

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 52/08; Petition 400-06
Session:	Hundred Thirty-Second Regular Session (17 – 25 July 2008)
Title/Style of Cause:	Tulio Alberto Alvarez v. Venezuela In the judicial files, the names “Julio Alberto Alvarez” and “Tulio Alberto Alvarez” are used indiscriminately; however, the Commission identifies the alleged victim as Tulio Alvarez, the name he calls himself.
Doc. Type:	Decision
Decided by:	Chairman: Paolo Carozza; Second Vice-Chairman: Felipe Gonzalez; Commissioners: Sir Clare K. Roberts, Paulo Sergio Pinheiro, Victor E. Abramovich. According to Article 17.2 of the Rules of Procedure of the Commission, Commission member Luz Patricia Mejia, a Venezuelan national, did not participate in either the debate or decision in this case.
Dated:	24 July 2008
Citation:	Alberto Alvarez v. Venezuela, Petition 400-06, Inter-Am. C.H.R., Report No. 52/08, OEA/Ser.L/V/II.134, doc. 5 rev. 1 (2008)
Terms of Use:	Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm

I. SUMMARY

1. On April 26, 2006 the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission,” or “the IACHR”) received a petition submitted by Tulio Alberto Álvarez (hereinafter “the petitioner” or “the alleged victim”) against the Bolivarian Republic of Venezuela (hereinafter “the State” or “the Venezuelan State”) regarding the criminal trial and sentence imposed on him for the crime of aggravated defamation as a result of his statements about alleged embezzlement committed by a former Deputy and President of the National Assembly. The petition alleges that the narrated events constitute violations of the rights protected by Articles 8 (right to a fair trial), 11 (right to privacy), 13 (freedom of thought and expression), 24 (right to equal protection), and 25 (right to judicial protection), as related to the general obligations established in Article 1(1) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”).

2. On its part, the State argued that the penal process against the presumed victim was pursued in accordance and respect of the Venezuelan law. Additionally, the State informed that on December 20, 2007 the Ninth Court of the First Instance in Functions of Execution of the Judicial Penal Circuit of the Metropolitan Area of Caracas granted Mr. Alvarez the conditional suspension of the Execution of the Sentence for the lapse of one year by virtue of the request interposed by the representatives of the presumed victim before the IACHR and that resulted in

an express request of the Commission to the State “to leave without effects the execution of the judgment until the case is solved in a definitive manner by the organs of the inter-American system of human rights”.

3. Upon review of the information submitted under the admissibility requirements established in Articles 46 and 47 of the American Convention, the Commission concluded that it has competence to examine the complaint lodged, and that the petition is admissible regarding alleged violations of the rights established in Articles 13, 22, 23, 8, and 25 of the American Convention, pursuant to the general obligations established in Articles 1(1) and 2 therein. The Commission will analyze the possible application of article 2 of the American Convention by virtue of principle *iura novit curia*. The Commission also concluded that the petition is inadmissible regarding the alleged violation of the rights established in Article 11 and 24 of the Convention. Therefore, the Commission decided to notify the parties, to publish this Admissibility Report, and include it in its Annual Report.

II. PROCESSING BY THE COMMISSION

4. The Commission received the petition on April 25, 2006 and assigned it number P-400-06. On June 1, 2006 the Commission forwarded the petition to the State and gave it a deadline of two months to present its observations. On September 5, 2006 the petitioner presented updated information. This information was expounded upon in messages received on September 7, 18, and 27, 2006.

5. On September 25, 2006 the Commission remitted the aforementioned messages to the State while at the same time indicating that: “The Commission observes that in case the judgment should be executed before the IACHR has the opportunity to examine the merits of the petition, its possible decision with regard to the merit could result in the lack any useful effect. Consequently, the IACHR requests the Government of your Excellency the adoption, without delay, of all the necessary measurements to leave without effect the execution of this judgment until the merits of the petition were completely decided by the bodies of the inter-American system of Human Rights”. In that message the Commission requested the State to submit information on such a measure within the next 15 days.

6. The petitioner sent additional briefs in communications received by the Commission on November 24, 2006 and April 4 and 12, 2007. These were remitted to the State on January 30 and May 15, 2007, respectively, with a deadline of one month for the State to submit any observations.

7. On June 5, 2007 the petitioner submitted additional information, which was remitted to the State on June 21, 2007. In that same message the Commission reiterated to the State the request to suspend the effect of the conviction, giving the State five days to reply.

8. On August 29, 2007 the State submitted a communication indicating that the respective authorities were collecting information in order to respond the petition.

9. ON February 8, 2008 the State submitted information related to the petition which was remitted to the petitioner on February, 25, 2008.

10. On February 28, 2008 the petitioner sent information to the IACHR with files pertaining to different actions taken with regard to the process of the execution of this judgment. This communication was sent to the State on April 2, 2008 requesting observation within one month. At the time of approval of this Report, the State had not presented its response.

