

Institution: Inter-American Commission on Human Rights  
File Number(s): Report No. 32/03; Petition 12.281  
Session: Hundred and Seventeenth Regular Session (17 February – 7 March 2003)  
Title/Style of Cause: Gilda Rosario Pizarro Jimenez, Elena de Carmen Ponce Jorquera, Gloria Lewelyn Ponce Jorquera, Myrna Janette Ponce Jorquera, Elizabeth del Lujan Fuentes Ruiz and Angelica Soledad Perez Fernandez v. Chile

Doc. Type: Decision  
Decided by: President: Marta Altolaguirre;  
Second Vice-President: Clare K. Roberts;  
Commissioners: Robert K. Goldman, Juan Mendez, Julio Prado Vallejo, Susana Villaran.  
In conformity with Article 17(2)(a) of the Rules of Procedure of the IACHR, Mr. Jose Zalaquett, the First Vice- President of the Commission and a national of Chile, did not participate in the discussion or voting on this case.

Dated: 7 March 2003  
Citation: Pizarro Jimenez v. Chile, Petition 12.281, Inter-Am. C.H.R., Report No. 32/03, OEA/Ser.L/V/II.118, doc. 5 rev. 2 (2003)

Represented by: APPLICANTS: the Center for Justice and International Law and the Public Interest Clinic of the University of Diego Portales

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## I. SUMMARY

1. On December 20, 1999, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission”, “the Commission” or “IACHR”) received a complaint lodged jointly by the Center for Justice and International Law (CEJIL) and the Public Interest Clinic of the University of Diego Portales (hereinafter “the petitioners”) against the Republic of Chile (hereinafter “the State” or “the State of Chile”), in which they allege that the following women: Gilda Rosario Pizarro Jiménez, Elena de Carmen Ponce Jorquera, Gloria Lewelyn Ponce Jorquera, Myrna Janette Ponce Jorquera, Elizabeth del Luján Fuentes Ruiz and Angélica Soledad Pérez Fernández, all of them spouses of police officers of the Carabineros de Chile,[FN2] were victims of various violations of their human rights as a consequence of their public and peaceful demonstration against what they considered to be the inadequate remuneration received by their spouses in their jobs as Carabineros.

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[FN2] Carabineros de Chile is a police, technical and military institution created in 1927 that is part of the law enforcement and public security forces of Chile.

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2. The petitioners alleged that the State was responsible for the violation of their rights to humane treatment, to a fair trial, to protection of their honor and dignity, to freedom of thought and expression, to freedom of assembly, to protection of the family, to equality before the law and to judicial protection in relation to the obligation of the State to respect and guarantee human rights and its duty to adopt the provisions of domestic law set out in Articles 1(1), 2, 5, 8, 11, 13, 15, 17, 24 and 25 of the American Convention. With respect to the admissibility of the complaint, the petitioners contend that due legal process does not exist in the domestic jurisdiction for the protection of the rights alleged to have been violated and that the courts that are supposed to hear those complaints lack the independence and impartiality required by Article 8 of the Convention. They therefore request a waiver of the requirement for the prior exhaustion of domestic remedies provided for in Article 46(2)(a) and (b) of the American Convention. For its part, the State denied that it has violated any of the norms of the Convention and requested the Commission to reject the arguments of the petitioners and to declare the petition inadmissible, since it did not fulfill the requirements set out in Articles 46(1)(a)(b) and 47(b)(c) of the Convention.

3. After reviewing the positions of the parties, the Commission concludes that it is competent to consider the complaint presented by the petitioners and that the petition is admissible, in the light of Articles 46 and 47 of the American Convention.

## II. PROCESSING BY THE COMMISSION

4. On December 20, 1999, the Commission received a petition presented by the Center for Justice and International Law and the Public Interest Clinic of the University of Diego Portales, denouncing the State of Chile for violations of the rights of Gilda Rosario Pizarro Jiménez, Elena de Carmen Ponce Jorquera, Gloria Lewelyn Ponce Jorquera, Myrna Janette Ponce Jorquera, Elizabeth del Luján Fuentes Ruiz and Angélica Soledad Pérez Fernández, as recognized in Articles 1(1), 2, 5, 8, 11, 13, 15, 17, 24 and 25 of the American Convention.

5. On May 15, 2000, the Commission transmitted the pertinent parts of the complaint to the State of Chile and granted it a period of 90 days within which to submit information concerning the events and the exhaustion of domestic remedies.

