

# WorldCourts™

---

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 84/06; Petition 1068-03
Session:	Hundred Twenty-Sixth Regular Session (16 – 27 October 2006)
Title/Style of Cause:	Neusa Dos Santos Nascimento and Gisele Ana Ferreira v. Brazil
Doc. Type:	Decision
Decided by:	President: Evelio Fernandez Arevalos; First Vice-President: Paulo Sergio Pinheiro; Second Vice-President: Florentin Melendez; Commissioners: Freddy Gutierrez, Paolo G. Carozza, Victor E. Abramovich. Commissioner Paulo Sergio Pinheiro did not participate in the vote, as it is a complaint regarding the Brazilian State, in keeping with Article 17 of the IACHR's Rules of Procedure.
Dated:	21 October 2006
Citation:	Dos Santos Nascimento v. Brazil, Petition 1068-03, Inter-Am. C.H.R., Report No. 84/06, OEA/Ser.L/V/II.127, doc. 4 rev. 1 (2006)
Represented by:	APPLICANT: the Instituto da Mulher Negra
Terms of Use:	Your use of this document constitutes your consent to the Terms and Conditions found at <a href="http://www.worldcourts.com/index/eng/terms.htm">www.worldcourts.com/index/eng/terms.htm</a>

---

## I. SUMMARY

1. On December 8, 2003, the Instituto da Mulher Negra (Geledés) submitted a petition against the Federative Republic of Brazil (hereinafter “Brazil,” “the State,” or “the Brazilian State”) to the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”). The petition alleged violations of Articles 1 and 24 of the American Convention on Human Rights; Articles 3, 6, and 7 of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (Protocol of San Salvador); Articles 1 and 2 of the International Convention on the Elimination of All Forms of Racial Discrimination; and Articles 2 and 3 of Convention 111 of the International Labor Organization, to the detriment of Ms. Neusa dos Santos Nascimento and Ms. Gisele Ana Ferreira.

2. The State provided information alleging that domestic remedies have yet to be exhausted, that the IACHR is not competent to take cognizance of matters arising under the Protocol of San Salvador, the International Convention on the Elimination of All Forms of Racial Discrimination, and the International Labor Organization. In addition, it asserted that there was a favorable judgment in relation to the victims' claims.

3. After analyzing the petition, and in keeping with Article 46.2.c of the American Convention on Human Rights, the IACHR decided to find the petition admissible with respect to possible violations of Articles 1, 8, 24, and 25 of that treaty. The Commission also decides to

notify the parties of this decision, and to publish it in its Annual Report to the General Assembly of the Organization of American States.

## II. PROCESSING BEFORE THE COMMISSION

4. On December 8, 2003, the IACHR received the complaint against the Brazilian State. On March 18, 2004, the IACHR notified the Federative Republic of Brazil, giving it two months to respond. On January 19, 2006, the Brazilian State submitted its views on the complaint, which were accepted by the IACHR even though they were not submitted in timely fashion. Thus, the arguments were received without prejudice to the State. The petitioner then had a period to respond to those arguments, which it did on March 13, 2006. On July 28, 2006, the Brazilian State made a new submission, and the petitioner was notified and given an opportunity to answer the latest arguments put forth by the Brazilian State. On September 6, 2006, the petitioner's response was received at the IACHR's Secretariat.

## III. THE PARTIES' POSITIONS

### A. Petitioner

5. In the complaint, it is alleged that the Brazilian State violated Articles 1 and 24 of the American Convention on Human Rights; Articles 3, 6, 7 of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (Protocol of San Salvador); Articles 1 and 2 of the International Convention on the Elimination of All Forms of Racial Discrimination; and Articles 2 and 3 of Convention 111 of the International Labor Organization.

6. According to the petitioner, on March 22, 1998, an advertisement was published in the daily newspaper Folha de São Paulo in which the company NIPOMED – Planos de Saúde indicated that it was recruiting candidates for the position of sales representative. Ms. Isabel Lazzarini, having seen the ad, informed Ms. Neusa dos Santos Nascimento, her colleague at work and friend. It had not been for a conflict in Ms. Nascimento's schedule, they would have gone to NIPOMED together to apply for the job announced.

