I. SUMMARY

1. On February 23, 2005, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the IACHR") received a petition lodged by Miguel Camba Campos, Oswaldo Cevallos Bueno, Enrique Herrería Bonnet, Manuel Jaramillo Córdova, Jaime Nogales Izureta, Luis Rojas Bajaña, Mauro Terán Cevallos and Simón Zabala Guzmán, former justices on Ecuador's Constitutional Court (jointly, "the petitioners") wherein they allege that the State of Ecuador (hereinafter "the State") violated Articles 8 (right to a fair trial), 9 (freedom from ex post facto laws), 23 (political rights), 24 (equality before the law) and 25 (judicial protection), all in relation to Article 1(1) of the American Convention on Human Rights (hereinafter "the American Convention").

2. The petitioners contend that in 2003 they were lawfully elected by Ecuador's National Congress to serve as justices on the Constitutional Court. Although elected to four-year terms, the petitioners contend that on November 24, 2004, they were arbitrarily removed from the bench in violation of the Constitution and express provisions of the American Convention.

3. The State, for its part, contends that there is nothing to suggest that rights were violated with either the support or acquiescence of State agents. It argues that the petition does not state facts that could tend to establishment violations of rights protected by the American Convention and therefore requests that the petition be declared inadmissible and that the case be closed pursuant to Article 47 of that international instrument.

4. In the present report, the IACHR examines the positions of the parties based on the admissibility requirements set forth in Article 46 of the Convention, and decides to declare the case admissible with respect to Articles 8, 9 and 25 in connection with Articles 1(1) and 2 thereof. The Commission also decides to notify the parties of this report, to make it public and include it in its Annual Report to the OAS General Assembly.

II. PROCESSING WITH THE COMMISSION

5. The Inter-American Commission received the original petition on February 23, 2005, and classified it as No. 161/05. By a communication received on April 22, 2005, the petitioners provided additional information. On May 25, 2005, the Commission forwarded the petition to the State and gave it two months in which to present its response. On June 10, 2005, the Commission forwarded to the State the pertinent parts of the additional information the petitioners supplied on April 22, 2005. On August 9, 2005, the Commission made itself available to the parties with a view to reaching a friendly settlement. By a communication dated September 13, 2005, the petitioners stated that they would decline the offer to work toward a friendly settlement. That note was sent to the State on October 12, 2005, which was given one month to submit its observations. As of the date of adoption of this report, no observations have been forthcoming from the State. By a communication received on December 1, 2005, the State petitioned the Commission to certify whether Messrs. Camba Campos, Nogales Izurieta and Terán Cevallos had lodged a petition. The Inter-American Commission replied in the affirmative in a communication dated December 15, 2005.

6. On March 13, 2006, an admissibility hearing was held at the headquarters of the IACHR. There, the State requested additional time to present its written arguments and evidence. On May 23, 2006, the petitioners submitted a brief of amicus curiae prepared by Alejandro Ponce Martínez. That brief was sent to the State on June 8, 2006, which was given one month to present its response. To date no written observations have been received from the State.

III. THE PARTIES' POSITIONS

A. The petitioners

7. The petitioners contend that at its January 9, 2003 session, the National Congress appointed Enrique Herrería Bonnet and Oswaldo Cevallos Bueno to serve as justices on the Constitutional Court for the 2003-2007 period. The petitioners underscore the fact that the appointments were done in accordance with the Constitution and the law, and the appointees were elected by a majority of the members.[FN1] On March 19, 2003, the Congress appointed the other justices to the Constitutional Court, from the slates required under the Constitution. The petitioners further point out that impeachment is the only legal avenue by which to remove a justice on the Constitutional Court before the end of his or her term, and any other method of termination not provided for in the Constitution or the law is unconstitutional.

