

OEA/Ser.L/V/II.157
Doc. 18
April 14 2016
Original: Spanish

REPORT No. 14/16
PETITION 1108-08
REPORT ON ADMISSIBILITY

JHONNY SILVA ARANGUREN AND FAMILY
COLOMBIA

Approved by the Commission at its session No. 2063 held on April 14, 2016
157th Regular Period of Sessions

Cite as: IACHR, Report No. 14/16, Petition P-1108-08. Admissibility. Jhonny Silva Aranguren
and Family. Colombia. April 14, 2016.

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I. SUMMARY

1. On September 22, 2008, the Inter-American Commission on Human Rights (hereinafter "the Commission," "the Inter-American Commission," or "the IACHR") received a petition from the Association for Social Research and Action "NOMADESC" (hereinafter "the petitioner"), alleging the international responsibility of the Republic of Colombia (hereinafter "the State," "Colombian State," or "Colombia") for the violation of Articles 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 13 (Freedom of Thought and Expression), 23 (Right to Participate in Government), and 25 (Right to Judicial Protection) of the American Convention on Human Rights (hereinafter "American Convention," or "Convention"), in relation to Article 1.1 (Obligation to Respect Rights) thereof, to the detriment of Jhonny Silva Aranguren and his family.

2. According to the petitioner, on October 22, 2005, University of Valle [*Universidad del Valle*] student Jhonny Silva Aranguren died after allegedly being shot by a member of the Mobile Anti-Riot Squadron [*Escuadrón Móvil Antidisturbios*] (ESMAD) while taking part in a student protest at the University of Valle. The petitioner asserted that the Colombian State has not conducted a serious and effective investigation within a reasonable period of time to identify the direct perpetrators and masterminds responsible for Jhonny Silva Aranguren's death.

3. For its part, the State alleged that the domestic remedies were not exhausted in accordance with Article 46.2.c of the American Convention. Colombia maintained that a criminal investigation, disciplinary proceedings, and direct reparations proceedings in a court for the judicial review of administrative acts are currently underway with respect to the subject of this petition. It additionally indicated that the facts alleged by the petitioner in this petition "are not supported by evidence" and do not describe, "even *prima facie*," a violation of the rights guaranteed by the American Convention.

4. Without prejudging the merits of the case, after examining the positions of the parties in light of the requirements established in Articles 46 and 47 of the Convention, the IACHR decided to declare the petition admissible with respect to the alleged violation of Articles 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 13 (Freedom of Thought and Expression), 15 (Right of Assembly), and 25 (Right to Judicial Protection) of the American Convention, in conjunction with Articles 1.1 (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, and inadmissible with regard to the alleged violation of Article 23 (Right to Participate in Government) of the American Convention. Finally, the Commission decided to give notice to the parties of this Admissibility Report, publish it, and include it in its Annual Report to the General Assembly of the Organization of American States.

II. PROCEEDINGS BEFORE THE INTER-AMERICAN COMMISSION

5. The petition was received by the IACHR on September 22, 2008. On August 3, 2011, the pertinent parts of the case file were forwarded to the State, giving it two months to present its reply. On September 16, 2011, the State requested an extension, which was granted. On November 18, 2011, the State presented its reply, which was forwarded to the petitioner on November 30, 2011, with a one-month deadline for its reply. On December 30, 2011, the petitioner requested an extension, which was granted. The petitioner

¹ Commissioner Enrique Gil Botero, a Colombian citizen, did not take part in the deliberations or in the decision related to this petition, in accordance with Article 17.2.a of the Commission's Rules of Procedure.

submitted its additional observations on January 12, 2012, and on January 27, 2012, they were forwarded to the State. After being granted two extensions, the State submitted its observations on September 6, 2012, which were forwarded to the petitioner on October 12, 2012.

III. POSITIONS OF THE PARTIES

A. Position of the petitioner

6. According to the petitioner, 21-year-old Jhonny Silva Aranguren was a chemistry student at the University of Valle. It indicated that the alleged victim died on September 22, 2005 after being shot by one of the members of the Mobile Anti-Riot Squadron (ESMAD) during a student demonstration at the University of Valle. The petitioner reported that the students were protesting drinking water outages in the city of Cali and the signing of the Free Trade Agreement (FTA) with the United States.

