Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 86/06; Petition 499-04
Session:	Hundred Twenty-Sixth Regular Session (16 – 27 October 2006)
Title/Style of Cause:	Marino Lopez and the members of 22 communities of African descent living along the banks of the River Cacarica v. Colombia
Doc. Type:	Decision
Decided by:	President: Evelio Fernandez Arevalos; First Vice-President: Paulo Sergio Pinheiro; Second Vice-President: Florentin Melendez; Commissioners: Freddy Gutierrez, Paolo G. Carozza, Victor Abramovich.
Dated:	21 October 2006
Citation:	Lopez v. Colombia, Petition 499-04, Inter-Am. C.H.R., Report No. 86/06, OEA/Ser.L/V/II.127, doc. 4 rev. 1 (2006)
Represented by:	APPLICANT: the Interecclesiastical Justice and Peace Commission
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I. SUMMARY

1. On June 1, 2004, the Inter-American Commission on Human Rights (hereinafter "the IACHR" or "the Commission") received a petition lodged by the Interecclesiastical Justice and Peace Commission (hereinafter "the petitioners") alleging the responsibility of the Republic of Colombia (hereinafter "the State" or "the Colombian State") in incidents known as "Operation Genesis" that took place between February 24 and 27, 1997, in the municipality of Riosucio, Chocó department, and that resulted in the murder of Mr. Marino López and the forced displacement of the members of 22 communities of African descent living along the banks of the River Cacarica.

2. During processing the petitioners claimed the State was responsible for violations of Articles 2 (domestic legal effects), 4.1 (right to life), 5.1 and 5.2 (humane treatment), 8 (fair trial), 17 (rights of the family), 19 (rights of the child), 21 (right to property), 22 (right not to be displaced), and 25 (judicial protection) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), in conjunction with Article 1.1 thereof, as well as of Articles 1 and 8 of the Inter-American Convention to Prevent and Punish Torture. The petitioners claimed that their filing was admissible under the exceptions to the rule requiring the prior exhaustion of domestic remedies set out in Article 46.2.a and c of the American Convention. The State, in turn, argued that the Commission lacked competence to deal with certain aspects of the petition, and that the claim was inadmissible because domestic remedies had not been exhausted and because of the nature of the alleged facts in light of the fourth-instance doctrine.

3. After considering the parties' claims, the Commission decided to declare the case admissible as regards Articles 4, 5, 8.1, 17, 19, 21, 22, 24, and 25 of the American Convention, in conjunction with Article 1.1 thereof, and as regards Articles 1 and 8 of the Inter-American Convention to Prevent and Punish Torture, in accordance with the requirements set out in Articles 46 and 47; to notify the parties of that decision; and to publish the decision in its Annual Report.

II. PROCESSING BY THE COMMISSION

4. The IACHR registered the petition under No. 499-04 and, after a preliminary analysis, conveyed to the State a copy of the pertinent parts on September 29, 2004, along with a deadline of two months in which to submit information on the allegations contained therein, in compliance with Article 30.2 of the IACHR's Rules of Procedure. On November 29, 2004, the Colombian State asked the Commission for a 30-day extension of the deadline for its reply. On December 7, 2004, the Commission granted that extension. The deadline passed without the State having submitted its reply.

5. On January 24, 2005, the Commission again asked the Colombian State to submit information, but received no response. On March 9, 2006, the Commission received a "summary and clarification" of the petition from the petitioners. On April 4, 2006, the Commission sent the State the relevant parts of that submission, with a deadline of 30 days in which to submit its comments. On April 18, 2006, the State finally presented its reply to the initial petition and, on June 8, 2006, also presented its comments on the petitioners' submission forwarded to it on March 6, 2006. In the latter communication, the State asked the IACHR to "clarify whether the main petition in this case is the one [conveyed by the IACHR on] [...] September 29, 2004, or on April 4, 2006."[FN1] The Commission explained that the "summary and clarification" contained no facts or claims further to those submitted by the petitioners in their initial communication of 2004, which was sent to the State before it submitted its delayed response to that original petition on April 18, 2006, together with an additional period of time in which to present comments, which the State used prior to submitting its brief dated June 8, 2006.

[FN1] Note DDH. GOI/28080/1361 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated June 8, 2006, p. 1.

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6. Reference should also be made to the precautionary measures registered as No. MC 70/99 and requested by the IACHR on December 17, 1997,[FN2] after an on-site visit to the Turbo stadium, which was then housing a number of individuals displaced as a result of the incidents described in the petition and where the Commission was able to directly observe their situation.[FN3] In its submission of April 18, 2006, the State formally requested that the documents contained in the case file of precautionary measures MC 70/99 be transferred to the case file of petition P 499/04, Marino López et al. (Operation Genesis). In connection with this, the IACHR finds that the State's request is appropriate for the comprehensive treatment of the situation addressed in this petition. It should also be noted that in 1998 the IACHR asked the

State to furnish information on the situation of the displaced persons in Bahía Cupica, who are also covered by the claims in this petition.[FN4]

[FN2] In its 1997 Annual Report the IACHR said that "on December 17, 1997, the Commission requested that precautionary measures be taken in behalf of the members of a community that had been displaced by violence in the locale of Turbo. Several of them were murdered in 1997. Among them were persons who had taken refuge in the municipal sports stadium and others in shelters specially built for that purpose. On December 11, two armed persons identified as paramilitary men went into the Turbo sports stadium looking for a member of the community. On December 14, another paramilitary person was seen inspecting the "Unidos Retornaremos" shelter." 1997 Annual Report of the IACHR, OEA/Ser.L/V/II.98, Doc. 6, February 17, 1998, Chapter III.2.A, section on precautionary measures in the Republic of Colombia. On January 11, 1999, the Commission ratified the continuation of the precautionary measures originally requested on December 17, 1997, on behalf of the individuals located in the displaced persons camp at the Turbo stadium and Bocas del Atrato. See: 1998 Annual Report of the IACHR, OEA/Ser.L/V/II.102, Doc. 6 rev. April 16, 1999, Chapter III, paragraph 22. The precautionary measures currently remain in force to protect the displaced persons who today are a part of the communities of African descent grouped together in the CAVIDA Organization and resettled on their collective lands along the River Cacarica. In June 2003 the Commission conducted an on-site visit to the CAVIDA collective lands to assess the situation of beneficiaries of those precautionary measures. See: IACHR Press Release No. 15/03, "IACHR Rapporteur concludes working visit to the Republic of Colombia," June 27, 2003, at http://www.cidh.oas.org/Comunicados/English/2003/15.03.htm.

