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Title/Style of Cause: Angel Pacheco Leon v. Honduras
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.
Dated: 26 October 2006
Citation: Pacheco Leon v. Honduras, Petition 848-04, Inter-Am. C.H.R., Report No. 118/06, OEA/Ser.L/V/II.127, doc. 4 rev. 1 (2006)
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I. SUMMARY

1. On August 27, 2004, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the IACHR”) received a complaint lodged by Marlene Pacheco Posadas^[FN1] (hereinafter “the petitioners”) against the State of Honduras (hereinafter “the State,” “Honduras,” or the “Honduran State”) for not conducting a serious and diligent investigation to determine responsibility for the murder of Angel Pacheco León, committed on November 23, 2001 at his home in the city of Nacaome. The complaint alleges violation of Articles 8, 25, and 1(1) of the American Convention on Human Rights (hereinafter, the “American Convention” or “Convention”), to the detriment of the relatives of Angel Pacheco León (hereinafter the “presumed victims”).

[FN1] On March 28, 2006 the IACHR received a communication from Mrs. Marlene Pacheco Posadas informing the Commission that, as of that date, the Committee of the Relatives of Missing-Detained Persons in Honduras (COFADEH) had joined as co-petitioner.

2. With respect to admissibility, the petitioners argue that the different State agencies acted negligently to investigate the facts and to establish responsibility for the murder of Angel Pacheco León. The petitioners further allege that their access to the legal proceedings related to the criminal investigation was restricted. In view of the ineffectiveness of the domestic remedies and the unwarranted delay in investigating, processing, and sanctioning the responsible parties,

the petitioners invoked exception to the requirement of prior exhaustion of domestic remedies as provided for in Article 46(2)(c) of the American Convention.

3. For its part, the State expressly claims non-exhaustion of domestic judicial remedies, and requests that the petition be declared inadmissible since it considers that it has taken all the necessary actions to uncover and judge those responsible for the homicide of Mr. Pacheco León, and that the duration of the proceeding was reasonable given the complexity of the case.

4. After studying the arguments of fact and law presented by the parties, as well as the evidence provided, and without prejudice to the merits of the case, the IACHR concludes that the case is admissible under the exception provided in Article 46(2)(c) of the American Convention, and decides to publish this report in the Annual Report of the IACHR to the OAS General Assembly, and to notify the parties of this decision.

II. PROCESSING BY THE INTER-AMERICAN COMMISSION

5. The petition was lodged on August 27, 2004 and transmitted to the State on 9 September 2005. On November 8, 2005, the State presented its reply, which was sent to the petitioners on 16 November 2005. On December 19, 2005 the petitioners submitted additional information, which was forwarded to the State on December 29, 2005. On January 20, 2006 the State requested an extension for replying, which was granted on January 26, 2006 for a 30-day period. On February 27, 2006 the State presented its observations, which were transmitted to the petitioners on March 21, 2006. On March 28, 2006 a communication was received from the petitioners reporting that, as of that date, the Committee of the Relatives of Missing-Detained Persons in Honduras (Comité de Familiares de Detenidos Desaparecidos en Honduras) (COFADEH) had joined as co-petitioner. On April 21, 2006 a reply was received from the petitioners, which was sent to the State on May 2, 2006. On May 30, 2006 a response was received from the State, which was forwarded to the petitioners on June 2, 2006.

III. POSITIONS OF THE PARTIES

A. The petitioners

6. The petitioners state that on November 23, 2001, at approximately 11:35 p.m., Angel Pacheco León was murdered at the entrance to his home, located in the city of Nacaome, Department of El Valle. Angel Pacheco León had won first place in the primary elections of the National Party in the Department of El Valle, and was a candidate in the 25 November 2001 elections for legislative representative (diputado) to the National Congress.