7. It stated that the Cali Metropolitan Police ordered personnel from the Mobile Anti-Riot Squadron (ESMAD) to report to the scene of the demonstration. According to the petitioner, this was done without any prior oversight by the commanders of that operations unit, "in order to keep them from taking property or items with them other than their official equipment." It observed that those ESMAD officers "repeatedly fired tear gas and closed Pasoancho street" during the afternoon hours.

8. The petitioner asserted that ESMAD personnel entered the University of Valle campus by mean of a pedestrian street that night, without the request or permission of the university's directors. It indicated that ESMAD personnel later advanced toward the vicinity of the administrative building, where students had set up a camp, and "proceeded to destroy the tents that had been pitched there." The petitioner stated that several students were arbitrarily detained and subjected to physical and psychological attacks.

9. The petitioner alleged that around 6:45 p.m., two members of the ESMAD were posted on the corner between the pedestrian street and the administrative office, when someone called out, "A student has been hurt!" According to the petition, one of the ESMAD officers drew a firearm and started shooting. One of those shots allegedly wounded Silva Aranguren, who was aided by other students who were on campus, then transported to the Valle de Lili Clinic, where he was pronounced dead on arrival.

10. With respect to domestic remedies, the petitioner stated that on September 23, 2005 the investigation into the events was assumed by the Office of the Prosecutor General of Colombia, which allegedly "unreasonably delayed" the investigation. It indicated that on August 15, 2006 the Special Representative of the Public Ministry requested that the 41st Special Prosecutor of the Human Rights Unit "call several officers and noncommissioned officers of the Mobile Anti-Riot Squadron – ESMAD in for questioning, given the evidence of their responsibility for the crime committed" against Silva Aranguren. According to the petitioner, on September 5, 2006, the attorney for the civil plaintiffs in the criminal proceedings assisted with and expanded that request, stating the factual and legal grounds for the opening of the criminal investigation.

11. According to the petitioner, on August 10, 2007, the attorney for the civil plaintiffs in the criminal proceedings asked the 41st Special Prosecutor of the Human Rights and International Humanitarian Law Unit of Cali, to order that a criminal investigation be opened. It alleged that, in view of the repeated refusal of the 41st Special Prosecutor to do so, the attorney representing the parents of the alleged victim went before the Criminal Division of the Superior Court of Cali. In its August 30, 2007 decision, the Court found that the Office of the 41st Special Prosecutor was responsible for unwarranted delays. On September 12, 2007, pursuant to the order of the Superior Court of Cali, the Office of the 41st Special Prosecutor ordered that a criminal investigation be opened, and that formal statements be taken from three ESMAD commanders at their initial appearance. According to the petitioner, there was a delay in obtaining initial statements from the National Police "due to their failure to appear."

12. The case file states that, on August 4, 2008, the 41st Special Prosecutor found that “it has been established that the person who killed JHONNY SILVA was an ESMAD member who remains to be identified.” Nevertheless, the prosecutor stated that this did not mean that those who were in command at the scene of the alleged events had “any responsibility.” On that basis, he ordered that the three ESMAD members be bound over for the alleged offense of breach of official duties by omission.

13. On August 26, 2008, the 66th Government Attorney for Criminal Matters in Cali filed an appeal challenging the 41st Prosecutor’s position. She requested that the decision be revoked and that pretrial detention be ordered for the offense of involuntary manslaughter, given [the defendant’s] supervisory position, and in accordance with the evidence gathered. For its part, on April 30, 2009, the Office of the Assistant Prosecutor assigned to the Superior Court of Cali affirmed the decision of the Trial Court Prosecutor, and ordered the continuation of the investigation “to identify the person or persons who murdered university student JHONNY SILVA ARANGUREN.”

14. According to the petition, on January 19, 2010, the 55th Special Prosecutor of the National Human Rights and International Humanitarian Law Unit examined the investigation and filed charges alleging involuntary manslaughter given the supervisory position of the Major in the service of the National Police, as well as the criminal battery of another student on the same basis, and breach of official duties by omission. In addition, it closed the investigation of two noncommissioned National Police officers. That decision was affirmed on appeal by the Appeals Prosecutor.

