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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 23/07; Petition 435-06
Session:	Hundred Twenty-Seventh Session (26 February – 9 March 2007)
Title/Style of Cause:	Eduardo Jose Landaeta Mejias, Ignacio Landaeta Munoz and Maria Mejias v. Venezuela
Doc. Type:	Decision
Decided by:	President: Florentin Melendez; First Vice-President: Paolo Carozza; Second Vice-President: Victor Abramovich; Commissioners: Evelio Fernandez Arevalos, Sir Clare K. Roberts. Commission Member Freddy Gutierrez, who is Venezuelan, did not participate in the deliberations or voting on the instant case, in accordance with the provisions of Article 17(2) of the Rules of Procedure of the Commission.
Dated:	9 March 2007
Citation:	Landaeta Mejias v. Venezuela, Petition 435-06, Inter-Am. C.H.R., Report No. 23/07, OEA/Ser.L/V/II.130, doc. 22 rev. 1 (2007)
Represented by:	APPLICANTS: Ignacio Landaeta Munoz, the Justice, Peace and Human Rights Commission of the State of Aragua, and the Center for Justice and International Law
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I. SUMMARY

1. On April 24, 2006, the Inter-American Commission on Human Rights (hereinafter “The Inter-American Commission”, “the Commission”, or “the IACHR”) received a petition lodged by Ignacio Landaeta Muñoz, the Justice, Peace and Human Rights Commission of the State of Aragua, and the Center for Justice and International Law (CEJIL) (hereinafter also “the petitioners”), alleging the violation by the Bolivarian Republic of Venezuela (hereinafter also “Venezuela”, “the State”, or “the Venezuelan State”) of rights protected by Articles 4(1) (Life); 5(1) and 5(2) (Humane Treatment); 7 (Personal Liberty); 19 (The Child); 8(1) (Fair Trial); and 25(1) (Judicial Protection), in relation to Article 1(1) of the American Convention on Human Rights (hereinafter also “the American Convention”, or “the Convention”); all to the detriment of Eduardo José Landaeta Mejías, and to the right to physical integrity, judicial guarantees and protection, of Ignacio Landaeta Muñoz and María Mejías (hereinafter also “the alleged victims”).

2. The petitioners allege that the juvenile Eduardo José Landaeta Mejías was unlawfully and arbitrarily detained by police officers and later extrajudicially executed while in their custody. They also claim that more than nine years have elapsed and the State has not investigated the events in a diligent fashion; nor has it punished those responsible, all of which has created a

situation of impunity. With regard to complying with the admissibility requirements of the petition, they indicate that the exception laid down in Article 46(2)(c) of the American Convention is applicable because there has been an unwarranted delay in the criminal proceedings.

3. The State has not responded to the petition although this was transmitted to it on July 24, 2006 and a period of two months given for the presentation of its observations.

4. Having examined the position of the parties in the light of the admissibility requirements set out in Articles 46 and 47 of the American Convention, the case is declared admissible because of the alleged violation of rights protected in Articles 4, 5, 7, 19, 8, and 25, in relation to Article 1(1) of the same instrument. Consequently, the Commission decided to notify the parties, to publish the present Admissibility Report, and to include it in its Annual Report.

II. PROCESSING BY THE COMMISSION

5. The Commission received the initial petition on April 26, 2006 and transmitted the relevant parts to the State on July 24, 2006, requesting the State to respond with its observations within a period of two months. On the same date, the Commission informed the State that said petition had been combined with petition No. 908/2004.

6. On January 30th, 2007, the Commission told the parties that in view of the special circumstances of the case, it had decided not to combine it with petition No. 908/2004 in order to examine separately how it met the requirements for admissibility.

7. To date, the Commission has received no observations from the State.

III. POSITIONS OF THE PARTIES

A. Petitioners

8. The petitioners state that one of the main ways in which the right to life is violated in Venezuela is by the practice, blamed on local police, of unlawful and arbitrary detentions, followed by extrajudicial executions, and the use of excessive and indiscriminate force. They state that these violent “executions” are usually inflicted on young men, many of whom are under 18 years of age and belong to the lower social classes, by police officers with an established *modus operandi*, and with widespread impunity.

