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Session: Hundred Twenty-Fourth Session (27 February – 17 March 2006)
Title/Style of Cause: Miguel Grimaldo Castaneda Sanchez, Eleana Morayma Alvarado Galvan, Jaime Alvarez Guillen, Julia Eleyza Arellano Serquen, Ricardo Avilez Rosales, Dalia Aurora Catacora Gonzales, Jose Cueva Gongora, Natividad Chaupis Huaranga De Ricse, Durbin Juan Garrote Amaya, Fidel Gomez Alva, Samuel Onesimo Gonzales Victorio, Maria Elena Jo Laos, Hugo La Madrid Ibanez, Juan Jose Linares San Roman, Malco Losza Mendez, Rolando Alfonso Martel Chang, Adelaida Elizabeth Montes Tisnado, Heraclio Munive Rivera, Carlos Navas Rondon, Maria Peralta Ramirez, Bernardo Alcibiades Pimentel Zegarra, Pablo Quispe Arango, Hector Quispe Segovia, Segundo Benjamin Rosas Montoya, Elmer Siclla Villafuerte, Carlos Trelles Romero, Luis Angel Aragon Ibarra, Ricardo Jesús Beraún Rodriguez, Sunciona Cavero Flores, Gerardo German Degracia Velasquez, Columba Maria Del Carpio Rodriguez, Luz Elizabeth Delgado De Marky, Leoncio Martiarena Gutierrez, Esteban Urbano Minaya Guerrero, Flavio Ernesto Paccini Virhuez, Olga Lourdes Palacios Tejada, Clara Aurora Perla Montano, Hilda Flores De Maria Sancarranco Caceda, Sara Josefa Taipe Chavez, Alfredo Julio Arana Miovich, Pastora Udelia Butron Seballos, Walter Epifanio Cusirimay Jimenez, Jose Eduardo Cespedes Garcia, Pedro Abraham Chavez-Riva Castenada, Rosario Del Pilar Encinas Llanos, Andres Quinte Villegas, Javier Claudio Samame Flores, Eduardo Raymundo Ricardo Yrivarren Fallaque, Andres Alejandro Carbajal Portocarrero, Angel David Llerena Huaman, Rogelio Torres Suarez and Jorge Adalberto Vasquez Paulo v. Peru
Doc. Type: Decision
Decided by: President: Evelio Fernandez Arevalos;
First Vice-President: Paulo Sergio Pinheiro;
Second Vice-President: Florentin Melendez;
Commissioners: Clare K. Roberts, Freddy Gutierrez Trejo, Paolo Carozza, Victor E. Abramovich.
Dated: 15 March 2006
Citation: Castaneda Sanchez v. Peru, Petition 711-01, Inter-Am. C.H.R., Report No. 50/06, OEA/Ser.L/V/II.127, doc. 4 rev. 1 (2006)
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I. SUMMARY

1. Since 2001, the Inter-American Commission on Human Rights (hereinafter, “the IACHR” or “the Commission” has been receiving petitions lodged by magistrates and prosecutors who were dismissed from office after the National Council of the Magistracy

[Consejo Nacional de la Magistratura] (hereinafter the “CNM”) chose not to reconfirm them. The petitioners claim that the Republic of Peru (hereinafter “Peru,” “the State,” or “the Peruvian State”) violated their right to a fair trial, to protection of their honor, their political rights, their right to equal protection before the law, and their right to judicial protection, all recognized in Articles 8, 11, 23, 24, and 25 of the American Convention on Human Rights (hereinafter, “the Convention” or “the American Convention”) respectively, in accordance with Article 1.1 of that international instrument. The violations alleged are related to irregularities committed by the CNM in its decision not to reconfirm the petitioners in their offices.

2. In general terms, the petitioners claim, in their respective complaints, that the resolution or act through which they were not reconfirmed did not state a reasoned basis for the decision, in accordance with provisions of the Constitution. The petitioners assert that under Article 139° (5) of the Constitution, all judicial decisions must include a written statement articulating the reasons for its decision. They also claim a violation of their right to a defense and to the principle that judges cannot be removed. The petitioners request reinstatement to their positions, a new evaluation and reconfirmation process, and moral and material compensation. Finally, they maintain that there is no domestic remedy for the judicial review of the decisions of the National Council of the Magistracy.[FN3] In light of the foregoing, they affirm that the exception set forth in Article 46.2.a is applicable.

[FN3] Pursuant to Article 142 of the Political Constitution of 1993, in accordance with Article 1 of the Organic Law of the National Council of the Magistracy, Law N° 26397, the decisions of the National Council of the Magistracy are not subject to review by a judicial body.

3. Although the Constitution, the Organic Law of the National Council of the Magistracy, and the Regulations for the Evaluation and Reconfirmation of Judges and Prosecutors (Res. N° 043-2000-CNM y 241-2002-CNM) do not allow legal or administrative appeals of the decisions adopted by the National Council of the Magistracy, several petitioners filed actions for amparo in the domestic venue. As observed in the section on facts and processing, while some of these petitioners presented their respective complaints before the IACHR prior to a definitive ruling on the suit filed, in the framework of the friendly settlement proceeding, those actions for amparo were resolved by the Constitutional Court. In this regard, the petitioners who have pursued actions for amparo can be classified in two groups: magistrates and prosecutors who have received a judgment from the Constitutional Court declaring the suit unfounded, while upholding their right to stand for a judicial posting in the future; and those magistrates and prosecutors who have received a Constitutional Court judgment declaring the respective CNM ruling without relevance and ordering that a personal interview be conducted.

4. The present friendly settlement report, issued pursuant to Article 49 of the American Convention and Article 41.5 of the Rules of the Procedure of the Inter-American Commission on Human Rights (hereinafter, “the Rules of Procedure”), includes a summary of the facts claimed by the petitioners, a transcription of the Friendly Settlement Agreement HRS. N° 261-2005-JUS, signed by the Minister of Justice on December 22, 2005, with a group of twenty-six magistrates and prosecutors who were not reconfirmed by the CNM; on January 5, 2006, with thirteen

petitioners; on February 8, 2006, with a group of nine petitioners, and on February 10, 2006 with 4 additional petitioners, for a total of 52 petitioners. This report also approves the terms of the Agreement and orders the publication of the instant report.

II. BACKGROUND

5. The Political Constitution of 1993 sets forth the process by which judges and prosecutors are reconfirmed in Peru. In particular, Article 154 provides that one of the functions of the National Council of the Magistracy is to “reconfirm judges and prosecutors at all levels every seven years.[FN4]

[FN4] Political Constitution of Peru, article 154 subparagraph 2. “The functions of the National Council of the Magistracy are 2) To reconfirm judges and prosecutors at all levels every seven years. Those who are not reconfirmed may not reenter the Judicial Branch or the Public Ministry. The reconfirmation process is independent of disciplinary measures.”

6. The reconfirmation process for magistrates and prosecutors consists of an evaluation of each and every official, conducted by members of the National Council of the Magistracy (CNM) based on information gathered from public and private institutions relating to their professional performance, productivity rate, professional and personal reputation, and personal, family, social, and economic situation. This evaluation also includes a 30 minute interview during which they are consulted on various matters relating to the evaluation criteria. CNM members then deliberate in private and make a decision in justice and in fairness, which is announced in the form of a resolution. These resolutions do not have to state a reasoned basis for the decision taken by the CNM members. When a decision is made not to reconfirm an official, the appointment is rescinded and he or she is barred permanently from a judicial posting. No remedy is available to appeal these resolutions before the issuing authority or before any other authority. These resolutions are not subject to review in the contentious administrative venue or through other legal actions. The vacancies created through this process are filled by way of a competitive, merit-based public contest.

III. FACTS CLAIMED, PROCESS BEFORE THE COMMISSION

A. Petitioners who signed the Friendly Settlement Agreement of December 22, 2005

1. ALVARADO GALVÁN, ILEANA MORAYMA, P 33-03

7. According to the petition dated December 2, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed to her post as Titular Provincial Prosecutor of Lima, pursuant to an October 11, 2002 agreement of the National Council of the Magistracy (CNM) en banc; subsequently in a Resolution of October 16, of that year, her appointment was rescinded and her title revoked. According to the petition, the petitioner did not pursue any domestic legal remedy since, under

Peruvian law, there is no judicial review of the decisions adopted by the National Council of the Magistracy.