7. According to the petitioners, winning the primary elections in his party caused Angel Pacheco León a series of problems, which included difficulties in managing his electoral campaign and death threats. They explained that, after winning the primary, he was called to a meeting by high authorities of the National Party, at which time they demanded that he decline his candidacy for legislative representative in favor of a person they specified. Pacheco León refused and said so at the meeting. He was subsequently called to another meeting which he did not attend because he had been told that he would be killed there. The petitioners added that

Angel Pacheco León later received several death threats, some from activists of his own party, including from the person for whom the party authorities had requested that he decline his candidacy. They added that someone had attempted to murder him in a restaurant.

8. According to the petitioners, although judicial proceedings had been initiated to determine responsibility for the facts and to punish the responsible parties, to date no results had been obtained to guarantee the right of the relatives of Mr. Pacheco to justice and to the truth.

9. The petitioners sustain that the State, through the prosecutor assigned by the Public Ministry to the case, had been negligent in collecting solid evidence that would demonstrate the responsibility of several people accused of having threatened Angel Pacheco León with death after winning the primary elections for the National Party's candidate for legislative representative to Congress. The petitioners state that, even though they had identified several people as being presumably responsible for making the death threats against Mr. Pacheco León, the prosecutor had not summoned them to testify or summoned witnesses who were thought to have knowledge of these threats.

10. The petitioners allege that the proceeding was characterized by long periods of judicial inactivity that was only reactivated after a complaint was lodged in July 2004 with the Special Office of the Prosecutor for Human Rights of the Public Ministry, claiming denial of justice. In the aforementioned complaint, the petitioners stated that they had requested an investigation into the destruction of blood samples taken during the autopsy of Angel Pacheco León and that, to date, no reasons had been given for said destruction.

11. Furthermore, the petitioners allege that their access to the criminal proceedings had been restricted. They declare that on November 22, 2005 they were barred access to the proceedings of the Public Ministry, and that Public Ministry officials informed them that they could not provide them with information while the case was under investigation. The petitioners sustain that the process is still at an early stage of the proceeding, when that stage should last no longer than 30 days.

12. The petitioners allege that, although the State has claimed the exception of non-exhaustion of domestic remedies, it has not specified which remedies these are nor the extent of their effectiveness. The petitioners also declare that, in the instant case, the exception provided for in Article 46(2)(c) of the Convention is admissible, and that, accordingly, it is not necessary to exhaust domestic judicial remedies since there was an unwarranted delay in the administration of justice.

13. Based on the arguments of fact and law, the petitioners affirm that the State of Honduras has violated Articles 8 (legal guarantees) and 25 (judicial protection), in relation to Article 1(1) of the American Convention.

B. The State

14. In its reply to the complaint, the State holds that, as of November 23, 2001, through its different administrators of justice, it has guaranteed due legal process and made efforts to

identify the instigators and perpetrators of the death of Mr. Pacheco León. According to the State, proof of the foregoing is that on November 24, 2001, the court of first instance (Juzgado Seccional) of Nacaome initiated criminal proceedings to investigate the event and punish the responsible parties.

15. The State also sustains that three people were criminally charged, given commitment orders, and put at the disposition of the court. Because of insufficient evidence, however, these three people were set free.

16. The State declares that although the criminal proceedings initiated after the death of Mr. Pacheco León have been in at an early stage for more than four years, efforts are still being made to identify the responsible parties. Also, according to the State the legal provision setting a maximum 30 days for the early stage applies to situations where someone is in custody because of the proceedings, which has not occurred in the instant case.

17. The State affirms that the petitioners have had physical access to the proceedings and that, in addition, the authorities have replied to the petitioners' telephone inquiries and kept them abreast of the progress of the investigation.

18. Finally, the State declares that, although it does not deny that the proceeding has been extensive, the delay is warranted and that the duration of the period for concluding an investigation should be determined on a case-by-case basis, and that the instant case is complex.

