

Petition and Case System

Any person who believes that has been a victim of human rights violations can file a petition before the Inter-American Commission on Human Rights and initiate a process in which the alleged facts will be verified, and when it proceeds, the IACHR will make recommendations to the State responsible regarding the rights violated, to prevent a recurrence of similar events, to investigate the facts, and to make reparations.

The purpose of this brochure is to inform about some basic concepts that any person should know before filing a petition such as which human rights are protected, how and when to file a petition, the requirements to do so, and in general, to inform about the procedures that must be followed.

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A

Human Rights in the Inter-American System

What is the Inter-American Human Rights System?

It is a regional system for the promotion and protection of human rights, and it comprises two bodies: the Inter-American Commission on Human Rights (“IACHR” or “the Commission”) and the Inter-American Court of Human Rights (“Court” or “Inter-American Court”), which monitor compliance by the Member States of the Organization of American States (“OAS”) with the obligations they have undertaken on human rights.

01 What is the Inter-American Commission on Human Rights?

The Commission is a principal and autonomous body of the OAS established in 1959, whose mandate stems from the Charter of the OAS. The Commission is made up of seven members, independent experts on human rights, who do not represent any country, and are elected by the OAS General Assembly.

The IACHR has a permanent Executive Secretariat headquartered in Washington, DC, United States, which provides the Commission with professional, technical, and administrative support.

02 What is the OAS?

The OAS is an organization that brings together the 35 independent countries of the Americas, and has the following purposes:

- To strengthen the peace and security of the continent
- To promote and consolidate representative democracy, with due respect for the principle of nonintervention
- To prevent possible causes of difficulties and to ensure the peaceful settlement of disputes that may arise among Member States
- To provide for common action on the part of those States in the event of aggression
- To seek the solution of political, juridical, and economic problems that may arise among them
- To promote, by cooperative action, their economic, social, and cultural development
- To eradicate extreme poverty, which constitutes an obstacle to the full democratic development of the peoples of the hemisphere, and
- To achieve an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the Member States.

The OAS has four fundamental pillars for attaining its objectives. These are: democracy, human rights, security, and development. In addition, respect for the fundamental rights of the human being is among the basic principles of the OAS.

03 What are the Member States of the OAS?

The Member States of the OAS are: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay, and Venezuela.

04 What is the Commission's function?

The Commission's function is to promote the observance and defense of human rights in the Americas. The Commission performs this function by making visits to the countries, carrying out thematic activities and initiatives, preparing reports on the human rights situation in a certain country or on a particular thematic issue, adopting precautionary measures or requesting provisional measures before the Inter-American Court, and processing and analyzing individual petitions to determine the international responsibility of States for human rights violations and issuing the recommendations it deems necessary.

The individual petitions examined by the Commission may be submitted by individuals, groups of individuals, or organizations that allege violations of the human rights guaranteed in the American Declaration of the Rights and Duties of Man ("the American Declaration"), the American Convention on Human Rights ("the American Convention"), and other inter-American human rights treaties.

05 Against whom can I file a petition alleging a human rights violation?

The complaint must be filed against one or more Member States of the OAS considered to have violated human rights contained in the American Declaration, the American Convention, and other inter-American human rights treaties.

- **action:** as a result of an act by the State or its agents;
- **acquiescence:** as a result of the tacit consent of the State or its agents; or

The State may be responsible for violating human rights by:

- **omission:** as a result of the State or its agents failing to take action when they should have done so.

06 What are the rights about which can I submit a petition?

The petition must include those rights established in the American Convention and Declaration, as well as other inter-American human right treaties.

07 Can the Commission determine the liability of an individual person?

The Commission can only determine the international responsibility of an OAS member State for human rights violations or affectations. The

Commission does not have the competence to attribute individual liability, that is, it cannot determine whether an individual person is guilty or not.