[FN3] The IACHR provided a series of comments on the situation of the displaced persons in Turbo in its Third Report on the Human Rights Situation in Colombia (1999) OEA/Ser.L/V/II.102 Doc. 9 rev. 1, February 26, 1999, Chapter VI, paragraphs 44 to 47.

[FN4] The IACHR provided a series of comments on the situation of the displaced persons in Bahía Cupica in its Third Report on the Human Rights Situation in Colombia (1999) OEA/Ser.L/V/II.102 Doc. 9 rev. 1, February 26, 1999, Chapter VI, paragraph 53.

III. POSITIONS OF THE PARTIES

7. Before dealing specifically with the positions of the parties, reference should be made to a range of geographical, historical, and sociological information; these details are not disputed and are useful in understanding the background to the parties' positions. Many of these facts are included in the claims presented by one party or the other.

8. The Urabá area is located in the north of the department of Chocó (Urabá Chocoano or Darién Chocoano)[FN5] and the west of the department of Antioquia (Urabá Antioqueño).[FN6] The area surrounds the Gulf of Urabá and the border with Panama, making it a strategic corridor for access to both the Pacific and Atlantic Oceans. In spite of being one of the regions of the world with the highest levels of biodiversity, its inhabitants, who are mostly of African descent, suffer from unsatisfied basic needs.[FN7]

[FN5] The Darién Chocoano region comprises four municipalities – Acandí, Unguía, Riosucio, and Carmen del Darién – and covers 4,820 km2. The access route is the River Atrato and its tributaries the rivers Turandó, Cacarica, Jiguamiandó, and Jarapetó.

[FN6] The Urabá Antioqueño comprises eleven municipalities – Apartadó, Carepa, Chigorodó, Necoclí, San Juan de Urabá, San Pedro de Urabá, Turbo, Arboletes, Murindó, Mutatá, and Vigía del Fuerte – and covers a total surface area of 11,665 km2.

[FN7] The IACHR spoke about the situation of the Afro-descendant population in Chocó in its Third Report on the Human Rights Situation in Colombia (1999) OEA/Ser.L/V/II.102 Doc. 9 rev. 1, February 26, 1999, Chapter XI.

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9. Violence caused by the armed conflict has had a wide-ranging impact on its population patterns and labor relations and on the emergence of social and political players. Illegal armed groups have used this region as a corridor for reaching the border with the Republic of Panama for trafficking weapons and drugs, and they have cut down the native species of the municipality of Riosucio in order to plant coca.[FN8]

[FN8] The State offered these comments regarding the general situation in the area in its note DDH. GOI/18083/0836 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated April 18, 2006, pp. 20 and 21.

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10. Because of that situation, the civilian population of African descent in this region of the country has been forced to live with presence of illegal armed groups, both guerrillas (primarily the Revolutionary Armed Forces of Colombia, FARC-EP) and paramilitaries (specifically the United Self-Defense Forces of Colombia, AUC, and the Peasant Self-Defense Forces of Córdoba and Urabá, ACCU). Also present in the area are security forces, with units of the National Police, the Navy (chiefly in the Gulf of Urabá and in the River Atrato and its affluents), and Brigade XVII of the National Army, based in Carepa, Antioquia.

A. Position of the petitioners

11. The petitioners claim that between February 24 and 27, 1997, the Afro-descendants dwelling along the River Cacarica were affected by a series of aerial and land-based bombardments, raids, attacks on their property, and threatening behavior that led to the forced displacement of their communities. They claim that this operation, called “Operation Genesis,” was designed by the XVII Brigade of the National Army to combat the FARC-EP presence in the region[FN9] but that it was carried out with the direct involvement of paramilitaries wearing AUC and ACCU insignia. They also alleged that the armed men who participated in the military operation murdered Mr. Marino López.

[FN9] “Operations Order No. 004/Genesis” is signed by Brigadier General Rito Alejo del Río Rojas, then commanding Army Brigade XVII, and sets out the goal of “dealing a resounding

blow to squad 57 of the Narco FARC, survivors of the V, XXXIV, and LVIII, who are carrying out criminal acts within the jurisdiction of the Operating Unit." Appendix No. 1 to this order, titled "Enemy situation – Operation Genesis objectives," contains eight action points, listed in ascending order: (1) Tamboral; (2) La Loma – Caño Seco; (3) River Salaquí, Regadero sector; (4) Caño Seco, El Guineo sector; (5) Teguerré; (6) River Cacarica, Puente América sector; (7) La Nueva; and (8) Clavellino. Petitioners' submission, March 6, 2006.

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12. Specifically, they claim that on February 24, 1997, airplanes and helicopters flew over the Cacarica basin region, and troops from the Army's XVII Brigade began moving overland toward the area. During the morning, they claim, representatives from the Afro-descendant communities tried to meet with the officer in charge of the operation in Bocachica, identified as Maj. Salomón, to which end they approached a group of soldiers stationed on the ground. The say they had to cross several security cordons manned by members of the AUC and the ACCU and that they only managed to speak with an armed and camouflaged civilian by the name of Cornelio Maquilon, who told them he was authorized to speak for Maj. Salomón and told them to head for the municipality of Turbo in Antioquia.

13. The petitioners report that during the afternoon, the first forced displacement of tens of families took place: some headed for higher land, and others walked for more than ten hours until they reached the River Atrato and sought refuge in the municipality of Turbo. By 7:45 p.m. the bombardments of the Salaquí and Cacarica river basins had begun, and they continued for three hours.

14. They claim that the second "wave" of collective displacements took place that same evening, when military operations began in the community of Puente América on the banks of the Atrato. They report that armed men ordered the Afro-descendant residents of the area to leave in 24 hours were up and left signs reading "Long live the paramilitaries of Chocó and Córdoba" and "A/C: Death to Guerrillas and Informers."

