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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 10/07; Petition 735-05
Session: Hundred Twenty-Seventh Session (26 February – 9 March 2007)
Title/Style of Cause: Walter Munarriz Escobar v. Peru
Doc. Type: Decision
Decided by: President: Florentin Melendez;
First Vice-President: Paolo Carozza;
Commissioners: Evelio Fernandez Arevalos, Clare K. Roberts, Freddy Gutierrez.
Dated: 28 February 2007
Citation: Munarriz Escobar v. Peru, Petition 735-05, Inter-Am. C.H.R., Report No. 10/07, OEA/Ser.L/V/II.130, doc. 22 rev. 1 (2007)
Represented by: APPLICANT: the Human Rights Commission COMISEDH
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I. SUMMARY

1. On June 28, 2005, the Inter-American Commission on Human Rights (hereinafter "the Commission," "the Inter-American Commission" or the "IACHR") received a petition from the Human Rights Commission COMISEDH (hereinafter "the petitioners") alleging the responsibility of the Republic of Peru (hereinafter "the State," "the Peruvian State" or "Peru") for the forced disappearance on March 20, 1999, presumably at the police station in Lircay, Peru, of the student Walter Munárriz Escobar, whose whereabouts remain unknown on the date of this writing, and for the lack of judicial elucidation of the circumstances of his disappearance and the failure to investigate, prosecute and punish the perpetrators.

2. The petitioners allege that the State is responsible for the violation of the right to learn the truth (Articles 1, 8, 13 and 25) and the rights protected by Articles 4 (right to life), 5 (humane treatment), 7 (personal liberty), 8 (a fair trial) and 25 (judicial protection) of the American Convention on Human Rights (hereinafter the "Convention" or the "American Convention") in conjunction with its general obligation to respect and guarantee rights under Article 1.1. They contend that the petition is admissible because the requirement of prior exhaustion of domestic remedies under Article 46.1 of the Convention was met by the judgment of the Supreme Court dated October 20, 2004.

3. The State, in turn, presented no arguments on admissibility. It did say, however, that the petitioners had filed within the appropriate time frames the legal actions available domestically to identify the persons responsible for the disappearance of Walter Munárriz Escobar, and the Supreme Court, based on the principles of presumption of innocence, *indubio pro reo*, and sufficient evidence, had upheld the acquittal of the defendants in this case.

4. After reviewing the available information, the Commission ruled the case admissible, with respect to Articles 3, 4, 5, 7, 8 and 25 thereof, in conjunction with Articles 1.1 and 2, as well as in relation to the noncompliance of the obligations assumed by the State regarding Articles I and III of the Inter-American Convention on Forced Disappearance of Persons, in light of Article II, under Articles 46 and 47 of the American Convention and decided to notify the parties and publish the report in its Annual Report.

II. PROCEEDINGS BEFORE THE COMMISSION

5. The Commission received the petition on June 28, 2005, and assigned it the number P 735/2005. On November 30, 2005, a copy of the relevant parts was conveyed to the State, giving it two months to present information, as provided by Article 30(2) of the IACHR Rules of Procedure.

6. On February 7, 2006, the State delivered to the IACHR its report 010-2006-JUS/CNDH-SE/CESAPI, prepared by the Executive Secretariat of the National Council on Human Rights, containing its comments on the petition. On February 9, 2006, the Commission forwarded to the petitioners the relevant parts of the State's answer and gave them one month to comment.

7. On March 27, 2006, the petitioners submitted to the Executive Secretariat of the IACHR their comments on the State's answer, which the Commission conveyed to the State on March 29, 2006, giving it one month to comment.

8. On May 1, 2006, the State filed its comments in the form of report 46-2006-JUS/CNDH-SE/CESAPI, which the Commission conveyed to the petitioners, giving them one month to comment.

9. On September 8, 2006, the petitioners presented their comments on the above report from the State. On October 5, 2006, the IACHR made these comments available to the State and gave it a month to present further comments.