6. On July 18, 2000, the Commission received the State's reply and transmitted it to the petitioners on July 25, 2000, granting them a period of 30 days within which to submit their comments thereon. On September 8, 2000, the IACHR informed the parties that it had granted a hearing at its 108th meeting, which took place on October 10, 2000.

7. The comments of the petitioners were received on October 20, 2000 and transmitted to the State of Chile on October 27, 2000. The Commission granted a period of 30 days for the State to submit its comments. The State declined to present comments.

## III. POSITIONS OF THE PARTIES

### A. Position of the petitioners

8. According to the petition, in early 1998, the Government of Chile promulgated Law-Ranking Decree N° 2 of the Ministry of Defense, which provided for a series of wage and social security benefits for the personnel of Carabineros de Chile. The petitioners allege that this Decree provided more benefits in qualitative and quantitative terms to officers than to non-commissioned personnel, which caused dissatisfaction with the State and the authorities of the institution on the part of the non-commissioned officers and their families.

9. The petitioners allege that members of the families of the Carabineros began to demonstrate their discontent in small private gatherings, mainly of the spouses of the Carabineros, an initiative that was suppressed by the Carabineros authorities, who prohibited non-commissioned officers or any of their family members from expressing “their dissatisfaction at the new Law-Ranking Decree, under threat of loss of their jobs and of being subjected to a strict system of penalties for acts disloyal to the institution”. [FN3]

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[FN3] Statement by the petitioners, December 20, 1999, p. 3.

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10. The petitioners state that, despite the threats received, the alleged victims went to the Metropolitan Intendency on April 23, 1998 to request authorization to conduct a peaceful protest on April 27, 1998, the day of the commemoration of the anniversary of the Carabineros de Chile. The Intendent of the Metropolitan Region granted the authorization on April 24, 1998.

11. The petitioners allege that on the day of the demonstration, the wives of the Carabineros went to the Plaza de la Constitución, where they saw the square surrounded by more than a hundred Carabineros, buses of the institution, teargas launchers, and even armored personnel carriers, all prepared to suppress the demonstration. On seeing this, they decided to join another group of Carabineros spouses in the Plaza Benjamín Vicuña Mackenna. Stationed in the vicinity of that square, however, was a cordon of approximately 50 Carabineros members of the specially trained forces blocking the demonstrators’ path. The demonstrators also observed the presence of three water cannon, two teargas launchers, two armored personnel carriers, civil police personnel and a number of buses belonging to the institution. The demonstrators attempted to move forward peacefully, but the special forces personnel began to strike those who were attempting to continue with “kicks in the legs, pushing and kneeling”. The police contingent also hurled insults containing references “to their alleged political affiliation to leftist parties and to the disloyal manner in which they treated the institution of Carabineros de Chile.” The petitioners state further that additional Carabineros intervened in the violence and a water cannon was used violently against a number of demonstrators.

12. The petitioners allege that, despite these repressive actions, the women demonstrators continued to peacefully exercise their constitutional rights and had reassembled in the Avenida Libertador Bernardo O’Higgins to continue with the demonstration when they were intercepted once again by Carabineros and a water cannon. The petitioners allege that the victims were struck, shoved and kicked and unlawfully deprived of their freedom. They also state that Gloria Lewelyn Ponce Jorquera was struck by Carabineros, despite the fact that she was pregnant, and

that Patricia Elena del Carmen Ponce Jorquera also suffered a fracture and had undergone rehabilitative treatment for one year.

13. The petitioners state that on June 3, 1998, a criminal complaint was instituted for assault causing minor injuries, illegal detention and abusive treatment of individuals in the Second Criminal Court of Santiago, which declared itself incompetent to hear the case, since the complaint was against members of the Carabineros de Chile and should therefore be heard by military tribunals. As a result of this, the proceeding was referred to the Sixth Military Court where, to date, the case has remained at the stage of pre-trial proceedings. According to the petitioners, the events described above had as a direct and immediate consequence the dismissal of the Carabineros who were married to the women named in this petition.[FN4]