08 What results can I expect if I file a petition against an OAS Member State?

The IACHR analyzes and studies the petitions to determine whether one or more rights established in the Convention and/or American Declaration were violated. Depending on the result of the analysis carried out, the IACHR may:

- Admit the petition and issue a report of [admissibility or inadmissibility](#);
- Negotiate a [friendly settlement](#) between the parties;
- Issue a [merit](#) report;
- Present the case to the Court IDH requesting that they declare the international responsibility of the State.

09 What can the IACHR request from a State that is responsible for the violation of a right?

In the case that the Commission determines that a State is responsible for having violated the human rights of a person or group of people, a report will be issued, and it may include the following recommendations to the State:

- suspend the acts that violate the human rights;
- investigate and punish people who are responsible;
- repair the damage caused;
- introduce changes to the legal system; and/or
- require the adoption of other measures or state actions.

10 What can't the IACHR do?

- issue a ruling with respect to a State that is not a member of the OAS;
- provide financial aid or work tools to people;
- provide attorneys to assist in domestic judicial proceedings or to submit a petition or request for precautionary measures before the Commission;
- undertake immigration procedures or process the granting of visas or political asylum.

11 On what basis does the Commission determine whether a State violated human rights or not?

The Commission examines the petitions in which violations of the American Convention are alleged for those States that have ratified it. For the Member States that have not yet done so, the violation of the rights contained in the

American Declaration can be alleged. The violation of a right protected in another human rights treaty of the system can be alleged to the extent that the State in question has ratified it and under the applicable conditions.

12 Which States have ratified the American Convention?

The countries that have ratified the American Convention are: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago¹, Uruguay, and Venezuela. In relation to all other States of the OAS, the Commission is competent to receive petitions alleging violations of the American Declaration or other inter-American treaties of human rights ratified by the State.

13 What happens if the State that I am denouncing for human rights violation is suspended from participating in the OAS?

In the case that a State is suspended from participating in the OAS, it continues to be obligated to ensure the rights and the Commission continues to be competent to monitor the human rights situation in that country.

14 What is the Inter-American Court of Human Rights?

The Inter-American Court of Human Rights, installed in 1979, is an autonomous judicial body of the OAS, whose mandate arises from the American Convention. **The Inter-American Court of Human Rights has its headquarters in the city of San José, Costa Rica**, and is composed by seven judges elected in their personal capacity, from the OAS Member States. The Inter-American Human Rights Court's objective is to interpret and apply the American Convention and other inter-American human rights treaties, in particular, through the issuance of judgments on cases and advisory opinions. No petitions are presented before the Inter-American Court of Human Rights, as indicated in the numeral 5.

1. Trinidad and Tobago withdrew from the American Convention. The Commission and Inter-American Human Rights Court are competent to examine allegations of human rights violations for rights contained in the American Convention in relation to acts that have occurred or started to occur between May 28th 1991 and May 26th 1999; the Commission maintains competence with respect to the American Declaration.

15 Can I present a case directly to the Inter-American Human Rights Court?

No. Only the member States and the Commission can submit a case to the Inter-American Human Court of Human Rights. The petitioners or alleged victims cannot go directly to the In-

ter-American Human Rights Court, they must first submit their petition to the Commission and complete the procedure provided for it.

16 Against what States can the Commission refer a case to the Inter- American Human Rights Court?

The Commission may, when the conditions are met, refer cases to the Inter-American Human Rights Court only with respect to those States that have ratified the American Convention and have previously recognized the contentious jurisdiction of the Court unless a State accepts jurisdiction expressly for a specific case. The States that have

recognized the contentious jurisdiction of the Inter-American Human Rights Court are: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago², Uruguay and Venezuela.

17 What are the inter-American human rights treaties?

- American Convention on Human Rights, “Pact of San José, Costa Rica”, 1969;
- Inter-American Convention to Prevent and Punish Torture, 1985;
- Additional Protocol to the American Convention in the area of Economic, Social and Cultural Rights, “Protocol of San Salvador”, 1988;
- Protocol to the American Convention on Human Rights to Abolish the Death Penalty, 1990;
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, “Convention of Belém do Pará,” 1994;
- Inter-American Convention on Forced Disappearance of Persons, 1994;
- Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, 1999;
- American Declaration of Rights and Duties of Man, 1948.