10. On November 29, 2006, the State filed its comments in report No. 125-2006-JUS/CNDH-SE-CESAPI dated November 2, 2006. On January 11, 2007, the IACHR conveyed this report to the petitioners.

III. POSITIONS OF THE PARTIES

A. Position of the petitioners

11. According to the petitioners' account, at dawn--approximately 4 a.m.--on March 20, 1999, after attending a birthday party, Walter Munárriz Escobar, a 19-year-old student, went to the "Los Manolos" hotel in the locality of Lircay, department of Huancavelica, to visit a friend who was staying at the hotel. On his way to his friend's room he mistakenly entered another room in which there was a woman who, even though the young man apologized, took him for a burglar and went to the Lircay police station to report the incident.

12. The petitioners say that the woman who reported the matter to the police subsequently returned to the hotel with a noncommissioned officer of the Peruvian National Police who arrested Walter Munárriz Escobar and took him to the Lircay police station. The owner of the hotel, they say, subsequently went to the police station, recognized the young man and filed no complaint against him. The petitioners stress that when the owner of the hotel left the police station, Walter Munárriz was still there.

13. That same day, March 20, 1999, at about 6:30 a.m., the mother of the young man, Mrs. Gladys Escobar Candiotti, noticing the absence of her son and having heard what happened, went at once to the Lircay police station to inquire about her son. The petitioners say that a noncommissioned officer named Rodolfo Edgar Ángeles Ramos told her that her son had left the police station at 5 a.m., headed for home, and that he didn't know where the young man was.

14. According to the petition, the forced disappearance of Mr. Munárriz prompted a series of complaints lodged with various government entities as well as other efforts to seek justice. On March 23, 1999, the petition indicates, a professor of the University of Huancavelica, where the alleged victim went to school, reported the disappearance of the student Walter Munárriz to the Office of the People's Defender in Huancavelica. On March 25, 1999, for her part, Mrs. Gladys Escobar reported her son's disappearance to that office.

15. The petition also indicates that on April 2, 1999, the townspeople of Lircay marched in front of the police station to protest Walter Munárriz's disappearance and demand an investigation. A second protest took place on April 20, organized again by the townspeople of Lircay. On April 29, a brief with the same objective was submitted to the Chairman of the Human Rights Committee of the Peruvian Congress. On May 26, 1999, a civic work stoppage was organized in the province by the Defense and Development Committees of the districts of Lircay-Angaraes to demand that the case of the disappearance of Walter Munárriz should be solved.

16. In terms of judicial investigations, on March 21 Mrs. Gladys Escobar filed a complaint with the Provincial Prosecutor's Office of Lircay, holding the policeman on duty at dawn on March 20 responsible for the disappearance of her son. The petitioners say that the Prosecutor on duty at that time refused to see her and asked her to come back in 60 days, and that later Mrs. Escobar went there three more times only to meet with the same refusal. Allegedly, the Prosecutor specifically told her: "what do you think, lady, that policemen are thugs, that we're living in the days of terrorism, or what." [FN1] He is said to have told her that two more months had to go by before a complaint could be filed.

[FN1] Petitioners' communication of June 23, 2005, received at the IACHR Executive Secretariat on July 5, 2005.

17. On April 22, 1999, the Joint Provincial Prosecutor's Office at Angaraes filed a complaint against the policemen who were at the Lircay police station on the night of the events, accusing

them of a crime against humanity in the form of the forced disappearance of Walter Munárriz Escobar. Later, on June 1, 2000, the Joint High Prosecutor's Office at Huancavelica brought formal charges against the police officers, asking for a prison term of 15 years and professional disqualification.

18. On February 15, 2001, the Joint High Court of Huancavelica is said to have convicted two of the officers of the crime against humanity in the form of the forced disappearance of Walter Munárriz Escobar, sentencing them to 18 years in prison and professional disqualification. That same day all other defendants were acquitted.