15. The petitioners claim that on February 26, 1997, at around 1:10 p.m., some 150 civilians wearing armbands of the Voltigeros Battalion of the Army's XVII Brigade and the Marines arrived at the settlement of Bijao along the River Cacarica, firing their weapons. Upon hearing the explosions, some community members stampeded toward the mountainous part of the land, where they met with units involved in the military operation that were surrounding the settlement. For 20 minutes the armed men fired their weapons and threw grenades at the roofs of their homes, while others ransacked houses, shops, and barns. They also sprayed the community's outboard motors with machinegun fire and set fire to an electricity plant.

16. The petitioners claim that at around 1:30 p.m., the armed men forced the members of the community to gather in the schoolhouse, where they were told that they had three days to abandon their lands. When asked about the reason for the eviction, they replied that those were the orders they had and that "if they were not out in three days, [they] would not be responsible for the consequences."

17. The petitioners claim that the next day, February 27, 1997, the armed men tortured and decapitated Marino López Mean. The petitioners state that members of the military and paramilitaries then kicked it on repeated occasions, as if it were a football match, following which they invited the members of the community of Bijao who saw the incident to join in the game.

18. The petitioners claim that during the morning hours of February 27, 1997, armed men wearing the insignia of the Voltigeros Battalion of Brigade XVII and of the ACCU entered the community of Bocas del Limón, on the banks of the River Peranchito; they ordered the Afro-descendants to abandon their homes for 15 days and said that the National Police was waiting for them in Turbo. The petitioners report that as the meeting was taking place, the armed men burned down two homes and a small store belonging to the community's Women's Committee. They also ransacked community property and left slogans on the walls of the houses, with pictures of skulls and the legend "Death to the Guerrillas. Sincerely, ACCU. The Ox." Before leaving, the armed men made a threat: "In four days time, if we find anyone here, we'll cut their heads off."

19. The petitioners claim that the first three displacements in the communities of Bocachica, Teguerré, Villa Hermosa, Bijao-Cacarica, El Limón, Quebrada Bonita, and Barranquilla were followed by others in the remaining villages. By February 28, 1997, almost 2,500 people had been displaced from the Cacarica area to Turbo, Bocas del Atrato, and Panama. Very few residents decided to remain in the Cacarica basin.

20. The displaced persons who decided to take refuge in Turbo were first taken there by police units in trucks and animal carts. A large percentage gathered together at the sports stadium, where they remained for several months in conditions of subhuman overcrowding. In turn, the people of Bijao, Puente América, La Honda, and El Limón who were unable to reach Turbo took refuge in Bocas del Atrato, where they were initially given shelter in a schoolroom. Those who tried to return to the Cacarica area met with a military checkpoint at La Loma. Another group of 250 residents – mostly women and children – reached the border with Panama after a 15-day hike through the jungle, during which several parents were separated from their offspring and some children were lost in the undergrowth. The petitioners report that this group was illegally deported in April 1997 and returned to Colombia at the town of Bahía Cupica.

21. The petitioners hold that these incidents constitute violations of the right to life and to human treatment, of the rights of family and children, of property, of freedom from expulsion, and the right of judicial protection, as enshrined in the American Convention, as well as of the State's duty of upholding those rights. They also allege a violation of the obligation of ensuring the immediate and ex officio investigation of acts of torture inflicted on persons under state jurisdiction, in accordance with Articles 1 and 8 of the Inter-American Convention to Prevent and Punish Torture. In their initial filing the petitioners also referred to the State's alleged responsibility for violating the United Nations Guiding Principles on Internal Displacement, the International Convention against Torture, and the International Convention on the Prevention and Punishment of the Crime of Genocide.

22. They maintain that their claim meets the admissibility requirements. As regards the prior exhaustion of domestic remedies, they state that in the instant case, the exceptions provided for in sections (a) and (c) of Article 46.2 of the American Convention are applicable. At the time of the incident, they say, the forced displacement of persons had not been defined as a crime, and as a result of that the victims had no available judicial remedy; and that given the length of time that has passed since Operation Genesis, during which those responsible for the forced displacement of the residents of the Cacarica basin and the murder of Marino López have been neither prosecuted nor punished, they maintain there has been an unwarranted delay on the part of the domestic courts.

B. State

23. The State holds that Operation Genesis was a military operation carried out under a legally issued operational order from the Commander of Brigade XVII as the competent authority and that it sought the legitimate goal of pursuing groups guilty of criminal acts in the region and of liberating ten Marines kidnapped by guerrillas in Juradó. It says the operation was carried out in accordance with legal guidelines and with respect toward the civilian population and that, according to official information, it resulted in no civilian deaths or injuries. It adds that the displacement of the population was not caused by Operation Genesis, but had been ongoing since some days earlier as a result of the criminal activities of illegal armed groups with guerrilla ties.

24. The State presents a series of arguments in which it claims the Commission does not have the necessary competence to examine some of the claims made by the petitioners, and that in general terms the petition is inadmissible because domestic remedies have not been exhausted and because of the nature of the alleged facts in light of the fourth-instance doctrine.

25. First of all, the State argues what it refers to as the IACHR's lack of competence ratione personae[FN10] for ruling on the effects of the alleged violations with respect to all the affected persons. The State holds that the only person fully identified in the petition is Mr. Marino López and that the residents of the Río Cacarica basin towns (Puente América, Bijao–Cacarica, Quebrada del Medio, Bogotá, Barranquilla, El Limón–Peranchito, Santa Lucía, Las Pajas, Quebrada Bonita, La Virginia, Villa Hermosa–La Raya, San Higinio, Puerto Berlín, Puerto Nuevo, Montañita Cirilo, Bocachica, Balsagira, San José de la Balsa, La Balsa, Bendito Bocachico, Varsovia, Tequerré Medio) allegedly affected by the reported incident are not identified by name and so therefore should not be considered victims by the IACHR. To support this stance, it states that Article 44 of the Convention, which establishes the right of standing for appearances before the inter-American system, requires the "full and complete" individual identification of the victims, since the aim of the system is protection in individual cases and not in general or abstract situations.[FN11]

[FN10] Note that in the final section of "Petitions" in its submission of April 18, 2006, and in the entirety of its submission of June 8, 2006, the State changed the name of its argument regarding the individuals who should or should not be considered victims in the petitioners' claim from "absence of ratione personae jurisdiction" to "absence of ratione temporis jurisdiction."

