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1. Procedure

1. The procedure in the present case began with a complaint presented to the Inter-American Commission on Human Rights on October 23, 1987, by Eduardo Arias Aparicio, Luis Santos de la Garza, Maria Teresa Garcia de Madero, and Miguel Gomez Guerrero, currently deputies for the National Action Party in the state of Nuevo Leon, in which they charge that the Electoral Law approved by the Congress of that state and published in the Nuevo Leon Official Gazette of May 27, 1987, prevents the exercise of the political rights recognized by Article 23 of the American Convention on Human Rights.

2. This complaint was amplified, at the request of the Commission's Executive Secretariat, in a written communication of December 21, 1987, in which the complainants set forth the reasons why they had not resorted to the remedy of "amparo" provided in Mexican legislation, dwelt at length on the reception given to their complaints in Mexican domestic jurisdictions, and stated that the situation complained of involved not just prevention of their exercise of the political rights enshrined in Article 23 of that Convention, but also noncompliance with Article 2 thereof in failing to adjust Mexican domestic legislation so as to give effect to those rights. In that communication the complainants state further that the system instituted by the questioned law reinforces the practice of leaving control of the entire electoral process, and even the entire system for the review of complaints, in the hands of the government, and they conclude from this that there are no independent, impartial courts to hear complaints lodged under Article 8(1) of the Convention.

3. The original complaint and the complementary information provided was transmitted to the Government of Mexico on April 6, 1988. After two requests for extensions of the deadline for reply, the Government sent its answer on October 15, 1988. In it the Government states that all matters relating to elections refer directly to the exercise of the right of the Mexican people to free self-determination, and that such matters cannot lie within the province of any international authority, that the Federal

Government may not interfere in the decisions of Nuevo Leon as a sovereign state, and that the complainants had failed to exercise the right of amparo to challenge the law and hence had not exhausted the remedies of Mexican domestic law.

4. The observations of the complainant on the Government's reply were forwarded to the Government on December 8, 1988. The Government of Mexico replied to those observations in a letter of March 3, 1989. A hearing was held before the Inter-American Commission on April 12, 1989, and attended by the complainants and representatives of the Government of Mexico. In that hearing the complainants complemented their presentation with a letter of April 12, received by the Executive Secretariat on May 24, 1989, containing observations on the Government's reply of March 3, 1989. These observations were answered by the last presentation of the Government of Mexico in a document of July 24, 1989. In a letter of September 4, 1989, the complainants expressed their view that the issues raised in the proceeding had been exhausted and asked the Commission to come a decision on the matter. The Commission's Report on this case was adopted provisionally at the meeting held on October 4, 1990, and sent to the Government of Mexico for whatever observations it deemed appropriate. The Government's observations were sent to the Commission via a communication dated January 7, 1991.

5. The Commission's Report on this case was adopted provisionally at the meeting held on October 4, 1990, and referred to the Government of Mexico so that it might make the observations it deemed pertinent. Those observations were sent to the Commission via a communication dated January 7, 1991. In response to the Government's observations, the petitioner sent a communication received by the Commission's Executive Secretariat on February 11, 1991.

2. The issues raised

a. The position of the complainants

6. As noted above, the complainants are of the view that the Electoral Law of 1987 of the state of Nuevo Leon does not fulfill the commitment undertaken by the Mexican State in signing and ratifying the American Convention on Human Rights to ensure the free and full exercise of the rights and freedoms recognized therein (Article 1 of the Convention), and to adjust its domestic laws to the requirements of the Convention (Article 2) inasmuch as the said Electoral Law prevents the exercise of the political rights recognized in Article 23 of the Convention, and deprives the citizens of the state of Nuevo Leon of simple, prompt, and effective recourse (Article 25) to independent and impartial courts for the determination of their political rights (Article 8 of the Convention).

7. Also applicable to this case, in the view of the complainants, in addition to the general obligation stated in Article 1 of the American Convention, is Article 2, which reads as follows:

Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.