8. On January 8, 2003, the Commission registered the complaint lodged by sixteen magistrates and prosecutors who had not been reconfirmed, which included as an alleged victim Mrs. Ileana Morayma Alvarado Galván, and assigned it number 33-03. On October 1, 2003, eight petitions[FN5] were joined under number 33-03, as they address similar facts, and the Commission opened the case and forwarded the pertinent portions of the complaint to the Peruvian State, requesting information on the allegations presented.

[FN5] Petition 33-03 includes the following petitions: 65-03, 72-03, 269-03, 320-03, 600-03, 631-03, 714-03, 762-03.

2. ÁLVAREZ GUILLÉN, JAIME, P 494-04

9. According to the petition dated November 15, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed to his post as Superior Magistrate [Vocal Superior] pursuant to an agreement by the CNM en banc dated July 17, 2002; subsequently, in a Resolution of July 19 of that year, his appointment was rescinded and his title revoked. With respect to the exhaustion of domestic remedies, the petitioner brought an action for amparo against the CNM, which the Constitutional Court declared unfounded in an August 12, 2005 ruling.

10. On November 23, 2004, the Commission registered the complaint lodged by Mr. Jaime Álvarez Guillen, and assigned it number 1269-04. The petition was joined under number 494-04 as they addressed similar facts and, on March 23, 2005, the Commission opened the case, and forwarded the relevant portions of the complaint to the Peruvian State, requesting information on the allegations contained therein.

3. ARELLANO SERQUEN, JULIA ELEYZA, P 105-04

11. According to the petition dated January 28, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in her post as Superior Magistrate [Vocal Superior] of the Superior Court of Justice of Lambayeque, pursuant to an agreement of National Council of the Magistracy (CNM) en banc dated August 15, 2001; subsequently, in a Resolution of August 17 of that year, her appointment was rescinded and her title revoked. Regarding the exhaustion of domestic remedies, the petitioner brought an action for amparo against the CNM, which the Constitutional Court declared unfounded in an April 8, 2003 ruling, while preserving her right to stand for a judgeship in the future.

12. On February 12, 2004, the Commission registered the complaint lodged by Mrs. Julia Eleyza Arellano Serquen, and assigned it number 105-04. On April 26, 2004, the Commission

opened the case and forwarded the relevant portions to the Peruvian State, requesting information on the allegations contained therein.

4. AVILEZ ROSALES, RICARDO, P 33-03

13. According to the petition dated January 6, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in his post as Specialized Judge for Labor Matters of the Superior Court of Lima, pursuant to agreements taken by the CNM en banc during its continuous session of August 27-28, 2002; subsequently, in a Resolution dated August 28 of that year, his appointment was rescinded and his title revoked. With regard to the exhaustion of domestic remedies he points out that the exception set forth in Article 46.2.a is applicable because Peruvian legislation does not provide for judicial review of decisions adopted by the National Council of the Magistracy.

14. On January 10, 2003, the Commission registered the complaint lodged by seven magistrates and prosecutors who were not reconfirmed, which included Mr. Ricardo Avilez Rosales as an alleged victim, and assigned it number 065-03. On October 1, 2003, the petition was joined under number 33-03 as the facts addressed are similar, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information on the allegations contained therein.

5. CASTAÑEDA SÁNCHEZ, MIGUEL GRIMALDO, P 711-01

15. According to the petition dated October 12, 2001, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in his post as Superior Magistrate [Vocal Superior] of the Transitional Criminal Court of the Supreme Court of Justice, pursuant to an agreement of the CNM en banc; subsequently, in a Resolution dated September 19, 2001, his appointment was rescinded and his title revoked. He asserts that he has not pursued any domestic remedy since Peruvian legislation does not provide for judicial oversight of the decisions adopted by the National Council of the Magistracy, and therefore argues that the exceptions set forth in Article 46.2 (a and b) of the American Convention are applicable.

16. On October 15, 2001, the Commission registered the complaint lodged by Mr. Miguel Grimaldo Castañeda Sánchez, and assigned it number 711-01. On September 6, 2002, the Commission opened the case and forwarded the relevant portions of complaint to the Peruvian State, requesting information on the allegations contained therein.

6. CATACTORA GONZÁLES, DALIA AURORA, P 33-03

17. According to the petition dated July 17, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Superior Titular Prosecutor [Fiscal Titular Superior] pursuant to an agreement of the CNM en banc dated September 18, 2001; subsequently, in a Resolution of September 20 of that year, her appointment was rescinded and her title revoked. The petitioner

asserts that she brought an action for amparo and states that a judgment had not been issued at the time the petition was lodged before the IACHR (July 17, 2003).

18. On August 11, 2003, the Commission registered the complaint lodged by seven magistrates and prosecutors who had not been reconfirmed, which included as an alleged victim Mrs. Dalia Aurora Catacora Gonzáles, and assigned it number 600-03. On October 1, 2003, the petition was joined under number 33-03, as the facts addressed are similar, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

7. CUEVA GÓNGORA, JOSÉ, P 4394-02

19. According to the petition dated October 14, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Superior Prosecutor [Fiscal Superior] of the Judicial District of Lima, pursuant to an agreement by the CNM en banc dated July 17, 2002; subsequently, in a Resolution of the same date, his appointment was rescinded and his title revoked. With regard to the exhaustion of domestic remedies, he points out that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian law does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

20. On October 23, 2002, the Commission registered the complaint lodged by twenty-six magistrates and prosecutors who had not been reconfirmed, which included as an alleged victim Mr. José Cueva Góngora, and assigned it number 4394-02. On November 18, 2002, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

8. CHAUPIS HUARANGA DE RICSE, NATIVIDAD, P 137-04

21. According to the petition dated April 13, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Judge of the Professional Magistrates Court of Villa Maria del Triunfo of the Judicial District of Lima, pursuant to agreements during the continuous session of the CNM en banc dated May 14 and 15, 2001; subsequently, in a Resolution of May 25 of the same year, her appointment was rescinded and her title revoked. The petitioner brought an action for amparo contesting the resolution of the National Council of the Magistracy, which was rejected in all instances. In a January 20, 2004 ruling, the Constitutional Court declared the action for amparo to be unfounded, while preserving the complainant's right to stand for a judicial appointment in the future, should she so desire.

22. On August 2, 2004, the Commission registered the complaint lodged by Natividad Chaupis Huaranga and assigned it number 683-04. On November 15, 2004, the petition was joined under petition number 137-04 as the facts addressed are similar and, on November 23 of that year, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

9. GARROTE AMAYA, DURBIN JUAN, P 4394-02

23. According to the petition dated October 14, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Superior Magistrate [Vocal Superior] of the Judicial District of Lima pursuant to an agreement of the CNM en banc dated July 17, 2002; subsequently, in a Resolution of that same date, his appointment was rescinded and his title revoked. He asserts that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

24. On October 23, 2002, the Commission registered the complaint lodged by twenty-six magistrates and prosecutors who had not been reconfirmed, which included as an alleged victim Mr. Durbin Juan Garrote Amaya, and assigned it number 4394-02. On November 18, 2002, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

10. GÓMEZ ALVA, FIDEL, P 137-04

25. According to the petition dated May 3, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Provisional Magistrate [Vocal Provisional] of the Criminal Court of Huaura, pursuant to agreements of the CNM en banc during its continuous session of May 11, 14, and 15, 2001; subsequently, in a Resolution dated May 25 of that same year, his appointment was rescinded and his title revoked. The petitioner asserts that because he was granted an interview during the evaluation and reconfirmation process in accordance with the provisions of Article 30 of the Organic Law of the CNM, he brought an action for amparo. The latter resulted in a Constitutional Court judgment declaring without relevance the resolution issued by the National Council of the Magistracy and ordering that the appellant be granted an interview. The National Council of the Magistracy, in accordance with the Constitutional Court judgment, granted the dismissed magistrate an interview, but proceeded to dismiss him afterward, pursuant to Resolution 096/2004/CNM of March 11, 2004. The petitioner claims that the lack of grounds in the resolution ordering his dismissal, and the absence of a prior procedure in which the affected party is allowed to participate, constitute violations of due process and the right to a defense. He asserts that the lifetime ineligibility to return to a judicial appointment constitutes a violation of Article 23.1.c of the Convention.