2. Ibidem

Although the American Declaration on the Rights and Duties of Man is not a treaty, it is included in the previous list for its indisputable

normative value and for being the main legal instrument that applies when the American Convention is not applicable.

18 What rights are protected?

The American Convention protects the following rights:

- The right to juridical personality
- The right to life
- The right to humane treatment
- The right of every person not to be subjected to slavery or to involuntary servitude
- The right to personal liberty
- The right to a fair trial
- Principle of legality and non-retroactivity
- The right of every person to be compensated in accordance with the law in the case of having been sentenced in a final judgment through a miscarriage of justice
- The right to privacy
- The right to freedom of conscience and religion
- The right to freedom of thought and expression
- The right of reply

- The right of assembly
- The right to freedom of association
- The rights of the family
- The right to a name
- The rights of the child
- The right to nationality
- The right to property
- Freedom of movement and residence
- The right to participate in government
- The right to equal protection
- The right to judicial protection
- The right to the progressive development of economic, social, and cultural rights

The American Declaration also contains a complete list of the rights that the States must respect and protect. In addition to the rights mentioned above, the American Declaration specifically recognizes the right to work and to fair remuneration, the right to social security, the right to the benefits of culture, and the right to health, among others.

19 What are the rights protected in the “Protocol of San Salvador”?

The Protocol of San Salvador protects economic, social, and cultural rights, such as the right to education, to organize and join trade unions, to social security, to health, to a healthy environment, to food, and to the benefits of culture.

While the Protocol protects all these rights and the Commission can make observations and recommendations with respect to all of them, the right to education and to organize and join unions are the only ones on which the Commission and the Inter-American Court may rule in the context of an individual petition submitted against a State.

20 What do the other inter-American human rights treaties prohibit?

The objective of these treaties is to reaffirm the protection and develop the content of the human rights guaranteed by the American Declaration and the American Convention. These treaties prohibit, among others, the following acts:

- torture or cruel, inhuman, or degrading punishment;
- reestablishment of the death penalty in those countries that have abolished it;
- physical, sexual, and psychological violence and discrimination against women;
- forced disappearance; and,
- discrimination against persons with disabilities.

Not all the Member States of the OAS have ratified all the treaties indicated in [numeral 17](#). You may find the treaties and ratifications by the States on the [website of the Department of International Law \(DIL\) of the OAS](#).

B

Guide for submitting a petition

IN WHICH SITUATIONS CAN THE COMMISSION INTERVENE?

21 Must I have initiated some judicial proceeding before turning to the Commission?

Yes. For the Commission to examine a petition, all domestic judicial remedies must be exhausted in accordance with the legislation in force in the State in question.

22 What does it mean to exhaust domestic judicial remedies?

It means that those persons who want to file a petition with the Commission must first attempt to have the domestic courts decide on the situation they are denouncing. A person has exhausted domestic remedies when the judicial branch has issued a decision of last resort.

In case that it is not possible to exhaust domestic remedies the reasons will have to be explained since the rule of prior exhaustion of domestic remedies admits exceptions.

23 What are the domestic judicial remedies that need to be exhausted?

They are those that are **adequate** and **effective**.

Characteristic	Example
A judicial remedy is adequate when pursuing it may protect the right allegedly violated.	In the case of an enforced disappearance, an adequate remedy is the one of personal exhibition or habeas corpus.
A judicial remedy is effective when it is capable of obtaining the result for which was created.	A remedy is not effective when the State has not ensured its due application by the judicial authorities or when there is unjustified delay in the decision.

24 What are the exceptions to exhaustion of domestic remedies?

The Commission may examine a petition in which domestic remedies have not been exhausted when:

- A. domestic laws do not provide due process to protect the rights allegedly violated;
- B. the alleged victim did not have access to domestic remedies or was prevented from exhausting them; or

- C. there is a delay in issuing a final decision on the case without a valid reason;

Under certain circumstances, a person may be exempted from exhausting domestic remedies. For example, if the person is in a situation of extreme poverty, so critical that is not able to pay an attorney in those cases in which legal assistance is necessary, and as long as the State does not offer this service free of charge.

