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Decided by: President: Juan Mendez;
First Vice-President: Marta Altolaguirre;
Second Vice-President: Jose Zalaquett;
Commissioners: Robert K. Goldman, Julio Prado Vallejo, Clare K. Roberts,
Susana Villaran.
Dated: 24 October 2002
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I. SUMMARY

1. On May 31, 2001 the Center for Justice and International Law (CEJIL) and Ms. Patria Portugal lodged a complaint with the Inter-American Commission on Human Rights (hereinafter the "Commission" or the "IACHR") against the Republic of Panama (hereinafter the "State" or "Panama"). The complaint alleged violation of the rights to life (Article 4), to humane treatment (Article 5) and to personal liberty (Article 7) of the American Convention on Human Rights (hereinafter the "Convention" or the "American Convention"), all in violation of the obligation to respect and ensure the rights and freedoms recognized therein (Article 1(1)). The petitioners also alleged that the State had violated the right to life, liberty and personal security (Article I), right of protection from arbitrary arrest (Article XXV) and right to due process of law (Article XXVI) of the American Declaration of the Rights and Duties of Man (hereinafter the "Declaration" or the "American Declaration"); Articles II and III of the Inter-American Convention on Forced Disappearance of Persons (hereinafter "Convention on Forced Disappearance"); and Articles 1, 2, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture (hereinafter the "Convention against Torture"), all to the detriment of Heliodoro Portugal. The petitioners further alleged violation of the rights of Heliodoro Portugal's next of kin: Graciela de León de Rodríguez (companion and mother of his children), Patria Portugal (daughter) and Franklin Portugal (son). The rights allegedly violated in their case were the right to a fair trial (Article 8) and the right to judicial protection (Article 25) of the American Convention; and the right to due process of law (Article XXVI) of the American Declaration.

2. The petition concerns the May 14, 1970 forced disappearance of Heliodoro Portugal at the hands of the National Guard. His family and friends spent almost 30 years with no

knowledge of his whereabouts. Immediately after the reinstatement of representative democracy in Panama, Heliodoro Portugal's daughter filed a criminal complaint in May 1990. But the complaint proved to be ineffective when the case was closed just three years later, either because of disinterest or an unwillingness to pursue it. The investigation was reopened in 1999 when an initial autopsy declared were Mr. Portugal's remains were found at a military base. However, a second autopsy -this one ordered by the Attorney General's Office-concluded that the remains were not those of Mr. Portugal. Panama's Truth Commission sought a third opinion. That third opinion stated that the findings of the initial autopsy, which said that the remains were those of Mr. Portugal, were correct. Thus far, however, no court has ruled on this point. The petitioners allege that the State is clearly culpable in the victim's disappearance and subsequent death, yet the internal judicial process has been ineffective in punishing the authors of such egregious acts and in affording his next of kin just and fair reparation and compensation. Even assuming for the sake of argument-the petitioners contend- that the remains unearthed at the military base had not been those of Mr. Portugal, the State would still be responsible for violating the right to life since this is the presumption in cases of forced disappearance.

3. The State concurs with the petitioners as to the facts, specifically "as to the certainty of Mr. Portugal's disappearance," and has admitted that "all the evidence in the case points to the fact that the National Guard was responsible,"[FN1] whether or not the remains found at the military base were those of Mr. Portugal. The State argues, therefore, that it has taken appropriate steps to investigate the circumstances of the victim's disappearance and to determine the corresponding criminal culpability. To reinforce the work being done by the Attorney General's Office, which is overseeing the investigation, the State created the Truth Commission to follow up on all cases of disappearances that happened under the military government. The State nonetheless contends that the petition is inadmissible because the rule requiring exhaustion of local remedies has not been met and because none of the exceptions allowing admissibility even though domestic remedies have not been exhausted is applicable. The State argues that the inquiries conducted do not support the contention that there has been an unwarranted delay in the judicial process.