26. On May 3, 2004, the Commission registered the complaint lodged by Mr. Fidel Gómez Alva, and assigned it number 430-04. On November 15, 2004, the petition was joined under number 137-04 as it addresses similar facts, and, on November 23 of that year, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

11. GONZÁLES VICTORIO, SAMUEL ONÉSIMO, P 119-03

27. According to the petition dated February 4, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Judge of the Eleventh Chamber for Labor Matters of the Superior Court of Justice of Lima pursuant to an agreement of the CNM en banc; subsequently, in a Resolution dated August 28, 2002, his appointment was rescinded and his title of Titular Specialized Judge revoked. The petitioner claims that the exception set forth in Article 46.2.a of the American Convention is applicable because Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

28. On February 7, 2003, the Commission registered the complaint lodged by four magistrates and prosecutors who had not been reconfirmed, which included as an alleged victim Mr. Samuel Onésimo Gonzáles Victorio, and assigned it number 119-03. On November 5, 2003, six petitions[FN6] were joined under 119-03 as they address similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

[FN6] Petition 119-03 includes the following petitions: 695-03 ,734-03; 777-03, 843-03, 847-03, 899-03.

12. JO LAOS, MARÍA ELENA, P 33-03

29. According to the petition dated April 30, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Specialized Titular Judge for Labor Matters of the Judicial District of Lima pursuant to an agreement of the CNM en banc; subsequently, her appointment was rescinded and her title revoked. The petitioner asserts that she did not pursue any domestic legal remedy since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

30. On May, 6 2003, the Commission registered the complaint lodged by four magistrates and prosecutors who had not been reconfirmed, which included Mrs. María Elena Jo Laos as an alleged victim, and assigned it number 320-03. On October 1, 2003, the petition was joined under number 33-03 as it addresses similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

13. LA MADRID IBÁÑEZ, HUGO, P 202-04

31. According to the petition dated March 8, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Provincial Titular Assistant Prosecutor [Fiscal Provincial Adjunto Titular] of Lambayeque pursuant to an August 16, 2001 agreement of the CNM en banc; subsequently, in a Resolution dated August 17 of that year, his appointment was rescinded and his title revoked. The petitioner brought an action for amparo contesting the resolution issued by

the National Council of the Magistracy, which was rejected in all instances. A Constitutional Court judgment dated January 22, 2004, found the action for amparo to be unfounded, while preserving the appellant's right to stand for a judicial appointment in the future, should he so desire.

32. On March 16, 2004, the Commission registered the complaint lodged by Mr. Hugo Lamadrid Ibáñez, and assigned it number 202-04. On April 28, 2004, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

14. LINARES SAN ROMÁN, JUAN JOSÉ, P 119-03

33. According to the petition dated February 4, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Specialized Judge for Labor Matters of the Superior Court of Justice of Lima, pursuant to an agreement of the CNM en banc; subsequently, in a Resolution dated August 28, 2002, his appointment was rescinded and his title revoked. Regarding the exhaustion of domestic remedies, the petitioner claims that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decision adopted by the National Council of the Magistracy.

34. On February 7, 2003, the Commission registered the complaint lodged by four magistrates and prosecutors who had not been reconfirmed, which included Mr. Juan José Linares San Román as an alleged victim, and assigned it number 119-03. On November 5, 2003, six petitions[FN7] were joined under number 119-03 as they address similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

[FN7] Petition 119-03 includes the following petitions: 695-03, 734-03, 777-03, 843-03, 847-03, 899-03.

15. LOSZA MÉNDEZ, MALCO, P 137-04

35. According to the petition dated September 29, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Provincial Prosecutor of the Combined Provincial Prosecutor's Office of Yungay, pursuant to a June 8, 2001 agreement of the CNM en banc; subsequently, in a Resolution dated June 11 of that year, his appointment was rescinded and his title revoked. On July 6, 2001, the petitioner brought an action for amparo which was declared unfounded by the courts of first and second instance. He subsequently filed an extraordinary appeal which the Constitutional Court rejected in a January 22, 2004 judgment, while upholding his right to stand for a judicial appointment in the future.

36. On October 6, 2004, the Commission registered the complaint lodged by Mr. Marco Losza Méndez and assigned it number 1027-04. On November 15, 2004, the petition was joined under petition number 137-04 as it addresses similar facts and, on November 23 of that year, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

16. MARTEL CHANG, ROLANDO ALFONSO, P 33-03

37. According to the petition dated January 6, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Specialized Judge in Civil Matters of the Superior Court of Justice of Lima, pursuant to the agreements of the CNM en banc in its continuous session on August 27 and 28, 2002; subsequently, in a Resolution dated August 28 of that year, his appointment was rescinded and his title revoked. With regard to the exhaustion of domestic remedies, the petitioner claims that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

38. On January 10, 2003, the Commission registered the complaint lodged by seven magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Rolando Alfonso Martel Chang, and assigned it number 065-03. On October 1, 2003, the petition was joined under number 33-03 as it addresses similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

17. MONTES TISNADO, ADELAIDA ELIZABETH, P 33-03

39. According to the petition dated December 2, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Provincial Prosecutor of Lima pursuant to an agreement of the National Council of the Magistracy (CNM) en banc dated October 11, 2002; subsequently, in a Resolution dated October 16 of that year, her appointment was rescinded and her title revoked. She asserts that she has not pursued any domestic legal remedy since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

40. On January 8, 2003, the Commission registered the complaint lodged by sixteen magistrates and prosecutors who had not been reconfirmed, which included as an alleged victim Mrs. Adelaida Elizabeth Montes Tisnado, and assigned it number 33-03. On October 1, 2003, eight petitions[FN8] were joined under number 33-03 as they address similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

[FN8] Petition 33-03 includes the following petitions: 65-03, 72-03, 269-03, 320-03, 600-03, 631-03, 714-03, 762-03.

18. MUNIVE RIVERA, HERACLIO, P 119-03

41. According to the petition dated August 29, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Superior Magistrate [Vocal Superior Titular] of the Superior Court of Justice of Junín pursuant to an agreement of the CNM en banc; subsequently, in a Resolution dated August 1, 2003, his appointment was rescinded and his title revoked. With regard to the exhaustion of domestic remedies, the petitioner claims that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

42. On September 2, 2003, the Commission registered the complaint lodged by Mr. Heraclio Munive Olivera, and assigned it number 695-03. On November 5, 2003, the petition was joined under petition number 119-03 as it addresses similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

19. NAVAS RONDÓN, CARLOS, P 4394-02

43. According to the petition dated October 14, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Superior Prosecutor [Fiscal Superior] of the Judicial District of Lima pursuant to an agreement of the CNM en banc dated July 17, 2002; subsequently, in a Resolution of that same date, his appointment was rescinded and his title revoked. The petitioner claims that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

44. On October 23, 2002, the Commission registered the complaint lodged by twenty-six magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Carlos Navas Rondón, and assigned it number 4394-02. On November 18, 2002, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

20. PERALTA RAMÍREZ, MARÍA, P 33-03

45. According to the petition dated December 2, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Provincial Prosecutor of Lima pursuant to an agreement of the National Council of the Magistracy (CNM) en banc dated October 11, 2002; subsequently, in a Resolution dated October 16, of that year, her appointment was rescinded and her title revoked. The petitioner points out that she did not pursue any domestic legal remedy since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

46. On January 8, 2003, the Commission registered the complaint lodged by sixteen magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mrs. María Peralta Ramírez, and assigned it number 33-03. On October 1, 2003, eight petitions[FN9] were joined under number 33-03 as they address similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

[FN9] Petition 33-03 includes the following petitions: 65-03, 72-03, 269-03, 320-03, 600-03, 631-03, 714-03, 762-03.