8. The position of the complainants is based on the language of Article 133 of the Political Constitution of the United Mexican States, according to which

This Constitution, the laws enacted by the Congress of the Union under it, and all treaties that are in conformity with it and have been and are to be entered into by the President of the Republic with the approval of the Senate, shall be the supreme law of the Union. The judges of each state shall be governed by that Constitution and those laws and treaties, any conflicting provisions in the constitutions and laws

of the states notwithstanding.

9. Such is the case, in the view of the complainants, of the American Convention on Human Rights, approved by the Chamber of Senators of the Congress of the Union and published in the Official Gazette of January 9, 1981, and of the Decision of the President of the Republic of March 2, 1981, in which he undertook "in the name of the Mexican Nation, to comply with and observe (the American Convention) and to enforce its compliance and observance." Accordingly, the complainants are of the view that, under Article 133, when a law conflicts with a treaty, the conflict is to be resolved by ruling in favor of the provisions of the treaty. In the case in hand, the law is the Electoral Law of Nuevo Leon, whose provisions conflict with the cited provisions of the American Convention on Human Rights.

10. The complainants point out that the practice of distorting the will of the elector is an "axiom" of Mexican politics in which the motto of "Real suffrage" has been severely violated. In their view, the control that the Institutional Revolutionary Party has exerted for more than sixty years over the machinery of the State has resulted in the perpetuation of practices injurious to the exercise of political rights. Those practices are reinforced by electoral rules that are designed more to meet the need of the ruling party to stay in power than to ensure to the citizens the exercise their political rights. The complainants describe practices which they say have the purpose of evading the will of the voters. They quote many utterances by Mexican institutions and persons expressing similar views and denouncing the practices of the Institutional Revolutionary Party which they regard as fraudulent. They assert that the central fact that makes these practices possible is the identification of this political party with the Government and with the State apparatus as a whole.

11. The Nuevo Leon Electoral Law of 1987, say the complainants, is part of this system and hence suffers from defects that prevent it from accomplishing its purpose of "ensuring the real exercise" of the political rights recognized in Article 23 of the Convention, according to which all citizens shall enjoy the right "to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage..." These defects, according to the complainants, are as follows:

i. The Electoral Tribunal created by the Electoral Law lacks powers to resolve effectively the issues brought before it, as the only evidence it can consider is public documents, which under the Civil Code may be issued only by local authorities or by notary publics, who depend for the exercise of their profession on licensing by the state Governor. This limitation on evidence is, in the view of the complainants, a basic one that leaves the final word on complaints in the hands of the local Congress, which is controlled by the Government party and decides on the basis of political considerations. According to the complainants, the Electoral Tribunal (designated by the Government) and the Congress (controlled by the ruling party) act as judge and party in electoral controversies. This is why there is no impartial, independent tribunal, in the sense of Article 8 of the American Convention on Human Rights, for the determination of political rights.

ii. It leaves the persons in charge of polling places free to change their locations at the last moment, a practice which, according to the complainants, is resorted to frequently in order to keep political adversaries away from those polling places.

iii. It leaves to the state Governor the appointment of most of the members of all electoral authorities: the State Electoral Commission, Municipal Electoral Committees, Polling Places, the State Electoral Computer Center, and the Electoral Tribunal. This, according to the complainants, is the main feature that prevents the exercise of political rights in a manner consistent with elections that truly express the will of the voters.

12. Regarding the remedy of or action for amparo, the complainants assert that it suffers from two limitations that prevent recourse to it in this case, the first being that the judgment handed down if the remedy is sought holds only for the case in which it is issued and, according to Article 76 of the Law on

Amparo, is unenforceable in any other cases and does not invalidate the law against which the remedy is sought. The second limitation is that, as the Supreme Court has repeatedly ruled, the remedy of or action for amparo is inapplicable to political rights, which are rights of citizens and not individual rights - the rights for which protection may be sought through this remedy. The complainants enclose Supreme Court Thesis No. 128 as the basis for their assertion, and two recent judicial rulings disallowing suits for amparo for political rights in application of Thesis N° 128, which reads as follows:

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Action for amparo does not lie in violations of political rights because these are not guarantees of the individual.