[FN1] See the State's observations, dated November 29, 2001, p. 4.

4. Having analysed the petition, the Commission concludes that it has competence to deal with it. Concerning the rule requiring exhaustion of local remedies, the IACHR concluded that the exception allowed under Article 46(2)(c) of the Convention applies, so that the six-month rule stipulated in Article 46(1)(b) of the Convention does not apply. The petition was lodged with the Commission within the reasonable period required under Article 32(2) of its Rules of Procedure. Ultimately, the Commission declared that the petitioners' allegations concerning the alleged violations of Articles I, XVIII, XXV, and XXVI of the American Declaration of the Rights and Duties of Man; Articles 1, 4, 5, 7, 8 and 25 of the American Convention on Human Rights; Articles 1, 2, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture; and Articles II and III of the Inter-American Convention on Forced Disappearance of Persons, were admissible.

II. PROCESSING BY THE COMMISSION

5. The following is a summary of the Commission's processing of the exchange of communications between the parties. The petitioners lodged the complaint with the Commission on May 31, 2001. It was received there on June 2, 2001. On July 19, 2001 the Commission requested information from the State, pursuant to Article 30 of its Rules of Procedure, and gave the State two months in which to respond. The State submitted its response on August 23, 2001 which was forwarded to the petitioners. They, in turn, submitted their observations on the response on September 27, 2001. On October 23, 2001, the State requested a 30-day extension to submit its observations. On November 21, 2001 the petitioners submitted additional information, which the State answered in the observations it sent on November 26, 2001. The petitioners presented their observations on December 18, 2001 and the State its response on January 3, 2002. The petitioners presented their observations on the State's responses on February 7, 2002 and the State responded with observations on March 14, 2002.

III. THE PARTIES' POSITIONS

6. The positions of the parties can be summarized as follows for purposes of the present Admissibility Report:

A. The petitioners

7. The petitioners allege that between 1968-when General Omar Torrijos staged a military coup- and the end of the 1980s, the government suppressed political activity and systematically detained and arbitrarily arrested opponents of the regime, whom it labelled "revolutionaries" or "Communists." [FN2] Because of Mr. Heliodoro Portugal's opposition to the military regime, he was subjected to politically motivated harassment, which began in 1968 when he was arrested by the National Guard, only to be released in 1969. Mr. Portugal disappeared on May 14, 1970 at age 36, when he was stopped by four members of the former National Guard's Military Intelligence section (G-2), in the vicinity of the cafe known as "Cocacola", located on Santa Ana, Panama City. He was forced into a taxi, destination unknown. During those years of military dictatorship, one could not go to the authorities to file complaints. [FN3] Despite the sense of fear prevalent at that time, family members went to a number of places in an effort to find Mr. Portugal [FN4] and even turned to the authorities, all to no avail. [FN5]

[FN2] See statements made by: Graciela de León de Rodríguez, 6/21/90; Marcos Tulio Pérez Herrera, 7/16/90; Antonia Portugal García, 7/26/1990; Gustavo Antonio Pino Llerena, 9/26/90; Pedro Antonio Vázquez Cocio, 10/24/90; Ruben Dario Sousa Batista, 5/13/91, among others. See also the decision of the Second Superior Court of the First District, 3/13/1991, paragraph one.

[FN3] See request by the Office of the Third Superior Court Prosecutor of the First District to declare that the statute of limitation on criminal liability had run, January 15, 1991, p. 5.

[FN4] See statement of Antonia Portugal García, 12/12/90.

[FN5] As the court records for the case show, Mr. Manuel Antonio Noriega was Director of the Panamanian Intelligence Service from August 11, 1970 to December 14, 1982.

8. When representative democracy was restored in 1990, Mr. Portugal's daughter reported her father's disappearance to the Attorney General's Office. However, the investigation was provisionally stayed on November 8, 1991 on the grounds that "there is no evidence of any enmity"-at least not in 1970-between Mr. Portugal's ideas and the government at that time.[FN6] The petitioners contend that this reasoning was baseless, since the testimonies refer to Mr. Portugal as a "revolutionary" and "Communist." They also allege that the Court did not follow up on leads that could have thrown light on what happened. After that, the case remained closed for nine years.