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[FN4] On August 4, 1999, the Center for Justice and International Law (CEJIL) and the Public Interest Clinic of the University of Diego Portales presented to the Commission a petition against the Republic of Chile in which they allege that Messrs. Mario Alberto Jara Oñate, Julio Cesar Cid Deik, Marcelino Esteban López Andrade, José Exequiel Tobar Muñoz, Fernando Villa Molina, Ciro Elías Rodríguez Uribe, Mario Eduardo Araya Marchant and Sergio Iván González Bustamante, all members of the Carabineros de Chile, were victims of an evaluation exercise carried out by the Carabineros authorities that violated their rights to a fair trial, to equality before the law, to protection of their honor and dignity, to protection of their family and to judicial protection.  
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14. On the question of admissibility, the petitioners claim the waiver of the requirement for exhaustion of domestic remedies provided for in Article 46(2) of the Convention. They allege that the victims did not have access to due legal process within the domestic jurisdiction, where they could claim protection of the rights that they allege were violated, since the tribunal lacks the due independence and impartiality required by Article 8(1) of the Convention. They add that this lack of independence of the military court is evident from the fact that the judges of the institution are subordinate to the senior officials of the service, the fact that they are subject to removal, and their lack of legal training.

15. In their reply to the comments of the State on admissibility, the petitioners stated that the Commission should declare the petition admissible, since the acts that were the subject of the complaint concerned the violation of various rights by the domestic authorities that involves the international responsibility of the State of Chile, which neither protected nor guaranteed the right of the victims to due legal process in the substantiation of the criminal complaints filed in the domestic courts.

16. The petitioners therefore argue that the State of Chile has violated the rights recognized in Articles 1(1), 2, 5, 8, 11, 13, 15, 17, 24 and 25 of the American Convention.

B. Position of the State

17. The State alleged that a number of amendments to Law-Ranking Decree N° 1 on the Carabineros Personnel Statute were published on March 12, 1998, including provisions for designated remunerative benefits, which gave rise to some dissatisfaction within the institution. It added that, as a result of that situation, some Carabineros spouses engaged in public demonstrations and made statements to the media, in which they attacked the institution and its character as a non-deliberative, disciplined and hierarchical body.

18. The State added that a public demonstration was held on April 27, 1998, in which several Carabineros spouses participated. According to the State, this demonstration ventured into areas that had been prohibited because of their proximity to the seat of Government, which was why the demonstrators had been intercepted and six wives detained and subsequently released on bail. For the State, both the meetings that were held and the demonstration constitute an “act of indiscipline that undermines the legal order in force and weakens the very foundation of any armed institution.”

19. On the question of admissibility, the State alleged that the Commission should declare the petition inadmissible, in accordance with the provisions of Article 47(b) and (c) of the Convention, because in its view the acts did not constitute a violation of the rights and freedoms recognized by the Convention. They add, further, that domestic remedies had not been exhausted and that the argument of the lack of independence of the military tribunal and of military justice in general cannot be advanced in the absence of a prior judgment or ruling. The State also alleges that it is for the Supreme Court to exercise precautionary, disciplinary and economic powers with respect to the administration of military justice in peacetime. It added that the major decisions of military tribunals and courts martial are generally subject to review by the Supreme Court by way of cassation, application for review or complaint proceedings so that any arbitrariness can be remedied by the ordinary justice system and by its highest court.

20. The State also argued that the petition should be declared inadmissible on the grounds that it had been submitted after the period provided for in Article 46(1)(b) of the Convention. According to the State, the petitioners should have lodged the complaint within six months of the date on which they were notified of the decision of the Second Criminal Court of Santiago that it lacked competency in the matter.

21. The State requested, finally, that the Commission should declare the petition inadmissible and reject the arguments of the petitioners, since Chile had fulfilled its obligations under the Convention.

#### IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

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

22. Under Article 44 of the American Convention, the petitioners have the right to lodge complaints with the IACHR. The petition names as the alleged victims individuals in respect of whom Chile has undertaken to respect and guarantee the rights recognized in the American Convention. With regard to the State, the Commission notes that Chile has been a State party to

the American Convention since August 21, 1990, the date on which it deposited the appropriate instrument of ratification. The Commission therefore has competence *ratione personae* to consider the petition.

23. The Commission has competence *ratione loci* to consider the petition, insofar as it alleges violations of rights protected in the American Convention that are alleged to have taken place within the territory of a State party to the Convention.

24. The IACHR is competent *ratione temporis* insofar as the obligation to respect and guarantee the rights protected in the American Convention was already in force for the State at the date on which the acts referred to in the petition are alleged to have taken place.