13. The complainants state that, pursuant to Article 192 of the Law on Amparo, the rulings of the Supreme Court, such as Thesis 128, are mandatory for all Federal and local judicial and administrative courts in the Mexican Republic.

14. In support of their position the complainants also refer to Article 73, Section VII of the Law on Amparo, which provides that "Action for amparo does not lie ... against the decisions and declarations of electoral agencies and authorities." In consequence, according to the complainants, there is no simple, rapid and effective recourse before independent and impartial courts for protection of the person against acts that violate his rights as recognized in the Constitution and in Article 25 of the American Convention on Human Rights.

15. Regarding the assertions of the Government of Mexico that intervention in the electoral affairs of Nuevo Leon would infringe the sovereignty of that state, the complainants maintain that this aspect is covered by Article 28(2), which provides that, where a State Party is constituted as a federal state,

With respect to the provisions over whose subject matter the constituent units of the federal state have jurisdiction, the national government shall immediately take suitable measures, in accordance with its constitution and its laws, to the end that the competent authorities of the constituent units may adopt appropriate provisions for the fulfillment of this Convention.

16. The complainants point out that the purpose of this article of the Convention is to prevent the rights recognized in it from being violated by the states of a Federation without the national government being able even to examine the facts constituting the violations.

17. In conclusion, the complainants state that the effective enjoyment of political rights in Mexico within a legal system that guarantees their exercise is not only a legal obligation of the Mexican State, but also a need expressed by the President himself, Mr. Carlos Salinas de Gortari, who in his inaugural address said:

... my government will open up our democratic life. To this end I propose a new political covenant that will strengthen our unity and make room for our differences.

It must be a covenant that refines our electoral procedures, updates the rules for the governance of parties, and modernizes the practices of the parties to the political process, starting with the government itself.

My administration will respond to the demand of the citizens for respect of pluralism and real participation. The most urgently needed guarantee in the political sphere is the transparency of electoral processes. I share that concern of the citizenry. Let us guarantee to all that their political power, in the full measure of the free choice of the voters, will be counted and recognized by all parties. We urgently need trust, openness and acceptance of others.

b. The position of the Government of Mexico

18. As mentioned above, the Government of Mexico asserts that the complaint concerns an electoral problem, and as such is related to "the exercise of the right of free self-determination of the Mexican people ... which would be infringed if an international authority sought to invoke ... considerations of any nature."

19. The other line of reasoning of the Government of Mexico is that electoral matters such as those raised in the case here considered are reserved to the internal jurisdiction of the state of Nuevo Leon, and that it, the Government of Mexico, cannot pass on them without violating Articles 40 and 41 of the National Constitution, which establishes the sovereignty of the states as the constituents of the Federation "in all matters of their internal governance," according to the first of the two cited articles.

20. These two articles of the National Constitution agree, according to the Government of Mexico, with the Constitution of the State of Nuevo Leon, in which Article 39 provides that the state is "free, sovereign and independent," and that, "as a constituent of the Republic, it is tied to it in the manner provided in the Federal Constitution ... and subject to the general laws of the Nation in all provisions that do not impair its internal governance, for it retains the freedom to govern and administer itself."

21. According to the Government, Article 28(2) of the American Convention on Human Rights, stipulates that the national Government "shall immediately take suitable measures, in accordance with its constitution and its laws, to the end that the ... authorities of the constituent units may adopt appropriate provisions for the fulfillment of this Convention." The Government of Mexico asserts that the constitutional provisions cited prevent it from "taking any step to have the competent authorities of the state of Nuevo Leon adopt or amend ... the legislation which those authorities wish and is the source of their internal governance." Nor, the Government of Mexico further states, does the safeguard provided in Article 28(2) of the American Convention require of it any such intervention with the authorities of the state of Nuevo Leon.