[FN6] See decision of the Second Superior Court of the First Judicial District,, November 8, 1991.

9. Thirty years after Mr. Portugal's disappearance, the Deputy Prosecutor was told of the place where the remains of disappeared persons were to be found. On September 22, 1999 the Attorney General's Office ordered the start of excavations at the former military base at Tocumen that had at one time been home to the Los Pumas Infantry Company and the inquiries were reopened with the Office of the Third Superior Court Prosecutor of the First Judicial District.[FN7] Human remains were unearthed there and underwent forensic examination. DNA testing was done by Laboratories Reliagene Technologies, and Armed Forces DNA Identification Laboratories (AFDIL), paid by private interests. Their report, dated August 22, 2000, found that the remains unearthed were not those of Father Gallegos; instead they were Mr. Portugal's remains. On August 30, 2000, the Attorney General's Office asked that the case be reopened. The remains were turned over to the family and buried on September 6, 2000 thus ending the family's long search.

[FN7] See resolution of the Third Prosecutor's Office, April 3, 2001 p. 2.

10. The petitioners contend that on September 3, 2001, the Attorney General's Office informed the Portugal family of the findings of the tests done by Fairfax Identity Laboratories (FIL), which concluded that the remains were not those of Mr. Portugal. With conflicting results from the two sets of tests, the Panamanian Truth Commission requested a third expert opinion, this one from the Mitotyping Technologies laboratory, specifically Dr. Terry Melton, an expert in mitochondrial DNA testing, to evaluate the two DNA tests already conducted. Dr. Melton concluded that the remains examined were those of Mr. Portugal, as the AFDIL test had established. Dr. Melton described the quality of the AFDIL test as good, with no evidence of mixing, whereas the testing done by FIL showed strong evidence of contamination. The petitioners allege that this finding is confirmation of his death. They argue that violation of the right to life is assumed in cases of forced disappearance, even though the judicial authorities have not issued any formal ruling certifying the identity of the remains and doubt as to Mr. Portugal's fate lingers.

11. The petitioners also allege that the material and intellectual authors of the disappearance and extrajudicial execution were members of the Los Pumas infantry company based at Tocumen, that they have been identified, and are being prosecuted.[FN8] Once the disappearance occurred, the next of kin had no way to exercise judicial remedies, for fear of reprisals by the military authorities.

[FN8] See resolution of the Third Superior Court Prosecutor for the First Judicial District, April 3, 2001.

12. The petitioners consider that the exception to the rule requiring exhaustion of local remedies based on unwarranted delay, provided for in Article 46(2)(c), applies in the instant case since more than 12 years have passed without any court ruling on the complaint filed on May 10, 1990. The petitioners allege that forced disappearance is a continuous violation[FN9] as long as there is uncertainty about the ultimate fate of the disappeared person and that the duty to investigate likewise persists.[FN10]

[FN9] Inter-American Convention on Forced Disappearance of Persons, OEA/Ser.P/AG/doc. 3114/94 rev.1, Article 3.

[FN10] Inter.-American Court of Human Rights, Velásquez Rodríguez, Judgment of July 29, 1988, Series C N° 4, paragraph 181.

13. The petitioners contend that the forced disappearance of Mr. Portugal is a multiple and continuous violation of a number of human rights, and allows one to presume that he has been killed. They further contend that there is evidence that he was tortured[FN11] and that he was treated in a military hospital; one witness who was being held in a clandestine place of detention and torture heard Mr. Portugal being interrogated.[FN12] The petitioners aver that the next of kin are also victims of a violation of the right to humane treatment, because of the suffering and anguish that the authorities' refusal to investigate caused them. The petitioners assert that Mr. Portugal's disappearance was an arbitrary deprivation of liberty, that he was denied his right to be brought before a judge without delay and that he was held incommunicado against his will, all of which constitutes cruel and inhuman treatment.