19. In short, the State requests that the petition be declared inadmissible because domestic legislation has effective and suitable remedies for addressing human rights violations, and that in the instant case the petitioners have not lodged or exhausted domestic judicial procedures and remedies.

IV. ANALYSIS

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

20. The petitioners are empowered under Article 44 of the American Convention to lodge complaints with the IACHR. The petition identifies individual people as purported victims, whose rights Honduras pledged to respect and guarantee under the American Convention. The Commission notes that Honduras is a State party to the American Convention, having ratified it on September 8, 1977. Thus, the Commission has competence *ratione personae* to examine the petition.

21. The Commission has competence *ratione loci* to take cognizance of the petition, inasmuch as it alleges violations of rights protected under the American Convention that are to have taken place within the territory of a State party to that agreement. The IACHR has competence *ratione temporis* since the duty to respect and guarantee the rights protected under the American Convention was already in force for the State on the date that the events alleged in

the petition took place. The Commission has competence *ratione loci* because the purported events occurred in the territory of Honduras, which has ratified the American Convention.

B. Other admissibility requirements

1. Exhaustion of domestic remedies

22. Article 46(1)(a) of the American Convention stipulates that, for a petition lodged with the Inter-American Commission to be admissible under Article 44 of the Convention, the remedies under domestic law must have been pursued and exhausted in accordance with generally recognized principles of international law. The purpose of this requirement is to ensure that national authorities are aware of the alleged violation of a protected right and, if appropriate, resolve the problem before embarking on an international process.

23. The requirement of prior exhaustion applies when national legislation has appropriate and effective remedies for remedying the alleged violation. Article 46(2) specifies that the requirement does not apply when domestic legislation does not afford due process of law for the protection of the right in question, or if the alleged victim was denied access to the domestic remedies; or if there has been unwarranted delay in rendering a final judgment under these remedies. As indicated in Article 31 of the Commission's Rules of Procedure, when the petitioner contends one of these objections, it is up to the State to demonstrate that the remedies under domestic law have not been previously exhausted, unless that is clearly evident from the record.

24. In the case at hand, the State requests that the petition be declared inadmissible because the petitioners have not exhausted domestic remedies in accordance with generally recognized principles of international law, especially, Article 46(1)(a) of the American Convention. The State added that the right of the victims to judicial protection is being safeguarded by the domestic justice system, and that, while the criminal proceedings have been in an early stage for more than four years, it is no less true that the State is continuing to make efforts to identify the responsible parties.

25. For their part, the petitioners allege that the investigation initiated officially by the State to clarify the events surrounding the death of Mr. Angel Pacheco León, and to judge and punish the responsible parties, has extended for an unwarranted period of time, has been ineffective, and has created impunity. They therefore request that the case be declared admissible pursuant to Article 46(2)(c) of the American Convention, which establishes that the requirements of prior exhaustion of domestic remedies and the deadline for lodging the petition are not applicable when there is an unwarranted delay in rendering a final judgment under the domestic remedies.

26. The Commission notes that the right of the State to claim that a petition is not admissible because domestic remedies have not been exhausted cannot serve as basis for halting or indefinitely delaying international action in aid of the defenseless victim. In a given case, if the domestic remedies take an unwarranted length of time, it can be deduced that they have lost their effectiveness to produce the result for which they were established. In that case, international

protection mechanisms may be applied, including the aforementioned exceptions, which waive the requirement of exhaustion of domestic remedies.

27. The Commission considers that, as a general rule, criminal investigations must be conducted expeditiously to protect the interests of the victims and to preserve evidence.

28. In the instant case, in accordance with the information furnished by the parties, it is established that:

- Mr. Angel Pacheco León was a candidate for legislative representative for the National Party, in the Department of El Valle, for the elections to take place on 25 November 2001.
- On November 23, 2001, at approximately 11:35 p.m., Angel Pacheco León was murdered at the entrance to his home upon his return from a political meeting, in the presence of his son, Jimmy Pacheco.[FN2]

[FN2] In depositions given by the minors Miguel Ángel Pacheco and Jimmy Pacheco, sons of Ángel Pacheco León, on 27 November 2001 before the examining magistrate. The document is in the file.