22. The Government states that in a case such as the one here considered, if the state of Nuevo Leon has enacted a law, and in applying it violates some provision of the National Constitution or treaty in force - such as the Pact of San Jose - "the injured party has remedies ... for redressing the injury, including recourse to the Federal Judiciary." The third point raised by the Government of Mexico, then, is that the complainants have not yet exhausted the remedies under Mexican domestic law in not having exercised the right of amparo to impugn the legality of the Electoral Law of Nuevo Leon, which they challenge, as they could have done under Article 103 of the National Constitution.

23. In addition to this article of the Constitution, the Government states that the complainants have not invoked Thesis 127 of the Supreme Court of Justice, according to which the remedy of amparo lies in the following terms:

**POLITICAL RIGHTS ASSOCIATED WITH
ACTS IN VIOLATION OF GUARANTEES**

Even in the case of political rights, if the act complained against may also involve the violation of individual guarantees, which cannot be determined a priori, a suit for amparo in connection with such violation must be admitted and heard in order to arrive at the appropriate rulings in the final judgment.

24. The Government of Mexico goes on to say that:

...it wishes to offer the Commission its arguments in proof that, if it were true that the state law impugned

could have had the effect of depriving the citizens of Nuevo Leon of their political rights, there was in fact a higher remedy to be invoked and exhausted in the domestic law, that of amparo.

25. The Government of Mexico states that both the National Constitution and the Constitution of Nuevo Leon explicitly recognize political rights and that any "deprivation of those rights ... would violate the principle of legality." Were this principle infringed, action for amparo would lie under Thesis 127, quoted above, for that principle of legality is the individual guarantee that this thesis requires in order that action for amparo may be admissible. According to the Government, this guarantee is enshrined in Article 14 of the Constitution, which reads as follows:

No one may be deprived of life, liberty, or property, possessions or rights except by trial in previously established courts that follow the essential steps of procedure, and in accordance with laws previously enacted.

26. After indicating that the Constitution of Nuevo Leon contains a similar provision, the Government states that these provisions refer to the deprivation of any "right" and hence of political rights as well. This means that no law either of the Federal Congress or of a state congress may deprive a citizen of his political rights, which are recognized to him by an earlier law, especially when this law is of highest precedence. It also means that the only way in which such deprivation may arise without violation of the principle of legality is by trial... In Mexico, therefore, neither the Government nor the legislators may deprive citizens of their political rights without thereby violating the guarantee of the principle of legality.

27. Based on this reasoning, the Government states that deprivation of political rights resulting either from the very enactment of the Electoral Law of Nuevo Leon or from acts committed in its application thereafter would have violated the principle of legality, which is "the legal guarantee that, under Article 103 of the General Constitution and its implementing Law on Amparo, could be invoked to challenge such deprivation by action of amparo."

28. On the strength of these assertions, the Government of Mexico concludes with the assertion that the complainants have not exhausted the remedies of the domestic jurisdiction in Mexico and that the complaint is therefore inadmissible.

29. The Government of Mexico also states that:

it will always cooperate with the Commission in relation to any complaint in the area of political rights in which the domestic remedies have been fully exhausted and do not involve a political pronouncement on an electoral process in itself.

...

it cannot escape anyone that underlying this complaint... is a theme, that of the so-called inequality of participation, which is a basic point of the reform of political elections undertaken in Mexico by President Carlos Salinas de Gortari. The Mexicans are pinning great hopes on this intense nationwide review of the electoral laws. The Government of Mexico rests assured that the Commission, by the very nature of its functions, does not wish that process to be hindered or to allow itself to be used as a political tool to frustrate its aims, which the Commission doubtlessly shares.