[FN1] Article 130 of Ecuador's Constitution provides that the Congress has the authority to "appoint (…) the justices of the Constitutional Court (…); to take cognizance of their recusals or resignations, and to appoint their replacements." That article also provides:
In those cases in which persons are appointed from slates, those slates will be presented within 20 days following the date on which the vacancy occurs. If no slates are received within that time period, the Congress shall make the appointment without slates of nominees.
The National Congress shall make the appointments within thirty days of the date on which each slate is received. If it fails to do so, the person whose name appears at the top of the slate shall be understood to be appointed
Article 275 of the Constitution reads as follows:
The Constitutional Court, which has nationwide jurisdiction, shall have its seat in Quito. It shall be composed of nine justices, each of whom shall have an alternate.
Justices on the Constitutional Court shall serve for four years and may be re-elected. The organic law will spell out the provisions governing its organization and operation, and the procedures the Court is to follow.
The justices on the Constitutional Court shall meet the same requirements required of the justices on the Supreme Court and shall be subject to the same prohibitions. They shall not be answerable for the votes they cast or for the opinions they write in the exercise of their office.
Justices shall be appointed by the National Congress, by a majority vote of its members, as follows:
Two from slates sent by the President of the Republic;.
Two from slates sent by the Supreme Court; the Supreme Court is not to nominate any of its own for the Constitutional Court..
Two chosen by the National Congress, who shall be lawmakers.
One from the slate sent by the mayors and provincial governors.
One from the slate sent by the national, legally recognized labor unions and indigenous and campesino organizations.
One from the slate sent by the legally recognized production organizations.
The law shall regulate the procedure to be followed to put together the slates of candidates referred to in the last three sections
The Constitutional Court shall elect a president and vice president from among its members, who shall serve for two years and may be re-elected
Article 4 of the Constitutional Oversight Law provides as follows: "The justices on the Constitutional Court shall be elected in the manner prescribed in the Constitution and the law, must meet the same requirements demanded for membership on the Supreme Court -except for those who come from within the judiciary-, shall serve for four years and may be re-elected."
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8. The petitioners contend that on November 24, 2004, the President of the Congress summoned 6 principal justices on the Constitutional Court to appear for impeachment on December 1, 2004. [FN2] The summons notwithstanding, on November 25, 2004 the majority party in power in the National Congress adopted a resolution in which it states that Miguel Camba Campos, Oswaldo Cevallos Bueno, Enrique Herrería Bonnet, Jaime Nogales Izureta, Luis Rojas Bajaña, Mauro Terán Cevallos, Simón Zabala Guzmán and Manuel Jaramillo Córdova, justices on the Constitutional Court had not been lawfully appointed and, therefore,

were terminated.[FN3] That same day, the Congress appointed the new justices from slates used previously in March 2003.

[FN2] The following justices were summoned: Mauro Terán Cevallos, Miguel Camba Campos, Luis Rojas Bajaña, Jaime Nogales Izureta, De la Torre, Simón Zabala Guzmán and Manuel Jaramillo Córdova.
[FN3] The document by which the justices were removed is Resolution 25-160 of November 25, 2004, published in Official Record No. 485, of December 20, 2004.

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9. The impeachment proceeding on December 1, 2004, ended without the Congress passing the motions of censure. However, rather than vetoing the termination decision that removed the justices from the Constitutional Court, the President of the Republic convened a special session of Congress on December 8 of that year.[FN4] During that session, the parliamentary majority censured the justices who had voted in favor of Decision 025-2003-TC, which had abolished articles 105 and 106 of the Election Law. Those two articles concerned the method for allocating seats based on voting results, using the D'Hondt system.[FN5]

[FN4] El Comercio, "Special session of Congress convened, December 5, 2004; El Universo, December 5, 2004.
[FN5] The petitioners argue that the resolution had been issued and published more than a year earlier in the official record; therefore, under the Organic Law of the Legislative Office, Article 92, Congress would have no longer had the authority to impeach the justices on those grounds.

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10. The petitioners also allege that the de facto Constitutional Court delivered a decision on December 2, 2004, wherein it advised the President of the Supreme Court that petitions seeking amparo relief were inadmissible for purposes of suspending the effects of a parliamentary resolution. The effect was to put that remedy out of the terminated justices' reach as a means to challenge their removal. Various members of the Constitutional Court let it be known in advance what their position would be and stated that they would dismiss any petition of amparo filed on appeal.

11. The petitioners state that former justices Miguel Ángel Camba Campos, Oswaldo Cevallos, Simón Zavala, Luis Rojas and Mauro Terán each filed petitions of amparo to challenge the constitutionality of their removal.[FN6] However, they maintain that Deputy Luis Fernando Almeida, part of the majority in power in Congress, threatened the justices. The petitioners believe that as a direct result of those threats, the magistrates reversed the decisions that admitted the petitions of amparo in the first three cases and that in the other cases the petitions were rejected in limine, by a decision of December 2, 2004.