9. They allege that within the framework of this phenomenon, which has been almost systematic in Venezuela since 1988, Aragua is one of the states in which the greatest number of these “executions” is carried out by the agencies of law and order, in particular the public law and order police (*Cuerpo Policial de Seguridad y Orden Público*).

10. They state that the characteristic *opus operandi* is as follows: “a) the event is described by the police as a confrontation which in most cases involves altering the scene of the events, the victim is taken by the police officers who attacked him, and left - usually lifeless - at a state

hospital, with no explanation given; b) uniforms and/or weapons and official equipment (including vehicles) are used; c) the victim is discredited or criminalized with claims made that he resisted arrest or had a criminal and/or police record; d) witnesses and family members are intimidated, threatened, and even murdered.” They allege furthermore that most of these events remain unpunished.

11. As background to the events, the petitioners indicate that the Landaeta Mejías family had been the object of harassment, intimidation, and threats from members of the public law and order police of the State of Aragua. They describe in particular a raid on their house, which took place without a search warrant, and the death threat received by the alleged victim and his brother Igmarr Alexander Landaeta Mejías.

12. They state that the mother of the alleged victim went to the technical office of the judicial police (Cuerpo Técnico de Policía Judicial) to make an official complaint concerning these events and was told that the complaint could not be registered because “no action can be taken against police officers.” They state that on November 17, 1996, officers of the Aragua State law and order police murdered Igmarr Alexander, brother of Eduardo José Landaeta Mejías.

13. Regarding the events giving rise to the present petition, they state that on December 29, 1996, at approximately 9.0 a.m., Eduardo José Landaeta, who at that time was 17 years old, was arrested in the street in the state capital of Maracay by a group of state police officers. They state that the alleged victim was taken to a police station in the same city where the police officers failed to inform his parents that the juvenile had been arrested.

14. According to the petitioners, at approximately 4.30 p.m., Eduardo José Landaeta managed to telephone his father, Ignacio Landaeta Muñoz and inform him of his arrest, and asked his father to bring the 30,000 Bolívares being demanded for his release. They state that when Mr. Ignacio Landaeta appeared at the police station he was told that his son could not be released because the State Police Central Command had been informed of his arrest.

15. The petitioners state that Mr. Ignacio Landaeta Muñoz asked a female officer in the police station, as well as the sergeant on duty, to take care of his son given that he was under 18 and had recently been in receipt of threats. They state that at approximately 7.30 that night, the alleged victim’s mother went to the police station and while she was waiting to be told the reasons for the arrest of her son, two police officers in a white, Toyota Corolla vehicle, with no number plates, arrived, asking for “Eduardo Landaeta”. According to the petitioners, these officers were surprised to see the mother of Eduardo José Landaeta and they left. She identified them as Gerardo Alcides Castillo Freites and Francisco Alberto Castillo Matute.

16. During the morning of December 30, 1996, they say that Eduardo José Landaeta was transferred to the Central Command of the Aragua State Police, while his parents were following proceedings and spending the night in front of the Command awaiting the transfer they had been told would take place to the technical body of the judicial police that day. They state that the transfer was not carried out even though the alleged victim was under the age of 18.

17. They state that during the time that the parents of Eduardo José Landaeta were waiting, their son repeatedly appeared at the window and signed to them not to go away. They also state that a female officer in the Command advised them not to go because there had been unusual activity around the alleged victim, and also that a sergeant had told them that they wanted to kill their son, but it was not him who wanted to do it.

18. They say that during the night of December 30, 1996, Mr. Ignacio Landaeta Muñoz, together with an uncle of Eduardo José Landaeta, reported to the headquarters of the technical body of the judicial police in Turmero, to report the unlawful arrest of his son and the place in which he was being detained. They state that the officer told him that they could not request his transfer without the prior agreement of the Central Command of the State Police. They say that at 11.40 pm that night, the alleged victim appeared again at the window and signed to his parents that they should go because he would not be transferred that day.