7. On March 26, 1998, in the morning, Ms. Neusa dos Santos Nascimento and Ms. Gisele Ana Ferreira, both black, went to the Nipomed offices in response to the ad. Upon arriving, they were received by Mr. Munehiro Tahara, who informed them that the positions had all been filled. He did not seek to obtain information from the two candidates about their professional qualifications, considering the matter concluded.

8. That same day (March 26) in the afternoon, Ms. Isabel Lazzarini, who is white, went to the same locale where Ms. Nascimento and Ms. Ferreira had gone. She was received by Mr. Tahara, who gave her a form to fill out, asked her some questions, and took her to another person involved in hiring by the name of Mauro, who gave her a folder and start-up materials for the job. Ms. Isabel Lazzarini was hired immediately and even asked if she knew other persons with her characteristics.

9. That same evening, Ms. Neusa Nascimento made contact with Ms. Isabel Lazzarini, who was very happy since she had gotten the job. Ms. Nascimento was happy for her colleague and at the same time intrigued, for Ms. Lazzarini had gone in the afternoon, after Ms. Nascimento and Ms. Ferreira.

10. On learning from Ms. Nascimento that there were still openings, Ms. Ferreira once again went to the company, where she was received by another recruiter. This time, she filled out an application form and was informed that if they were interested they would contact her, which they never did.

11. After these events, Ms. Nascimento and Ms. Ferreira went to the police station, where they filed incident report No. 2580/98; they then contacted Geledés, which is the petitioner in this matter. Subsequently, the complaint was brought before the 24th Criminal Court Judge of the Capital of São Paulo, Mr. Walter da Silva, in case No. 681/98; the illustrious representative of the Public Ministry, Mr. Roberto Antonio de Almeida Costa, 92nd Criminal Prosecutor of the Capital, was also heard. The Public Ministry, through the prosecutor, filed a criminal action against Mr. Tahara, under Article of Law 7,716/89.

12. In the course of the phase of the criminal proceeding in which each party presented its case, Mr. Munehiro Tahara denied the accusations, arguing that there was a misunderstanding and that as of the date of the facts he was merely assisting one of his colleagues, Mr. Mário Yamada. The prosecution witness, Ms. Isabel Lazzarini, confirmed the facts reported in the inquiry phase, which made it possible to proceed with the criminal action, and in addition came to believe that Ms. Neusa Nascimento and Ms. Gisele Ferreira were hindered from access to the job for being black, seeing as this would be the only motive that would explain the differential treatment, considering that all three had very similar professional qualifications and experience.

13. The Judge of the 24th Criminal Court determined that the criminal action was inadmissible based on the justification that “doubts remain with respect to the actual conduct of the accused.” In addition, he affirmed that there was not certainty in the evidence presented, seeing as it was not possible to show the actual intent of the accused.

14. Not satisfied with the decision of first instance, they pursued an appeal before the Court of Appeals (Tribunal de Justiça) on November 21, 1999, as private prosecutors. The records with the respective appellate petitions and counterarguments arrived on March 22, 2000. According to information from the petitioner and drawn from the record, as of the submission of the complaint to the IACHR (December 8, 2003), the motion on appeal had not been distributed to any of the Chambers of the Court of Appeals of São Paulo. Moreover, the company NIPOMED shut down and the whereabouts of Mr. Tahara are unknown, further prejudicing the effort of Ms. Neusa Nascimento and Ms. Gisele Ferreira to seek due judicial protection from the State in relation to the violations alleged, according to the petitioner.

15. According to the petitioner, the Brazilian State assumed a commitment to guarantee the individual rights enshrined in the American Convention on Human Rights at Article 1. Further, it violated the right to equality before the law, set forth in the same treaty.

16. The petitioner alleges that the Brazilian State did not respect Articles 3, on the obligation of non-discrimination; 6, which recognizes the right to work; and 7, on fair, equitable, and satisfactory working conditions, of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (Protocol of San Salvador).

17. Nor did the Brazilian State respect Article 2 of the Convention on the Elimination of All Forms of Racial Discrimination, or Articles 2 or 3 of Convention 111 of the International Labor Organization.

18. The petitioner notes that in Brazil, racism has had a detriment impact on blacks, even though the country's history has never known a purely segregationist regime. Racism is present in social relations of all sorts, despite the consolidation of the "myth of racial democracy," responsible for mitigating the problem experienced by the country's black population. The Petitioner further indicates that "the ideology of racial democracy ... induced blacks and whites to believe that the situation of social inferiority of blacks is due to their own incompetence" (complaint, p. 9).