25 When should I submit my petition?

The petition must be submitted **within six months** of the date of notification of the final judicial decision that exhausted domestic remedies. When there is an exception to the exhaus-

tion of domestic remedies, the six-month term does not apply. In such cases, the petition must be filed within a reasonable time.

26 Can the Commission and the Inter-American Court of Human Rights review decisions issued by domestic courts?

The mere fact that a court ruling does not satisfy a person's interests does not mean that his or her human rights have been violated. The Commission and Inter-American Court only have competence to review possible violations of the rights protected in the inter-American treaties.

HOW CAN I SUBMIT A PETITION?

27 Who can file a complaint before the Commission?

Any person, group of persons, or organization, on its own or in representation of another, may file a petition alleging a violation of human rights against one or more Member States of the OAS.

A person may be both the petitioner and the alleged victim in a petition.

If the alleged victim wishes to change the representation or become a petitioner in his/her own petition, he/she must immediately notify the Commission in writing, since generally, the Commission will maintain communication with

the petitioning party. Also, in the event of a change of address or other contact information, it is important to notify it in writing as soon as possible.

- **Petitioner:** person or group of people who file the petition (petitioning party).

- **Alleged victim(s):** person or group of persons allegedly affected by the facts reported in the petition. The alleged victims must be identified or identifiable.

28 Can the Commission keep the identity of the alleged victim confidential?

In general, when the Commission addresses the State in relation to a petition, it must communicate the identity of the alleged victim, since the State should be informed of the person who is affected by the facts alleged in the petition. However, if the person has any problem in this regard, the situation can be communicated to the Commission to be considered for identity confidentiality.

In certain cases, the Commission may protect the identity of the alleged victim in the documents that are made public, for example, by substituting the person's complete name with his or her initials. The request to protect the victim's identity must be made to the Commission, with an explanation.

29 Can the Commission keep the petitioner's identity confidential?

Yes. The Commission can keep the petitioner's identity confidential if the petitioner makes an express request in this regard. However, if the petitioner is also the alleged victim, it is important to indicate that, if the petition successfully passes the Study stage, the Commission will inform the

State of the identity of the person in his/her capacity as alleged victim, as indicated in the answer of the previous paragraph, but not your identity as the petitioner. If the person has any inconvenience about it, the situation may be communicated to the Commission for its consideration.

30 In what language should I file my petition?

The official languages of the IACHR are:

- Spanish
- Portuguese
- English
- French

and generally, it is only necessary to send the petition in the official language of the State denounced.

It is important to bear in mind that, if it is decided to process the petition, it must be forwarded to the State in the official language it uses. For this reason, when a petition is not in that language, the Commission may require the petitioning party to seek the means necessary for it to be translated.

31 Do I need a lawyer to file my petition?

No. The Commission does not require the representation of an attorney to file and process the petition.

32 Is there a fee for filing my petition?

No. The procedures before the Commission are free of charge.

33 What should I include in my petition?

The form for submitting petitions available on the [IACHR Individual Petition System Portal](#) (IACHR Portal) was designed to facilitate compliance with the following requirements:

- The personal information of the alleged victim(s) and of his/her relatives;
- the personal information on the petitioner(s), such as complete name, phone number, mailing address, and email;
- a complete, clear, and detailed description of the alleged facts that includes how, when, and where they occurred, as well as the State considered responsible;
- an indication of the State authorities considered responsible;
- if possible, the rights considered violated;
- the judicial bodies or authorities in the State to which one has turned to remedy the alleged violations;
- the response of the State authorities, especially of the judicial courts;
- if possible, uncertified, and legible copies of the principal complaints and motions filed in pursuit of a remedy, and of the domestic judicial decisions and other annexes considered relevant, such as witness statements; and
- an indication as to whether the petition has been submitted to any other international organization competent to resolve cases.