15. In addition, on May 13, 2010, the First Assistant Prosecutor assigned to the Superior Court of Cali determined that the Captain of the ESMAD should be cleared of all responsibility as the perpetrator responsible for the involuntary manslaughter of the alleged victim, as well as for the offense of breach of official duties by omission. The petitioner asserted that, with that decision, “the extrajudicial execution of student Jhonny Silva Aranguren has remained at the preliminary investigation stage, the perpetrators being undetermined.”

16. On November 9, 2010, Silva Aranguren’s parents challenged that decision by filing a writ for the protection of constitutional rights [*acción de tutela*] with the Criminal Division of the Supreme Court, against the Office of the First Assistant Prosecutor assigned to the Superior Court of Cali, requesting the protection of the rights to due process, access to justice, and the rights to truth and justice. On November 23, 2010, the Criminal Division denied the writ for the protection of constitutional rights as inadmissible.

17. According to the case file, with the May 13, 2010 decision, the case was assigned to the First Municipal Criminal Court of Santiago de Cali. That court held a preliminary hearing on November 23, 2011, of which the petitioner claims not to have received notice. In addition, at that hearing, the Judge ordered the proceedings transferred to the Military Criminal Justice System. The petitioner asserted that the decision to task the Military Criminal Justice System with “the investigation of acts that were serious violations of the rights established in the American Convention on Human Rights disregards the right to an effective remedy, before an independent and impartial tribunal, as required by the rule of law.” With respect to the case brought before the Administrative Disputes Court of Valle del Cauca, the petitioner reported that it was at the evidentiary stage.

18. Based on the above, the petitioner alleged that the State violated the rights enshrined in Articles 4, 5, 8, 13, 23, and 25 of the American Convention, in conjunction with Article 1.1 thereof, to the detriment of Jhonny Silva Aranguren and his family members.

B. Position of the State

19. The State asked the Commission to declare this petition inadmissible on the grounds that the petitioner failed to exhaust the appropriate and effective domestic remedies to redress the alleged violations, and that the exceptions asserted by the petitioner under Article 46(2) of the ACHR are not applicable. Colombia also argued that the facts alleged do not rise to the level of a violation of the American Convention.

In particular, it stated that “the complaint does not contain sufficient evidence to disprove what has been established to date in the criminal and disciplinary proceedings and in the claim for direct reparations brought before the administrative disputes court.”

20. With respect to the allegations set forth in the petition, the Colombian State asserted that “the facts alleged do not describe, even *prima facie*, a violation of the rights guaranteed by the ACHR.” The State additionally indicated that the personnel assigned to the ESMAD, had “extensive training on not entering the university’s facilities, and at no time authorized or ordered any incursion onto the campus; nor was any police officer observed disobeying the order.” It further asserted that said personnel would not report for this type of service with firearms, adding that “instructions have been given to this effect and compliance with this order is verified prior to their going out on assignment.”

21. With respect to the alleged failure to exhaust domestic remedies, the Colombian State indicated that “the task of investigating and punishing the perpetrators [of the acts alleged in this case] has been assumed by the State on its own initiative from the time it became aware of the events.” In this regard, Colombia submitted information on the criminal action brought, as well as on the direct reparations action filed against the Nation (Ministry of Defense—National Police) and the disciplinary investigation.

22. Regarding the criminal case, the State reported, among other things, that the criminal investigation into the alleged victim’s murder was opened on September 22, 2005 by means of an “Order to Take Evidence.” It stated that the claim of the civil plaintiffs in criminal proceedings was admitted on October 10, 2005, with Wilman Silva Betancourt and Eneried Aranguren as the civil plaintiffs. It also observed that in January 19, 2010, the 55th Special Prosecutor of the National Human Rights and International Humanitarian Law Unit issued Interlocutory Order No. 001, “examining the investigation and bringing charges for the offense of involuntary manslaughter given the [defendant’s] supervisory position as a Major, as well as for the offenses of involuntary criminal battery and breach of official duties by omission; in addition, the investigation” of two noncommissioned National Police officers was closed. The State also reported that on May 13, 2010, the Office of the First Assistant Prosecutor assigned to the Superior Court of Cali closed the investigation into the offenses of involuntary manslaughter and breach of official duties by omission with respect to the National Police Major.