19. On April 23, 2001, the First Supreme Criminal Prosecution Office proposed setting aside the decision of February 15, 2001, insofar as it acquitted two noncommissioned officers named by that Office. It requested a new oral trial by a different criminal court division. On December 13, 2001, the Supreme Criminal Division ruled that certain irregularities of form in the oral trial procedure by the High Criminal Division had caused the nullity of the proceedings. Accordingly, the Supreme Criminal Division set aside the judgment of February 15, 2001, and remanded the case for a new oral trial by the same High Criminal Division.

20. In a judgment of May 25, 2004, the Joint High Court of Huancavelica acquitted all defendants, on the grounds that it had not been unequivocally proven that the police defendants had carried out or participated in the forced disappearance of Mr. Munárriz. On October 20, 2004, the Supreme Court upheld that judgment acquitting all defendants.

21. Based on the complaints received, in a report dated April 22, 1999, the People's Defender is said to have established that Mr. Munárriz had been arbitrarily detained at the Lircay-Angaraes police station on March 20, 1999, that his arrest was not recorded in the police blotter, and that the police subjected him to physical and verbal abuse. In another report dated October 8, 1999, the same office of the People's Defender is said to have asserted: "it is unquestionable that as a consequence of the negligent and biased involvement of the former Provincial Prosecutor of Angaraes, the defendants had access to the pre-judicial investigations (...) which is why, when they give statements they uniformly try to deny the charges against them." The report also explicitly established, according to the petitioners, that there was "certain slowness in the judicial investigation, which failed to collect essential guiding evidence."

22. In terms of legal arguments, the petitioners point out that forced disappearance constitutes a multiple violation of several rights protected by the American Convention. They cite the case law of the Inter-American Court in Velásquez Rodríguez. In line with that decision, they argue, the disappearance of Walter Munárriz Escobar meant, under the American Convention, a State violation of the right to life, humane treatment, personal freedom, a fair trial, judicial protection, and the right to learn the truth, all in conjunction with the State's general obligation to respect and guarantee rights as prescribed in Article 1.1 of the Convention.

23. Specifically with regard to the alleged violation of the right to life under the case law of the inter-American system, the petitioners point out that seven years after Walter Munárriz's disappearance at the hands of government agents, it had to be presumed that he was killed. As for the right to humane treatment, a number of witnesses--especially those present at the Lircay

police station on the night of the events--as well as the People's Defender report dated March 29, 1999, point to circumstantial evidence that Mr. Munárriz was subjected to serious physical abuse. Concerning personal freedom, the petitioners say that the alleged victim was arbitrarily detained, inasmuch as there was no complaint against him and his presence in the police station was never entered in the police record, all of which was also established in the aforesaid report by the People's Defender. As for the right to learn the truth, the petitioners say it was violated by never establishing the whereabouts of Mr. Munárriz and never convicting and punishing the persons responsible for his disappearance.

24. The petitioners emphasize that the State did not fulfill its duty to investigate, prosecute and punish the persons responsible for Mr. Munárriz's disappearance, did not establish his whereabouts, find his remains or locate their burial site. They specifically point out that when last seen alive he was in custody at the Lircay police station; that from the outset of the judicial actions taken by his family, government agents of the Prosecutor's Office and the judiciary had raised obstacles to the preliminary investigation, which led in the end to all defendants being acquitted; and that in December 2001 the Criminal Division of the Supreme Court reviewed the acquittals ordered by the High Criminal Division of the High Court of Justice of Huancavelica and ordered a new oral trial because of procedural irregularities committed by the High Criminal Division during the oral proceedings.

25. The petitioners make it clear that their complaint did not seek a review of the acquittal of the alleged perpetrators, but rather an examination of State liability for the alleged violation of rights protected by the Convention. The State itself, they contend, indicated in its comments to the IACHR that "the existence was accepted of reasonable circumstantial evidence that a forced disappearance was committed by State agents in this case; nevertheless, nobody has been punished so far and the persons presumably responsible were acquitted."