If possible, it is recommended that a list be included numbering the annexes attached to the petition to facilitate their identification.

34 What requirements must the petition annexes meet?

- Photocopies of documents do not require any formality, that is, it is not necessary that they be certified, notarized or legally authenticated; legible, uncertified copies are sufficient. It is not necessary to send several copies of the same document.
- If the petition and its annexes are sent by postal mail, it is preferable that the documentation is not ringed, bound, or laminated.

As a general rule, the Commission does not return documents that were sent as part of a petition. For this reason, originals or single copies of the documents should not be sent.

35 Where should I send my petition?

The main route recommended by the IACHR to present petitions is through the IACHR Portal:

Electronic petitions form:

www.oas.org/en/iachr/portal

Exceptionally, it can be sent by certified postal mail: **Inter-American Commission on Human Rights 1889 F Street, N.W. Washington, D.C. 20006 United States**

Important

- The IACHR gives equal treatment to all petitions, processing them based on objective criteria and in chronological order, and not to its form of presentation. Therefore, it is not necessary to go personally to the Inter-American Commission on Human Rights headquarters in Washington D.C. to submit a petition, deliver information or additional documents.
- The Commission is aware that this would entail excessive and unnecessary expense for the petitioning part or for the alleged victims, since there is no impact on the processing of the petition.
- If the petition is submitted through the Portal, it is not necessary to resend it in printed format.
- It is recommended to send only digitalized documents. In addition, do not send original documents or others, like books, videos, magnetic tapes or similar.
- If more space is needed to complete the form, you can use additional sheets to answer the questions or write the petition in a separate document, using the questions included in the form as a guide.
- Every petition or communication sent must be expressly addressed to the Inter-American Commission on Human Rights.

WHAT IS THE PROCEDURE FOR MY PETITION BEFORE THE COMMISSION?

36 Should I go to the Commission's headquarters at some point?

It is not necessary to come to the Commission, because the procedure is mainly written. In certain cases, and once a petition is processed (open for processing) and the State is notified, the Commission may convene hearings or working meetings, if necessary.

37 How can I be sure that the Commission received the complaint?

All requests sent through the Individual Petition System Portal will receive 2 e-mails; the first confirming the submission of the complaint form and the second to report the registration number of the petition and its status.

The IACHR does not send acknowledgments of receipt for petitions received by postal mail. The acknowledgment of receipt for these petitions will be made when notifying the petitioner of any decision adopted.

38 After sending my petition, may I submit additional information?

If necessary, additional information may be submitted through the Portal. All additional information and documents will be included in the file associated with the petition. If the information

was sent by post mail, the petitioner should indicate the reference number of the petition. It is important to notify the Commission immediately of any change in address or e-mail.

39 What happens once the petition is received?

Once the petition is submitted, it will be at the initial assessment stage. Given the large number of petitions received by the Commission, the preliminary evaluation of a petition may

take some time. All petitions submitted to the IACHR are evaluated and a response is given in due time.

40 What happens once the preliminary evaluation of the petition is completed?

After a preliminary evaluation, there may be a decision:

- A. [to not open](#) the petition for processing;
- B. to request additional information or documentation; or

- C. to open the petition for processing. At this moment, the petition will enter the [admissibility stage](#). This decision means that the necessary requirements were met for the Commission to study it, but it is not yet a decision with respect to the subject-matter presented.

41 What does it mean that my petition is in the admissibility stage?

It means that the petition submitted will be sent to the State to present its observations. A process of exchange of information begins, in which the Commission may request more information to decide whether the petition is ad-

missible. Any information submitted by a party will be forwarded to the other party. After this exchange of information, the Commission, by preparing a report, decides whether the petition is admissible or inadmissible.

42 What happens once a petition is found admissible?

When a petition is admissible, the Commission will analyze the parties' allegations and the evidence submitted. In this stage, the Inter American Commission on Human Rights may ask the

State and the petitioner for more information, evidence, or documents and, if necessary, may convene a hearing or working meeting.