[FN6] Respectively: the decision by which the court takes cognizance of the case, December 3, 2004, the decision declaring the case inadmissible, December 15, 2004; Eighth Civil Court of

Pichincha, Trial 1222, the decision by which the court takes cognizance of the case. Brief of Deputy Almeida at 26-28; Trial 1233-4 Twelfth Civil Court of Pichincha; Trial 1223, Eleventh Civil Court of Pichincha, Decicision of December 14, 2005; Trial No. 1213-2004, Decision to take cognizance of the case, December 3, 2004, and Decision of December 13, 2004.
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12. Additionally, the petitioners state that Oswaldo Cevallos was impeached by Congress, even though he did not participate in the vote that passed the Constitutional Court decision for which he was impeached.[FN7] Former justices Herrería and Terán were never summoned for impeachment, although they were removed from the bench. The petitioners also contend that on April 26, 2005, the National Congress nullified the resolution by which the de facto Constitutional Court was appointed, thereby nullifying the appointments of the justices on the grounds that their appointments were unconstitutional. The justices removed in November 2004 were never restored to the bench.

[FN7] The petitioners indicate that the justice was hospitalized on the date Resolution No. 025-2003-TC was issued and therefore did not participate in the proceedings thereon.
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13. As for the State's contention concerning the available remedies, the petitioners allege that the constitutionality challenge was neither an appropriate nor effective remedy to challenge the November 24, 2004 termination. They argue that a constitutionality challenge is not a simple remedy, because the person cannot himself appear before the court. Furthermore, the party filing the challenge has to collect 1,000 signatures in order to file the challenge, or request the intervention of the Ombudsman's Office. They also contend that the constitutionality challenge is not the proper remedy because it is not intended to protect human rights, but rather to challenge laws that are at variance with the Constitution. The petitioners argue that a constitutionality challenge cannot redress human rights violations; it can only put a stop to the effects of a law. They reason that such a challenge would have been condemned to fail because it would have been heard and decided by the very Constitutional Court that had issued a ruling to the effect that judges of first instance did not have jurisdiction to hear challenges whose objective was to suspend the effects of the termination ruling. They add that the administrative-contentious avenue was also closed. It, too, would not have been an effective or appropriate remedy since, in the final analysis, it would have to be decided by a Supreme Court that was neither independent nor impartial.

B. The State

14. During the admissibility hearing that the Commission held on this case, the State's representatives argued that during the regular session of the National Congress, some deputies stated that the procedure by which the justices were elected was not lawful because the procedure outlined in Article 275 of the Constitution was not followed. The justices were not elected in an individual capacity, from each of the slates presented. Instead, a "blanket tactic" was used. As a resulted, the congressmen suggested that new justices be appointed in accordance with the Constitution and the laws. To that end, they passed a resolution in which the

appointment was declared unlawful; new justices were appointed, this time in conformity and law, using slates received by the Congress at the time. The State argues that this was how the Congress –in exercise of its authorities—resolved to correct the unconstitutional situation that had been created. According to the State, at no time was a justice removed by impeachment, as the petitioners claim. The State therefore asks that the Commission reject the petitioners' claim that the resolution was not revoked despite the fact that the impeachment found the petitioners innocent.

15. The State argues that the petitioners did not exhaust any domestic remedy and thus failed to comply with Article 46(1)(a) of the American Convention. The State recalled that the Commission had made the point that the decisive factor is not the interested party's subjective concern as to the impartiality of a court; instead, it is that such fears may be objectively justified. The State indicates that the European Court of Human Rights has written that in principle, the impartiality of the members of a court shall be taken as a given until proven otherwise and that there are two tests to determine whether a judge is or is not impartial: the personal conviction and behaviour of a particular judge in a given case, and ascertaining whether the judge offered guarantees sufficient to exclude any legitimate doubt in this respect. In the present case, the State argues that in the abstract, and absent convincing evidence, it cannot be concluded that the future decisions of a domestic court will be biased and in violation of the rules of due process.

16. The State's position is that the petitioners had two remedies available to them: a constitutionality challenge and the contentious-administrative avenue. In the case of the constitutionality challenge, the State argues that once the requirements established in Article 272 of the Constitution had been met, if the petitioners believed that they were arbitrarily removed in violation of the Constitution, they could have brought a constitutionality challenge in the Constitutional Court. As for the contentious-administrative remedy, the State asserts that natural or legal persons can use such remedies to challenge administrative regulations, measures or decisions of the government or of legal or semi-public entities that have taken effect and that violate the petitioner's right or immediate interest. They can also be used to challenge administrative decisions that adversely affect private rights established or recognized by law, provided those decisions were taken as a consequence of some general provision that infringes the law that is the basis of those rights.