[FN11] The State says that "the jurisprudential trend of favoring the procedural authority of locus standi in judicio of the victims, their relatives, or their representatives, heightens this demand, in light of the recognition of the individual as the bearer of the rights enshrined in the Convention and, consequently, as the beneficiary of the protection and compensation offered by the System." It further states that "this situation means that the object of the protection is individual cases or specific victims with respect to which the scope of the alleged violations can be established, and not general or abstract situations in which it is not possible to establish the individually considered subject or subjects that make up the group of persons who have allegedly suffered a violation of their rights." The purpose, it says, is to prevent the deformation of the individual petitions procedure in the inter-American human rights protection system as a means for establishing whether or not the rights of individual persons have been violated. The State cites the following precedents to support its position: Report No. 4/01 (María Eugenia Morales de Sierra), Annual Report of the IACHR 2000, paragraph 31; Report No. 51/02 (Janet Espinoza Feria et al.), Annual Report of the IACHR 2002, paragraph 35; and Case of the "Juvenile Reeducation Institute," Judgment of the Inter-American Court of Human Rights of September 2, 2004, Series C No. 112, paragraphs 107 to 109. Note DDH. GOI/18083/0836 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated April 18, 2006, pp. 2-6.

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26. Secondly, the State argues what it calls the IACHR's lack of competence ratione materiae. It holds that the Commission is not competent to rule the State responsible for violations of the United Nations Guiding Principles on Internal Displacement, the International Convention against Torture, or the International Convention on the Prevention and Punishment of the Crime of Genocide, as sought by the petitioners. Colombia maintains that Article 22 of the American Convention, "Freedom of Movement and Residence," establishes a right that does not, in and of itself, assign competence and is not a rule of interpretation; and "consequently, it cannot be associated with rights enshrined in other international instruments, in order to extend the competence of the Commission to assign state responsibility under such instruments."[FN12]

[FN12] Note DDH. GOI/18083/0836 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated April 18, 2006, pp. 6-9.

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27. Thirdly, the State claims that the petition is inadmissible since the Commission may not rule on matters already decided at domestic venues when rights protected by the Convention are not affected, since in such an instance "it would become a trial court."[FN13] It holds that in the case at hand, "the Commission may not admit the petition in order to review the preclusion" ordered in single-instance criminal trial No. 5767 regarding the actions of Brigadier General Rito Alejo del Río Rojas, serving as the commanding officer of Army Brigade XVII during 1996 and 1997.

[FN13] Note DDH. GOI/18083/0836 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated April 18, 2006, p. 10.

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28. The State acknowledges that "some reports indicate that the officer might have offered assistance to the 'paramilitaries,' either by knowingly and voluntarily failing to take the steps necessary to address the problem, or by providing them with the wherewithal to act freely and establish groups of that kind."[FN14] In response, on July 21, 2002, an investigation of that officer began; he was crossexamined; and, when his legal situation was defined, the preclusion of the investigation was ordered. The State holds that the preclusion order that led to the conclusion of the investigation into the former commander of the XVII Brigade represented the exhaustion, by the State itself, of the internal remedy arising from the accusations and charges of conspiracy, embezzlement of official property, perverting the course of justice by omission, and crimes incurred through the failure to perform the duty of guarantor during 1996 and 1997. Colombia's position is that the petitioners' dissatisfaction with the results of the investigation does not empower them to pursue the review by the Commission of the resolution of preclusion and filing away adopted by the Prosecutor General of the Nation (FGN) in office at that time, Camilo Osorio.

[FN14] Note DDH. GOI/18083/0836 of the Directorate of Human Rights and International Humanitarian Law provides a verbatim quotation from the resolution of May 29, 2003, in Single-Instance Case No. 5767.

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29. To support this stance, the State cites the precedent of the reasoning used by the IACHR to establish the inadmissibility of two petitions that were expressly intended to secure the judicial review of judgments handed down by two different national supreme courts in labor-related matters[FN15] and insists that those precedents "apply perfectly to the instant case, since the complaint is aimed at challenging the legality of the rulings (sic) handed down by the Office of the Prosecutor General [...] as if the [...] Commission were an appeals court."[FN16]

[FN15] The State cites paragraph 33 of Inadmissibility Report No. 86/03, published in the 2003 Annual Report of the IACHR, and paragraph 9 of Inadmissibility Report No. 122/01, published in the 2001 Annual Report of the IACHR. Note DDH. GOI/18083/0836 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated April 18, 2006, pp. 12-14.
[FN16] Note DDH. GOI/18083/0836 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated April 18, 2006, p. 14.

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30. Fourthly, the State claims that the petition fails to meet both the condition requiring the prior exhaustion of domestic remedies contained in Article 46.1.a and the conditions for applying the exception thereto provided for in Article 46.2.c. It maintains that as long as the criminal investigation of the incident described in the petition is still pending final judgment, its admission must be deferred until the State has discharged the measures for resolving the situation over which it has competence. The table below, drawn up by the IACHR, summarizes the

information furnished by the State[FN17] in connection with those proceedings, and it also includes details on two disciplinary investigations supposedly relating to the involvement of state agents in the events described in the petition.

CASE FILE	JURISDICTION	INCIDENT COVERED BY THE PROCEEDINGS	CURRENT STATUS
1410 (investigation opened June 4, 2001)	Criminal investigation – overseen by the National Human Rights Unit of the Prosecutor General's Office	Installation of checkpoint in Tumarandó and incidents related to "Operation Genesis"	Investigatory phase of the investigation (does not indicate any arrests of individuals involved in the investigation)
1178	Criminal investigation – overseen by the National Human Rights Unit of the Prosecutor General's Office	(No description in the State's submission)	Prior phase before the formal opening of the investigation
147301	Criminal investigation – overseen by Prosecutor No. 100 of Quibdó	Murder of Marino López	Prior phase before the formal opening of the investigation
5767	Criminal investigation – overseen by the Office of the Prosecutor General of the Nation	Complaints filed against Rito Alejo del Río for "supporting... self-defense groups that committed crimes in the Urabá Chocoano between 1996 and 1997"	Investigation precluded and sent to archive
155-73307-2002	Disciplinary – Office of the Attorney General of the Nation	Complaints filed against Rito Alejo del Río for supporting self-defense groups	Investigation sent to archive
001-14956	Disciplinary – Office of the Attorney General of the Nation	Complaints filed against Rito Alejo del Río for ties with self-defense groups and for the murder of four members of the community of San José de Apartadó	Investigation precluded

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[FN17] Note DDH. GOI/18083/0836 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated April 18, 2006, pp. 26-33.