25. Lastly, the Commission is competent *ratione materiae*, because the petition denounces violations of human rights that are protected by the American Convention.

## B. Requirements for admissibility

### 1. Exhaustion of domestic remedies

26. Article 46(1) of the American Convention on Human Rights provides that in order for a petition or communication lodged in accordance with Articles 44 or 45 to be admitted by the Commission, “the remedies under domestic law [must] have been pursued and exhausted in accordance with generally recognized principles of international law”.

27. The petitioners request that the waivers provided for in Article 46(2)(a) and (b) of the Convention should be applied because the State of Chile did not guarantee due legal process to the victims for the protection of the rights that are alleged to have been violated, since the military tribunal lacks the due independence and impartiality required by Article 8(1) of the Convention. They allege, moreover, that the criminal action that they filed remains at the stage of pre-trial proceedings in the Sixth Military Court[FN5] and that the investigations had not been completed and no one had been charged in the case.

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[FN5] Article 25 of the Code of Military Justice provides that the functions of prosecutors in criminal cases are to conduct investigations and to substantiate the cases, for which all relevant information about charges and evidence in the case must be compiled.

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28. Article 46(2)(a) and (b), which was invoked by the petitioners, provides that the requirements concerning the previous exhaustion of domestic remedies and the period allowed for the lodging of the petition shall not be applicable where:

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;

29. The State of Chile asserted the objection of failure to exhaust domestic remedies in its reply to the complaint and argued that the complaint is not admissible, according to Article 46(1) of the Convention. According to the State, it cannot be claimed that the military tribunal lacks independence and impartiality if no prior judgment or decision proving this has been obtained. It added further that if the petitioners considered that military justice did not guarantee them due process they should have had recourse to the Supreme Court by way of cassation, application for review or complaint proceedings.

30. The Inter-American Court and the IACHR have repeatedly adverted to the fact that the general rule of prior exhaustion of domestic remedies allows the State to “resolve the problem under its internal law before being confronted with an international proceeding”,<sup>[FN6]</sup> in this case before an international jurisdiction of human rights that “reinforces or complements” the domestic jurisdiction.<sup>[FN7]</sup> This general rule not only recognizes that the State has the aforementioned right but places upon the State the obligation to provide individuals under its jurisdiction with adequate remedies to protect the legal situation that has been violated and which are effective in producing the intended result. If the remedies provided by the State fail to meet these requirements, the objections contemplated in Article 46(2) of the Convention, which have been provided in order to guarantee international action where the remedies available under domestic law and the internal judicial system itself are not prompt and effective enough to guarantee respect for the human rights of the victims, must then be applied.

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[FN6] Inter- American Court of Human Rights, Case of Velásquez Rodríguez, Judgment of 29 July 1988. Series C. N° 4, para. 61.

[FN7] Inter- American Court of Human Rights, Case of Velásquez Rodríguez, Judgment of 29 July 1988, Series C. N° 4 (1988), para. 61.

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31. The Commission has frequently noted that it is not sufficient for the State to assert the objection of non-exhaustion of domestic remedies for it to be accepted. As the Inter-American Court of Human Rights has ruled, a State that asserts this objection must also identify the domestic remedies still to be exhausted and prove their effectiveness and efficacy in the circumstances. The State of Chile mentioned the remedies but did not prove their effectiveness. The petitioners allege that, since the proceeding took place before a military tribunal, the parties lacked the due guarantees to substantiate the remedy, which is therefore not effective.

32. One of the main presumptions of due legal process is the independence, autonomy and impartiality of the national organs responsible both for investigating and punishing alleged violations of human rights. In this respect, the Commission is of the view that the system of military justice lacks the necessary independence and autonomy to investigate in an impartial manner the violations of human rights alleged to have been committed by policemen who are part of the armed forces.<sup>[FN8]</sup>

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[FN8] The Commission has also noted that the problem of impunity in military criminal justice is not linked exclusively to the absolution of the accused; “the investigation of human rights violations by the military court itself entails problems where it comes to having access to an effective and impartial judicial remedy” (IACHR, Second report on the situation of human rights in Peru, OEA/Ser.L/V/II.106 Chap.II, para. 210), and that the investigation of the case by the military courts precludes the possibility of an objective and independent investigation carried out by judicial authorities not linked to the command structure of the security forces. The fact that the investigation of the case was initiated in the military justice system may make a conviction impossible, even if the case is passed on to the regular courts, as it is likely that the necessary evidence has not been collected in a timely and effective manner. In addition, the investigation of the cases that remain in the military jurisdiction may be conducted so as to impede them from reaching the final decision-making stage.