29. Criminal proceedings were begun on November 24, 2001, through an official proceeding of the Judge of First Instance (Juez de Letras Seccional) of Nacaome, Department of El Valle, who assigned the number 2748-01 to the file. In accordance with the information furnished by the parties, a series of steps were taken as part of the criminal proceedings, especially the following:

- Between November 27, 2001 and December 6, 2001, the court of first instance (Juzgado de Letras Seccional) of Nacaome, Department of El Valle, that was investigating the death of Angel Pacheco León, received the testimony of 30 people called as witnesses and/or suspects.[FN3]
- Between November 24, 2001 and January 11, 2002, 49 people were brought before the Secretariat of Security to testify regarding the death of Angel Pacheco León.[FN4]
- On November 25, 2001, the Sheriff and Departmental Chief No. 17 filed a complaint against and put Héctor Efraín Estrada, Alberto Vijíl Espinal and Jehring Roberto Maldonado at the disposition of the Judge of First Instance (Juez de Letras Seccional) of Nacaome, on the assumption that they were responsible for the murder of Angel Pacheco León.
- On November 27, 2001 Mr. José Pacheco lodged a complaint with the Local Coordinator of the Public Ministry of Nacaome for the death of his brother Angel Pacheco León.
- On November 27, 2001 Jimmy Pacheco León was shown a line-up to identify the person who had killed his father, Angel Pacheco León. He did not recognize any of the people in the line-up. Next, Jimmy Pacheco León participated in a vehicle inspection to identify whether the vehicle confiscated from the suspects was the one seen at the time of his father's murder.
- On November 27, 2001 Héctor Efraín Estrada Castro and Yehring Roberto Maldonado (suspects) made their statements during of the preliminary examination.

- On November 28, 2001 Alberto Chirino (suspect) made his statement during the preliminary examination.
- On November 30, 2001 the Judge of First Instance (Juez de Letras Seccional) released Yehring Roberto Maldonado on bail and issued commitment orders for Héctor Efraín Estrada Castro and Alberto Vijíl Chirinos.
- On December 20, 2001 the Chief of the Homicide Section at the General Directorate of Criminal Investigation (DGIC) of Choluteca sent a report to the Regional Coordinator of the DGIC on the actions taken to investigate the murder of Angel Pacheco. She stated that some witnesses had named the alleged instigators of the homicide of Mr. Pacheco, but were unwilling to give a written declaration for fear of their lives. The Section Chief requested the General Coordinator to make the necessary arrangements to protect these witnesses.
- On February 11, 2002 the Chief of the Homicide Section at the General Directorate of Criminal Investigation (DGIC) of Choluteca sent another report to the Regional Coordinator of the DGIC on the investigation into the homicide of Angel Pacheco. In this report she named six suspects and her reasons for this determination.
- On October 15, 2002 the defense attorney of Héctor Efraín Estrada, Alberto Vijíl Espinal, and Jehring Roberto Maldonado requested a stay of proceedings.
- On July 6, 2004 Marlene Pacheco, Maria Regina Pacheco, and José Pacheco lodged a complaint with the Public Ministry, naming seven people as the suspected instigators of the murder of Angel León Pacheco.[FN5]