IV. ANALYSIS OF ADMISSIBILITY

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

17. Under Article 44 of the Convention, the petitioners have standing to lodge complaints with the IACHR. The petition names as alleged victims individuals whose Convention-protected rights the State pledged to respect and ensure. As for the State, Ecuador has been party to the American Convention since December 28, 1977, the date on which it deposited its instrument of ratification. The IACHR, therefore, is competent ratione personae to examine the petition.

18. The Inter-American Commission is competent ratione loci to take up the petition because it alleges violations of Convention-protected rights said to have occurred within the territory of a State party to the Convention.

19. The IACHR is competent ratione temporis, inasmuch as the obligation to respect and ensure the Convention-protected rights was already in effect for the State on the date the alleged facts were said to have occurred.

20. Finally, the Inter-American Commission is competent ratione materiae because the petition alleges violations of human rights protected under the American Convention.

B. Other admissibility requirements

1. Exhaustion of the remedies under domestic law

21. Article 46(1)(a) of the American Convention provides that for petitions lodged with the IACHR to be admissible, the remedies under domestic law must have been pursued and exhausted in accordance with generally recognized principles of international law. The preamble to the American Convention states that the Convention is met to complement and reinforce the protection afforded by the domestic laws of the States. The rule of prior exhaustion of domestic remedies, therefore, gives the State the opportunity to settle the matter by its own laws before having to face an international proceeding, which is particularly valid in the international jurisdiction of human rights.

22. The exhaustion of domestic remedies requirement established in Article 46 of the American Convention refers to the available remedies that are adequate and effective for resolving an alleged human rights violation. The Inter-American Court has held that when, for reasons of fact or of law, the domestic remedies are not available to the petitioners they are exempt from the obligation to exhaust them.[FN8] If the domestic remedy is conceived such that exercise of the remedy is for all practical purposes beyond the alleged victim's reach, then the alleged victim is not required to exhaust it.

[FN8] I/A Court H.R., Exceptions to the Exhaustion of Domestic Remedies (Arts. 46(1), 46(2)(a) and 46(2)(b), American Convention on Human Rights). Advisory Opinion OC-11/90 of August 10, 1990. Series A No. 11, paragraph 17.

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23. In the case of the constitutionality challenge, Article 277 of the Ecuadorian Constitution lists exactly who has standing to file such challenges and the requirements that must be met. [FN9] The Inter-American Commission considers that the rules governing the challenge are such that it was not a remedy that the alleged victims had immediately and directly available to them, since they would have had to collect the signatures of 1000 citizens or obtain a decision in their favor from the Ombudsman's Office. The State, for its part, did not provide information as to the efficacy of the constitutionality challenge in other cases involving individual petitions, so that it has not demonstrated the effectiveness of this remedy vis-à-vis the domestic courts. The IACHR

also considers that the petitioners' argument as to the ineffectiveness of any action they might have filed with the Constitutional Court, composed of the very persons who had replaced the alleged victims, is also well founded and not disputed. Also, the case record shows that the Constitutional Court had already delivered a ruling stating its position on the inadmissibility of actions challenging the congressional resolution that had removed Miguel Camba Campos and the other justices from bench. In short, the constitutionality challenge was not a remedy that the petitioners would have had to pursue and exhaust before requesting the Inter-American Commission's intervention.

[FN9] Art. 277.- Constitutionality challenges may be brought by:
1. The President of the Republic, in the cases stipulated in paragraph 1 of Article 276.
2. The National Congress, upon a resolution passed by a majority of its members, in the cases provided for in paragraphs 1 and 2 of that article.
3. The Supreme Court of Justice, upon a resolution by the full Court and in the cases described in paragraphs 1 and 2 of that article.
4. The provincial or municipal councils, in the cases stipulated in paragraph 2 of that article.
5. One thousand enfranchised citizens, or any person who has obtained a decision in his or her favor from the Ombudsman's Office, in the cases specified in paragraphs 1 and 2 of that article.
The President of the Republic shall request the opinion provided for in paragraphs 4 and 5 of that article.
(...)