26. As regards admissibility, the petitioners maintain that domestic remedies were exhausted when the Supreme Court, on October 20, 2004, upheld the acquittal of all defendants. With respect to the filing deadline, they point out that a petition may be lodged under Article 46 (1) (b) of the Convention within a period of six months "from the date on which the party alleging violation of his rights was notified of the final judgment." The victim's family and COMISEDH, they note, learned of the Supreme Court's October 20, 2004 decision on January 17, 2005.

B. Position of the State

27. The State pointed out that the judgment of February 15, 2001 by the Joint Division of the High Court of Justice of Huancavelica convicted two policemen of a crime against humanity in the form of the forced disappearance of Walter Munárriz Escobar, sentencing them to 18 years in prison and professional disqualification. The same decision acquitted all the other policemen charged.

28. Later, the First Supreme Criminal Prosecution Office issued Ruling No. 1403-2001-1aFSP-MP calling for the annulment of part of the judgment that acquitted the two policemen accused of a crime against humanity in the form of the forced disappearance of Walter Munárriz Escobar.

29. A Supreme Executive order of December 13, 2001, vacated the judgment of February 15, 2001, and ordered a new oral trial by the same High Criminal Division for the same crime, as of the crime against humanity in the form of forced disappearance.

30. In a ruling dated April 1, 2002, the Joint Division of the High Court of Justice of Huancavelica complied with the Supreme Executive order of December 13, 2001, and immediately set the defendants free, on the grounds that their detention had been excessively long, as provided in the Code of Criminal Procedure, Article 7 (5) of the American Convention, and Article 9 (3) of the International Covenant on Civil and Political Rights.

31. The decision of May 25, 2004, thus acquitted the defendants, because of insufficient evidence, of the crime against humanity in the form of the forced disappearance of Walter Munárriz Escobar. Finally, on October 20, 2004, the Permanent Criminal Division of the Supreme Court of Justice upheld on appeal the judgment of May 25, 2004.

32. Consequently, the State maintains, the legal actions prescribed by domestic law were filed in this case within the applicable time frames in an effort to establish the identity of the persons responsible for the disappearance of Walter Munárriz Escobar, and the Supreme Court, in keeping with the principles of presumption of innocence, *indubio pro reo*, and sufficient evidence, upheld the acquittal of the defendants. The petitioners, the State also points out, did not challenge the jurisdiction, independence or impartiality of the judges that took part in the criminal proceedings, which were conducted in accordance with the American Convention, the Peruvian Constitution and Peruvian law, and were intended to find the perpetrators of the alleged forced disappearance of Walter Munárriz Escobar. Unfavorable judgments, acquittals and legal actions ruled inadmissible do not necessarily mean procedural irregularities or a flawed process.

33. From the standpoint of international law, the State asserts, forced disappearance is the act of depriving a person of his or her freedom, in whatever way, perpetrated by agents of the state or by persons or groups of persons acting with the authorization, support or acquiescence of the state, followed by an absence of information or a refusal to a knowledge that deprivation of freedom or to give information on the whereabouts of that person, thereby impeding recourse to the applicable legal remedies and procedural guarantees.

34. The State believes that in this case "there is reasonable circumstantial evidence that a forced disappearance was committed by State agents, irrespective of the persons who may be implicated in the commission of this crime. It is to be presumed, however, that it was committed by agents of the State." The State goes on to say that the above-described criminal trial was conducted regularly, acquitting the defendants for lack of evidence; but this should not prevent reopening the criminal case, which is now closed, on the strength of new evidence.

35. Lastly, the State points out that on March 22, 2004, the Peruvian Constitutional Tribunal held that forced disappearance of persons is a crime of a permanent nature as long as the fate or whereabouts of the victim are not established, as prescribed by the Inter-American Convention on Forced Disappearance of Persons.