[FN3] Testimony of Soraya Lizzel Reyes Maldonado, received on November 27, 2001; Testimony of the minor Miguel Ángel Pacheco, received on November 27, 2001; Testimony of Jimmy Javier Pacheco, received on November 27, 2001; Testimony of Manuel Antonio Vides Fuentes, received on November 28, 2001; Testimony of Oscar Geovanny Oliva Mejía, received on November 29, 2001; Testimony of Sandra Verónica Dubon Pereira, received on November 29, 2001; Testimony of Mauricio Edmundo Estrada Moreno, received on November 29, 2001; Testimony of Leonel García, received on November 29, 2001; Testimony of Doris Migdalia López Mejía, received on November 29, 2001; Testimony of Benedicto Díaz, received on November 29, 2001; Testimony of Merlin Omar Hernandez Díaz, received on November 29, 2001; Testimony of Roberto Emilio Peralta Córdova, received on November 29, 2001; Testimony of José Alejandro Benavides Rivera, received on November 29, 2001; Testimony of the minor Kevin David Umanzor López, received on November 29, 2001; Testimony of Santos Armando Umanzor, received on November 29, 2001; Testimony of Petronila Cabrera, received on November 29, 2001; Testimony of Jessica Balmelin Alvarado, received on November 29, 2001; Testimony of Juan Bautista Umanzor Paz, received on November 29, 2001; Testimony of Milena Umanzor López, received on November 29, 2001; Testimony of Maria Isabel Berríos Gutiérrez, received on November 29, 2001; Testimony of Karin Petronila Cruz López, received on November 29, 2001; Testimony of Felicito Montalbán Flores, received on November 29, 2001; Testimony of Sonia Elizabeth Gutiérrez García, received on November 29, 2001; Testimony of Jorge Alberto Carbajal (sic) Hernández, received on November 30, 2001; Testimony of Ever Antonio Sanche (sic), received on December 5, 2001; Testimony of Police Inspector Nelson Smith Hernández, received on December 5, 2001; Testimony of José Luís Gabrieles Blandín, received on December 5, 2001; Testimony of Jorge Alberto Berríos Escoto,

received on December 5, 2001; Testimony of Nelson Francisco Murillo Pérez, received on December 6, 2001; Testimony of Wilmer Danilo Martel Valle, received on December 6, 2001. [FN4] Statement by María Griselda Álvarez (witness), given on November 24, 2001; Statement by Ery Sagot Mejía Martínez, given on November 24, 2001; Statement by Felipe Santiago Gutiérrez (witness), given on November 24, 2001; Statement by Héctor Efraín Estrada Castro (suspect), given on November 24, 2001; Statement by Fausto Alberto Chirino Vijíl (suspect), given on November 24, 2001; Statement by Soraya Lizzel Reyes Maldonado, given on November 24, 2001; Statement by Guillermo Eloy Bonilla Briceño (witness), given on November 24, 2001; Statement by Raymundo Guevara Sánchez (witness), given on November 24, 2001; Statement by Ebans Amauri Guerra (witness), given on November 24, 2001; Statement by Santos Armando Umazor (witness), given on November 24, 2001; Statement by Juan Bautista Umazor Paz (witness), given on November 24, 2001; Statement by Héctor Armando Jiménez Villatoro (witness), given on November 24, 2001; Statement by Alberto Vijíl Espinal (suspect), given on November 25, 2001; Statement by Yehrig Roberto Maldonado (suspect), given on November 25, 2001; Statement by Héctor Efraín Estrada Castro (suspect), given on November 25, 2001; Statement by Soraya Lizzel Reyes Maldonado (witness), given on November 27, 2001; Statement by José Alexis Benavides Rivera (witness), given on November 27, 2001; Statement by Jimmy Javier Pacheco (witness), given on November 27, 2001; Statement by Miguel Ángel Pacheco (witness), given on November 27, 2001; Statement by Jorge Alberto Carbajal Hernández (witness), given on November 29, 2001; Statement by Mario Alberto Romero Albarado (sic) (witness), given on November, 29 2001; Statement by Oscar Giovanni Oliva Mejía (witness), given on November 29, 2001; Statement by María Luisa Reyes (witness), given on November 29, 2001; Statement by Rómulo Reyes (suspect), given on November 29, 2001; Statement by Osman Amado Canales (witness), given on 30 November 2001; Statement by Merlin Omar Hernández Díaz (witness), given on December 3, 2001; Statement by Fausto Alberto Viril Chirinos (suspect), given on December 3, 2001 (he also declared as “Fausto Alberto Chirinos Vijíl” on November 24, 2001); Statement by Héctor Efraín Estrada Castro (suspect), given on December 3, 2001; Statement by Reymundo Guevara Sánchez (witness), given on 4 December 2001; Statement by Carlos Roberto Rodríguez Varela (witness), given on December 6, 2001; Statement by Carlos Roberto Rodríguez Varela (witness), given on December 6, 2001; Statement by Johann Yamileth Manzanares (witness), given on December 6, 2001; Statement by Carlos Antonio Flores (witness), given on December 6, 2001; Statement by Alex Mauricio Matute (witness), given on December 6, 2001; Statement by Juan Enrique Padilla (witness), given on 7 December 2001; Statement by María Santiago Martínez (witness), given on December 13, 2001; Statement by María Leomédes Mejía (witness), given on December 14, 2001; Statement by Leonel Melgar García (witness), given on December 14, 2001; Statement by Nelson Javier Reyes Matamoros (witness), given on December 14, 2001; Statement by Felicitó Montalván Flores (witness), given on December 14, 2001; Statement by Pillar Maldonado (witness), given on December 14, 2001; Statement by Casimiro Gutiérrez (witness), given on December 14, 2001; Statement by Juana Ordoñez Sosa (witness), given on December 14, 2001; Statement by Florencio Jiménez Santos (witness), given on December 14, 2001; Statement by Sipriano Gutiérrez Mejía (witness), given on December 14, 2001; Statement by Alonso Rodríguez (witness), given on January 3, 2002; Statement by Juan Carlos Rodríguez Silva (witness), given on January 10, 2002; Statement by Mirna Martínez López (witness), given on January 11, 2002; Statement by Héctor Armando Jiménez (witness), given on January 11, 2002.