19. The petitioners go on to say that at 7.30 am on the following day, Mr. Ignacio Landaeta Muñoz was informed that his son had been transferred to the Technical Body of the Judicial Police in Turmero. However, there, he was told that Eduardo José Landaeta had not yet arrived and he was advised to tell the Public Prosecutor's Office because the police who had him in their custody "behaved badly". They say that they could not do this because the office was closed. Mr. Ignacio Landaeta therefore went back to the Central Command of the State Police to get further information about the transfer. According to the petitioners, he was told there that the transfer had been ordered for 8.0 a.m., to which he responded that that was not possible because at 7.30 a.m. he had been told the transfer had already taken place. They say that, given this situation, the father of the alleged victim reported to the Higher Office of the Public Prosecutor's Office, the headquarters of which is in the city of Maracay, but this was also closed.

20. They state that when Mr. Ignacio Landaeta was going from one place to another, he was told that his son had been shot fifteen times while inside a vehicle belonging to the Investigative Division of the state public law and order police as he was being transferred to the Technical Body of the Judicial Police in Mariño. The petitioners add that while Mr. Ignacio Landaeta was going to the morgue, he was followed by police officers on motorcycles, who had been ordered to stop the vehicle and shoot whoever was inside. According to the petitioners, Mr. Ignacio Landaeta was told this confidentially by a police officer.

21. The petitioners say that the version given by the police officers making the transfer was that the vehicle was intercepted by another, from which several armed men got out, who then proceeded to murder Eduardo José Landaeta.

22. With regard to internal proceedings, they state that an administrative police investigation was launched with its respective criminal investigation. The petitioners say that the administrative police investigation was launched in January 1997 and completed on November 26, 1997, stating that no-one was murdered during the transfer, nor were any standard issue weapons belonging to the officers in charge lost.

23. With regard to the criminal investigation, the petitioners state that this was launched on 31 December, 1996 by the investigative branch of the judicial police (CICPC) in Mariño, State of Aragua.

24. The petitioners point out that on January 2, 1997, Mr. Ignacio Landaeta made a formal accusation concerning the events with the Ninth Office of the Public Prosecutor (Fiscalía Novena), and on January 12, 1997 this office was sent the summary investigation carried out by the first organization. The petitioners state that on March 26, 1998, the Ninth Office of the Public Prosecutor received a writ lodged by the Justice and Peace Commission requesting the opening of investigations into the officers involved.

25. They state that on February 8, 1999, the same branch of the Public Prosecutor's Office lodged an official accusation against officers Carlos Andrés Requena Mendoza, Carlos Alexander Rojas Alvarado, and Freddy Antonio Blanco Pérez, for the crimes of aggravated homicide and unlawful use of firearms. They also say that the writ was sent that same month to the Municipal Judge of Santiago Mariño in the State of Aragua, where it remained until September 1999 when it was sent to the Second Transition Judge of the Aragua State Criminal Judicial Circuit.

26. They go on to say that in January 2000, following numerous requests, Mr. Ignacio Landaeta was informed that the file was at the Ninth Office of the Public Prosecutor, where it remained in a secretary's desk for eight months with no action taken. They state that in April 2002, Mr. Ignacio Landaeta approached the Transition Prosecutor of the Higher Prosecutor's Office of the State of Aragua, who assured him that he would ask for the file and would look into the case, which did not happen because apparently he could not find it.

27. The petitioners state that in November, 2002, the Ninth Office of the Public Prosecutor sent the case to the Higher Prosecutor's Office who assigned it to a Transition Prosecutor who did nothing for three months. They say that in February 2003, the case was again sent to another prosecutor's office, which retained the file until January 2004 without completing its investigations because the official in charge indicated that she knew one of the suspects and it seemed to her "impossible that he should have committed that crime." They state that at that date the case was assigned to another transition prosecutor.