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24. Moreover, the State maintains that the petitioners should have exhausted the contentious-administrative remedy that is appropriate for challenging administrative regulations, measures or decisions that violate a right or immediate interest of the petitioner, or that violate private rights, provided the offending regulation, measure or decision was approved as a consequence of a general provision that infringes the law that is the basis of those rights. None of the hypotheticals suggested by the State fits the situation posed by the petitioners, since the act by which Congress removed the justices from the bench of the Constitutional Court –allegedly in violation of the Ecuadorian Constitution- cannot be equated with an administrative decision. Therefore, the petitioners were not required to either pursue or exhaust the contentious-administrative remedy before turning to the inter-American system.

25. The petitioners state that five of the former justices of the Constitutional Court filed petitions seeking amparo relief to challenge the constitutionality of their removal, but that the political pressure brought to bear resulted in the nullification of the decisions whereby the courts agreed to hear three of the petitions of amparo. The other two petitions were denied in limine by a decision of December 2, 2004:

To establish that in order to suspend the effects of a parliamentary resolution, including number 25-160 (…) for the alleged violation of the Constitution, as to the forms or the merits, the only action that applies is the action for unconstitutionality which must be brought before the Constitutional Court (…) and that any recourse of amparo that were presented in the national

courts with respect to said resolution, must be rejected directly and declared inadmissible by the respective judge, because otherwise they would be deciding a case against the express text of the law, which would in turn generate the corresponding judicial actions.[FN10] (emphasis added)

[FN10] Resolution of the Constitutional Court adopted in the session of December 2, 2004.

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26. The State does not list this among the effective remedies, but the Commission notes that they were filed in an attempt by the petitioners to have their situation resolved in the domestic courts.

27. In short, the Inter-American Commission finds that the Ecuadorian State did not provide the petitioners with a simple and effective recourse by which to challenge the congressional resolutions that they believed violated their human rights. Furthermore, the Constitutional Court stepped in to prevent them from exhausting any remedy that might have resolved the matter. Therefore, the exceptions allowed under American Convention Article 46(2), subparagraphs (a) and (b), to the rule requiring exhaustion of domestic remedies apply in the present case.

2. Timeliness of the petition

28. Because the exceptions allowed under Article 46(2) of the Convention do apply, the requirement stipulated in Article 46(1)(b) does not apply. The petition was lodged in February of 2005, after the petitions of amparo filed by a number of the petitioners were denied. The Inter-American Commission considers that the petition was filed within a reasonable period of time, under the terms of Article 32 of its Rules of Procedure.

C. Duplication of international proceeding and international res judicata

29. Article 46(1)(c) of the American Convention provides that for petitions to be admissible, the subject of the petition or communication must not be pending in another international proceeding for settlement. Under Article 47(d) of the Convention, the IACHR will not admit a petition that is substantially the same as one previously studied by the Commission or by another international organization. In the present case, neither party has supplied information that would indicate the presence of either of these grounds for inadmissibility, so that the Inter-American Commission concludes that these requirements have been met.

D. Characterization of the facts alleged

30. The facts alleged as to the procedure by which the justices of the Constitutional Court were removed from the bench, if proved, could tend to establish violations of Articles 8, 9 and 25, in combination with Articles 1(1) and 2 of the American Convention.

31. At this stage of the proceeding it is not up to the Commission to decide whether the alleged violations of the American Convention actually occurred. For admissibility purposes, the Commission need only decide whether the facts alleged, if proved, could tend to establish a

violation of the rights guaranteed by the Convention, as stipulated in Article 47(b) of the American Convention, and whether the petition is "manifestly groundless" or "obviously out of order," as provided in subparagraph (c) of that article. The standard for assessing admissibility is different from the standard for assessing the merits of a complaint. The assessment the Commission makes at this stage is simply a summary analysis and does not imply any prejudgment or advance any opinion on the merits of the case. By establishing two separate phases –one for admissibility and the other for merits, the Commission's own Rules of Procedure reflect the distinction between the assessment that must be done to declare a petition admissible and the one required to establish whether State responsibility has been engaged.

32. The petitioners allege that their removal from the bench is a violation of a number of provisions of the American Convention, including those guaranteeing due process and effective judicial protection. The facts alleged, which include the removal of all justices on Ecuador's Constitutional Court without giving them a hearing and by a procedure not provided for under the Constitution of that country, if true, would constitute violations of the rights protected under Articles 8 and 25 of the American Convention. The petitioners also allege that the procedure by which they were removed from the bench is not in Ecuador's legal system and that the grounds for their removal are not in the law.