[FN5] Filed as complaint number 14088-2004.

30. Pursuant to the information provided by the parties, although a number of actions were taken in the criminal proceedings to investigate the murder of Pacheco León, no positive results were obtained. The Commission also observes that for long periods of time the criminal investigation was inactive, despite the fact that several suspects of the murder had been named during the first actions ordered by the court. Indeed, as of the date of this report, the people identified by the witnesses and family members as the presumed instigators of the murder of Angel Pacheco León have not been summoned to testify before the Honduran courts of law. At present, no one has been arrested for the murder of Angel Pacheco León, as reported by the State in its May 26, 2006 communication to the IACHR, although it adduces that several persons are suspected of having committed the crime.

31. Although the State argues that this is a complex case, the Commission observes that, in accordance with the information contained in the file, Mr. Pacheco was murdered on November 23, 2001 after receiving a series of threats unless he withdrew as a National Party candidate for legislative representative. The information provided by the parties does not establish that an investigation was conducted of the people who issued Pacheco a death threat a few days before he was murdered, nor that an investigation was conducted of the people who asked Mr. Pacheco to withdraw his candidacy for legislative representative in favor of a third party. Nor has it been established that an investigation was conducted of the relationship between these facts, since one of the people who allegedly threatened Pacheco's life was precisely the person in favor of whom he was asked to decline his candidacy. Almost five years after the occurrence of the facts that gave rise to criminal investigation number 2748-01, they have not been clarified.

32. The Commission considers that the amount of time that has elapsed without an effective investigation, processing, and punishing of the responsible parties is a manifestation of unwarranted delay and the unlikely effectiveness of domestic legal remedies.