28. On July 16, 2004, they say, the transition prosecutor delivered the final writ requesting the Fourth Control Court of the Aragua State Criminal Judicial Circuit to issue a stay of proceedings in favor of the suspects because there was not enough evidence to link them with the facts of the case, even though the crime had not been prescribed. They say that on November 9, 2004, a hearing was held during which the acting judge of the said Fourth Court found that the request for a stay of proceedings was not admissible because there were still areas to be investigated.

29. They state that on April 26, 2005 and June 20, 2005, Mr. Ignacio Landaeta lodged writs with both the Human Rights and Special Projects Offices of the Venezuelan Attorney General's Office, requesting the allocation of a prosecutor with national competence to take charge of the

case. They state that no response had been received to this request up to the time when the present petition was lodged.

30. They state that on July 13, 2005 the case was allocated to a new Transition Prosecutor before whom, on August 30, 2005 and September 22, 2005, Mr. Ignacio Landaeta lodged writs requesting that certain proceedings be carried out that he considered necessary for the investigations. They state that on September 27, 2005, a complaint was lodged with the Superior Prosecutor of the Attorney General's Office alleging procedural delays by the Transition Prosecutor's Office.

31. They add that on October 11, 2005, Mr. Ignacio Landaeta requested the National Office for Judicial Action (Dirección Nacional de Actuación Procesal) and the Special Projects Office of the Attorney General's Office (Dirección de Proyectos Especiales de la Fiscalía General) to forward the case to the 20th Human Rights Prosecutor's Office (Fiscalía 20 de Derechos Fundamentales) of the State of Aragua, but received no response. They state that on November 15, 2005, the Office in question requested the officers' criminal records and received two affidavits.

32. With regard to the exhaustion of remedies available under domestic law, the petitioners allege the even though nine years have elapsed since the investigation was opened, it is still at a preparatory stage, there have been numerous irregularities such as the repeated disappearance of the file, proceedings at a standstill, and widespread inertia on the part of prosecutors in calling for and collecting evidence in the case. They argue that the current stage of the proceedings and the lack of any arrests, charges, or punishment of those responsible, even though this is not a complex case, all constitute an unwarranted delay and suggest the inadequacy of the remedy, all of which means that the exception described in Article 46(2)(c) of the Convention is applicable in this case.

33. With regard to the violations alleged, the petitioners state that the events constitute violations of the rights protected in Articles 4(1) (Life); 5(1) and 5(2) (Humane Treatment); 7 (Personal Liberty); 19 (Rights of the Child); 8.1 (Judicial Guarantees); and 25.1 (Judicial Protection), all in relation to the obligation to respect laid down in Article 1(1) of the Convention, to the detriment of Eduardo José Landaeta. They also state that the events violate rights enshrined in Article 5(1) (Personal Integrity); 8(1) (Judicial Guarantees); and 25(1) (Judicial Protection) all in relation to the obligation to protect enshrined in Article 1(1) of the Convention, to the detriment of Ignacio Landaeta Muñoz and María Mejías, father and mother, respectively, of Eduardo José Landaeta Mejías.

B. State

34. The State has made no response to the petition even though this was transmitted on July 24, 2006, and a period of two months given for the presentation of its observations.

IV. ANALYSIS

A. Competence

1. Competence of the Commission *ratione personae*, *ratione loci*, *ratione temporis*, and *ratione materiae*

35. The petitioners are empowered by Article 44 of the Convention to lodge petitions on behalf of the alleged victims. For its part, the State of Venezuela ratified the American Convention on August 9, 1977. Consequently, the Commission has competence *ratione personae* to examine the petition.

36. The Commission has competence *ratione loci* to examine the petition in as much as it alleges violations of rights protected by the American Convention that took place within the territory of a State party to the said treaty.