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31. The State maintains that the judicial authorities "have diligently pursued these proceedings in spite of the enormous level of difficulty they represent [and] major jurisdictional efforts have been made as regards the evidence in order to clear up the incidents and punish the guilty."[FN18] In light of the complexity of the matter and the procedural steps taken over almost a decade, the State believes that the exception provided for in Article 46.2.c of the American Convention, regarding unwarranted delays in the administration of justice, should not be applied.

[FN18] Note DDH. GOI/18083/0836 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated April 18, 2006.

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32. With regard to the petitioners' argument regarding application of the exception to the prior exhaustion of domestic remedies provided for in Article 46.2.a of the American Convention on the grounds that there was no national law to offer due legal process for protecting their right to freedom from forced displacement at the time of the incident, the State recognizes that forced displacement was criminalized in Law 599 of 2000, which came into effect on July 25, 2001, whereas the facts alleged in the petition and known as "Operation Genesis" took place in February 1997. However, it maintains that this circumstance alone does not justify the application of the exception provided for in Article 46.2.a since there were other punishable acts that could have been used to characterize the alleged criminal behavior arising from the forced displacement. Colombia adds that the displaced persons could appear as civil parties in criminal proceedings to further the investigation, contribute evidence to identify the guilty, and seek amends, and that, in any event, "the State has a free margin of appreciation for protecting the rights of persons under its jurisdiction."[FN19]

[FN19] Note DDH. GOI/28080/1361 from the Directorate of Human Rights and International Humanitarian Law at the Colombian Ministry of Foreign Affairs, dated June 8, 2006, p. 3.

IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

A. Competence

33. The State holds that Article 44 of the American Convention requires the "full and complete" individual identification of the victims of claims lodged with the IACHR. It thus believes that since the sole victim identified by name in the petition is Mr. Marino López, the Commission should restrict its competence to examining the circumstances surrounding his death in Bijao-Cacarica on February 27, 1997, and its clarification through judicial channels. It

consequently holds that consideration should not be given to the events of February 24 to 28, 1997, that led to the forced displacement of the Afro-descendant communities inhabiting the River Cacarica basin, or to the effects or judicial investigation thereof, regarding which, the State claims, the IACHR does not have competence ratione personae.

34. First of all, the Commission notes that the text of Article 44 of the American Convention, which enables "any person or group of persons, or any nongovernmental entity [to] lodge petitions with the Commission containing denunciations or complaints of violation (...) by a State Party," contains no restriction of competence arising from the "full and complete" identification of the individuals affected by such a violation. This is a deliberate omission, intended to allow the examination of human rights violations that, by their nature, may affect a given individual or group of persons who are not necessarily fully identified, as is the case with NN victims. Frequently, the difficulty of fully identifying the victims, particularly in cases involving multiple human rights violations, arises directly from the efforts of the perpetrators to hide the evidence and hinder any proceedings that could cause light to be cast on their crimes.[FN20] In such cases, requiring formal criteria to identify the victims would perversely encourage their exclusion from international protection, ensuring the concealment of the crimes committed and the surrounding impunity.

[FN20] In admitting a petition for violations of the American Convention with respect to some 40 persons in the Mapiripán Massacre, the Commission explained that the circumstances of the deaths of most of the victims, whose bodies were dismembered and thrown into the River Guaviare, had not been ascertained by the judicial authorities and, consequently, the victims were not identified in the petition. Report No. 34/01 (Mapiripán Massacre), Annual Report of the IACHR 2000, OEA/Ser.L/V/II.111 doc. 20 rev., April 16, 2001, paragraph 27.

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35. While the Colombian State's opinion that the procedure set out in the American Convention whereby the Inter-American Commission and Court examine and determine the responsibility of states parties in individual cases cannot be used to examine general or abstract situations is correct, that is not, however, applicable to the matter at hand. The claim lodged by the petitioners is not an abstract complaint regarding the situation of internally displaced persons in Colombia. The alleged facts specify circumstances of time and place that affected members of the communities of Puente América, Bijao-Cacarica, Quebrada del Medio, Bogotá, Barranquilla, El Limón-Peranchito, Santa Lucía, Las Pajas, Quebrada Bonita, La Virginia, Villa Hermosa–La Raya, San Higinio, Puerto Berlín, Puerto Nuevo, Montañita Cirilo, Bocachica, Balsagira, San José de la Balsa, La Balsa, Bendito Bocachico, Varsovia, and Tequerré Medio, the geographical location of which is clear.

36. As regards the individual identification of the victims, the Commission notes that in its submission of April 18, 2006, the State listed a series of actions taken by entities such as the Office of the People's Defender in providing assistance to the displaced persons referred to in the petition and submits figures taken from an official census that should identify them in full. In addition, as the State is aware, the case file dealing with precautionary measures MC 70/99 – which, at the State's own request, is being considered as part of these proceedings – contains

proof of the identity of the beneficiary community that has grouped together a substantial proportion of the individuals displaced by the incidents under study in this report. It should be noted that the case file contains elements for the individual identification of most of the persons affected by the alleged actions.

37. In consideration of the above, the Commission believes that it has competence to examine the claim as filed, as regards the possible violation of both the rights of Mr. Marino López and those of the victims of the displacement of the communities of Puente América, Bijao–Cacarica, Quebrada del Medio, Bogotá, Barranquilla, El Limón–Peranchito, Santa Lucía, Las Pajas, Quebrada Bonita, La Virginia, Villa Hermosa–La Raya, San Higinio, Puerto Berlín, Puerto Nuevo, Montañita Cirilo, Bocachica, Balsagira, San José de la Balsa, La Balsa, Bendito Bocachico, Varsovia, and Tequerré Medio, in that they are individual persons with respect to whom the Colombian State had agreed to respect and ensure the rights enshrined in the American Convention.