21. PIMENTEL ZEGARRA, BERNARDO ALCIBÍADES, P 119-03

47. According to the petition dated September 29, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Superior Magistrate [Vocal Superior Titular] of the Superior Court of Justice of Junin, pursuant to an agreement of the CNM en banc and, in a Resolution dated August 1, 2003, his appointment was rescinded and his title revoked. The petitioner claims that he did not pursue any domestic legal remedy since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

48. On October 10, 2003, the Commission registered the complaint lodged by four magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Bernardo Alcibíades Pimentel Zegarra, and assigned it number 843-03. On November 5, 2003, the petition was joined under petition number 119-03 as it addresses similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

22. QUISPE ARANGO, PABLO, P 137-04

49. According to the petition dated August 2, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Supreme Assistant Prosecutor [Fiscal Adjunto Supremo] in Criminal Matters of the Judicial District of Lima pursuant to an agreement of the CNM en banc dated May 11, 2001; subsequently, in a Resolution dated May 25 of that year, his appointment was rescinded and his title revoked. He asserts that, because he was not granted an interview during the evaluation and reconfirmation process in accordance with Article 30 of the Organic Law of the CNM, he brought an action for amparo. This gave rise to a Constitutional Court judgment of March 18, 2003 declaring without relevance the resolution of the National Council of the Magistracy and ordering that the appellant be granted a personal interview. Pursuant to the Constitutional Court judgment, the National Council of the Magistracy, granted the petitioner an interview but, on March 11, 2004, once again dismissed him from his post.

50. On August 13, 2004, the Commission registered the complaint lodged by Mr. Pablo Quispe Arango, and assigned it number 737-04. On November 15, 2004, the petition was joined under petition number 137-04 as it addresses similar facts, and on November 23 of that year, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

23. QUISPE SEGOVIA, HÉCTOR, P 119-03

51. According to the petition dated September 29, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Magistrate [Vocal] of the Superior Court of Justice of Ica, pursuant to a July 3, 2002 agreement of the CNM en banc; subsequently, in a Resolution dated July 6 of that year, his appointment was rescinded and his title revoked. With regard to the exhaustion of domestic remedies, he asserts that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

52. On October 10, 2003, the Commission registered the complaint lodged by four magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Héctor Quispe Segovia, and assigned it number 843-03. On November 5, 2003, the petition was joined under petition number 119-03 as it addresses similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

24. ROSAS MONTOYA, SEGUNDO BENJAMÍN, P 119-03

53. According to the petition dated February 4, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Specialized Judge for Labor Matters of the Superior Court of Justice of Lima, pursuant to an agreement of the CNM en banc; subsequently, in a Resolution dated August 28, 2002, his appointment was rescinded and his title revoked. The petitioner asserts that he brought an action for amparo, which was declared unfounded due to the nature of the process of non reconfirmation of judges and prosecutors. According to the petitioner, the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

54. On February 7, 2003, the Commission registered the complaint lodged by four magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Segundo Benjamín Rosas Montoya, and assigned it number 119-03. On November 5, 2003, six petitions[FN10] were joined under number 119-03 as they address similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

[FN10] Petition 119-03 includes the following petitions: 695-03, 734-03, 777-03, 843-03, 847-03, 899-03.

25. SICLLA VILLAFUERTE, ELMER, P 33-03

55. According to the petition dated April 30, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Specialized Judge for Criminal Matters of the Judicial District of Lima pursuant to an agreement of the CNM en banc; subsequently, his appointment was rescinded and his title revoked. The petitioner asserts that he has not pursued any domestic legal remedy since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

56. On May 6, 2003, the Commission registered the complaint lodged by four magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Elmer Siclla Villafuerte, and assigned it number 320-03. On October 1, 2003, the petition was joined under number 33-03 as it addresses similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

26. TRELLES ROMERO, CARLOS, P 427-03

57. According to the petition dated June 3, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Provincial Assistant Prosecutor of the Combined Public Prosecutor's Office [Fiscalía Mixta] of Trujillo of the Judicial District of La Libertad, pursuant to an agreement of the CNM en banc; subsequently, in a Resolution dated August 17, 2001, his appointment was rescinded and his title revoked. The petitioner brought an action for amparo which the Constitutional Court declared unfounded in a March 23, 2003, judgment, while preserving his right to stand for a judicial appointment in the future.

58. On June 12, 2003, the Commission registered the complaint lodged by Mr. Carlos Trelles Romero, and assigned it number 427-03. On February 10, 2004, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

B. Petitioners who signed the Friendly Settlement Agreement of January 5, 2006

27. ARAGÓN IBARRA, LUIS ANGEL, P 909-03

59. According to the petition dated October 28, 2003, the petitioner was a Magistrate [Vocal] of the Superior Court of Justice of Cusco until September 5, 2003, when he was dismissed after not being reconfirmed in his post as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry. With regard to the exhaustion of domestic

remedies, he asserts that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

60. On November 10, 2003, the Commission registered the complaint lodged by Mr. Luis Ángel Aragón Ibarra and assigned it number 945-03. On December 3, 2003, the Commission joined the petition under petition number 909-03 as it addresses similar facts, opened the case, and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

28. BERAÚN RODRÍGUEZ, RICARDO JESÚS, P 137-04

61. According to the petition dated September 27, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Specialized Judge of the Judicial District of Huánuco, pursuant to a July 12, 2001 agreement of the CNM en banc; subsequently, in a Resolution dated July 13 of that year, his appointment was rescinded and his title revoked. The petitioner filed an action for amparo against CNM, which the Constitutional Court declared without merit in a November 11, 2003 judgment.

62. On October 6, 2004, the Commission registered the complaint lodged by Mr. Ricardo Jesús Beraún Rodríguez and assigned it number 1025-04. On November 15, 2004, the petition was joined under petition number 137-04 as it addresses similar facts and, on November 23 of that year, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

29. CAVERO FLORES, SUNCIONA, P 64-04

63. According to the petition dated January 21, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Professional Justice of the Peace [Jueza de Paz Letrado Titular] of the Judicial District of Lambayeque, pursuant to an agreement of the CNM en banc of August 15 and 16, 2001; subsequently, in a Resolution dated August 17 of that year, her appointment was rescinded and her title revoked. The petitioner brought an action for amparo against the CNM, which the Constitutional Court declared unfounded in a March 24, 2003 ruling.

64. On January 29, 2004, the Commission registered the complaint lodged by Mrs. Sunciona Cavero Flores and assigned it number 64-04. On April 1 of that year, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

30. DEGRACIA VELÁSQUEZ, GERARDO GERMÁN, P 137-04

65. According to the petition dated July 2, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not

reconfirmed in the post of Provincial Assistant Prosecutor of the First Combined Provincial Prosecutor's Office of Trujillo [Primera Fiscalía Provincial Mixta de Trujillo] –now the First Criminal Prosecutor's Office of Trujillo of the Judicial District of La Libertad, pursuant to an agreement of the CNM en banc; subsequently, in a Resolution dated August 17, 2001, his appointment was rescinded and his title revoked. The petitioner brought an action for amparo against the CNM, which the Constitutional Court declared unfounded in a March 18, 2003 judgment, while upholding his right to stand for a judicial posting in the future.

66. On July 13, 2004, the Commission registered the complaint lodged by Mr. Gerardo Germán Degracia Velásquez and assigned it number 629-04. On November 15, 2004, the petition was joined under petition number 137-04 as it addresses similar facts and, on November 23 of that year, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

31. DEL CARPIO RODRÍGUEZ, COLUMBA MARÍA, P 4576-02

67. According to the petition dated November 27, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Superior Magistrate [Vocal Superior] of the Judicial District of Arequipa pursuant to agreements of the CNM en banc in the continuous session of August 27 and 28, 2002; subsequently, in a Resolution of August 29 of that year, her appointment was rescinded and her title revoked. With regard to the exhaustion of domestic remedies, the petitioner claims that the exception set forth in Article 46.2.a is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

68. On November 27, 2002, the Commission registered the complaint lodged by Mr. César Abarca Fernández, on behalf of Mrs. Columba Maria del Carpio Rodríguez and assigned it number 4576-02. On January 2, 2003, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

32. DELGADO DE MARKY, LUZ ELIZABETH, P 137-04

69. According to the petition dated April 7, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in her post of Titular Judge of the Judicial District of Lima, pursuant to agreements of the CNM en banc at its continuous session of August 27 and 28, 2002; subsequently, in a Resolution dated August 29 of that year, her appointment was rescinded and her title rescinded. The petitioner asserts that she brought an action for amparo in October 2002. She further asserts that no judgment had been handed down as of the date the petition was lodged before the IACHR (April 4, 2004).