III. POSITIONS OF THE PARTIES

A. The petitioner

11. The petitioner and alleged victim stated that on May 23, 2003 he published an article in the newspaper "Así es la Noticia," in which he indicated that the then President of the National Assembly, William Lara, used funds from the Assembly's Workers' and Retirees' Savings Bank in an improper way. The petitioner showed that the article reproduced part of a report from the office of the Superintendent of Savings Banks stating that former Deputy Lara had siphoned 1,701,723,317.25 Bolívares. According to the petitioner, the article mentions that this alleged irregularity was reported in a message from the Superintendent of Savings Banks to Mr. William Lara's office. The petitioner stated that he was apprised of this information since he was an attorney for the union and the Retirees Association of the National Assembly.

12. The petitioner indicated that, because of the article, on December 31, 2003 Mr. William Lara filed a criminal complaint against him in the 36th Criminal Circuit Court of the Caracas Metropolitan Area for the crime of defamation. He indicated that on January 9, 2004 that Court deferred jurisdiction to the Criminal Trial Court, without determining the admissibility of the complaint.

13. He indicated that the case was taken by the Seventh Criminal Circuit Trial Court of the Caracas Metropolitan Area (hereinafter "Seventh Circuit Court"), which admitted it as a complaint filed by a private party on February 16, 2004.

14. The petitioner stated that on November 22, 2004 the complainant filed a request for an injunction to prevent the petitioner from leaving the country. On December 15, 2004 the Seventh Circuit Court granted said injunction, and on March 30, 2005 the Second Interim Court of Appeals of the Criminal Circuit of the Caracas Metropolitan Area, constituted irregularly, denied the petitioner's appeal of the injunction.

15. According to the information provided by the petitioner, on February 28, 2005 the Seventh Circuit Court found him guilty and sentenced him to two years, three months of imprisonment and additional legal punishment for the crime of continued aggravated defamation, which is described in Articles 444 and 77 of the Venezuelan Criminal Code.[FN3] According to the information attached, to date the petitioner has not been detained because the implementing judge decided to suspend that sentence and instead impose a system of reporting.

[FN3] Message from the petitioner received September 7, 2006. Annex. Conviction decision in Case No. 246-04, Section IV, adopted by the 7th Criminal Circuit Trial Court of the Caracas Metropolitan Area, operative section.

16. The petitioner stated that on February 11, 2005, the Second Court of Appeals of the same judicial circuit denied a Constitutional amparo appeal which alleged irregularities in the proceedings. The Court indicated that the denial of the appeal was based on the fact that the trial was still underway and that, therefore, the petitioner could use ordinary remedies. As was mentioned, this denial of amparo was the subject of an appeal that was dismissed on April 14, 2005 by the Constitutional Court of the Supreme Court (hereinafter “the TSJ”).

17. The petitioner stated that on May 5, 2005 he filed an appeal of the conviction, which was admitted on that same date by the Third Court of Appeals of the Criminal Circuit Court of the Caracas Metropolitan Area (hereinafter “the Third Court of Appeals”). He alleged that after the reporting judge submitted the draft decision which completely annulled all of the proceedings because of lack of due process, the other two judges on that court were replaced by attorneys who were not alternates. He stated that on September 26, 2005 the recording judge submitted the same draft decision, which was rejected by the new members of the court. He indicated that consequently the drafting of the new report fell to one of those attorneys, and that on September 29, 2005 they dismissed the appeal.

18. The petitioner affirmed that he filed a cassation appeal of the latter decision, which was ruled inadmissible on February 7, 2006. The petitioner added that there is no further remedy against this decision, and that on July 7, 2006 the Ninth Criminal Circuit Trial Court of the Caracas Metropolitan Area (hereinafter “Ninth Circuit Court”) issued a decree ordering that the sentence be carried out, while it reaffirmed the trial court decision which: a) sentenced him to two years and three months of imprisonment for the crime of continued aggravated defamation; b) imposed the respective additional legal punishments as well as court costs; c) ordered to maintain the prohibition to leave the country; d) ordered publication of the complete text of the Judgment, once, in two nationally circulated newspapers; e) ordered that certified copies of the Judgment be remitted to the Department for the Execution of Criminal Sentences of the Ministry of Interior and Justice so that his name would appear on the registry of persons with criminal records; and f) ordered that a certified copy of the Judgment be sent to the National Electoral Council and the Office of Identification and Foreign Nationals so that he could be made ineligible to exercise his civil rights.

19. In terms of the arguments of law, the petitioner alleged that the judge who heard the complaint filed against him did not have jurisdiction because according to Venezuelan legislation, this was to have been heard by an oversight court and not a trial court.