38. Having said that, it should also be noted that collective claims alleging violations of the rights of particularly vulnerable groups, which include communities of African descent, warrant special treatment. In the case under examination, the individual identification of the victims vis-à-vis the Commission's competence to examine the merits of the claim must acknowledge the victims' status as Afro-descendants, their form of community existence, and their collective landholding mechanisms, together with the predominance of women[FN21] and children among the displaced population.

[FN21] Women account for approximately half of Colombia's displaced persons, and the government has acknowledged that four out every ten displaced families are headed by women. See: United Nations Development Fund for Women, Report on the Situation of Women in Colombia, September 2005, p. 20; Office of the United Nations High Commissioner for Refugees, Balance de la Política Pública de Prevención, Protección y Atención al Desplazamiento Interno Forzado en Colombia (agosto 2002 – 2004), Bogotá, Colombia, December 2004, p. 110.

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39. The Commission has competence ratione materiae and ratione temporis for examining the allegations of possible violations of human rights protected by the American Convention and the Inter-American Convention to Prevent and Punish Torture[FN22] submitted by the petitioners. Colombia has been a party to the American Convention since July 31, 1973, when it deposited the corresponding instrument of ratification; it has also been a party to the Inter-American Convention to Prevent and Punish Torture since January 19, 1999, when it deposited the corresponding instrument of ratification. With respect to this latter instrument, the petitioners' claim is limited to the obligation of ensuring the immediate, ex officio investigation of acts of torture committed against persons under the jurisdiction of the state, pursuant to Articles 1 and 8 thereof. Given the date of the Colombian State's ratification of the Convention to Prevent and Punish Torture, determining responsibility for acts of torture or inhumane treatment suffered by the alleged victims in the instant case is covered by Article 5 of the American Convention.

[FN22] Inter-American Convention to Prevent and Punish Torture, adopted in Cartagena de Indias, Colombia, on December 9, 1985, at the 15th regular session of the OAS General Assembly, STOEA No.° 67; in force since February 28, 1987, in accordance with Article 22. Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L/V/I.4 rev.9, January 31, 2003.

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40. The petitioners have made claims regarding the State's alleged responsibility for violations of other international instruments. Specifically, they cite the United Nations Guiding Principles on Internal Displacement, the International Convention against Torture, and the International Convention on the Prevention and Punishment of the Crime of Genocide. In response, the State holds that the Commission is not competent to rule on its responsibility for violations of those instruments, which do not award jurisdiction for their oversight to the bodies of the inter-American system.

41. On this matter, the Commission notes that, as stated by the Court with respect to the exercise of its jurisdiction, while there is no assignation of competence for declaring that a state is internationally responsible for violating international treaties that allocate no such function, the Commission

can observe that certain acts or omissions that violate human rights, pursuant to the treaties that they do have competence to apply, also violate other international instruments for the protection of the individual... [Provided] there is a similarity between the content of [other treaties] and the provisions of the American Convention and other international instruments regarding non-derogable human rights (such as the right to life and the right not to be submitted to torture or cruel, inhuman or degrading treatment), the relevant provisions [...] may be taken into consideration as elements for the interpretation of the American Convention.[FN23]

This reasoning is based on the rules of interpretation set out in Article 29 of the American Convention.[FN24] It should therefore be concluded that, if deemed appropriate, the Commission has the authority to invoke standards enshrined in other treaties in interpreting the provisions of the American Convention.

[FN23] I/A Court H. R., Bámaca Velásquez Case. Judgment of November 25, 2000. Series C No. 70,
paras. 208 and 209.

[FN24] Article 29 of the American Convention provides that: "No provision of this Convention shall be interpreted as: (a) permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein; (b) restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party; (c) precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; or

(d) excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have."

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42. In fact, for the specific determination of state responsibility under Article 22 of the American Convention, the Inter-American Court has ruled that the problem of forced displacements must be analyzed in light of international human rights law and international humanitarian law and, in the case of Colombia, also in light of the emergence of the phenomenon in the context of the internal armed conflict.[FN25]

[FN25] See: I/A Court H.R., Case of the Ituango Massacres. Judgment of July 1, 2006. Series C No. 148, paras. 208 and 209; I/A Court H.R., Case of the "Mapiripán Massacre," Judgment of September 15, 2005. Series C No. 134, para. 171; I/A Court H.R., Case of the Moiwana Community. Judgment of June 15, 2005. Series C No. 124, paras. 113 to 120.

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43. Thus, the Court has found that the Guiding Principles on Internal Displacement, issued in 1998 by the Representative of the United Nations Secretary-General[FN26] are of particular relevance in defining the content and scope of Article 22 of the Convention in situations of internal displacement. It has furthermore stated that given the situation of internal armed conflict in Colombia, the rules applicable to displacements contained in Protocol II of the 1949 Geneva Conventions are particularly useful. Specifically, Article 17 of Protocol II prohibits the displacement of civilian populations for conflict-related reasons, except when so required for the security of those civilians or for imperative military reasons; even so, in the latter case, "all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition." In connection with this, the Inter-American Court has also followed the guidelines established by the Constitutional Court of Colombia whereby "also, in the Colombian case, the observance of these rules by the parties in the conflict is of particular urgency and importance, since the armed conflict underway in the country has seriously affected the civilian population, as seen, for example, in the alarming data on forced displacements."[FN27]

[FN26] United Nations Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, February 11, 1998.

[FN27] Constitutional Court of the Republic of Colombia, Judgment C-225/95 of May 18, 1995, para. 33, quoted by the Inter-American Court in the Case of the Ituango Massacres, Judgment of July 1, 2006, Series C No. 148, para. 209.

B. Admissibility requirements

1. Exhaustion of domestic remedies

44. Article 46.1.a of the American Convention requires the prior exhaustion of the available domestic legal resources in accordance with generally recognized principles of international law, as a prerequisite for the admission of claims alleging violations of the American Convention.

45. Article 46.2 of the Convention states that the prior exhaustion of domestic remedies need not be required when:

(a) the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated;
(b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or
(c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

As the Inter-American Court has established, whenever a State claims that a petitioner has not exhausted the relevant domestic remedies, it is required to demonstrate that the remedies that have not been exhausted are "suitable" for remedying the alleged violation and that the function of those resources with the domestic legal system is applicable to protecting the violated juridical situation.[FN28]

[FN28] I/A Court H. R., Velásquez Rodríguez Case. Judgment of July 29, 1988. Series C No. 4, para. 64.