70. On April 12, 2004, the Commission registered the complaint lodged by Mrs. Luz Elizabeth Delgado Guillen de Marky and assigned it number 296-04. On November 15, 2004,

the petition was joined under petition number 137-04 as it addresses similar facts and, on November 23 of that year, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

33. MARTIARENA GUTIÉRREZ, LEONCIO, P 33-03

71. According to the petition dated August 28, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Professional Justice of the Peace [Juez de Paz Letrado Titular] of the Santiago district, under the Judicial District of Cusco, pursuant to a September 18 2001 agreement of the CNM en banc; subsequently, in a Resolution of September 19 of that year, his appointment was rescinded and his title revoked. The petitioner filed an action for amparo against the CNM, which was rejected as unfounded by three courts. On May 25, 2003, the Constitutional Court notified him of a final judgment in the action, which was dated January 27, 2003.

72. On September 25, 2003, the Commission registered the complaint lodged by Mr. Leoncio Martiarena Gutiérrez and assigned it number 714-03. The petition was joined under number 33-03 as it addresses similar facts and, on October 1, 2003, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

34. MINAYA GUERRERO, ESTEBAN URBANO, P 4331-02

73. According to the petition dated September 30, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Superior Prosecutor [Fiscal Superior Titular] of the First Combined Superior Prosecutor's Office [Primera Fiscalía Superior Mixta] of the Judicial District of Ayacucho, pursuant to an agreement of the CNM en banc dated June 8, 2001; subsequently, in a Resolution dated June 11 of that year, his appointment was rescinded and his title revoked. The petitioner brought an action for amparo which was declared unfounded on December 27, 2001. The alleged victim then filed an appeal which was declared without merit on April 4, 2002. Finally, the petitioner filed a complaint as a matter of law [queja de derecho], but on April 24, 2002 he was notified that the complaint was inadmissible and, on June 10, he was notified that the case had been set aside permanently.

74. On December 9, 2002, the Commission registered the complaint lodged by Mr. Esteban Urbano Minaya Guerrero and assigned it number 4331-02. On April 1, 2004, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

35. PACCINI VIRHUEZ, FLAVIO ERNESTO, P 4394-02

75. According to the petition dated October 14, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not

reconfirmed in the post of Assistant to the Supreme Prosecutor for Criminal Matters [Fiscal Adjunto al Fiscal Supremo en lo Penal] of the Judicial District of Lima, pursuant to an agreement of the CNM en banc of May 2001; subsequently, in a Resolution dated May 25, of that year, his appointment was rescinded and his title revoked. Given that, during the evaluation and reconfirmation process he had not been granted an interview in accordance with Article 30 of the Organic Law of the CNM, he brought an action for amparo that resulted in a Constitutional Court judgment of March 18, 2003 declaring the resolution of the National Council of the Magistracy without relevance and ordering that the appellant be granted a personal interview.

76. On October 23, 2002, the Commission registered the complaint, lodged by twenty-six magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Flavio Ernesto Paccini Virhuez, and assigned it number 4394-02. On November 18, 2002, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

36. PALACIOS TEJADA, OLGA LOURDES, P 33-03

77. According to the petition dated January 6, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Specialized Judge of the Superior Court of Justice of Lima pursuant to the agreements of the CNM en banc at its continuous session of August 27 and 28, 2002; subsequently, in a Resolution dated August 28 of that year, her appointment was rescinded and her title revoked. With regard to the exhaustion of domestic remedies, the petitioner claims that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

78. On January 10, 2003, the Commission registered the complaint lodged by seven magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mrs. Olga Lourdes Palacios Tejada, and assigned it number 065-03. On October 1, 2003, the petition was joined under number 33-03 as it addresses similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

37. PERLA MONTAÑO, CLARA AURORA, P 137-04

79. According to the petition dated September 30, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Assistant Prosecutor [Fiscal Adjunta Titular] of Chiclayo of the Judicial District of Lambayeque, pursuant to an agreement of the CNM en banc dated August 15 – 16, 2001; subsequently, in a Resolution of August 17 of that year, her appointment was rescinded and her title revoked. The petitioner brought an action for amparo which the Constitutional Court declared without merits in a judgment of July 16, 2003, while preserving her right to stand for a judicial posting in the future.

80. On October 13, 2004, the Commission registered the complaint lodged by Mrs. Clara Aurora Perla Montaña and assigned it number 1069-04. On November 15, 2004, the petition was joined under petition number 137-04 as it addresses similar facts and, on November 23 of that year, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

38. SANCARRANCO CÁCEDA, HILDA FLORES DE MARÍA, P 33-03

81. According to the petition dated January 6, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Specialized Judge of the Superior Court of Justice of Lima pursuant to agreements of the CNM en banc at its continuous session of August 27 and 28, 2002; subsequently, in a Resolution dated August 29 of that year, her appointment was rescinded and her title revoked. With regard to the exhaustion of domestic remedies, the petitioner claims that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

82. On January 10, 2003, the Commission registered the complaint lodged by seven magistrates and prosecutors who had not been reconfirmed, which included as an alleged victim Mrs. Hilda Flores de María Sancarranco Cáceda, and assigned it number 065-03. On October 1, 2003, the petition was joined under number 33-03 as it addresses similar facts, and the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

39. TAIPE CHÁVEZ, SARA JOSEFA, P 33-03

83. According to the petition dated January 6, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Specialized Judge for Civil Matters [Juez Titular Especializado en lo Civil] of the Superior Court of Justice of Lima, pursuant to agreements of the CNM en banc at its continuous session of August 27 and 28, 2002; subsequently, in a Resolution dated August 29, 2002 her appointment was rescinded and her title revoked. The petitioner brought an action for amparo which the Constitutional Court declared without merit in a judgment of October 1, 2004, while preserving her right to stand for a judicial posting in the future.

84. On January 10, 2003, the Commission registered the complaint lodged by seven magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mrs. Sara Josefa Taipe Chávez, and assigned it number 065-03. The petition was joined under number 33-03 as it addresses similar facts and, on October 1, 2003, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

C. Petitioners who signed the Friendly Settlement Agreement of February 6, 2006

40. ARANA MIOVICH, ALFREDO JULIO, P 33-03

85. According to the petition dated July 25, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Prosecutor of the Public Ministry of the Judicial District of Arequipa. According to the petitioner, the CNM never issued a resolution or administrative act in his case, but instead, simply sent a note informing him of the decision not to reconfirm him. The petitioner claims that he brought an action for amparo in November of 2001 and that this suit was still pending at the time the petition was lodged. He argues, therefore, that the exception set forth in Article 56.2.c is applicable.

86. On August 21, 2003, the Commission registered the complaint lodged by three magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Arana Miovich, and assigned it number 631-03. The petition was joined under number 33-03 as it addresses similar facts and, on October 1, 2003, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

41. BUTRON SEBALLOS, PASTORA UDELIA, P 33-03

87. According to the petition dated July 17, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Superior Magistrate [Vocal Superior] of the Judicial District of Puno. The petitioner asserts that on October 2, 2002, she filed an action for judicial guarantees [acción de garantía] before the Judicial District of Arequipa; the suit was still pending at the time the petition was lodged. Therefore, she claims that the exception set forth in Article 46.2.c is applicable.

88. On August 11, 2003, the Commission registered the complaint lodged by seven magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mrs. Butron Seballos, and assigned it number 600-03. The petition was joined under number 33-03 as it addresses similar facts and, on October 1, 2003, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

42. CUSIRIMAY JIMÉNEZ, WALTER EPIFANIO, P 33-03

89. According to the petition dated July 17, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Provincial Prosecutor of the Judicial District of Arequipa. The petitioner claims that he filed an action for amparo in November of 2001 in the Judicial District of Arequipa; this suit was still pending at the time the petition was lodged. Therefore, he claims that the exception set forth in Article 46.2.c is applicable.