20. The petitioner additionally argued that the injunction preventing him from leaving the country violated his right to a presumption of innocence, and was not sufficiently based on reasons of risk of flight; the order simply stated that the defendant had the means to leave the country for good and that in recent years several people had evaded responsibility for political crimes. He stated that this measure has interfered with his professional and personal activities.

He stated that on two occasions he was denied authorization to leave the country, and a third request made November 24, 2005 was never answered. He also stated that in Venezuela people had never been prevented from leaving the country for opinion-related crimes, but since this precedent was set, the same measure was imposed on the editor of the newspaper "Así es la Noticia," Mrs. Ibéyise Pacheco.

21. The petitioner also argued that he never had the opportunity to defend himself appropriately during hearings held throughout the trial. He specifically indicated that in one of the hearings the charges were increased, without giving him sufficient time to prepare his defense. He also said that at a hearing on February 3, 2004, while a witness was explaining how he had obtained the report from the Superintendent of Savings Banks, the hearing judge ordered that the witness be detained and accused him of committing "a hearing crime" as described in Article 345 of the COPP, and of perjury, as described in Article 243 of the Criminal Code. He asserted that said order was based on documents previously submitted by the complainant's attorney, to which the defendant never had access.

22. The petitioner further indicated that during the trial and in order to prove his innocence, he asked the trial judge to order the competent agencies to produce their reports, in order to certify the existence of the documents mentioned in the article which led to the complaint. The petitioner affirmed that this request was ruled inadmissible for being irrelevant and unnecessary. He further indicated that other evidentiary procedures were denied by the trial judge.

23. The petitioner also alleged that on the morning of January 26, 2005, a few hours before leaving to testify in one of the oral hearings of his criminal trial, he fell ill with a bad headache and severely high blood pressure, and was told to rest immediately. He states that in light of the situation, his attorney asked the trial judge to suspend the proceedings. He added that the same day the complainant requested copies of that request from the judge, who then ordered a legal medical examination of the defendant. Based on that order, the next day a commission from the Judicial Police comprised of several patrol officers showed up at the homes of his relatives and his office. In the petitioner's view, this constitutes a violation of his right to privacy.

24. The petitioner asserted that the measure preventing him from leaving the country, as well as the criminal conviction, are reprisals for his involvement in public affairs, particularly in defense of the environment, indigenous communities, and human rights. He also indicated that in 2000 he filed criminal charges against the President of Venezuela for alleged improprieties in the financing of his electoral campaign; in 2001 and 2002 he requested the nullification of an agreement signed by the government to supply other countries with petroleum; in 2004 he was the general coordinator of a multi-disciplinary team of university professors investigating irregularities in the recall referendum conducted that year; and on May 24, 2004 he filed an appeal for annulment on Constitutional grounds of the Organic Law of the Supreme Court, as well as an amparo complaint challenging the appointment of justices. According to the petitioner, such activities led to his persecution and harassment by government officials, including the deliberate delay of cases in which he was a litigant, which led him to cease practicing law.

25. In the communication of February 9, 2008 received on the 22 of the same month and year, the petitioner presented information with regard to the presumed violations of due process in the execution of this judgment. Particularly, he mentioned the lack of notification of the decisions related to his rights and the lack of compliance of the authorities with respect to the lifting of the effects of the sentence.

26. Finally, he reported that since he had lost his civil rights, he was prevented from voting in the presidential elections of December 3, 2006 or from participating in the elections for the Board of Directors, Disciplinary Tribunal, or Section Councils of the Professors Association of the Central University of Venezuela held on June 27, 2007.

B. The State

27. On August 2, 2007 the State informed that the respective authorities were collecting information in order to respond the petition.

28. On February 8, 2008 the State presented information related to the facts of the penal process interposed by ex-deputy William Lara against the presumed victim on counts of criminal defamation. The State indicated that Criminal Defamation is established in the article 444 of the Venezuelan Penal Code and that the right to the honor and reputation is guaranteed in article 60 of the Constitution of the Republic. The State pointed out that right to honor and reputation, in accordance with the Venezuelan legislation, is an absolute right, which does not have limits and priority on any right that is not considered of equal status.

29. The State alleges that Mr. Álvarez denounced that he had been imputed on specific facts determined in the exercise of his right to freedom of opinion, also of constitutional rank. Nevertheless, argued the State, the right to express freely thoughts, ideas or opinions contain in article 57 of the Constitution is not absolute since such norm establishes that: The one who makes use of this right, assumes full responsibility for everything expressed.