[FN11] See Report of the Institute of Forensic Medicine [Instituto de Medicina Legal], dated September 24, 1999 p. 2; and the transcript of the exhumation of the body on September 22, 1999.

[FN12] See sworn statement of Daniel Elias Zúñiga Vargas, January 30, 2001; and Decision of the Third Superior Court Prosecutor, April 6, 2001.

B. The State

14. The State has stated that it “agrees with the petitioners that Mr. Portugal's disappearance cannot be denied. It has therefore taken appropriate measures to investigate the circumstances of this disappearance and to determine the corresponding criminal responsibility.”[FN13] It notes in this regard that the Attorney General's Office is seeing to the corresponding criminal investigation, which is being conducted by the Office of the Third Superior Court Prosecutor in order to bring the guilty parties to trial. To reinforce the work of the Attorney General's Office, Panama created the Truth Commission to follow up on Mr. Portugal's case and all other cases of disappearance that took place during the military regime. The State also alleges that “from the investigations conducted, the persons responsible for Mr. Portugal's disappearances may, at the time the events occurred, have been members of the former National Guard.”[FN14] Legal culpability has to be established in a legal process, conducted in accordance with the pertinent procedures and domestic law.

[FN13] See Observations from the State, November 29, 2001 p. 4.

[FN14] Idem.

15. The State argues that the petition is inadmissible because the rule requiring exhaustion of domestic remedies has not been met and there are no exceptional grounds in this case to substantiate its admissibility when internal remedies have not been exhausted. The State contends that given the measures taken by the State to determine the circumstances of the disappearance and death of Mr. Portugal and to bring the guilty to justice, it cannot be argued that there has been an unwarranted delay in the judicial process. The State asserts that ever since the September 1999 discoveries, both the judicial and executive branches have worked to wrap up the proceedings necessary to provide the next of kin of the disappeared persons with effective justice. Since then, a series of proceedings and on-site inspections have been conducted and a number of statements have been taken. Arrests have been ordered, as have preventive measures against persons suspected of involvement in Mr. Portugal's disappearance.

16. The State alleges that the petitioners cannot insist, however, that without the evidence necessary to conduct an effective prosecution the State should nonetheless move judicial proceedings forward, without a stay being ordered. Temporary stays are ordered precisely to allow proceedings to resume as soon as the evidence emerges that allows those proceedings to move forward. Under international human rights agreements that Panama has ratified, it cannot definitively close cases that, under its own domestic laws, would have been closed under the statute of limitations because more than twenty years had elapsed since the commission of the crime. The Attorney General's Office has designated a permanent team of investigators from the National Police and from the Investigative Police Force [Policía Técnica Judicial].

17. Concerning the remains unearthed at the site of the former barracks of the Second Infantry Company of Tocumen, when the IACHR began to process the case the State asserted that the remains were those of Mr. Portugal. It stated that testing done on the remains by a private firm, when compared to a sample obtained from one of the victim's brothers, had resulted in similar DNA. With that, a reopening of the criminal investigation was requested on August 30,

2000. Later, however, based on testing ordered by the Attorney General's Office the State asserted that the remains were not those of Mr. Portugal. It referred the matter to the Truth Commission, which confirmed that the results of the first test were correct.

IV. ANALYSIS ON ADMISSIBILITY

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

18. The Commission has competence to deal with the present case. First, concerning its competence *ratione materiae*, the petitioners are alleging violation of rights protected under various international instruments. Specifically, they are alleging violation of Articles I, XXV and XXVI of the American Declaration. Panama is a State Party to the OAS Charter; under Article 20 of the Commission's Statute, the IACHR has the authority to examine communications alleging violations of these Articles of the American Declaration. The Commission is likewise competent to take cognizance of the petitioners' allegations regarding Articles 1, 4, 5, 7, 8 and 25 of the American Convention, Articles 1, 2, 6 and 8 of the Convention to Prevent and Punish Torture, and Articles II and III of the Convention on Forced Disappearance, given that Panama is a State party to all those conventions. Second, the Commission has competence *ratione loci* inasmuch as the alleged violations of the rights protected under those conventions are said to have occurred within the territory of a State party to those conventions.