19. The petitioner presents information on the study done by the Inter-American Trade Union Institute for Racial Equality (INSPIR) that indicates that there is inequality for blacks of both sexes in the labor market independent of the distribution of blacks in the regions studied. The conclusion of the study is that the reason for the inequalities found between blacks and whites lies in the use of discriminatory criteria based on color/race.

20. It notes that discrimination is even more burdensome on black women who receive one to two minimum salaries. Even when they have the same level of education and perform the same functions, their salaries are always lower. Also, if one compares the salaries of black and non-black women, one finds, according to the petitioner, that the first receive 41.67% of the salaries of non-black women, on average (complaint, p. 10).

21. It also indicates that there are differences between blacks and non-blacks at almost every level of work (office services and non-operational activities) in terms of salaries received. It indicates that in a study by two Brazilian researchers, Marcelo Paixão and Marcelo Carconhlo, on data produced by the PED/DIEESE for the metropolitan region of São Paulo in 1987 and 1998, there was a very significant increase in the differences in wages as between blacks and whites, from 72.9% to 87.1%. They concluded that "income inequalities in the labor market between blacks and whites widened, showing that the new dynamic of the market for that factor, amidst neoliberal changes seen in our economy, was not neutral from the standpoint of race" (petition, p. 12).

22. According to the petitioner, the researchers analyzed trends in unemployment rates from 1987 to 1998, observing that the changes during that period were more than proportional between blacks and whites. The unemployment rate in Greater São Paulo, from 1987 to 1998, rose sharply for the economically active population as a whole, yet it was found that blacks were harder hit. They report that among blacks, unemployment was 11.6% in 1987, and surpassed 20% in 1998, whereas unemployment among whites jumped from 8.6% to 16.1% in 1998. Even

though unemployment increased for both ethnic groups, the extent of the increase was more than 95.7% for blacks, and 87.2% for whites.

23. The situation is even more stark for black women, who saw a 79.9% jump in unemployment, whereas for white women it rose 61.3%. Accordingly, black women are major victims of the contemporary competitive relationship, according to the petitioner. For this reason, special measures need to be adopted to try to reduce the discrimination that prevails in the labor market in Brazil (petition, p. 12).

24. Petitioner asserts that the situation of black women in Brazil has not been evolving favorably: “they do not have social mobility, they have the lowest level of schooling, and even when they have a high level of education, as in the instant case, doors are shut to them for being black women” (petition, p. 13).

25. Petition further notes that the Brazilian State, on signing international treaties and conventions, recognizes that they become cogent norms that are binding on the State domestically and internationally, it being, therefore, inadmissible to have a system in place that puts professionals in different tiers based on the color of their skin.

26. The petitioner asks that in light of the allegations, and especially the unwarranted delay in the appellate stage (more than three years) that the Brazilian State should be called upon by the IACHR to state its position, to carry out an investigation, and to prosecute and punish the persons responsible, in addition to requiring it to pay the victims compensation.

#### B. The State

27. The Brazilian State expressed its views in a brief dated January 23, 2006, and on July 25, 2006, adducing, in the first communication, that the facts alleged by the petitioner gave rise to Police Inquiry 34/98, before the Police Unit Specialized in Racial Crimes (Delegacia Especializada em Crimes Raciais) in the city of São Paulo; that the Public Ministry filed a complaint against Mr. Tahara for the practice of racial discrimination, in the terms of Article 4 of Law 7,716/1889; and that after he was acquitted, the victims filed an appeal on November 17, 1999, with a favorable opinion from the Public Ministry. The accused then presented his counter-arguments; and that as of the date the complaint was lodged, the appeal had not been distributed to any of the chambers of the Court of Appeals of the State of São Paulo.

28. The State argues that the Commission is not competent to hear the matter, and that it is inadmissible, for lack of competence over the subject matter and because the petition did not meet the necessary requirements, respectively.

29. The State alleges that the Commission lacks competence *ratione materiae* to hear the alleged violations of international human rights instruments. It argues that the Commission has no mandate to hold the Brazilian State responsible for alleged violations of rights set forth in international instruments other than those that are part of the inter-American human rights system. It cites Article 23 of the IACHR’s Rules of Procedure.