30. The observations of the Government of Mexico on the Report provisionally approved by the Commission reassert the arguments submitted previously and address specific points to which the Government had not made previous reference. Those specific points, raised in the original petition and only now addressed by the Government, concern the fact that the Electoral Tribunal is subordinate to the Electoral College, which is made up of the State Congress; the fact that the Electoral Tribunal can only

consider public documents; that the law being challenged authorizes the location of the polling stations to be changed; and the fact that the Government retains the opportunity to designate the members of the electoral bodies. The Commission considers that the arguments presented, stressing the rules of procedure are tardy, given that the Government of Mexico, in the course of the procedure had the opportunity for a hearing and presentation of proofs. Nevertheless, the Commission shall refer to the arguments presented with the understanding that this shall not constitute a precedent.

31. As for the fact that the Electoral Tribunal is subordinate to the Electoral Tribunal, which is made up of the State Congress, the Government contends that this is the same system used in a number of countries of the hemisphere and does nothing to detract from the Electoral Tribunal's authority in the matter of complaints. The Commission must point out that this was not the issue raised by the complaints.

32. As for the Electoral Tribunal's acceptance of public documents, in its observations the Government notes the following:

... private documents are also accepted, as are affidavits, declarations and even eyewitness accounts and records of events, duly certified by notaries public, justices of the peace and elected officials, polling station chairmen and secretaries...

33. The Commission believes that the Government has provided no reference to a legal norm which authorizes this type of procedure so as to change the character of the proof. The statement made by the Government's incomprehensible particularly if one takes into account what is specified in Article 194 of the Electoral Law of Nuevo Leon and the provision contained in Article 287 of the Code of Civil Procedure of Nuevo Leon.

34. As for the possibility of changing the site of the polling station, the Government notes in its observations that this provision is "essential, since reasons of force majeure may necessitate such changes. It is a general, impersonal and objective provision that per se does nothing to violate any citizen's individual rights." This is certainly a secondary question but whose plausible purpose could be perverted through arbitrary decisions like those denounced by the complainants and have remained unanswered by the Government.

3. Considerations

35. The complaint presented meets the formal requirements for admissibility set forth in the American Convention and the Commission's Rules of Procedure. The case is not pending in another international proceeding for settlement, and is not the same as any previously submitted to the Commission for consideration. It must also be borne in mind that the procedure for the presentation of arguments has been concluded.

36. Regarding the other aspects of the admissibility of the complaint, the Government of Mexico has argued that it does not lie for three reasons: the incompetence of the Commission, the safeguard contained in Article 28(2) of the Convention (the Federal Clause), and failure to exhaust the remedies of the domestic law. The Government's denial of the Commission's competence as an argument for the inadmissibility of the case prevents application of the procedure for friendly settlement envisaged in the American Convention.

37. On the score of the Inter-American Commission's competence to pass on matters relating to the exercise of political rights in the course of election processes, the Commission has already set forth its position in the Report on Cases Nos. 9768, 9780, and 9828 of Mexico, approved by Resolution N° 01/90 of May 17, 1990. In that Report the Commission, having examined the legal provisions governing its

jurisdiction and the applicable rules of general international law, reaffirmed its competence on the grounds that:

in ratifying the American Convention on Human Rights, Mexico undertook to respect and guarantee the exercise of the political rights mentioned in Article 23 thereof, which include the right to vote in genuine elections, and to adopt legislation to give effect to that right in the terms of Article 2 ... To determine the extent to which the Government of Mexico is in compliance with its obligations contracted under the American Convention, that Government has also agreed that the Inter-American Commission on Human Rights may, in the exercise of the powers vested in it by that international instrument, pass regularly on the situation of political rights in other countries, and in such cases has never questioned the Commission's competence to do so.

38. In the case here considered, therefore, the Mexican State, in ratifying the American Convention on Human Rights, assumed the obligations to guarantee the exercise of the rights recognized therein pursuant to Article 1, and to adopt internal legislative measures "to give effect to those rights and freedoms," pursuant to Article 2, which in this case N° 10.180 apply to the exercise of the political rights recognized in Article 23, and to the need for effective recourse to competent, independent and impartial tribunals in the terms of Articles 8 and 25 of the Convention.