IV. JURISDICTION AND ADMISSIBILITY

A. Jurisdiction

36. The petitioners are in principle authorized by Article 44 of the American Convention to file applications with the Commission. The petition names as the alleged victim a physical person whose rights under the American Convention the State undertook to respect and guarantee. As for the State, the Commission notes that Peru is a state party to the American Convention since July 28, 1978, when it deposited its instrument of ratification. Consequently, the Commission has jurisdiction *ratione personae* to examine the case.

37. The Commission has jurisdiction *ratione loci* because the petition alleges violations of rights protected by the American Convention that are said to have occurred within the jurisdiction of the State. The Commission has jurisdiction *ratione temporis* because the obligation to respect and guarantee rights protected by the American Convention was already in force for the State when the alleged events are said to have taken place. Lastly, it has jurisdiction *ratione materiae* because the petition reports possible violations of human rights protected by the American Convention.

38. The Commission also has jurisdiction *ratione temporis* to hear this case under Articles III and XIII of the Inter-American Convention on Forced Disappearance of Persons, signed by the Peruvian State on January 8, 2001 and ratified by Peru on February 13, 2002, which provides that the crime of forced disappearance is to be considered a continual or permanent crime so long as the fate or whereabouts of the victim remain unknown.

B. Admissibility requirements

a. Exhaustion of domestic remedies

39. For a petition to be admitted by the Commission, Article 46.1.a states that under Article 44 of the American Convention, domestic-law remedies must have been pursued and exhausted in accordance with generally recognized principles of international law.

40. The prior exhaustion requirement applies when adequate and effective remedies are available domestically to secure redress. Article 46.2 specifies that this requirement does not apply when (a) the domestic legislation of the State concerned does not afford due process of law for the protection of the right in question; (b) the party alleging violation of his rights had no access to the remedies under domestic law; or (c) there has been unwarranted delay in deciding those remedies.

41. As regards admissibility, the petitioners maintained that the Supreme Court decision of October 20, 2004, exhausted the internal remedies by upholding the acquittal of the defendants and finding no cause for annulment of the appealed judgment. The Commission notes that the State refrained from presenting arguments on the admissibility of the petition. Nevertheless, the State pointed out in its pleadings that the legal actions prescribed by domestic law in this case had been filed to try to identify the persons responsible for the disappearance of Mr. Munárriz,

and that the Supreme Court, in line with the principles of presumption of innocence, *indubio pro reo* and sufficient evidence, had upheld the acquittal of the defendants.

42. The Commission deems it appropriate, in order to assess compliance with the Convention's prior exhaustion requirement, to first determine the purpose of this petition. In light of the petitioners' arguments, that purpose may be said to involve two aspects of the investigation into the circumstances of the alleged disappearance of Walter Munárriz: first, the alleged deficiencies in the investigation and criminal proceedings conducted to investigate and try the State agents allegedly implicated, which are said to have led to their acquittal; and second, the failure to determine the whereabouts of the alleged victim and, ultimately, the consequent failure to deliver his body to his family.

43. Accordingly, to provide an appropriate remedy for the alleged violations of human rights--the forced disappearance of Walter Munárriz and its judicial elucidation--it was the duty of the State, particularly in its role as prosecutor, to set in motion the procedures designed to identify, try and punish the perpetrators and determine the whereabouts of the victim, by diligently pressing forward the proceedings at all stages and to the end.

44. The Commission notes in regard to the investigation and punishment of the alleged perpetrators that the State apparently conducted criminal proceedings that ended with the defendants' acquittal in the final judgment on October 20, 2004. Considering the alleged deficiencies of the criminal proceedings the Commission takes the view that domestic remedies were exhausted by the final decision of the Permanent Criminal Division of the Supreme Court on October 20, 2004.