30. In addition, it alleges that the IACHR is not competent to rule on violations of rights contained in the International Convention on the Elimination of All Forms of Racial Discrimination and ILO Convention 111, as these treaties were entered into in forums other than the Organization of American States, have their own mechanisms for implementation and supervision, and do not confer on the organs of the inter-American system any mandate in this regard. It supports this argument by citing part of the decision of the Inter-American Court of Human Rights in the Las Palmeras case (State's brief, p. 4).

31. The State argues that the IACHR also lacks competence to find the Brazilian State responsible for alleged violations of Articles 3, 6, and 7 of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (Protocol of San Salvador), for according to Articles 19.6 thereof, the IACHR only has a mandate to examine alleged violations of Articles 8.a and 13. Moreover, it asserts that the verification and implementation of all other provisions of the Protocol that were alleged are done by means of periodic reports by the states, whose implementation is being organized by the competent organs of the OAS.

32. The Brazilian State argues that as regards the violations alleged for which the IACHR does have a mandate, Articles 1 and 24 of the American Convention, the petitioner did not comply with the requirement of exhaustion of domestic remedies. It argues: "The domestic proceedings for clarifying the accusations against Mr. Munehiro Tahara in the criminal realm are in the regular stage of advanced processing before the competent organs" (Answer, p. 6). Moreover, it reports that the appeal was ruled on favorably by judgment of the Fifth Special Criminal Chamber of the Court of Appeals of the State of São Paulo on August 11, 2004, sentencing the accused to two years reclusion, in the initial semi-open regime, for the crime of which he was accused.

33. The State also argues that the judgment, in addition to reformulating the judgment below, extinguished the punitive claim of the State, based on the running of the statute of limitations, pursuant to Article 107(IV) of the Criminal Code. This part of the decision is subject to requests for amendment of the judgment filed by the Public Ministry on September 29, 2004, which alleged that the crime of racism is imprescriptible, under Article 5(LXII) of the Constitution of Brazil. On September 22, 2005, the Fifth Special Criminal Chamber amended the judgment, excluding the statute of limitations.

34. The State assures the Commission that the criminal proceeding is going forward in regular fashion. It also emphasizes that the Brazilian State has been making efforts to fight racism and to promote racial equality, "many of which have already been reported at length to this honorable Commission, either through public hearings, or by the procedure of examining petitions, as in the case of Simone André Diniz" (Answer, p. 7).

35. It reports that there are still adequate and effective remedies for protecting the alleged victims in the criminal justice system of the Brazilian legal order, including as regards application of provisions of the American Convention. It adduces that they can still bring a Special Appeal (Recurso Especial) before the Superior Tribunal de Justiça, and an Extraordinary Appeal (Recurso Extraordinário) before the Supremo Tribunal Federal. And there may be, in the

event that there is a failure to follow up on any of the appeals mentioned, a bill of review (Agravo de Instrumento) in order to ensure the processing of the appeal(s) in which follow-through has been denied.

36. The Brazilian State adduces that with respect to possible civil actions for reparation for damages caused by Mr. Tahara and the NIPOMED Clinic, or by the Brazilian State, the petitioner failed to comply with the admissibility requirements provided for in the American Convention. It also mentions that no document was attached to show that any civil action for reparation of damages was brought, showing that the petitioner and the alleged victims disregarded the judicial protection of the Judiciary in terms of seeking compensation for the unlawful acts alleged.

37. It argues that there was no unwarranted delay by the Brazilian Judiciary, and that the petitioner failed to prove that there was.

38. The Brazilian State asks the IACHR not to take cognizance of the petition, based on its lack of competence with respect to the International Convention on the Elimination of All Forms of Racial Discrimination and ILO Convention 111, as well as the provisions of the Protocol of San Salvador. As regards the provisions of the American Convention, it argues that the petitioner has failed to meet the requirements for admissibility of the complaint. It also seeks publication of the report on lack of competence and inadmissibility in the next Annual Report of the Commission, and reserves the right set out at Article 38.1 of the IACHR's Rules of Procedure for possible observations on the merits.

