13, 15, and 16 of the American Convention. Without prejudging the merits of the case, the Commission considers that it satisfies the requirements established in Articles 47(b) and (c) of the American Convention.

V. CONCLUSION

43. The Commission concludes that the case is admissible and it is competent to consider the complaint lodged by the petitioners for alleged violation of the rights established in Articles 5, 8(1), and 25 of the American Convention, all in connection with the obligations arising from Article 1(1) of that international instrument.

44. The IACHR concludes that this case is inadmissible as regards the rights guaranteed in Articles 4, 13, 15, and 16 of the American Convention.

45. By virtue of the foregoing arguments of fact and law, and without prejudging the merits of the matter,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare the instant case admissible as regards the rights guaranteed in Articles 5, 8(1), and 25 of the American Convention, in connection with Article 1(1) of the same treaty.
2. To declare the instant case inadmissible as regards the rights guaranteed in Articles 4, 13, 15, and 16 of the American Convention.
3. To transmit this report to the petitioners and the State.
4. To continue its analysis of the merits of the case.
5. To publish this report and include it in the Commission's Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 24th day of the month of July, 2007.
(Signed): Florentín Meléndez, President; Paolo Carozza, First Vice-President; Víctor Abramovich, Second Vice-President; Sir Clare K. Roberts, Evelio Fernández Arévalos, and Freddy Gutiérrez Trejo, Commissioners.