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46. In the instant case, the State claims that the petition does not satisfy the requirement regarding the prior exhaustion of the remedies offered by domestic jurisdiction set out in Article 46.1.a of the American Convention since three investigations are still pending. In turn, the petitioners hold that the exceptions provided in Article 46.2.a and c apply on account of the nonexistence of judicial resources for reporting the commission of the crime of forced displacement in 1997 and the unwarranted delay in the judicial clarification of all the facts described in the petition.

47. As indicated by the parties' claims, almost a decade after the events described in the petition, of the three investigations that have not been precluded or sent to the archive, one is in the investigation phase and two are in the preliminary phase,[FN29] without the investigation as yet having been formally opened.

[FN29] Per Article 322 of Colombia's Code of Criminal Procedure, that phase is intended to determine whether an incident reported to the authorities through any channels actually took place, whether it is punishable under criminal law, whether it took place under circumstances that would cause an absence of liability, and whether the processability requirements have been met for the commencement of criminal action and the gathering of the evidence needed to identify the perpetrators of the punishable act and/or the participants therein. It is, therefore, a stage that takes place prior to the investigation phase, which, in accordance with the law, has a

maximum duration of six months. After that period, either a resolution opening investigation proceedings or writs of waiver must be issued, or, if the identity of the alleged perpetrator has not been established, a suspension must be ordered. Code of Criminal Procedure of Colombia, Law 600 of July 24, 2000, at http://www.unifr.ch/derechopenal/legislacion/co/cpp_colombia.htm, as of December 15, 2004 (hereinafter the "Code of Criminal Procedure").

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48. The Commission notes that, as a general rule, a criminal investigation must be carried out promptly to protect the interests of the victims, to preserve the evidence, and also to safeguard the rights of all persons deemed suspects in the investigation. In this case, the time that has passed reduces the possibilities of an effective investigation. As the Inter-American Court has ruled, although all criminal investigations must meet a series of legal requirements, the ruling requiring the prior exhaustion of domestic remedies must not mean that international action in support of the victims is halted or delayed to the point of uselessness.[FN30]

[FN30] I/A Court H. R., Velásquez Rodríguez Case, Preliminary Objections. Judgment of June 26, 1987. Series C No. 1, para. 93.

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49. Regarding the petitioners' request for application of the exception provided for in Article 46.2.a, the State notes that although forced displacement was only criminalized in 2000, at the time of the incident there were other punishable acts that could have been used to characterize the alleged criminal behavior arising from the forced displacement and regarding which the authorities had a "margin of appreciation." The IACHR notes that the State's reasoning indicates that in spite of the material complaints made over the years by the victims – some of which are set out in the case file of precautionary measures MC 70/99 – the authorities did not pursue any proceedings specifically in connection with the criminal acts that led to the forced displacement of the affected communities in the case at hand.

50. In any event, above and beyond the names of the substantive provisions and judicial resources available, the Commission has seen that even in those cases in which the specific crime of forced displacement was invoked before the courts after the corresponding law came into effect, there have been delays in dealing with the situation, leading the Constitutional Court of Colombia to note in this regard the existence of an "unconstitutional state of affairs."[FN31]

[FN31] The IACHR, in its 2005 Annual Report, spoke about the urgency of responding to the orders for compliance issued by the Constitutional Court urging the institutions of the State to respond to the consequences of internal displacement. 2005 Annual Report of the IACHR, OEA/Ser.L/V/II.124, Doc. 7, February 27, 2006, Chapter IV, section on Colombia, paragraph 8. Constitutional Court, Deed 176 of August 29, 2005, Orders related to the budgetary effort needed to implement the policies of attention to displaced populations, in accordance with judgment T-025 of 2004, handed down by the Third Review Chamber; (2) Constitutional Court, Deed 177 of August 29, 2005, Orders given in the third paragraph of the operative section of

Judgment T-025 of 2004, to overcome the unconstitutional state of affairs as regards internal forced displacement; and (3) Constitutional Court, Deed 178 of August 29, 2005, Orders contained in paragraphs two, four, five, eight, and nine of the operative section of Judgment T-025 of 2004, issued to overcome the unconstitutional state of affairs as regards internal forced displacement.

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51. In sum, given the characteristics and context of this case, the Commission believes that it is appropriate to apply the exception to the prior exhaustion of domestic remedies requirement provided for in Article 46.2.c of the American Convention, on account of the delay in administering effective justice in connection with the incidents set out in the petition. As regards the exception granted by Article 46.2.a, the IACHR believes that on account of its characteristics, it is covered by the exception applicable to delays as already admitted.

52. Invoking the exceptions to the exhaustion of domestic remedies rule contained in Article 46(2) of the Convention is closely tied in with determining possible violations of certain rights set forth therein, such as guarantees of access to justice. However, by its very nature and purpose, Article 46.2 is a provision with autonomous content vis-à-vis the Convention's substantive precepts. So, the decision as to whether the exceptions to the exhaustion of domestic remedies rule are applicable in the case at hand must be taken before the merits of the case are examined and in isolation from that examination, in that it depends on a different criterion from the one used to determine whether Articles 8 and 25 of the Convention were indeed violated. It should be noted that the causes and effects that prevented the exhaustion of domestic remedies in the case at hand will be analyzed in the Commission's future report on the merits of the controversy, in order to determine whether or not the American Convention was in fact violated.

2. Filing period

53. The American Convention requires that for a petition or communication to be admitted by the Commission, it must be lodged within a period of six months from the date on which the alleged victim of a rights violation was notified of the final judgment. In the instant case, the IACHR has admitted exceptions to the exhaustion of domestic remedies requirement in accordance with Article 46.2.c of the American Convention. In this regard, Article 32 of the Commission's Rules of Procedure states that in cases in which the exceptions to the requirement of prior exhaustion of domestic remedies are applicable, petitions must be presented within what the Commission considers a reasonable period of time. For that purpose, the Commission has to consider the date on which the alleged violation of rights occurred and the circumstances of each case.