#### IV. ANALYSIS OF ADMISSIBILITY

##### A. Competence *ratione personae*, *ratione materiae*, *ratione temporis* and *ratione loci*

39. Competence *ratione personae*: Article 44 of the American Convention and Article 23 of the IACHR's Rules of Procedure.

40. The petitioner is a legally recognized non-governmental organization, thus it has standing to submit a petition to the Inter-American Commission on Human Rights. As regards the State, the Federative Republic of Brazil ratified the American Convention on Human Rights on September 25, 1992. The Commission observes that the facts that characterize racial discrimination are not directly attributed to the State, but to a private individual. Actually, the alleged violations by the State have to do with its response, through the judicial organs, to the situation raised by the alleged victims when they sought judicial protection.

41. The IACHR is competent *ratione materiae* to examine the complaint submitted, as it is the regional organ vested with the power to look into complaints alleging human rights violations in the Americas, as set out in Article 33.a of the American Convention. This organ is fully competent to hear allegations of violations of the rights enshrined in Article 1 (obligation to respect rights) and Article 24 (equality before the law) of the American Convention. As regards the articles of the Protocol of San Salvador, the IACHR is only competent to examine alleged

violations of this instrument based on Articles 8.a and 13, as spelled out in Article 19.6. Accordingly, the Commission is not competent to examine alleged violations of Articles 3, 6, or 7 of the Protocol of San Salvador.

42. As regards the International Convention on the Elimination of All Forms of Racial Discrimination and Convention 111 of the International Labor Organization, it should be noted that the IACHR is not competent to examine alleged violations of the rights guaranteed in these legal instruments. However, in light of Article 29 of the American Convention, the IACHR may look to them for guidance in interpreting the international obligations freely assumed by the State.

43. The IACHR is competent *ratione temporis* considering that the facts are alleged to have taken place after the Brazilian State assumed the commitment to respect human rights, as it ratified the American Convention on September 25, 1992.

44. The IACHR is competent *ratione loci* considering that the facts in the complaint are alleged to have taken place in Brazilian territory.

## B. Admissibility Requirements

### 1. Exhaustion of domestic remedies

45. The petitioner submitted the petition to the IACHR on December 8, 2003, alleging that it contained a complaint based on Article 46.2.c of the American Convention, which is an exception to the exhaustion of domestic remedies requirement based on unwarranted delay in reaching a decision. It is noted that the petition was filed when the judicial action in Brazil had already seen three years go by without any movement by the Judicial branch of São Paulo.

46. The petitioner indicates that notwithstanding the evidence in the record for finding the accused liable in the trial court, the verdict was not a finding of liability, and that the appellate motion awaited distribution to one of the Criminal Chambers of the Court of Appeals of São Paulo for three years.

47. Moreover, the State did not controvert the fact of the delay, it merely indicated that the appellate motion was heard (more than three years after the submission of arguments by both parties), and that the decision below was modified, notwithstanding the material error, subsequently modified through the amendment-of-judgment process known as *embargos de declaração* by the judge above, on extinguishing the State's punitive claim, when it argued prescription of a crime which, under the Constitution, is imprescriptible.

48. The victims are not obligated to bring an action for damages in the situation described in the instant case. They had not filed a civil action, so it would not have been joined to the criminal action, for under Brazilian law, because they are separate actions that will be heard by different judges, each with its own procedural dynamic. This means that the alleged victims' effort to secure judicial protection from the Brazilian State is sufficient with a criminal action. The alleged victims have the power to file a civil action for damages, yet they must necessarily file a

criminal action, according to Law 7,716/89 (Caó Law) to have the perpetrator of the racist act punished, for the Constitution of Brazil, at Article 5(XLII), establishes that racism is an imprescriptible crime not subject to bond, and the law cited above is the regulatory provision, which describes the various criminal definitions of racism. The following provisions are relevant to the instant case:

Article 1. The crimes that result from discrimination or prejudice based on race, color, ethnicity, religion, or national origin shall be punished as provided for in this law. (Language determined by Law No. 9,459, of May 15, 1997)

Article 4. Denying or hindering employment in a private company.