37. The Commission also has competence *ratione temporis* because the obligation to respect and protect the rights enshrined in the American Convention was already in force for the State at the date on which the violations of rights alleged in the petition took place.

38. Finally, the Commission has competence *ratione materiae*, because the petition alleges violations of human rights enshrined in the American Convention.

2. Exhaustion of remedies under domestic law

39. Article 46(1) of the American Convention states that for a petition lodged before the Commission to be admissible according to Article 44 of the Convention, it is necessary that all remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law. The purpose of this requirement is to ensure that the State in question is informed of the alleged violation of a protected right and, where appropriate, resolves it before it goes before an international body.

40. The requirement of prior exhaustion is applicable when domestic legislation does in fact provide remedies that are adequate and effective to remedy the alleged violation. In this sense, Article 46(2) specifies that the requirement is not applicable when domestic law does not afford due process of law for the protection of the right in question; or if the alleged victim has been denied access to the remedies under domestic law; or if there has been unwarranted delay in rendering a final judgment under the aforementioned remedies. As stated in Article 31 of the Rules of Procedure of the Commission, when a petitioner alleges one of these exceptions it shall be up to the State concerned to demonstrate that the remedies under domestic law have not been previously exhausted, unless that is clearly evident from the record.

41. Based on principles of international law, the precedents established by the Commission, and the case-law of the Inter-American Court, the respondent State may waive, either expressly or tacitly, its right to invoke this rule.[FN2] Secondly, for the exception of non-exhaustion of remedies available under domestic law to be applicable, it must be raised during the early stages of the proceedings before the Commission, and if this is not the case, the State concerned will be assumed to have tacitly renounced its right to invoke it.[FN3] Thirdly, in line with the burden of proof applicable in the case, a State that alleges non-exhaustion must indicate which remedies

were available under domestic law to be exhausted and provide evidence of their effectiveness.[FN4] Consequently, if the State in question fails to lodge its allegations regarding this requirement at the appropriate time, it will be considered to have renounced its right to allege the non-exhaustion of remedies available under domestic law and therefore to satisfy the appropriate burden of proof.

[FN2] IACHR, Report No. 69/05, petition 960/03, Admissibility, Iván Eladio Torres, Argentina, October 13, 2005, paragraph 42; I/A Court H.R., Ximenes Lopes Case. Preliminary Exceptions. Judgment November 30, 2005. Series C No. 139, paragraph 5; I/A Court HR, Moiwana Community Case. Judgment June 15, 2005. Series C No. 124, paragraph 49; and I/A Court HR, I/A Court HR, Case of the Serrano Cruz Sisters. Preliminary Exceptions. Judgment November 23, 2004. Series C, No 118, paragraph 135.

[FN3] I/A Court HR, Mayagna Community (Sumo) Awas Tingni Case. Preliminary Exceptions. Judgment February 1, 2000. Series C No 66, paragraph 53; Castillo Petruzzi and Others Case. Preliminary Exceptions. Judgment September 4, 1998. Series C, No 41, paragraph 56; and I/A Court H.R., Loayza Tamayo Case. Preliminary Exceptions. Judgment January 31, 1996. Series C No 25, paragraph 40. The Commission and the Court have said that “the first stages of a process” should be understood as “at the admissibility stage before the Commission, that is, before any consideration of the merits [...]”. See, for example, IACHR, Report No. 71/05, petition 543/04, Admissibility Ever de Jesús Montero Mindiola, Colombia, October 13, 2005, which quotes I/A Court H.R., Herrera Ulloa Case. Judgment July 2, 2004. Series C, No 107, paragraph 81.

[FN4] IACHR, Report No. 32/05, petition 642/03, Admissibility, Luis Rolando Cuscul Pivaral and other persons affected by HIV/AIDS, Guatemala, March 7, 2005, paragraphs 33-35; I/A Court H.R., Mayagna Community (Sumo) Awas Tingni Case. Preliminary Exceptions, supra note 3, paragraph 53; Durand and Ugarte Case. Preliminary Exceptions. Judgment May 28, 1999. Series C, No. 50, paragraph 33; and Cantoral Benavides Case. Preliminary Exceptions. Judgment September 3, 1998. Series C, No. 40, paragraph 31.