19. Third, concerning the Commission's competence *ratione personae*, the petitioners are entitled to lodge complaints with the IACHR under Article 44 of the American Convention, Article XIII of the Convention on Forced Disappearance, and Article 16 of the Convention against Torture. Furthermore, the Commission's Statute and Rules of Procedure also entitle the petitioners to file complaints alleging violations of the American Declaration. The victims alleged in the petition are natural persons whose Convention-recognized rights and freedoms Panama undertook to respect and ensure. Therefore, the Commission has competence *ratione personae* by an active and passive authority under those inter-American conventions to examine the petition.

20. Finally, the Commission has competence *ratione temporis* to deal with the petition, which concerns a continuous situation that has gone on for over thirty years. That situation began when Mr. Heliodoro Portugal was forcibly disappeared on May 14, 1970. His next of kin were prevented from exhausting the proper local remedies until the advent of democratic government in Panama in late 1989. This situation continues, inasmuch as the complaint lodged in 1990 has not been effective in getting those responsible for the disappearance punished and no definitive court ruling has been delivered regarding the whereabouts of his remains. The Commission has competence *ratione temporis* to address the violations of human rights alleged by the petitioners with respect to the American Declaration,[FN15] the American Convention,[FN16] and the Convention on Forced Disappearance.[FN17] Regarding the Convention against Torture, the IACHR considers that it only has competence to address the alleged violations against Heliodoro Portugal's next of kin from the time that treaty was signed and ratified by Panama.[FN18]

[FN15] Panama was already a party to the OAS Charter and bound by it to respect the rights guaranteed under the American Declaration.

[FN16] Panama signed the American Convention on November 22, 1969 and ratified it on June 22, 1978.

[FN17] Panama signed that Convention on September 14, 1994 and ratified it on February 28, 1996.

[FN18] That Convention was signed by Panama on February 10, 1986 and the instrument of ratification was deposited on August 28, 1991.

B. Other admissibility requirements

1. Exhaustion domestic remedies

21. Under Article 46(1)(a) of the Convention, admission of a petition requires "that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law." Article 46(2)(c) provides that the rule requiring exhaustion of local remedies will not be applicable when "there has been unwarranted delay in rendering a final judgment under the aforementioned remedies." The Commission's practice has been to consider, up front and separate from the merits of the case, whether the grounds for any exception are present. Concerning the distribution of the burden of proof to determine whether this requirement has been met, the Commission reiterates that when the State alleges that there are remedies that remain to be exhausted, it must show what those remedies are and that they are effective. If the State making that claim proves that there are internal remedies that should have been used, it is up to the petitioners to show that those remedies were exhausted or that one of the exceptions allowed under Article 46(2) of the Convention applies. The Commission will now proceed to examine whether Article 46(1)(a) has been fulfilled or whether the exceptions provided for under Article 46(2) of the Convention apply.

22. In the instant case, the petitioners allege that because the remedies were ineffective, they are, under Article 46(2)(c) of the Convention, exempt from the rule requiring exhaustion of the remedies under domestic law. The petitioners allege that Mr. Portugal was forcibly disappeared 30 years ago, during the dictatorship, and his next of kin were unable to exhaust local remedies. The inquiry that the Attorney General's Office instituted in 1990, when democratic government was restored in Panama, was stayed for no good reason, seven months into the inquiry,[FN19] in 1991, and then reopened again in 1999 when Mr. Portugal's remains were discovered in a military barracks. Although the criminal case has been underway for 12 years, the court authorities have still not rendered a definitive determination as to the identity of the remains found; they have not yet punished those responsible, and have not awarded the victim's next of kin just and fair compensation.