90. On August 11, 2003, the Commission registered the complaint lodged by seven magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim

Mr. Cusirimay Jiménez, and assigned it number 600-03. The petition was joined under number 33-03 as it addresses similar facts and, on October 1, 2003, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

43. CÉSPEDES GARCÍA, JOSÉ EDUARDO, P 571-04

91. According to the petition dated August 21, 2005, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Prosecutor of the Provincial Prosecutor's Office for Criminal Matters of Chiclayo of the Judicial District of Lambayeque, pursuant to an agreement of the CNM en banc of August 16, 2001; subsequently, in a Resolution dated August 17 of that year, his appointment was rescinded and his title revoked. The petitioner brought an action for amparo which the Constitutional Court declared without merit in a judgment of December 15, 2004, while preserving his right to stand for a judicial posting in the future.

92. On August 22, 2005, the Commission registered the complaint lodged by Mr. Céspedes García, and assigned it number 955-05. The Commission joined the petition under number 571-04 as it addresses similar facts and, on January 17, 2006, forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

44. CHÁVEZ-RIVA CASTENADA, PEDRO ABRAHAM, P 494-04

93. According to the petition dated December 4, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in his post of Superior Prosecutor [Fiscal Superior] of the Judicial District of Lima, pursuant to an agreement of the CNM en banc; in a Resolution dated July 17, 2002, his appointment was rescinded and his title revoked. The petitioner claims that there is no domestic legal remedy to review the decisions of the National Council of the Magistracy. Therefore, he argues that the exception set forth in Article 46.2.a is applicable.

94. On December 11, 2002, the Commission registered the complaint lodged by three magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Chávez-Riva, and assigned it number 4621-02. The petition was joined under number 494-04 as it addresses similar facts and, on March 23, 2005, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

45. ENCINAS LLANOS, ROSARIO DEL PILAR, P 571-04

95. According to the petition dated August 5, 2005, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of titular judge of the 22nd Civil Court of Lima, pursuant to a May 15, 2001 agreement of the CNM en banc; subsequently, in a Resolution dated May 25 of that year, her appointment was rescinded and her title revoked. The petitioner brought an action for amparo

which the Constitutional Court declared without merit in an August 2, 2004 judgment, while preserving her right to stand for a judicial posting in the future.

96. On August 9, 2005, the Commission registered the complaint lodged by Mrs. Encinas Llanos, assigning it number 904-05. The Commission joined the petition under number 571-04 as it addresses similar facts and, on January 17, 2006, forwarded the relevant parts of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

46. QUINTE VILLEGAS, ANDRÉS, P 150-04

97. According to the petition dated November 7, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Superior Magistrate [Vocal Superior Titular] of the Superior Court of Justice of Cusco, pursuant to an agreement of the CNM en banc; subsequently, in a Resolution dated September 3, 2003, his appointment was rescinded and his title revoked. The petitioner claims that there is no domestic remedy for the judicial review of the decisions of the National Council of the Magistracy. In light of the foregoing, he asserts that the exception set forth in Article 46.2.a is applicable.

98. On March 2, 2004, the Commission registered the complaint lodged by Mr. Quinte Villegas, assigning it number 150-04. On April 26, 2004, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

47. SAMAME FLORES, JAVIER CLAUDIO, P 33-03

99. According to the petition dated April 30, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Combined Provincial Prosecutor [Fiscal Provincial Mixto] of the Judicial District of Lima, pursuant to an agreement of the CNM en banc; subsequently, in a Resolution dated October 11, 2002, his appointment was rescinded and his title revoked. The petitioner brought an action for amparo against the CNM, which the Constitutional Court declared without merit in an April 15, 2004 judgment, while preserving his right to stand for a judicial posting in the future.

100. On May 6, 2003, the Commission registered the complaint lodged by five magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Samame Flores, and assigned it number 320-03. On October 1, 2003, the Commission joined the petition under number 33-03 as it addresses similar facts and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

48. YRIVARREN FALLAQUE, EDUARDO RAYMUNDO RICARDO, P 4394-02

101. According to the petition dated October 14, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Superior Magistrate [Vocal Superior] of the Superior Court of Lima, pursuant to an agreement of the CNM en banc of May 17, 2002; subsequently, in a Resolution dated July 17, of that year, his appointment was rescinded and his title revoked. The petitioner brought an action for amparo against the CNM, which the Constitutional Court declared without merit in a December 5, 2003, judgment, while preserving his right to stand for a judicial posting in the future.

102. On October 23, 2002, the Commission registered the complaint lodged by twenty-six magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Yrivarren Fallaque, and assigned it number 4394-02. On November 18, 2002, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

D. Petitioners who signed the Friendly Settlement Agreement of February 10, 2006

49. CARBAJAL PORTOCARRERO, ANDRÉS ALEJANDRO, P 4394-02

103. According to the petition dated October 14, 2002, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Superior Magistrate [Vocal Superior] of the Superior Court of Lima, pursuant to an agreement of the CNM en banc of July 17, 2002; subsequently, in a Resolution dated July 17, of that year, his appointment was rescinded and his title revoked. With regard to the exhaustion of domestic remedies, the petitioner claims that the exception set forth in Article 46.2.a of the American Convention is applicable since Peruvian legislation does not provide for judicial review of the decisions adopted by the National Council of the Magistracy.

104. On October 23, 2002, the Commission registered the complaint lodged by twenty-six magistrates and prosecutors who had not been reconfirmed, which includes as an alleged victim Mr. Carbajal Portocarrero, and assigned it number 4394-02. On November 18, 2002, the Commission opened the case and forwarded the relevant portions of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

50. LLERENA HUAMÁN, ANGEL DAVID, P 119-03

105. According to the petition dated September 5, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Titular Magistrate [Vocal Titular] of the Superior Court of Arequipa, pursuant to an agreement of the CNM en banc of September 18, 2001; subsequently, in a Resolution dated September 19, of that year, his appointment was rescinded and his title revoked. The petitioner brought an action for amparo against the CNM, which the Constitutional Court declared without merit in a March 24, 2003, judgment, while preserving his right to stand for a judicial posting in the future.

106. On September 23, 2003, the Commission registered the complaint lodged by Mr. Llerena Huamán, assigning it number 777-03. On November 5, 2003, the Commission joined the petition under number 119-03 as it addresses similar facts and forwarded the relevant parts of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

51. TORRES SUÁREZ, ROGELIO, P 119-03

107. According to the petition dated September 16, 2003, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Superior Titular Magistrate [Vocal Superior Titular] of the Judicial District of Junin, pursuant to an agreement of the CNM en banc of July 12, 2000; subsequently, in a Resolution dated July 13, of that year, his appointment was rescinded and his title revoked. The petitioner brought an action for amparo against the CNM, which the Constitutional Court declared without merit in a January 27, 2003 judgment, while preserving his right to stand for a judicial posting in the future.

108. On October 14, 2003, the Commission registered the complaint lodged by Mr. Torres Suárez, assigning it number 847-03. On November 5, 2003, the Commission joined the petition under number 119-03 as it addresses similar facts and forwarded the relevant parts of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

52. VÁSQUEZ PAULO, JORGE ADLABERTO, P 571-04

109. According to the petition October 6, 2004, as a result of the Process of Evaluation and Reconfirmation of Judges and Prosecutors of the Public Ministry, the petitioner was not reconfirmed in the post of Adjunct Provincial Prosecutor, pursuant to an agreement of the CNM en banc of June 8, 2001; subsequently, in a Resolution dated June 11, of that year, his appointment was rescinded and his title revoked.

110. On November 3, 2004, the Commission registered the complaint lodged by Mr. Vásquez Paulo, assigning it number 1172-04. On November 5, 2003, the Commission joined the petition under number 571-04 as it addresses similar facts and on January 17, 2006 forwarded the relevant parts of the complaint to the Peruvian State, requesting information concerning the allegations contained therein.

IV. FRIENDLY SETTLEMENT PROCEDURE

111. On March 5, 2004, in the framework of the 119^o Regular Session of the IACHR, a working meeting was held between the delegation of the Peruvian State and the petitioners whose petitions were being processed by the Commission; at that time the groundwork was laid for the negotiation of a friendly settlement of a series of petitions concerning magistrates and prosecutors who had not been reconfirmed by the National Council of the Magistracy (CNM).