45. As for determining the whereabouts of Mr. Munárriz, the Commission notes that the State appears to have launched no new investigations or followed up on lines of investigation that might have eventually enabled it to locate Mr. Munárriz and clear up the circumstances of his disappearance. As the information supplied shows, more than seven years after his disappearance, when he was last seen alive in a Peruvian police station, and more than two years after October 20, 2004, when the final judgment acquitted all defendants, the State appears to have launched no new investigations and is waiting instead for new evidence to turn up. Forced disappearance is a public crime to be prosecuted by the State, which is responsible for pressing the case forward. In sum, in terms of establishing the whereabouts of Mr. Munárriz and, if need be, delivering his mortal remains to his family, the characteristics of this case lead the Commission to find the exception prescribed by Article 46.2.c of the American Convention applicable because of the scant effectiveness of the available remedies. Consequently, the required exhaustion of domestic remedies does not apply.

b. Filing deadline

46. Under Article 46.1.b of the Convention, for a petition to be admitted it must be filed within six months from the date the petitioner received notice of the final domestic judgment. This requirement guarantees legal certainty once a decision has been taken.

47. In this case the Commission has established that the purpose of the petition involves two aspects of the disappearance of Walter Munárriz. First, as regards the alleged irregularities and deficiencies in the investigation and the trial of the alleged perpetrators, the Commission has found that domestic remedies were exhausted by the decision of the Permanent Criminal Division of the Supreme Court on October 20, 2004, notice of which was given on January 17, 2005. The commission notes that the State refrained from presenting arguments on the admissibility and that the petition was filed with the Commission on June 28, 2005. Consequently, this requirement has been satisfied.

48. Concerning the failure to determine the whereabouts of Walter Munárriz, the Commission points out that under Article 32.2 of its Rules, where exceptions apply to the requirement of prior exhaustion of domestic remedies and no final decision is consequently available, the petition must be filed within a reasonable time, as determined by the Commission. For this purpose "the Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case."

49. Concerning the determination of the whereabouts of Mr. Munarriz, the Commission has established that the exception in Article 46.2.c applies. It must consequently decide whether the petition was filed within a reasonable time under the specific circumstances. Considering that the exception applies, that the petition was filed on June 28, 2005 and that the State did not challenge admissibility in this case, the Commission concludes that the petition was filed within a reasonable time under Article 32 of its Rules of Procedure.[FN2]

[FN2] Article 32 of the IACHR Rules of Procedure deals with the deadline for presentation of petitions:

1. The Commission shall consider those petitions that are lodged within a period of six-months following the date on which the alleged victim has been notified of the decision that exhausted the domestic remedies.
2. In those cases in which the exceptions to the requirement of prior exhaustion of domestic remedies are applicable, the petition shall be presented within a reasonable period of time, as determined by the Commission. For this purpose, the Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.

3. Duplication of procedures and *res iudicata*

50. The record does not show that the subject of the petition is pending in another international settlement procedure or that it duplicates a petition already examined by this or another international agency. Consequently, the requirements in Articles 46.1.c and 47.d of the Convention are met.

4. Characterization of the alleged events

51. As the Commission has said in other cases, it is not appropriate at this stage of the procedure to establish whether a violation of the American Convention was committed. For

admissibility purposes the IACHR must simply decide whether the alleged events could be a violation of the American Convention, as prescribed in Article 47 (b), and whether the petition is "manifestly groundless" or "obviously out of order," in the words of paragraph (c) thereof. The standard to be used for such findings differs from the standard required to decide the merits. At this stage the Commission must make a summary *prima facie* assessment that does not prejudice or advance an opinion on the merits. Its own Rules of Procedure, by establishing two different stages for admissibility and substance, reflect this distinction between assessments made to admit a petition and to establish State responsibility for a violation.

52. The petitioners have made a series of arguments concerning the State's alleged violation of the right to learn the truth and the rights to life, humane treatment, personal liberty, a fair trial and judicial protection under the American Convention, all in conjunction with its general obligation under Article 1.1 to respect and guarantee rights. The State, in turn, argues that the trial and acquittal of the alleged perpetrators took place in accordance with domestic law and due process.