33. Finally, the Commission considers it important to clarify that exceptions to the rule of prior exhaustion of domestic remedies are closely related to the determination of possible violations of certain rights enshrined in the Convention, such as the right to due process (Article 8) and the right to judicial protection (Article 25). Nonetheless, Article 46(2) of the American Convention, by its nature and purpose, is a rule that stands autonomously from the substantive provisions of the Convention, and depends on a different standard of appreciation from that used to determine violations of Articles 8 and 25 of this Convention. Thus, the applicability of the exceptions to the rule of prior exhaustion of domestic remedies referred to in subparagraphs (a), (b), and (c) of Article 46(2) should be made prior to and separate from the analysis of merits, which the Commission is doing with the issuance of the present report.

[FN6] See IACHR, Report N° 54/01, Case 12,250, Massacre of Mapiripán, Colombia, para. 38, and IACHR Juan Humberto Sánchez, Honduras, Report N° 65/01, Case 11,073, March 6, 2001,

para. 51. IACHR, Report N° 15/02, Admissibility, Petition 11.802, Ramón Hernández Berrios et al., Honduras, February 27, 2002.

34. Therefore, the reasons why the domestic remedies were not exhausted and the legal effect of nonexhaustion of the domestic remedies will be examined when the Commission studies the merits of the case to determine if the aforementioned Articles 8 and 25 have been violated.[FN7]

[FN7] See IACHR, Report N° 54/01, Case 12,250, Massacre of Mapiripán, Colombia, para. 38, and IACHR Juan Humberto Sánchez, Honduras, Report N° 65/01, Case 11,073, March 6, 2001, para. 51. IACHR, Report N° 15/02, Admissibility, Petition 11.802, Ramón Hernández Berrios et al., Honduras, February 27, 2002.

35. In view of the foregoing, the Commission concludes that the complaint sub judice is admissible based on the exceptions stipulated in Article 46(2)(c) of the American Convention.

2. Deadline

37. Article 46(1)(b) of the American Convention stipulates that for a petition to be admitted it must be "lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment."

38. The Commission has concluded that there was an unwarranted delay in the handling of domestic judicial remedies and that the exception stipulated in Article 46(2)(c) of the American Convention applies. Accordingly, it is clear that no final judgment has yet been made which can be used as the basis for counting a six-month period, as called for in paragraph 1, subparagraph (b) of the above article. Without detriment to the foregoing, the Commission considers that the complaint has been lodged within a reasonable period of time, based on the date on which the victims' rights were presumably violated, and that the deadline for presentation of petitions has been met in accordance with the provisions of Article 32 of its Rules of Procedure.

3. Duplication of proceedings and res judicata at the international level

39. From the file, it does not appear that the subject of the petition is pending in another international proceeding, nor that it is substantially the same as one previously studied by the Commission or another international body. Thus, the Commission considers that the requirements established in Articles 46(1)(c) and 47(d) of the Convention have been met.

4. Nature of the facts alleged

40. The Commission considers that there is no evidence that the petition presented is groundless or out of order and that, prima facie, the arguments of the petitioners regarding the purported violation of the rights to judicial guarantees and to judicial protection, to the detriment of the relatives and the widow of Angel Pacheco León, could represent a violation of the rights

guaranteed under Articles 8 and 25 of the Convention, with regard to Article 1(1) of that same instrument. Accordingly, the Commission considers that the requirements established under Article 47(b) and (c) of the American Convention have been met.

V. CONCLUSIONS

41. The Inter-American Commission concludes that the petition is admissible, in accordance with the exception provided for in Article 46(2)(c) of the American Convention. Based on the foregoing arguments of fact and law and without prejudice to the merits of the case,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare the present case admissible as it refers to presumed violations of the rights protected under Articles 8, 25, and 1(1) of the American Convention;
2. To notify the parties of this decision;
3. To continue with the examination of the merits of this case; and
4. To publish this decision and include it in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 26th day of the month of October, 2006.
(Signed): Evelio Fernández Arévalos, President; Paulo Sérgio Pinheiro, First Vice-President; Florentín Meléndez, Second Vice-President; Freddy Gutiérrez, Paolo G. Carozza and Víctor E. Abramovich, Members of the Commission.