39. It is useful to recall again here that in its judgment of July 29, 1988, in the Velasquez Rodriguez case, the Inter-American Court of Human Rights was of the view that the obligation to respect and guarantee the exercise of human rights as stated in Article 1(1) of the American Convention "implies a duty of States Parties to organize the entire apparatus of government and, in general, all the structures through which the power of the State is exercised, in such a manner that they will be able to guarantee legally the free and full exercise of human rights." As noted by the Inter-American Commission itself in the report presented on cases Nos. 9768, 9780, and 9828, this reasoning supports the obligation stated in Article 2 of the Convention to adopt rules of domestic law that will give effect to those rights and liberties. Therefore, this provision makes it incumbent upon the State Party to adapt its domestic legislation whenever it suffers from defects that prevent or impede the full exercise of the rights recognized by the Convention and, in this specific case, the rights protected by Article 23.

40. These obligations, contained in the first two articles of the American Convention, are those that obligate the Government of Mexico, in the words of Article 28(2), to "immediately take suitable measures... in accordance with its constitution and its laws, to the end that the competent authorities of the (constituent entities of the Federation) may adopt appropriate provisions for the fulfillment of this Convention." As can be seen in the record of Case N° 10.180, the Government of Mexico given no notice of having taken "immediately" any measure to fulfill the obligation imposed on it by Article 28(2) of the Convention. Rather the Government of Mexico interprets the phrase "in accordance with its constitution and its laws" in that article as exempting it from having to do anything about the internal legislation of the state of Nuevo Leon.

41. The Commission considers that Article 28.2 of the American Convention on Human Rights, while recognizing and respecting each federal system, requires that the central government is to take suitable measures to the end that the competent authorities of the federation may adopt appropriate provisions "for the fulfillment of this Convention." This provision enables states parties that are organized under a federal system to ensure full compliance with the Convention in all their federated units. To contend that the rights upheld in the Convention become legally valid only when the states in the federation adopt the pertinent law would relieve the central government of its obligations under the Convention and could leave people without international protection. Such an interpretation, moreover, would be at odds with Article 29.a of the Convention whereby "No provision of this Convention shall be interpreted as ... permitting any State Party ... to suppress the enjoyment or exercise of the rights and

freedoms recognized in this Convention ..."

42. This position is utterly inconsistent with the responsibility assumed by the Mexican State in ratifying the American Convention on Human Rights, in light of which these matters should have been considered before the instrument was signed and ratified. If before such signature it was felt that the National Government was constitutionally powerless to secure compliance with the provisions of the American Convention from the constituent entities of the Federation, the Mexican State should not have taken on commitments it would be unable to meet. The Commission has no doubt whatever that this evaluation of the compatibility of the provisions of the Constitution with those of the Convention was indeed made, for the Government of Mexico itself stated, in its Preliminary Draft Observations on the Draft Inter-American Convention on the Protection of Human Rights --on September 28, 1969-- that "it cannot give its support to any provision that proves incompatible with the content of the Political Constitution of the Mexican United States." It is seen in the Acts and Documents of the Specialized Inter-American Conference on Human Rights that the Delegation of Mexico raised no objection to Article 28 of the Convention as presently worded.

43. The Inter-American Commission considers that in this case the rules of the American Convention and their application to the constituent states of the Federation are governed by Article 133 of the Political Constitution of the United Mexican States, which establishes that:

This Constitution, the laws enacted by the Congress of the Union under it, and all treaties that are in conformity with it and have been and are to be entered into by the President of the Republic with the approval of the Senate, shall be the supreme law of the Union. The judges of each state shall be governed by that Constitution and those laws and treaties, any conflicting provisions in the Constitutions and laws of the states notwithstanding.

44. This provision of the Constitution is the very one that gives the Government of the Union the power to adopt the measures to which Article 28.2 of the American Convention refers and authorities it to see that such provisions are fulfilled.