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33. The Inter-American Court, in considering the question of the lack of due process as an exception to the requirement of prior exhaustion of domestic remedies, has pointed out that:

Article 46(2)(a) applies to situations in which the domestic law of a State Party does not provide appropriate remedies to protect rights that have been violated. Article 46(2)(b) is applicable to situations in which the domestic law does provide for remedies, but such remedies are either denied the affected individual or he is otherwise prevented from exhausting them. These provisions thus apply to situations where domestic remedies cannot be exhausted because they are not available either as a matter of law or as a matter of fact.[FN9]

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[FN9] Inter-American Court of Human Rights, Exceptions to the Exhaustion of Domestic Remedies (Articles 46(1), 46(2)(a) and 46(2)(b) American Convention on Human Rights), Advisory Opinion OC-11/90 of August 10, 1990, Series A. N° 11, para. 17.

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34. The Commission recalls, moreover, that the Court has established that the mere existence of remedies in the domestic jurisdiction does not imply an obligation to exhaust them but rather that the remedies must be adequate and effective. Being adequate means that the function of these remedies, within the domestic law, must be adequate for protecting the legal situation that has been violated. An effective remedy is one that permits the result for which it has been established to be achieved.[FN10]

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[FN10] Inter-American Court of Human Rights, case of Velásquez Rodríguez, Judgment of July 29, 1988, Series C. N° 4, paras 63-64; case of Godínez Cruz, Judgment of January 20, 1989, Series C. No. 5, paras. 66-67; case of Fairen Garbi and Solís Corrales, Judgment of March 15, 1989, Series C. N° 6, paras. 87-88.

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35. The Commission holds that if a proceeding for violations of human rights committed against civilians is held before a military tribunal, this remedy is not an effective remedy and therefore need not be exhausted.

36. In this specific case, the lack of effectiveness of the remedy is obvious from the total lack of movement and progress of the investigation from the beginning. Indeed, the criminal complaint brought on June 3, 1998 and now before the Military Tribunal is still at the stage of pre-trial proceedings and no concrete progress has been made in the investigation into those responsible for the alleged violations of rights of which the women were victims. All of this is sufficient to conclude that the remedies of the domestic jurisdiction are not effective.

37. In order to provide an appropriate remedy to redress the alleged violations, the State, in its capacity as the authority responsible for the punitive action, should have instituted through the Department of Public Prosecution proceedings aimed at identifying and prosecuting all those responsible, diligently seeing all the various stages of the proceedings through to completion, in an action in the civil justice system.

38. The Commission considers it important to note that the exceptions to the rule requiring the exhaustion of domestic remedies are closely linked to the determination of possible violations of certain rights enshrined in the Convention, such as the right to a fair trial (Article 8) and the right to judicial protection (Article 25). However, Article 46(2), which provides for three exceptions to this general rule, by its nature and purpose, is autonomous in its content vis-à-vis the substantive norms of the Convention, which is why, in deciding whether the exceptions are applicable, a standard of evaluation must be used that is different from the one used to determine whether the substantive rights recognized in Articles 8 and 25 of the international instrument have been violated. In this report, the Commission will therefore consider the question of the applicability of the abovementioned exceptions as a question requiring a prior and special ruling and leaves the analysis of the reasons why the domestic remedies were not exhausted and the legal effect of the failure to exhaust them until such time as the Commission takes up its consideration of the substance of the complaint with a view to determining whether violations of Articles 8 and 25 of the Convention have in fact taken place.[FN11]

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[FN11] IACHR, Report N° 54/01, Case 12.250, Massacre of Mapiripán, Colombia, para. 38, and IACHR Juan Humberto Sánchez-Honduras, Report N° 65-01, Case 11.073, March 6, 2001, para. 51.

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39. In light of the foregoing, the Commission is of the view that the domestic remedies available in this case are not effective to address the infringement of a legal right and that the exception of the non-existence in the domestic law of due process of law to investigate and prosecute violations of human rights, as provided for in Article 46(2)(a) of the Convention, is applicable in the present case and exempts the petitioners from the requirement to exhaust the domestic jurisdictional remedies.