33. With respect to the application of Article 9 of the American Convention, the Inter-American Court has said:

It is desirable to analyze whether Article 9 of the Convention is applicable to the administrative punitive action, in addition to it's being evidently applicable in the penal realm. The terms used in such precept seem to refer exclusively to the latter. However, it is appropriate to take into account that administrative sanctions, as well as penal sanctions, constitute an expression of the State's punitive power and that, on occasions, the nature of the former is similar to that of the latter. Both, the former and the latter, imply reduction, deprivation or alteration of the rights of individuals, as a consequence of unlawful conduct. Therefore, in a democratic system it is necessary to intensify precautions in order for such measures to be adopted with absolute respect for the basic rights of individuals, and subject to a careful verification of whether or not there was unlawful conduct. Likewise, and for the sake of legal security, it is indispensable for the punitive rule, whether of a penal or an administrative nature, to exist and to be known or to offer the possibility to be known, before the action or omission that violate it and for which punishment is intended, occurs. The definition of an act as an unlawful act, and the determination of its legal effects must precede the conduct of the subject being regarded as a violator. Otherwise, individuals would not be able to orient their behavior according to a valid and true legal order within which social reproach and its consequences were expressed. These are the foundations of the principles of legality and unfavorable non-retroactivity of a punitive rule.[FN11]

[FN11] I/A Court H.R., Case of Baena-Ricardo et al. Judgment of February 2, 2001. Series C No. 72. para. 106; and Case of Ricardo Canese. Judgment of August 31, 2004. Series C No. 111. paras. 176 y 177.

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34. The Inter-American Commission considers that if the petitioenrs´allegations regarding Article 9 were proven in the merits stage, there could be a violation. Also, it considers that all the above legal provisions must be analyzed in connection with Articles 1(1) and 2 of the Aemrican Convention.

35. The petitioners also allege that the State violated their political rights, guaranteed under Article 23(1)(c); they contend that they were unlawfully and abruptly removed from the office to which they were appointed for four years. The Commission's understanding is that the allegations are not a question of the right to have access to public service, as framed in the American Convention, but rather to the right to remain in office.[FN12] The Inter-American Commission deems that the petitioners' allegations in this regard do not tend to establish a possible violation of Article 23 of the American Convention.

[FN12] See, in this regard, I/A Court H.R., Constitutional Court Case. Judgment of January 31, 2001. Series C No. 71, paragraph 103.

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36. Finally, the petitioners are alleging violation of Article 24, because they contend that the justices were the victims of discrimination based on their political opinions, since two justices who were members of the party in power were confirmed in their post.[FN13] Apart from the simple claim made by the petitioners, there is nothing in the case file that would support, in the merits phase, a finding of discrimination. None of the information provided would support a finding, in the merits phase, that there was discrimination.

[FN13] Namely, justices René de la Torre and Milton Burbano.

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37. Based on the preceding paragraphs, the Inter-American Commission finds that the allegations concern supposed violations of the rights to due process and to judicial protection, recognized in Articles 8, 9 and 25 of the American Convention, and the obligations erga omnes established in Articles 1(1) and 2 thereof. Furthermore, the facts alleged do not tend to establish possible violations of the rights protected under Articles 23 or 24 of the American Convention, so that the respective allegations cannot be taken up during the merits phase.

V. CONCLUSIONS

38 The Inter-American Commission concludes that the present case is admissible and that it is competent to examine the petition lodged by the petitioners with respect to the alleged violation of Articles 8, 9 and 25 of the American Convention, in combination with Articles 1(1) and 2 thereof. It also concludes that the facts alleged by the petitioners, if true, would not constitute possible violations of Articles 23 or 24 of the American Convention.

39. Based on these arguments of fact and of law, and without prejudging the merits of the case,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare this petition admissible with regard to the rights recognized in Articles 8, 9 and 25 of the American Convention, in relation to Articles 1(1) and 2 thereof.
2. To declare the allegations made with respect to Articles 23 and 24 of the American Convention inadmissible.
3. To invite the parties to consider the possibility of instituting a procedure to arrive at a friendly settlement of the case and to make itself available to the parties to that end.
4. To notify the State and the petitioner of this decision.
5. To publish this decision and include it in the Commission's Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 27th day of the month of February, 2007. (Signed): Florentín Meléndez, President; Paolo G. Carozza, First Vice-President; Víctor E. Abramovich, Second Vice-President; Evelio Fernández Arévalos, Sir Clare K. Roberts, Paulo Sérgio Pinheiro, and Freddy Gutiérrez, Commissioners.