45. The Government of Mexico asserts further that this case is inadmissible because the complainants did not resort to the Mexican courts to sue for amparo as provided in Article 103 of the Political Constitution, which suit was sustainable because the individual guarantee contained in the principle of legality enshrined in Article 14 of the Constitution, which includes political rights among the general "rights" to which it refers, had been violated.

46. The Inter-American Commission holds as satisfactorily proved by the complainants that in the Mexican system action for amparo does not lie when political rights are at issue. Both Thesis N° 128 invoked by them and Thesis N° 127 cited by the Government show clearly that political rights cannot be protected by this means, this inapplicability being apparent from the language of the latter thesis ("Even in the case of political rights ..."). The Commission also finds convincing the evidence supplied by the complainants in the form of judgments of February and March 1989, dismissing actions for amparo brought in connection with political rights. The Commission has also taken cognizance of various academic writings on the institution of amparo in Mexico, all of which, it finds, concur that the institution does not protect the exercise of political rights, which are rights of the citizen, whereas the action for amparo is reserved for violations of individual guarantees. (See *El Juicio de Amparo*, Ignacio Burgoa, Ed. Porrúa, S.A., Mexico, 1977, pp. 453-456).

47. The Inter-American Commission has also taken into account Article 107 of the Political Constitution of the United Mexican States, which in paragraph II provides that a judgment rendered in a proceeding for amparo "shall always be such as to apply only to specific individuals, and be confined to

shielding and protecting them in the specific case concerned in the complaint and making no general statement about the law or act that gave rise to it." This provision, repeated in the Law on Amparo, bears out the assertions of the complainants about the unsustainability of action for amparo in this case.

48. The solution proposed by the Government of Mexico of securing application of the action for amparo to political matters based on violation of the individual guarantee deriving from the principle of legality embodied in Article 14 of the Constitution seems a novel interpretation, for the Government of Mexico supplies no information on its successful application in concrete cases. The Commission must point out in any case that a recourse so framed is far from the simple, rapid and effective recourse for the protection of political rights in the terms of Article 25 of the American Convention.

49. After the analysis made, the Inter-American Commission on Human Rights is of the view that the arguments used by the Government of Mexico to support the inadmissibility of the instant case are not substantiated.

50. The Commission is also of the view that the arguments contained in the observations on the Government of Mexico to the preliminary Report fail to provide a basis of proof sufficient to modify the essence of the conclusions to which the Commission arrived in therein.

51. The Commission must point out that it is up to the state to determine the features of the specific organization of both the electoral bodies and of the authorities charged with deciding on complaints presented in electoral matters provided that such bodies and authorities, both in themselves and in relation to the system in which they function, guarantee the exercise of political rights by the independence and impartiality with which they perform their functions. These are the elements that, in the view of the Inter-American Commission, must be present in legislation on political rights for it to fulfill the obligations contracted by Mexico under the American Convention on Human Rights. In the case here considered, the Inter-American Commission finds merit in the observations advanced by the complainants in this regard.

Conclusions

52. On the basis of its analysis of the present case, the Inter-American Commission concludes that it is admissible and that the Government of Mexico must fulfill its obligation to correct the domestic law of its country so that it will effectively guarantee the exercise of the political rights recognized in Article 23 of the American Convention and provide a simple, rapid, and effective recourse pursuant to Article 25 thereof in impartial and independent tribunals pursuant to Article 8 thereof, before which wronged persons may assert their rights.

53. Therefore, the Commission considers that in Case No. 10.180, the Nuevo Leon Election Law does not fully and effectively protect the exercise of political rights and does not provide for simple, swift and effective recourse to independent and impartial tribunals. Hence, it must be adjusted to conform to the requirements under the Convention. Under Articles 2 and 28.2 of the Convention, the Government of Mexico must immediately adopt measures to see that the law is corrected. The Inter-American Commission expects it to report on those measures within ninety days of the date of notification of this Report.