23. Finally, the State noted that on November 23, 2011 a preliminary hearing was held in the First Municipal Criminal Court, in which the judge ordered the transfer of the case to the Military Criminal Justice System, Cali Metropolitan Police, Military Criminal Court (case assignment). It asserted that “the Military Criminal Justice System [...] has constitutional status and is an appropriate and effective adjudicatory forum for investigating facts related to service.”

24. Accordingly, the Colombian State maintained that “the criminal investigations have been undertaken and will continue to be pursued, in compliance with international standards and other procedural rights, and to the extent that information and evidence can be gathered.”

25. With regard to the disciplinary proceedings conducted, the State reported, among other things, that the Regional Inspector General of Valle filed charges against the defendants on July 14, 2010. It similarly reported that on August 20, 2010, the Assistant Inspector General’s Office for Human Rights Disciplinary Matters ordered that the proceedings be transferred to the jurisdiction of the Office of the Assistant Inspector General for the National Police; and on August 30, 2010, the Office of the Assistant Inspector General for the National Police accepted jurisdiction and issued a charging document against the National Police Major.

26. As for the case brought before the administrative disputes court, the State reported that the action for direct reparations was filed on November 2, 2007, and is reportedly pending before the Administrative Disputes Court of Valle under file No. 76001233100020070129800 against the National Police. It also said that the case was at the evidentiary stage.

27. Finally, Colombia affirmed that “The mere passage of time without a final decision having been reached by the different bodies cannot be considered, under any circumstances, a violation of the rights enshrined in the American Convention, especially when the facts are being investigated diligently.” Accordingly, the State asked the IACHR to “take account of the activation of the different judicial bodies, which have not reached their final decision” because investigations are currently underway in the criminal, disciplinary, and direct reparations proceedings in an administrative disputes court.

IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

A. Competence of the Commission *ratione materiae*, *ratione personae*, *ratione temporis*, and *ratione loci*

28. According to Article 44 of the American Convention and Article 23 of the Rules of Procedure of the IACHR, the petitioner has *locus standi* to file petitions before the Inter-American Commission. With respect to the State, Colombia is a party to the American Convention. The alleged victim is an individual with respect to whom the State agreed to guarantee the rights enshrined in the American Convention. Accordingly, the Commission has jurisdiction *ratione personae* to examine the petition.

29. The IACHR has jurisdiction *ratione materiae* because the petition concerns alleged violations of human rights protected by the American Convention. In addition, the Commission notes that Colombia has been a State Party to the Convention since July 31, 1973, on which date it deposited its instrument of ratification. Therefore, the Commission has jurisdiction *ratione temporis* to examine the petition.

30. Finally, the Inter-American Commission has jurisdiction *ratione loci* to examine the petition because it alleges the violation of rights protected in the American Convention that reportedly took place in Colombia.

B. Requirements for the Admissibility of the Petition

1. Exhaustion of domestic remedies

31. Article 46(1)(a) of the American Convention provides that for a petition alleging a violation of the Convention to be admissible under Article 44 of the Convention, the petitioner must first have pursued and exhausted domestic remedies, in keeping with generally recognized principles of international law. Article 46(2) of the Convention provides that the rule on the exhaustion of domestic remedies does not apply 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.

32. The State alleged the failure to exhaust domestic remedies because investigations are currently underway in the criminal, disciplinary, and direct reparations proceedings in an administrative disputes court. For its part, the petitioner maintained that years after Johnny Silva Aranguren’s death on September 22, 2005, the facts have still not been established and no one had been convicted; this constitutes an unwarranted delay, and therefore the exception contained in Article 46.2(c) of the ACHR is applicable. The petitioner further argued that the decision to task the Military Criminal Justice System with “the investigation of acts that were serious violations of the rights established in the American Convention on Human Rights disregards the right to an effective remedy, before an independent and impartial tribunal, as required by the rule of law.”

33. The Commission observes that this petition concerns the events related to the killing of Jhonny Silva Aranguren, allegedly perpetrated by members of the Mobile Anti-Riot Squadron (ESMAD) at the University of Valle during a student protest.

34. The Commission finds that the facts alleged by the petitioner are criminal offenses under Colombian law that must be investigated and prosecuted by the State on its own initiative,² as that is the suitable process for establishing the facts, trying the perpetrators, and determining the appropriate penalties in these cases, in addition to making pecuniary reparations possible.