112. On August 20, 2004, the State informed the IACHR that a Dialogue Committee [Instancia de Diálogo] had been created on March 19 of that year for the cases of Judges and Prosecutors who had not been reconfirmed by the CNM and whose petitions were being processed before the Commission. This committee was made up of representatives from the Judiciary, the Public Ministry, the Ministry of Foreign Affairs, the National Ombudsman's Office [Defensoría del Pueblo] and the CNM, as well as a group of petitioners and representatives and attorneys of the petitioners.

113. On November 5, 2004, the State reported the establishment, through Supreme Resolution No. 207/2004/JUS of September 3, 2004, of a "High Level Commission responsible for drafting a proposal for a friendly settlement in the cases of magistrates not reconfirmed by the CNM who had lodged complaints before the IACHR."

114. In the framework of the friendly settlement procedure, on October 25, 2004, a working meeting was held on the petitions and cases of the magistrates and prosecutors who had not been reconfirmed. Subsequently, a working meeting was held on March 2, 2005, during the Commission's 122^o Regular Session. During the meeting, the delegation of the Peruvian State gave a report on the content of High Level Commission's proposal and asserted that the Peruvian State would soon adopt a decision in that regard. The proposal concerning the petitions, in general, proposed conducting a new reconfirmation process for the magistrates, adhering to due process, particularly with regard to the grounds for the resolution, and awarding each judicial official the sum of \$5,000 (five thousand U.S. dollars).

115. On March 28, 2005, the State forwarded to the IACHR two proposals developed by the High Level Commission, pointing out that one of the proposals had not yet been approved by the relevant authorities. As a result, on May 25 of that year, the petitioners declared the friendly settlement procedure terminated and requested that the IACHR pronounce on the merits of the petition. This information was communicated to the State, and it was granted one month to formulate any observations it deemed pertinent.

116. On August 30, 2005, the State forwarded its observations. Therein, it stated that a new round of negotiations had been initiated, but that CNM approval was required in order to reach an agreement, for which reason the agreement was pending. At the same time, the State also reported that on April 28, 2005, the CNM had published on its Webpage a press release entitled: "NATIONAL COUNCIL OF THE MAGISTRACY EXPLAINS COMPLAINT ABOUT THE UNRECONFIRMED." This document states that:

"...the National Council of the Magistracy is awaiting an official communication about the final outcome of the process in order to implement the agreements that have been accepted by the Peruvian State and the petitioners and approved by the Inter-American Commission on Human Rights."

The State asserts that this press communiqué was officially sent to the Ministry of Justice by the CNM in an official correspondence dated May 6, 2005.

117. According to the additional information submitted by the petitioners on October 15, 2005, on August 9, 2005, the CNM published a second Press Release on its Webpage stating:

“The National Council of the Magistracy reiterates its willingness to wait for an official communication concerning the final outcome of the process in order to implement the agreements that have been accepted by the Peruvian State and the petitioners and approved by the Inter-American Commission on Human Rights.”

118. According to the aforementioned report, this press communiqué has not been officially sent to the Ministry of Justice by CNM. It also points out that in an official communication dated September 19, 2005, the Vice Minister of Justice, in his capacity as president of the National Council of Human Rights, informed the current president of the CNM that

“...the National Council of Human Rights, ... has become aware of the Press Release published on August 9, 2005 on the webpage of the National Council of the Magistracy. For this reason, I have ordered the Executive Secretariat of the National Human Rights Council to pursue its round of negotiations with the various groups of petitioners, with a view toward reaching a Friendly Settlement Agreement, which, once approved by the Inter-American Commission on Human Rights, will be conveyed to the National Council of the Magistracy for its implementation.”

119. Subsequently, on October 19, 2005, in the framework of the 123^o Regular Session of the Commission, a working meeting was held between the parties, at which time the State reported that the parties had arrived at a friendly settlement agreement.

120. In a note dated December 22, 2005, the fifty (50) petitioners, represented by the Centro de Asesoría Laboral - CEDAL, reported that they were in agreement with the proposal for a friendly settlement presented by the Peruvian State. Likewise, on February 16, 2006, the IACHR received a communication in which CEJIL and IDL reaffirmed, on behalf of their clients, their willingness to sign a friendly settlement agreement with the Peruvian State under the identical terms of the agreement that the State had already signed with several judges and prosecutors who had not been reconfirmed.

121. On December 27, 2005, the State forwarded a copy of Friendly Settlement Agreement R.S. N° 261-2005-JUS, signed on December 22, 2005, by the Minister of Justice and a group of twenty-six Magistrates and Prosecutors who had not been reconfirmed by the CNM. Taking into account that the aforementioned Agreement did not encompass the totality of the unreconfirmed Magistrates and Prosecutors who appear as alleged victims in the petitions, on January 6, 2006, the IACHR requested that the Peruvian State “...adopt the actions it deems appropriate for the Illustrious Government to express to the IACHR, within a period of one month, whether it is interested in continuing the procedure set forth in Article 48.1 of the American Convention.”

122. Subsequently, on January 19, 2006, the Commission received a copy of Friendly Settlement Agreement R.S. N° 261-2005-JUS, signed on January 6, 2006, by the Minister of Justice and an additional group of 13 judges and prosecutors not reconfirmed by the CNM. This agreement expanded the original list of judges and prosecutors with which a friendly settlement agreement had been signed.

123. On February 10, 2006, the Commission received another Friendly Settlement Agreement, signed on February 8, 2006 between the Peruvian State and a group of nine magistrates who had not been reconfirmed by the National Council of the Magistracy. In addition, in the aforementioned informative note, the State also responded to the communication from the Executive Secretariat of January 6, 2006, saying that, "...it should be stated that the possibility is being evaluated of continuing with the negotiation process with a view toward pursuing the signing of additional Friendly Settlement Agreements."

V. FRIENDLY SETTLEMENT AGREEMENT: R.S.N° 261/2005/JUS

FRIENDLY SETTLEMENT AGREEMENT

FIRST CLAUSE:

ACKNOWLEDGMENT OF RESPONSIBILITY BY THE PERUVIAN STATE

The State acknowledges that the process of reconfirmation of judges and prosecutors, as it was carried out prior to the promulgation, on December 1, 2005, of the Constitutional Procedures Code (Law No. 28237), while it conformed to the interpretation of the applicable norms by the relevant institutions, did not include certain guarantees of Effective Procedural Safeguards, particularly the requirement that a resolution should state the grounds, which should be observed in any type of proceedings. This, in keeping with the provisions of the Political Constitution of Peru, human rights treaties that are binding on the Peruvian State, the binding jurisprudence on this matter from the Inter-American Court of Human Rights, and from the Constitutional Court (Judgment of August 12, 2005, handed down in the extraordinary remedy on the Amparo Process brought by Mr. Jaime Amado Álvarez Guillén), and the aforementioned Constitutional Procedures Code.

SECOND CLAUSE:

EFFECTS OF THE ACKNOWLEDGMENT OF RESPONSIBILITY

In accordance with the contents of the First Clause of this Friendly Settlement Agreement, both parties agree that, according to law, pursuant to international human rights norms that are binding on the Peruvian State and to the provisions of the Political Constitution of Peru, the National Council of the Magistracy should rescind the resolutions declaring the nonreconfirmation of the judicial officials included in the instant friendly settlement. The judicial officials are thereby reinstated to their status as such for the following effects and purposes:

Reinstatement in the Judiciary or in the Public Ministry, respectively.

The National Council of the Magistracy will restore the corresponding title within 15 (fifteen) days following the approval, by the Inter-American Commission on Human Rights, of this Friendly Settlement Agreement.

The Judiciary or the Public Ministry, in the cases of judges or prosecutors respectively, will order the reinstatement of the judicial official to his or her original post within 15 (fifteen) days of the restoration of the title. If the original posting is not available, at the request of the judicial official, he or she will be reinstated to a vacancy of the same level in that or in another Judicial District. In such a case, the judicial official will have first refusal for returning to his or her original posting once the respective vacancy occurs.

Other rights of the judicial officials reinstated to the Judiciary or to the Public Ministry.

Recognition of duration of service.