[FN19] Ibid. It argues: "... in the case at hand, there is no evidence of any 'enmity'-at least not in 1970-between Mr. Portugal's ideas and the government at that time ... so that based on the procedural situation presented in the summary one has to conclude that this criminal inquiry must be temporarily stayed."

23. The State contends that the remedies under domestic law have not been exhausted and that it is fulfilling its duty of judicial protection since the matter is being investigated both through an inquiry that the Attorney General's Office is conducting by way of the Office of the Third Superior Court Prosecutor, and through the work of the Truth Commission. It therefore concludes that the complaint lodged should be declared inadmissible.[FN20]

[FN20] See the State's response of January 3, 2002 pp. 9, 10 and 11.

24. In examining the parties' positions, the IACHR notes that Mr. Portugal disappeared 30 years ago and that a continuous situation persists even to this day, as there has been no definitive judgment naming those responsible for these acts or identifying and establishing the whereabouts of the remains. Nevertheless, the Commission reminds the Panamanian State that one of the purposes of the inter-American system for the protection of human rights is to establish the liability of States for human rights violations committed under their jurisdiction and not to establish individual responsibility for those violations. Also that, based on the principle of the continuity of the State, international liability exists irrespective of changes in government.[FN21] That being so, Panama is subject to international liability for violations of human rights committed by any government, be it a past government or the current government, regardless of whether that regime is *de jure* or *de facto*. The Commission therefore considers that, *prima facie*, there has been an unwarranted delay in prosecuting the criminal case that is investigating the facts. As this is the circumstance provided for in Article 46(2)(c) of the Convention, the petitioners are exempt from the rule requiring exhaustion of local remedies. In the stage where the merits of the case are considered, the Commission will examine the efficacy of this remedy and its effects for purposes of Articles 8 and 25 of the Convention.

[FN21] See Inter-American Court of Human Rights, Judgment of July 29, 1988 Velásquez Rodríguez case, paragraph 184; Inter-American Commission on Human Rights, Report N° 61/01, Case 11.771, Samuel Alfonso Catalán Lincoleo, Chile, April 16, 2001.

2. Time period for lodging a petition

25. Under Article 46(1)(b), the Convention requires that a petition be "lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment." Under Article 46(2) of the Convention, the six-month filing deadline provided for in Article 46(1)(b) will not apply when any of the exceptions is present. The Commission notes that while "the Convention's requirement that domestic remedies be exhausted is independent of the requirement that the petition be lodged within six months following the judgment exhausting domestic jurisdiction,"[FN22] the exceptions provided for in Article 46(2) of the American Convention apply to both requirements.

[FN22] IACHR, Report N° 81/01, Case 12,228, Alfonso Martín del Campo Dodd v. Mexico, October 10, 2001 par. 20.

26. In the present case, the Commission examined the question of the exception allowed under Article 46(2)(c), concerning an "unwarranted delaying in rendering a final judgment," when it analyzed the rule in Convention Article 46(1)(a) requiring exhaustion of local remedies, ut supra paragraph 24. Given the circumstances already examined, the Commission need not re-examine the question of whether the grounds for that exception are present. The Commission therefore concludes that under Article 46(2)(c) of the American Convention, the six-month time period for lodging a petition shall not be applicable in this case. Under Article 32(2) of the Commission's Rules of Procedure, in those cases in which the exceptions to the requirement of prior exhaustion of local remedies are applicable, the petition is to be presented within what the Commission considers to be a reasonable time period. In the present situation, the Commission is taking into account the date on which the alleged violations of rights occurred, the context at the time and the procedural activity of the petitioner. From that it concludes that the petition has been presented within a reasonable period of time.