43 Can a friendly settlement be reached with the State?

Yes. It is a process that depends on the will of the parties and consists of negotiations aimed at resolving the matter without the need to complete the contradictory process, and which takes place under the Commission's supervi-

sion. If it is not possible to reach a friendly settlement, the Commission will continue analyzing the parties' allegations and will decide on the case, determining whether the State is or is not responsible for the alleged violations.

44 What happens if the Commission decides that the State is responsible for the human rights violations?

The Commission will issue a report on the merits that will include recommendations to the State that may be aimed at:

- bringing a halt to the acts that are in violation of human rights;
- clarifying the facts, carrying out an official investigation, and imposing a sanction;
- making reparation for the harm caused;
- making changes to the law; and/or
- requiring the adoption of other measures or actions by the State.

45 What happens if the State does not comply with the recommendations?

The Commission will decide:

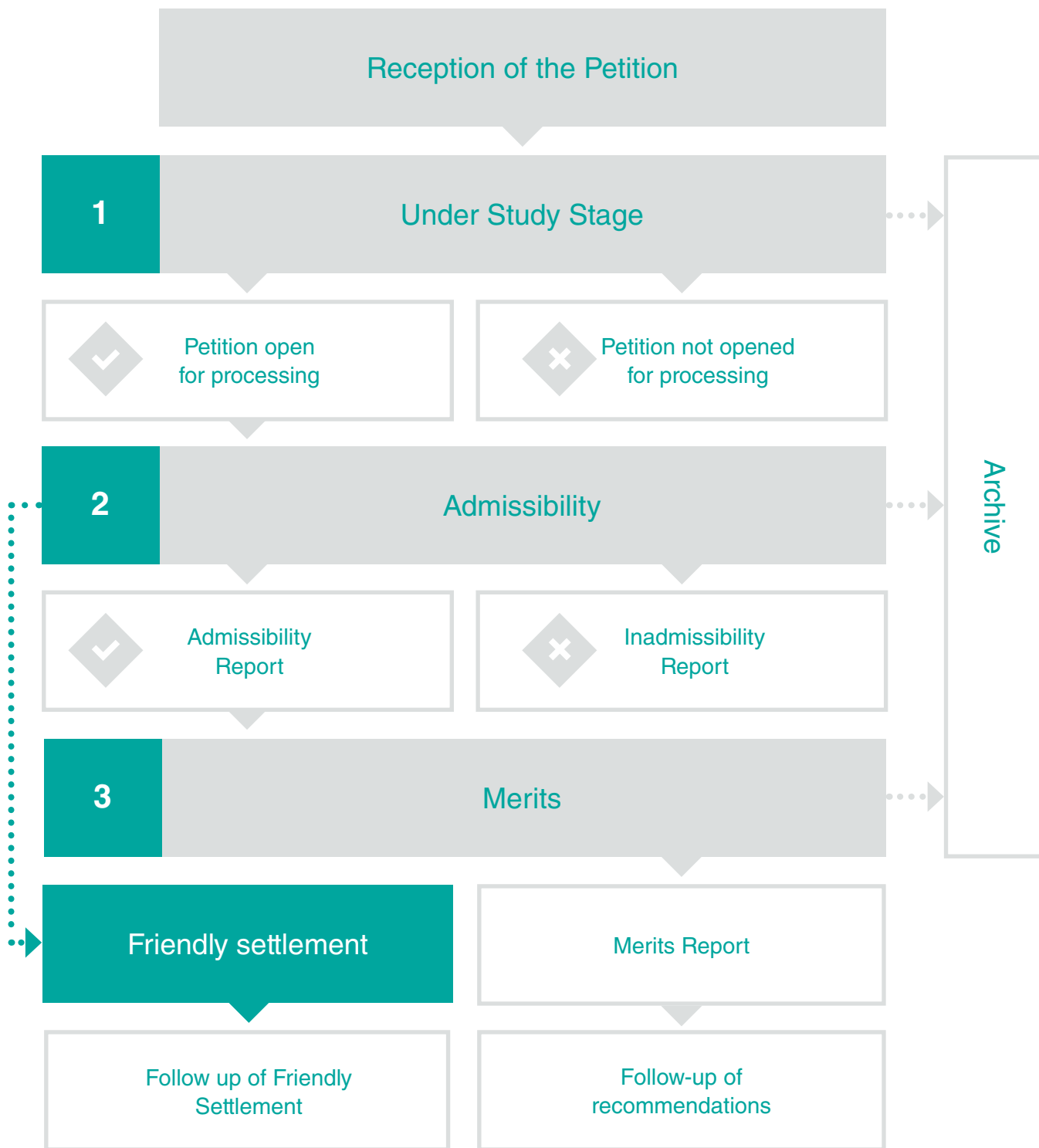
- to publish the case; or
- to refer the case to the Inter-American Court of Human Rights if it considers it appropriate.