The Peruvian State pledges to recognize the period of service not worked, counted from the date of the Resolution of nonreconfirmation, in calculating duration of service, retirement, and other applicable employment benefits under Peruvian law. The seniority of the services provided by the judicial officials included in this Friendly Settlement Agreement, should it become necessary in compliance with its provisions to transfer them to another Judicial District, shall be recognized for all effects and purposes in the new location.

Acknowledgment of their right to recourse in the domestic venue

The Peruvian State defers the payment of any other amount of compensation that may be in order, in accordance with national and supranational jurisprudence, to the outcomes of the measures or actions undertaken for that purpose by the petitioner(s).

Expenses and costs of the process.

The Peruvian State grants to any petitioner who accepts this Friendly Settlement, a total compensation in the amount of US\$ 5,000.00 (Five thousand U.S. dollars and 00/100), which includes the outlays and costs derived from domestic and international proceedings related to their petition.

New evaluation and reconfirmation process.

The Peruvian State will conduct a new evaluation and reconfirmation process under the purview of the National Council of the Magistracy for the judicial officials included in the instant agreement. This new procedure will be carried out in accordance with constitutional norms and principles (Articles 139 and 154 of the Political Constitution of Peru), the American Convention on Human Rights, and the binding jurisprudence to ensure due process guarantees as pronounced by the Inter-American Court of Human Rights and by the Constitutional Court. The relevant legal provisions shall be adapted as necessary for this purpose.

THIRD CLAUSE

PUBLIC REPARATIONS CEREMONY

The representative of the Peruvian State pledges to hold a Public Reparations Ceremony for the reinstated judicial officials.

FOURTH CLAUSE:

LEGAL BASIS

This Agreement is signed in accordance with the provisions of Articles 2 (Fundamental Rights of the Individual), 44 (Fundamental obligations of the State), 55 (Treaties in Force), 205 (Supranational Jurisdiction), and the Fourth Final and Transitory Provision (Interpretation of Fundamental Rights) of the Political Constitution of Peru; Articles 1 (Obligation to respect rights), 2 (Duty to adopt provisions of domestic law), 8 (Fair Trial) and 48 (1)(f) (Friendly Settlement) of the American Convention on Human Rights, and Article 41 of the Rules of Procedure of the Inter-American Commission on Human Rights.

FIFTH CLAUSE

INTERPRETATION

The meaning and scope of this Agreement shall be interpreted in light of Articles 29 and 30 of the American Convention on Human Rights, where relevant, and of the principle of good faith. In case of uncertainty or disagreement between the parties over the content of this Agreement, the Inter-American Commission on Human Rights shall be the one to decide on its interpretation. It is also responsible for monitoring compliance with it, and the parties are obligated to report every four months concerning its status and compliance.

SIXTH CLAUSE

APPROVAL BY THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR)

The instant Friendly Settlement Agreement is subject to approval by the Inter-American Commission on Human Rights. The Peruvian State pledges to request such approval expeditiously and, once it has been obtained, to so inform the National Council of the Magistracy (CNM) so that it can proceed in accordance with the second clause and reserve the corresponding slots for the judicial officials who will participate in the New Evaluation and Reconfirmation Process.

SEVENTH CLAUSE

ACCEPTANCE

The parties to the signing of this Friendly Settlement Agreement freely and voluntarily express their agreement with and acceptance of each and every one of its clauses, and state for the record that it thus puts an end to the dispute in the particulars of the agreement, as well as to any complaint concerning the responsibility of the Peruvian State in the violation of the petitioners' human rights.

EIGHTH CLAUSE

EXTENTION OF THE AGREEMENT IN THE MOST FAVORABLE MANNER

The parties state for the record that should the State, following the signing of this Friendly Settlement Agreement, grant more favorable conditions to other petitioners who are in the same legal situation, such new conditions shall also extend to those who have signed the instant Friendly Settlement Agreement.

VI. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

124. The IACHR reiterates that in conformity with Articles 48.1.f and 49 of the Convention, this mechanism is used “with a view to reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in the Convention.” The State’s consent to pursue this avenue is evidence of its good faith in fulfilling the purposes and objectives of the Convention based on the principle of *pacta sunt servanda*. The Commission also wishes to reiterate that with the friendly settlement procedure provided for in the Convention, individual cases can be settled in a non-contentious manner and, in cases involving various countries, the this procedure has proven to be a useful vehicle that both parties can utilize for the settlement of disputes.

125. In the instant case, the IACHR observes that in the first clause of the Friendly Settlement Agreement, there is an express acknowledgment of responsibility by the Peruvian State in relation to the lack of incorporation of certain guarantees of effective procedural safeguards, in particular the requirement of a resolution stating the grounds, that must be observed in any type of proceeding. The Commission appreciates the Peruvian State’s acknowledgment of responsibility in failing to comply with its international obligations concerning the rights enshrined in Article 1.1 of the American Convention (general obligation to respect rights) and in Article 8 (fair trial) of that instrument. In the opinion of the IACHR, this acknowledgment has full legal merit under principles of international law. [FN11]

[FN11] See, among others, Permanent Court of International of Justice, 1933, P.C.I.J., Ser A/B No 53, 71 (Norway v. Denmark).

126. In relation to the procedural effects of this Friendly Settlement Agreement, the Commission took into consideration that the victims included therein are party to fifteen different petitions and classified them into two groups based on the number of victims who signed the Agreement. The first group includes petitions number 711/01, 4331-02, 4576-02, 64-04, 105-04, 150-04, and 202-04, for which the totality of victims are included in the Friendly Settlement Agreement, and, as a result, shall declare the processing of those petitions finished.

127. The second group corresponds to petitions number 4394-02, 33-03, 119-03, 427-03, 137-04, 494-04, and 571-04, for which only some of the victims are included in the Friendly Settlement Agreement. The Commission understands that, in keeping with the object and

purpose of the American Convention and, in particular, in view of the consensual nature of the friendly settlement procedure, it is permissible for a petition with multiple victims to arrive at an agreement involving some of them and not others. In such a case, the Commission can declare the proceedings concluded in relation to those victims who signed the agreement and, at the same time, order that the process continue, in the stage in which it is found, in relation to the alleged victims not included in the agreement.

128. At this time, the Commission has noted that a significant number of the alleged victims not included in the Friendly Settlement Agreement have expressed their intent to sign it in the terms proposed by the State, and that the latter has reported that it is evaluating the possibility of continuing the negotiation process in order to proceed with the signing of future agreements. Therefore, acting in accordance with the provisions of article 38.2 of the Rules of Procedure, the Commission shall proceed to reiterate its intent to place itself at the service of the parties to arrive at a friendly settlement in the aforementioned matters.

129. The Inter-American Commission has closely monitored the development of the friendly settlement reached in the instant case. The Commission highly appreciates the efforts made by both parties to reach this settlement, which is compatible with the object and purpose of the Convention.

VII. CONCLUSIONS

130. Based on the foregoing considerations and under the procedure set forth in articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts made by both parties and its satisfaction that a friendly settlement has been reached in the instant case consistent with the object and purpose of the American Convention.

131. By virtue of the considerations and conclusions set forth in this Report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To approve the terms of the Friendly Settlement Agreement signed by the parties on December 22, 2005, January 6, 2006, and February 8, 2006.
2. To continue to monitor and oversee compliance with each of the points in the friendly settlement and, in this context, to remind the parties of its commitment to report to the IACHR every three months, of their compliance with the instant friendly settlement agreement.
3. To declare closed the processing of petitions 711-01, 4331-02, 4576-02, 64-04, 105-04, 150-04 and 202-04.
4. To continue processing petitions 4394-02, 33-03, 119-03, 427-03, 909-03, 137-04, 494-04 y 571-04 in their respective stage of the process, with respect to the alleged victims not included in the Friendly Settlement Agreement.
5. To remain at the disposition of the parties in order to reach a friendly settlement in the matters discussed in the preceding number.

7. To publish this report and include it in its annual report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 15th day of the month of March, 2006.
(Signed): Evelio Fernández Arévalos, President; Paulo Sérgio, Pinheiro, First Vice-President; Florentín Meléndez, Second Vice-President; Clare K. Roberts, Freddy Gutiérrez Trejo, Paolo Carozza and Víctor E. Abramovich, Commissioners.