Penalty: two to five years of confinement.[FN2]

-----  
[FN2] [https://www.planalto.gov.br/ccivil\\_03/Leis/L7716.htm](https://www.planalto.gov.br/ccivil_03/Leis/L7716.htm).  
-----

49. As mentioned, the complaint filed before the Commission is for unwarranted delay by the State in providing the victims with the judicial protection they sought. This has been shown by the files introduced by the petitioners in the initial petition and in the reply, and by the State itself in its answer to the IACHR. Accordingly, there is no dispute as to the delay in hearing the appeal.

50. According to information provided by the petitioner, and received by the IACHR on September 6, 2006, the judgment that has become *res judicata* (which indicates that there are no more remedies to be pursued) was not yet carried out because the record of the proceeding still needs to be forwarded to one of the Courts of Criminal Enforcement (*Varas de Execução Criminal*) of the District of São Paulo, so that if the accused is found, the judgment and sentence of confinement can be enforced.

51. Therefore, the judgment has yet to be carried out, as the matter has not been forwarded to the competent court, as shown by a certificate provided by the petitioner, and also because the whereabouts of Mr. Munehiro Tahara remain unknown, according to what the petitioner reported in its last submission, dated September 6, 2006.

2. Time period for submission

52. This complaint is subject to the hypothesis of Article 46.2.c of the American Convention, mindful that it is argued that there was unwarranted delay in the decision. The petition so arguing was submitted within a reasonable time, having seen that more than three years went by without any decision on the appeal filed by the alleged victims. Accordingly, the requirement of timeliness is satisfied.

3. Duplication of Procedures and *Res Judicata*

53. As regards duplication of procedures, it does not appear that the complaint under consideration has been submitted to any other body, and the State has not indicated anything in this regard. Accordingly, the Commission considers that the petition is admissible pursuant to Article 46.1.c and Article 47.d of the American Convention.

#### 4. Characterization of the Facts

54. The Commission considers that prima facie the facts alleged by the petitioner tend to establish a violation of the American Convention on Human Rights, at Articles 1, 8, 24, and 25, for possible violations of the obligation to respect rights; the right of every person to be heard, with due guarantees and within a reasonable time; the right to equality before the law; and the right to a simple and prompt remedy before a court or tribunal, of Ms. Neusa dos Santos Nascimento and Ms. Gisele Ferreira.

55. As regards the declaration made by the State to the effect that the petition is out of order, for the reasons stated supra, the Commission considers that it is not appropriate at this stage of the proceeding to determine whether there has or has not been a violation of the American Convention on Human Rights. For purposes of admissibility, the IACHR should decide whether facts were presented which could characterize a violation, for the petition not to be considered inadmissible in light of Article 47 of the American Convention.

56. The IACHR observes that the facts with respect to which racial discrimination is alleged are not attributed to the Brazilian State, but to a private person. However, the petitioner alleges that the Convention has been violated in relation to the State's response, through its judicial organs, to the facts alleged, which are appropriate for analysis by the IACHR in the merits phase.

57. Therefore, the merits of the complaint are not decided upon in this phase. The IACHR must perform a preliminary assessment to examine whether the complaint set forth an apparent or possible violation of a right guaranteed by the Convention, and not to establish the existence of a violation. Such an examination is a summary analysis that does not imply prejudging or offering an initial opinion on the merits. The Commission's Rules of Procedure, on establishing two stages (admissibility and merits), reflects this distinction between the evaluation that must be performed for purposes of finding a petition admissible, and that required to establish a violation. Based on this analysis, the IACHR considers that the complaint alleged does not fit under the hypotheses of Article 47.b and c, and, therefore, the petition satisfies the requirements of the American Convention.

#### V. CONCLUSION

58. The Commission concludes that it is competent to take cognizance of the petition, and that it meets the admissibility requirements pursuant to Articles 46 and 47 of the American Convention.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare, without prejudging on the merits of the complaint, that the petition is admissible in relation to the facts alleged and with respect to Articles 1, 8, 24, and 25 of the American Convention on Human Rights.
2. To forward this report to the State and the petitioners.
3. To publish this decision and include it in the Annual Report to the General Assembly of the Organization of American States.

Done and signed in the city of Washington, D.C., on the 21st day of the month of October, 2006.  
(Signed): Evelio Fernández Arévalos, President; Florentín Meléndez, Second Vice-President; Freddy Gutiérrez, Paolo G. Carozza and Víctor E. Abramovich, Commissioners.