46 What happens if the Commission decides to refer the case to the Inter-American Human Rights Court?

If the Commission decides to refer the case to the Inter-American Human Rights Court, the Court will analyze it and issue a reasoned judgment. The Commission, the State, and the victim(s) participate in the process before the Inter-American Human Rights Court.

For other inquiries or additional information, we suggest visiting the “frequently asked questions” area of the [User Support and Management of Information Section](#).

Step by Step the procedural steps and stages of petitions and cases



Under study. Initial assessment stage in which the petition is reviewed to determine whether it meets the requirements established in Article 28 of the IACHR Rules of Procedure. Given the large number of petitions submitted to the Inter-American Commission on Human Rights, the preliminary evaluation of a petition may take some time. This stage culminates with a decision on whether or not to process the petition. The petitioner is notified in both cases, i.e. whether or not processing is initiated.

Admissibility. The stage in which the IACHR determines if a petition meets the admissibility requirements set forth in Articles 46 and 47 of the American Convention on Human Rights, in accordance with the procedure established in Articles 30 to 36 of the Rules of Procedure of the Commission. Processing in this stage begins with the transmittal of the petition to the State and concludes with an IACHR decision issued in an admissibility or inadmissibility report, which is notified to both parties.

Merits. The stage in which the IACHR decides on the merits of the case pursuant to the procedure established in Articles 48 and 50 of the American Convention on Human Rights and Articles 37, 38, 39, 43 and 44 of the Rules of Procedure of the Commission. This stage begins with the assignment of a case number and with notification of the admissibility report to the parties and culminates with a merits report.

Petition not opened for processing. According to the information received by the IACHR Executive Secretariat, the petition does not meet the requirements established in Articles 26 and et seq. of the Rules of Procedure of the Commission. Therefore, the petition will not be opened for processing.

Archived. At any time during the procedure, the Commission may decide to archive the file if it determines that the grounds for the petition or case do not exist or subsist, or if the information needed to adopt a decision on a petition or case is unavailable. The conditions for archiving a file are set forth in Article 48.1.b of the American Convention on Human Rights and in Article 42.1 of the IACHR Rules of Procedure.

Follow-up of Recommendations. Once the Commission has published a merits report in which it has made recommendations, it may adopt the follow-up measures it deems appropriate, such as requesting information from the parties or holding hearings or working meetings, to verify compliance with the recommendations. The follow-up stage is described in Article 48 of the IACHR Rules of Procedure.

Follow-up of Friendly Settlement. Once the Commission has published a report on a friendly settlement in which it has made recommendations, it may adopt the follow-up measures it deems appropriate, such as requesting information from the parties or holding hearings or working meetings, to verify compliance with the friendly settlement agreements. The follow-up stage is described in Article 48 of the IACHR Rules of Procedure.



States that signed the American Declaration of the Rights and Duties of Man.

States that signed the American Declaration of the Rights and Duties of Man and ratified the American Convention on Human Rights. As of 2021, Dominica, Grenada and Jamaica have not recognized the jurisdiction of the Inter-American Court of Human Rights. All the other OAS States that have ratified the American Convention on Human Rights have recognized the jurisdiction of the Court.