42. In the present case, the State has not responded to the initial petition, and therefore has tacitly renounced its right to lodge an exception to the non-exhaustion of remedies available under domestic law. The petitioners, for their part, allege there has been an unwarranted delay in the criminal proceedings and therefore claim that the exception set out in Article 46(2)(c) of the American Convention is applicable.

43. To assess how far the requirement to exhaust remedies available under domestic law has been met, the Commission must determine which is the appropriate remedy that should be exhausted in the circumstances, understanding this as that remedy which is able to solve the juridical situation that has been infringed. In cases of alleged arbitrary infringements of the right to life, the appropriate remedy is the criminal investigation and proceedings brought and driven by the State in order to identify and punish those responsible.

44. In relation to the unwarranted delay, the Commission examines the circumstances and makes a case-by-case evaluation in order to decide whether or not there has been an unwarranted delay. As a general rule, the Commission states that “a criminal investigation should be carried

out promptly in order to protect the interests of the victims and to preserve the evidence.”[FN5] To determine whether or not an investigation has been carried out “promptly”, the Commission must evaluate a series of factors such as the time elapsed since the offense was committed, if the investigation has progressed beyond the initial stages, the steps taken by the authorities, and the complexity of the case.[FN6]

[FN5] IACHR, Report 16/02, Servellón García, Honduras, Petition 12,331, Admissibility, paragraph 31 (February 27, 2002)

[FN6] IACHR, Report No. 130/00, Victor Manuel Oropeza, Mexico, Petition 11,740, paragraphs 30-32.

45. As demonstrated by the petitioners, the internal judicial proceedings launched by the State have not progressed beyond preliminary investigations even though the events took place between December 29 and 30, 1996, that is, more than 10 years ago. The Commission also observes that the case is not especially complex in view of the fact that it deals with one victim executed in circumstances in which police officers, in whose custody he was, have been clearly identified. Furthermore, information supplied by the petitioner and unchallenged by the State, indicates that investigations have been frozen for long periods of time even though Mr. Ignacio Landaeta Muñoz has played an active role, to the extent of requesting the completion of certain measures. This has been the case in spite of the fact that the exclusive responsibility for launching and pursuing an investigation into events of this nature corresponds exclusively to the State, whose investigatory agencies should operate in a professional and diligent manner.

46. Taking the aforementioned into account, the Commission considers that there has been an unwarranted delay in the criminal investigation and therefore that the petitioners are exonerated from the requirement to exhaust remedies available under domestic law by virtue of Article 46(2) of the American Convention.

47. The Commission reaffirms that invoking exceptions to the rule of prior exhaustion of remedies available under domestic law set out in Article 46(2) of the Convention is closely linked with the determination of possible violations of rights protected there, such as judicial guarantees. However, Article 46(2) of the American Convention, in its nature and object, is autonomous in content, vis á vis the Convention’s substantive norms. Therefore, a decision on whether the exceptions to the rule of exhaustion of remedies available under domestic law enshrined in Article 46(2) can be applied to the case in question must be established prior to, and separate from, an examination of the merits of the case because it relies on a different standard of judgment than the one that determines a violation of Articles 8 and 25 of the Convention. It should be pointed out that the causes and effects that have prevented the exhaustion of remedies available under domestic law in the present case will be examined, as far as they are relevant, in the Report adopted by the Commission on the merits of the case, in order to establish it deals with real violations of the American Convention. Based on the foregoing, the Commission considers that there exist sufficient grounds to exonerate the petitioner from the obligation of prior exhaustion of domestic remedies as described in Article 46(2) of the American Convention.