35. The Commission observes that, as a general rule, a criminal investigation must be conducted promptly in order to protect the interests of the victims, preserve evidence, and even safeguard the rights of all persons who may be considered suspects in the investigation. In addition, as the Inter-American Commission and the Court have held since their earliest cases, although every criminal investigation must meet a number of legal requirements, the rule on the prior exhaustion of domestic remedies must not cause the international proceedings to assist the victims to be halted or delayed to the point of uselessness.

36. With respect to the other remedies pending before the disciplinary court and the administrative disputes court, the Commission has held repeatedly³ that the decisions issued in those forums do not meet the requirements established in the Convention in terms of their suitability for purposes of admissibility. Disciplinary proceedings are an insufficient means to prosecute, punish, and redress the consequences of human rights violations. Administrative dispute proceedings, for their part, are a mechanism for the oversight of the administrative activity of the State and only make it possible to obtain compensation for damages. Therefore, in a case such as this one, it is not necessary to exhaust those remedies before taking advantage of the Inter-American System.⁴

37. Finally, the Commission has held repeatedly that special courts such as military courts are not an appropriate forum and therefore do not provide an adequate remedy for investigating, trying, and punishing possible violations of the human rights established in the American Convention, such as the right to life, allegedly committed by members of law enforcement.⁵

38. Accordingly, given the characteristics of the petition and the period of time that has elapsed from the events complained of therein, the Commission finds that the exception provided for in Article 46 of the Convention is applicable due to the unwarranted delay of the criminal investigation into the alleged victim's murder. Therefore, the exhaustion of domestic remedies is not required. In any case, it will be appropriate at the merits phase to examine the efficacy of the remedies in relation to the rights to protection and the right to a fair trial.

2. Timeliness of the petition

39. Article 46.1.b of the American Convention requires that the petition must be filed "within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment." In addition, Article 32.2 of the IACHR's Rules of Procedure provides that:

In those cases in which the exceptions to the requirement of prior exhaustion of domestic remedies are applicable, the petition shall be presented within a reasonable period of time, as determined by the Commission. For this purpose, the Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.

² IACHR. Report No. 56/13, Petition 80-02, *Herminio Deras García et al.*, 2013 Annual Report of the IACHR, para. 34; Report No. 38/13, Petition 65-04, *Jorge Adolfo Freytter Romero et al.*, 2013 Annual Report of the IACHR, para. 32.

³ See, *inter alia*, IACHR, Report No. 15/95, Case No. 11.010, Hildegard María Feldman, Colombia, September 13, 1995; IACHR, Report No. 61/99, Case 11.519, José Alexis Fuentes Guerrero et al., Colombia, April 13, 1999, para. 51; IACHR, Report No. 43/02, Petition 12.009, Leydi Dayán Sánchez, Colombia, October 9, 2002, para. 22; IACHR. Report No. 74/07, Petition 1136/03, Admissibility, José Antonio Romero Cruz et al., October 15, 2007, para. 34.

⁴ IACHR, Report No. 74/07, Petition 1136-03, Admissibility, *José Antonio Romero Cruz, Rolando Ordoñez Álvarez, and Norberto Hernández*, Colombia, October 15, 2007, para. 34; IACHR, Report No. 72/09, Petition 11.538, Admissibility, *Herson Javier Caro (Javier Apache) and Family*, Colombia, August 5, 2009, para. 28.

⁵ IACHR, Report No. 32/15, Case 11.100. Admissibility. Ayure Quintero Family. Colombia. July 22, 2015, para. 38.

40. The IACHR has decided above (para. 38) that an exception to the requirement of prior exhaustion of domestic remedies is applicable to this petition; therefore, it must determine whether the petition was filed within a reasonable period of time. The petition was submitted on September 22, 2008, three years after the start of the investigation. Despite multiple efforts by the parents of the alleged victim to seek measures to promote the investigation, the proceeding remains open as of the date of this report. In light of the above, and taking account of the specific circumstances of this petition, the IACHR concludes that the petition was filed within a reasonable period of time, and that the requirement set forth in Article 32.2 of the IACHR's Rules of Procedure has been met.