54. In the case at hand, the petition was presented on June 1, 2004, and the incidents it describes commenced on February 24, 1997. Since part of the petition deals with the delay in responding to the situations it describes and in administering justice, it must be concluded that the petition was lodged within a reasonable time and that this admissibility requirement has been satisfied.

3. Duplication of international proceedings and res judicata

55. Nothing in the case file indicates that the substance of the petition is pending a decision in any other international settlement proceeding or that it is substantially the same as any other petition already examined by this Commission or another international body. Hence, the requirements set forth in Articles 46.1.c and 47.d of the Convention have been met.

4. Characterization of the alleged facts

56. The State asks the IACHR to declare inadmissible the petitioners' claims regarding the involvement of the then commander of Army Brigade XVII in the planning and perpetration of the incidents described in the petition and the fact that currently no state agent is under investigation by the domestic courts. Specifically it holds that in the case at hand "the Commission may not admit the petition in order to review the preclusion" ordered in single-instance criminal trial No. 5767 regarding the actions of Brigadier General Rito Alejo del Río Rojas, serving as the commanding officer of Army Brigade XVII during 1996 and 1997.

57. It should first be pointed out that the mechanism provided by Articles 44 to 51 of the American Convention is not intended to establish the individual criminal responsibility of those persons who, acting either as civilians or as state agents, might have been involved in the commission of a crime, but rather to establish the State's responsibility for violating the American Convention and other applicable instruments. It would, thus, be inappropriate for the IACHR to invoke those mechanisms in order to overturn a decision adopted domestically by an investigating agency. Having said that, examining and determining whether state responsibility is involved in a given incident requires considering whether the organs and agents acting within the scope of state authority have made the State responsible by failing to take the steps necessary to ensure the persons under its jurisdiction the rights that the American Convention protects, in particular as regards the due legal clarification of violations of irrevocable basic rights.

58. The arguments of the parties indicate that the possible responsibility of state agents in the torture and murder of Marino López, and in the forced displacement of hundreds of Afro-descendants, in conjunction with illegal armed groups from the AUC and ACCU, is one of the disputed matters in the case at hand, which should be dealt with when the merits of the claim are examined. Similarly, the actions and omissions of the judicial system in determining the criminal responsibility of state agents – already a cause for concern to the IACHR on account of its monitoring of precautionary measures MC 70/99[FN32] – should also be examined in the following phase.

[FN32] It should be noted that on August 13, 2001, the Commission published a press release expressing its concern at the resignation within the office of the Prosecutor General of the Republic of Colombia that followed on from the reactions to the arrest of retired army general Rito Alejo del Río Rojas, at that time named in several investigations for serious human rights violations during his time as the commanding officer of the Army's XVII Brigade. The Commission said that "the lack of support for the decision of the National Unit of Human Rights of the Prosecutor's Office to enforce the arrest of General del Río Rojas caused the forced resignation of its Director, Pedro Díaz Romero and the release of the General. The Commission

has also learned that judicial and disciplinary procedures might have been instituted against the members of the Unit and the Technical Corps of Investigations (TCI) that participated in the investigation and the corresponding detention." The Commission expressed "its serious concern for the above related events which, by inhibiting and restraining the task of the Unit, restrict the independence and efficacy of the administration of justice and the battle against impunity in Colombia." The Commission said in that press release that it had extended precautionary measures, in accordance with Article 25 of its Rules of Procedure, on behalf of the former Director of the National Human Rights Unit, a number of prosecutors belonging to it, and members of the TCI, and that it had spoken to the State to request that it adopt the measures necessary to protect their physical integrity and that of their families and to avoid any reprisals against members of the Unit for acts undertaken in the legitimate exercise of their functions. IACHR, Press Release, "IACHR concerned for changes in the National Human Rights Unit in Colombia," August 13, 2001, available at http://www.cidh.oas.org/Comunicados/English/2001/Press21-01.htm.

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59. The Commission therefore believes that the petitioners' claims regarding the death of Mr. Marino López and the forced displacement of the members of the 22 communities of African descent that inhabited the River Cacarica basin as a result of the actions carried out between February 24 and 27, 1997, could tend to establish violations of the rights enshrined in Articles 4, 5, 8, 17, 19, 21, 22, and 25 of the American Convention, in conjunction with Article 1.1 thereof. In addition, given the characteristics of the affected population and of the allegations contained in the petition, the Commission believes that this issue should be examined in light of Article 24 of the Convention during the merits phase. Since these aspects of the petition are not manifestly groundless or obviously out of order, the Commission holds that the requirements set forth in Article 47.b and c of the American Convention have been met as regards this aspect of the claim.

V. CONCLUSIONS

60. The Commission concludes that in accordance with the requirements established in Articles 46 and 47 of the American Convention, it is competent to examine this complaint as regards the alleged violation of Articles 4, 5, 8.1, 24, 25, and 1.1 of the American Convention and Articles 1 and 8 of the Inter-American Convention to Prevent and Punish Torture with respect to Mr. Marino López and as regards the alleged violation of Articles 5, 8.1, 17, 19, 21, 22, 24, 25, and 1.1 of the American Convention with respect to the individuals displaced from the Cacarica basin as a result of the events of February 24 to 27, 1997.

61. Based on the foregoing considerations of fact and law, and without prejudging the merits of the case,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare that the complaint is admissible as regards the alleged violation of Articles 4, 5, 8.1, 24, 25, and 1.1 of the American Convention and Articles 1 and 8 of the Inter-American

Convention to Prevent and Punish Torture with respect to Mr. Marino López and as regards the alleged violation of Articles 5, 8.1, 17, 19, 21, 22, 24, 25, and 1.1 of the American Convention with respect to the individuals displaced from the Cacarica basin as a result of the events of February 24 to 27, 1997.

2. To give notice of this decision to the Colombian State and to the petitioner.

3. To continue with its analysis of the merits of the complaint.

4. To publish this decision and to include it in its Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 21st day of the month of October, 2006. (Signed): Evelio Fernández Arévalos, President; Paulo Sérgio Pinheiro, First Vice-President; Florentín Meléndez, Second Vice-President; Freddy Gutiérrez, Paolo G. Carozza and Víctor Abramovich, Commissioners.