3. Deadline for presentation of petitions

48. Article 46(1)(b) of the Convention sets out that for a petition to be declared admissible, it must be presented within a period of six months from the date on which the interested party was notified of the final judgment in the domestic jurisdiction. This rule is not applied when the Commission finds that another of the exceptions to the exhaustion of remedies available under domestic law set out in Article 46(2) of the Convention is applicable. In these cases, the Commission must decide whether the petition was lodged within a reasonable time in accordance with Article 32 of its Rules of Procedure.

49. The Commission observes that following the date of the death of Eduardo José Landaeta Mejías on December 29, 1996, an investigation was launched in the domestic jurisdiction, and that this investigation, along with any resulting trial, was essential for the expectations of family members that justice would be done and redress made for what had happened. The Commission also concluded supra paragraph 47 that there has been an unwarranted delay in the investigation of this case, in which the members of the family of Eduardo José Landaeta have participated fully and constantly. Therefore, the situation of impunity surrounding the events and the lack of an effective judicial response by the State (if lack of diligence on its part is proven) would persist to this day, to the detriment of Ignacio Landaeta Muñoz and María Mejías. The Commission considers that the above elements are sufficient to conclude that the petition was lodged within a reasonable period.

4. Duplication of procedures and res judicata

50. Article 46(1)(b) of the Convention states that the admissibility of a petition shall be subject to the requirement that the subject “is not pending in another international proceeding for settlement,” and Article 47(d) of the Convention establishes that the Commission shall consider inadmissible any petition “that is substantially the same as one previously studied by the Commission or by another international organization.” In this case, the parties have not alleged either of these two circumstances that would give rise to inadmissibility; nor do they occur in the proceedings.

5. Description of the alleged facts

51. For the purposes of admissibility, the Commission must decide whether the petition states facts that tend to establish a violation, as described in Article 47(b) of the American Convention, whether the petition is “manifestly groundless,” or “obviously out of order,” as described in subparagraph c) of the same Article.

52. The standard of judgment of these two extremes differs from that required to decide on the merits of a petition. The Commission must carry out a prima facie examination to establish whether or not the petition establishes the apparent or potential violation of a right protected by the Convention, not to establish the existence of a violation. This examination is a summary analysis that does not imply a prejudgment or anticipation of findings on the merits.[FN7]

[FN7] IACHR, Report No. 21/04, Petition 12,190. Admissibility, José Luis Tapia González and others, Chile, February 24, 2004, paragraph 33.

53. Regarding the facts alleged in connection with the detention of Eduardo José Landaeta, the circumstances following this, his death whilst in police custody, the Commission finds could amount to a violation, to his detriment, of his rights to life, physical integrity, personal freedom, and lack of duty of special care for children, enshrined respectively in Articles 4, 5, 7, and 19 of the American Convention, all in relation to Article 1(1) of the same instrument.

54. Regarding the facts alleged in connection with the judicial action taken in the domestic jurisdiction and the way in which the criminal investigation has been conducted to date, the Commission finds these could amount to violations of the rights to mental and moral integrity, judicial guarantees and judicial protection enshrined respectively in Articles 5(1), 8(1) and 25 of the American Convention, in relation to Article 1(1) of the same instrument, to the detriment of Mr. Ignacio Landaeta Muñoz, and Mrs. María Mejías as parents of Eduardo José Landaeta.

V. CONCLUSIONS

55. Based on the foregoing considerations of fact and law, and without prejudging the merits of the case, the Commission concludes that the present case meets the requirements for admissibility in accordance with Articles 46 and 47 of the American Convention and therefore,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare this case admissible in relation to Articles 4, 5, 7, 19, 8, and 25 of the American Convention in relation to Article 1(1) of the same instrument.
2. To give notice of this decision to the parties.
3. To continue the analysis of 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 in the city of Washington, D.C., on the 9th day of the month of March, 2007.
(Signed): Florentín Meléndez, President; Paolo G. Carozza, First Vice-President; Víctor E. Abramovich, Second Vice-President; Evelio Fernández Arévalos, Sir Clare K. Roberts, Commissioners.