3. Duplication of proceedings and international *res judicata*

41. The case file does not contain any information to indicate that the subject of the petition is pending in another international proceeding, or that it duplicates a petition previously decided by the IACHR or another international body. Hence, the requirements set forth in Articles 46(1)(c) and 47(d) of the Convention have been met.

4. Colorable claim

42. For purposes of determining admissibility, the Inter-American Commission must decide whether the alleged facts amount to a violation of the rights enshrined in the American Convention pursuant to the requirements of Article 47(b), or whether the petition is “manifestly groundless” or “obviously out of order,” as described in Article 47(c). At this stage of the proceedings, the Commission must perform a *prima facie* evaluation, not to establish the alleged violations of the American Convention, but to examine whether the petition alleges acts that could potentially constitute violations of the rights guaranteed in the American Convention. This analysis does not entail the prejudgment of the merits or an advance opinion in the case.⁶

43. Additionally, neither the American Convention nor the IACHR's Rules of Procedure require petitioners to identify the specific rights alleged to have been violated by the State in the matter submitted to the Commission, although they may do so if they wish. It falls to the Commission, on the basis of the system's jurisprudence, to determine in its reports on admissibility which provisions of the pertinent inter-American instruments are applicable, and the violation thereof may be established if the facts alleged are demonstrated with sufficient evidence.

44. According to the petitioner, Jhonny Silva Aranguren died on September 22, 2005 after being shot while taking part in a student protest at the University of Valle. The petitioner alleged that the shot was fired by a member of the police Anti-Riot Squadron (ESMAD). The petitioner further alleged that the State subsequently failed to investigate and establish the facts of the case. The State, for its part, indicated that the facts alleged in this petition “are not supported by evidence” and do not describe, “even *prima facie*,” a violation of the rights guaranteed by the American Convention.

45. In view of the legal and factual elements presented by the parties and the nature of the matter brought before it, the Commission finds that, if proven, the petitioner's allegations of State responsibility for the facts set forth in the petition could potentially constitute a violation of the rights enshrined in Articles 4, 8, 13, 15, and 25 of the American Convention on Human Rights. The Commission will examine the possible violation of these provisions in light of the general obligations enshrined in Articles 1.1 and 2 of the Convention.

46. In keeping with its jurisprudence, the Commission will additionally assess the possible violation of Article 5 of the American Convention, in conjunction with Article 1.1 thereto, to the detriment of Wilman Silva Betancourt and Eneried Aranguren, the parents of the alleged victim.

⁶ IACHR. Report No. 21/04. Petition 12.190. Admissibility. José Luís Tapia González et al. Chile. February 24, 2004, paras. 33 & 52.

47. In conclusion, the IACHR finds that this petition is neither “manifestly groundless” nor “obviously out of order,” and therefore declares that the petitioner has met *prima facie* the requirements established in Article 47.b. of the American Convention with respect to potential violations of Articles 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 13 (Right to Freedom of Thought and Expression), 15 (Right of Assembly), and 25 (Right to Judicial Protection) of the American Convention, to the detriment of Jhonny Silva Aranguren and his family members, in conjunction with Articles 1.1 (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the same instrument, as previously stated. Additionally, it decides to declare this petition inadmissible as regards to the alleged violation of Article 23 (Right to Participate in Government) of the American Convention.

V. CONCLUSION

48. Based on the foregoing legal and factual considerations, the Inter-American Commission concludes that this case meets the admissibility requirements contained in Articles 46 and 47 of the American Convention, and therefore, and without prejudging the merits of the case,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare this petition admissible with respect to the alleged violation of rights contained in Articles 4, 5, 8, 13, 15 and 25 of the American Convention, in conjunction with Articles 1.1 and 2 thereto;
2. To declare this petition inadmissible with respect to the alleged violation of Article 23 of the American Convention;
3. To provide notice of this decision to the parties, continue with the analysis of the merits of the case; and
4. To publish this decision and include it in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 14 day of the month of April, 2016. (Signed): James L. Cavallaro, President; Francisco José Eguiguren, First Vice President; Margarete May Macaulay, Second Vice President; José de Jesús Orozco Henríquez and Esmeralda E. Arosemena Bernal de Troitiño, Commissioners.