2. Time allowed for the presentation of the petition

40. The state alleged that the petition had been presented after the time period provided for in Article 46(1)(b), since more than six months had elapsed since the date on which the Second Criminal Court of Santiago had ruled that it lacked competence.

41. Since in the present petition it was decided to apply one of the exceptions provided in Article 46(2) of the Convention, the IACHR concludes that the requirements provided for in Article 46(1)(b) are not applicable. In accordance with the provisions of Article 32(2) of the Regulations of the Commission, it is necessary to determine whether the petition was presented within a reasonable period of time. In this regard, considering the nature of the case and the fact that the complaint in the domestic jurisdiction was presented on June 3, 1998 and that the petition was lodged with the IACHR on December 20, 1999, in other words, one and a half years later, the Commission determines that it was presented within a reasonable period of time.

### 3. Duplication of procedures and *res judicata*

42. There is no record of the subject of the petition being pending in another international forum for dispute settlement nor that it duplicates a petition already examined by this or any other international forum. The requirements provided for in Articles 46(1)(c) and 47(d) of the Convention are therefore deemed to have been fulfilled.

### 4. Characterization of the acts alleged

43. The State requested the Commission to reject the complaint because it had fulfilled the obligations imposed on it by the Convention in respect of the Articles alleged by the petitioners to have been violated.

44. The Commission is of the view that it is not necessary at this stage of the proceeding to establish whether or not a violation of the American Convention has taken place. For the purposes of admissibility, the IACHR must decide if the acts alleged constitute a violation, as provided for in Article 47(b) of the American Convention and whether the petition is “manifestly groundless” or “obviously out of order”, in accordance with subparagraph (c) of the same Article.

45. The standard for determining whether these requirements have been met is different from the standard required for deciding on the merits of a complaint. The IACHR must undertake a *prima facie* evaluation to determine whether the complaint is based on an apparent or potential violation of a right guaranteed by the Convention and not to establish whether or not a violation has taken place. Such an evaluation is a summary analysis that does not prejudice or offer an opinion on the substance of the matter. The Commission's Regulations themselves, by establishing two separate phases of admissibility and substance, reflects this distinction between the evaluation that must be made by the Commission for the purpose of declaring a petition admissible and that required in order to establish that a violation has taken place.

46. With respect to the present petition, the Commission considers that the arguments presented by both parties require an in-depth analysis of the substance of the matter in order to

be resolved. The IACHR therefore does not find that the petition is “manifestly groundless” or “obviously out of order”. On the other hand, the IACHR considers that, *prima facie*, the petitioners have fulfilled the requirements set out in Article 47(b) and (c).

47. The Commission considers that it is competent in the present case to evaluate the alleged violations of the right to humane treatment, to a fair trial, to protection against abusive or arbitrary interference in private life, to freedom of thought and expression, to assembly, to protection of the family, to equality before the law and to access to simple and prompt judicial remedies, all of which are related to the obligations to respect and guarantee rights and the duty to bring domestic legislation into line with the international commitments entered into by the State, which could constitute violations of the rights of the alleged victims recognized in Articles 1(1), 2, 5, 8, 11, 13, 15, 17, 24 and 25 of the American Convention.

## V. CONCLUSIONS

48. The Commission concludes that it is competent to consider the case presented by the petitioners concerning the alleged violation of the rights to humane treatment, to a fair trial, to protection against abusive or arbitrary interference in private life, to freedom of thought and expression, freedom of assembly, protection of the family, equality before the law and access to simple and prompt judicial remedies, all of which are related to the obligation to respect and guarantee the free and full exercise of human rights and the duty to bring domestic legislation into line with the international commitments assumed by the State.

49. Based on the arguments of fact and of law set out above and without prejudice to the substance of the question,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare the petition under consideration admissible under Articles 1(1), 2, 5, 8, 11, 13, 15, 17, 24 and 25 of the American Convention;
2. To notify the State and the petitioner of this decision;
3. To initiate the proceeding on the substance of the question;
4. To publish this decision and to include it in the annual report to be submitted to the General Assembly of the OAS.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., on March 7, 2003. (Signed): Marta Altolaguirre, President; Clare Kamau Roberts, Second Vice-President; Commission members: Robert K. Goldman, Juan Méndez, Julio Prado Vallejo and Susana Villarán.