3. Duplication of proceedings and res judicata

27. Under Article 46(1)(c) of the Convention, one of the admissibility requirements is that the subject matter of the petition or communication is not pending in another international proceeding for settlement. Likewise, Article 47(d) of the Convention states that any petition that is substantially the same as another previously studied by the Commission or by some other international organization shall not be admissible. In the present case, the parties have neither alleged nor shown that the subject put to the Commission for consideration is pending in another international proceeding for settlement or that it has already been decided by another international organization, or that it is substantially the same as one the Commission previously examined. The Commission, therefore, concludes that these requirements have been met.

4. Characterization of the facts alleged

28. Article 47(b) of the Convention provides that the Commission shall consider inadmissible any petition that does not state facts that tend to establish a violation of the rights the Convention guarantees. The Commission considers that the following facts alleged by the petitioners could tend to establish violations of the American Declaration, the American Convention, the Convention on Forced Disappearance, and the Convention against Torture:

- a. The forced disappearance of Mr. Portugal more than 30 years ago could tend to establish a violation of Articles II and III of the Convention on Forced Disappearance, Articles 1, 4 and 7 of the American Convention, and Articles I, XXV, XXVI of the American Declaration.
- b. The torture inflicted upon Mr. Portugal and the anguish his next of kin endured could tend to establish a violation of Article 5 of the American Convention and Article 1 of the American Declaration.

c. The absence and ineffectiveness of remedies under domestic law to set right the situations alleged by the petitioners could tend to establish a violation of the rights of Mr. Portugal's next of kin: Graciela de León de Rodríguez, Patria Portugal, and Franklin Portugal, specifically the rights recognized in Articles 8 and 25 of the American Convention and Article XVIII of the American Declaration.

29. When analyzing the merits of the case, the Commission shall also consider the following:

a. Whether the anguish felt by Mr. Portugal's next of kin could tend to establish a violation of Articles 1 and 2 of the Convention against Torture.

b. The absence and ineffectiveness of remedies under domestic law to set right the situations alleged by the petitioners could tend to establish a violation of the rights of Mr. Portugal's next of kin in respect of Articles 6 and 8 of the Convention against Torture.

30. The Commission therefore concludes that the petition satisfies the requirement stipulated in Article 47(b) of the American Convention.

V. CONCLUSIONS

31. Having examined the present case, the Commission concludes that it has competence to take cognizance of it. The Commission concludes that the exception stipulated in Article 46(2)(c) to the rule requiring exhaustion of local remedies is applicable; that the six-month rule stipulated in Article 46(1)(b) of the Convention does not, therefore, apply; and that the petition was lodged within a reasonable period of time. Finally, the Commission decides that the petitioners' allegations concerning Articles I, XXV and XXVI of the American Declaration, Articles 1, 4, 5, 7, 8, and 25 of the American Convention, Articles II and III of the Convention on Forced Disappearance of Persons and Articles 1, 2, 6, and 8 of the Convention against Torture meet the requirement stipulated in paragraph b of Article 47 of the American Convention. Therefore, the requirements for analyzing the petition under the provisions that the petitioners invoked from the other conventions have been met.

32. Based on the foregoing arguments of fact and of law, and without prejudging the merits of the matter,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, DECIDES:

1. To declare the present petition admissible as regards the alleged violations of Articles I, XXV, and XXVI of the American Declaration of the Rights and Duties of Man; Articles 1, 4, 5, 7, 8 and 25 of the American Convention on Human Rights; Articles 1, 2, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture; and Articles II and III of the Inter-American Convention on Forced Disappearance of Persons.

2. To notify the parties of this decision.

3. To proceed with the analysis of the merits of the case.

4. To publish this decision and include it in the Commission's Annual Report to the OAS General Assembly.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., on the 24th day of October of 2002. (Signed): Juan E. Méndez, President; Marta Altolaguirre, First Vicepresident; Jose Zalaquett, Second Vicepresident; Robert K. Goldman, Julio Prado Vallejo, Clare K. Roberts and Susana Villarán, Commissioners.