53. The State specifically indicated in the proceedings before the Commission that there is "reasonable circumstantial evidence that a forced disappearance was committed (...) It is to be presumed, however, that it was committed by agents of the State." Furthermore, according to information furnished by the parties, at the time of this writing nearly 8 years have gone by since the forced disappearance of Mr. Munárriz, and although the State instituted criminal proceedings against government agents presumably responsible for it, charging them with a crime against humanity in the form of a forced disappearance under Article 320 of the Peruvian Criminal Code--which ended with their final acquittal on October 20, 2004--the State has apparently undertaken no new investigative efforts or followed up on lines of investigation that might have eventually led to the whereabouts of Mr. Munárriz and the circumstances of his disappearance. The record shows that, since October 20, 2004, the State apparently took no further steps to investigate and has been waiting for new evidence to surface, even though these crimes are to be prosecuted *ex officio*.

54. Considering the State's acknowledgment of the forced disappearance of Mr. Walter Munárriz, as well as the purpose of the petition, the Commission concludes that when dealing with the merits of this case it will need to determine whether the prior investigations and criminal proceedings in Peru suffered from procedural irregularities or due process flaws that violate the American Convention, along with the Inter-American Convention on Forced Disappearance of Persons.

55. It corresponds to the IACHR to analyze the compatibility with the American Convención and the Inter-American Convention on Forced Disappearance of Persons of the domestic law applied in this case. Nevertheless, the IACHR must also ascertain whether the judicial failure to locate him or, if need be, his remains and deliver them to his family, might also constitute violations of those two Conventions.

56. Accordingly, and in line with the principle *iura novit curia* empowering the judge to determine the law applicable to the specific case, the Commission decides, without prejudging the merits, that the alleged events, if proven, could be characterized as violations of the rights to

learn the truth, to juridical personality, to life, humane treatment, personal liberty, a fair trial and judicial protection, under Articles 3, 4, 5, 7, 8 and 25, respectively, of the American Convention, in conjunction with Articles 1(1) and 2 thereof.

57. In addition, the Commission finds that the reported events tend to characterize a violation of commitments assumed by the State under Articles I and III of the Inter-American Convention on Forced Disappearance of Persons, in relation to its Article II, ratified by Peru on February 13, 2002.

58. Inasmuch as the groundlessness or inadmissibility of these aspects of the petition are not apparent, the Commission finds that the requirements of Articles 47(b) and (c) of the American Convention have been met.

V. CONCLUSIONS

58. The Commission concludes that it has jurisdiction to hear the petitioners' claims of violation of the alleged victim's and his family's rights under Articles 3, 4, 5, 7, 8 and 25 of the American Convention, in conjunction with Articles 1.1 and 2 thereof; and in relation to Articles I (b) and II of the Inter-American Convention on Forced Disappearance of Persons in relation to its Article II; and that the petition is admissible under Articles 46 and 47 of the American Convention.

59. By virtue of the above facts and law and without prejudging the merits of the matter,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To find the present case admissible with respect to Articles 3, 4, 5, 7, 8 and 25 of the American Convention, in relation with its Articles 1.1 and 2, as well as Articles I and III of the Inter-American Convention on Forced Disappearance of Persons in relation with Article II, against the alleged victim and his family.
2. To so advise the State and the Petitioners.
3. To continue examining the merits of the case.
4. To publish this decision and include it in its Annual Report to the General Assembly of the OAS.

Done and signed by the Inter-American Commission on Human Rights in Washington, D.C., on the 28th day of the month of February 2007. (Signed) Florentín Meléndez, President; Paolo Carozza, First Vice-President; Evelio Fernández Arévalos, Clare K. Roberts, and Freddy Gutiérrez, members of the Commission.