30. On the other hand, the State stated that the nature of the punishable fact corresponds to a private action offense, and that therefore a hearing of conciliation was carried out between the parts, which, in the particular case, did not prosper. By virtue of the lack of conciliation between the parts, the penal trial against the presumed victim continued, concluding with a condemnatory decision dated February 28, 2005 by the Court Seventh of the First Instance in Functions of Judgment of the Judicial Penal Circuit of the Metropolitan Area of Caracas by which the presumed victim was sentence to two years and three months of prison for the commission of the crime of aggravated continued defamation. The State indicated that the presumed victim was never arrested.

31. Finally, indicated the State that, on December 20, 2007 the Ninth Court of the First Instance in Functions of Execution of the Judicial Penal Circuit of the Metropolitan Area of Caracas granted to the Mr. Alvarez the conditional suspension of the Execution of the Sentence for the lapse of one year by virtue of the request interposed by the representatives of the presumed victim before the IACHR and that resulted in an express request of the Commission to

the State of “to leave without effects the execution of the judgment until the case is solved in a definitive manner by the organs of the inter-American system of human rights”.^[FN4]

[FN4] On having arranged the conditional suspension of the execution of the sentence for a one year term, the Ninth Court of the First Instance in Functions of Execution of the Judicial Penal Circuit of the Metropolitan Area of Caracas established that such a decision was subject to the fulfillment on the part of Alvarez of the following conditions established in the article 494 of the Organic Procedural Penal Code:

1. Not to change Residence without authorization of the Court, from what it will have to request to authorization with fifteen (15) Days in advance.
3. To presenting himself before the Delegate of Evidence, designated to the effect for the times which might be required in accordance with article 495 of the Organic Procedural Penal Code.
4. To present himself before the head office of this Court every THREE (3) MONTHS, recording each time Steadfastness of Work.
5. To expiring with any other condition that is imposes by the Delegate of Evidence designated to the effect.
6. To be forbidden to visit persons involved with the fact that imputed him.

[...]

In relation to the Measurement of Prohibition of Exit of the Country [...] it is agrees to suspend the measurement during the time established for the fulfillment of the regimen of evidence [...]. Nevertheless, if the convict needs or tries to go out of the Venezuelan territory, he will have to present to the Court accompany properly with the necessary documentation the place abroad where it would remain and the motives of his exit. (Simple Copy the decision of the Court of the First Instance in Functions of Execution of the Judicial Penal Circuit of the Metropolitan Area of Caracas of date December 20, 2007 that is in the file of the Commission).

IV. LEGAL ANALYSIS

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

32. Under Article 44 of the Convention, the petitioner is entitled to lodge complaints on his own behalf. The alleged victim was under the jurisdiction of the Venezuelan State when the alleged events occurred. The Venezuelan State, for its part, ratified the American Convention on August 9, 1977. Therefore, the Commission has competence *ratione personae* to review the petition.

33. The Commission has competence *ratione loci* to review the petition because it alleges violations of rights protected by the American Convention which took place within the territory of a State party to that treaty.

34. The Commission also has competence *ratione temporis* because the obligation to respect and guarantee the rights protected by the American Convention was in effect for the State on the date the acts alleged in the petition took place.

35. Finally, the Commission has competence *ratione materiae* because the petition alleges violations of human rights protected by the American Convention.

B. Other requirements for admissibility of the petition

1. Exhaustion of domestic remedies

36. Article 46(1)(a) of the American Convention states that in order for a complaint presented to the Inter-American Commission to be admissible under Article 44 of the Convention, the remedies under domestic law must have been pursued and exhausted in accordance with generally recognized principles of international law. The purpose of this requirement is to allow the national authorities to become aware of the alleged violation of a protected right and, if appropriate, have the opportunity to rectify it before the matter is brought to an international body.

37. As is inferred from the principles of international law reflected in the precedents established by the Commission and the Inter-American Court, the accused State may either expressly or tacitly renounce invocation of this rule.[FN5] Secondly, in order for an objection based on non-exhaustion of domestic remedies to be timely, it must be raised during the early phases of processing before the Commission; otherwise it is assumed that the State has tacitly renounced use of such an objection.[FN6] Thirdly, according to the applicable burden of proof, a State alleging non-exhaustion must indicate which domestic remedies need to be exhausted and provide evidence of their effectiveness.[FN7] Therefore, if the State does not submit timely arguments regarding this requirement, it is considered to have renounced the right to allege non-exhaustion of domestic remedies and the need to satisfy the corresponding burden of proof.

[FN5] IACHR, Report N° 69/05, petition 960/03, Admissibility, Iván Eladio Torres, Argentina, October 13, 2005, para. 42; I/A Court H.R., Ximenes Lopes Case. Preliminary Objection. Judgment of November 30, 2005. Series C No. 139, para. 5; I/A Court H.R., Case of the Moiwana Community. Judgment of June 15, 2005. Series C No. 124, para. 49; and I/A Court H.R., Case of the Serrano Cruz Sisters. Preliminary Objections. Judgment of November 23, 2004. Series C No. 118, para. 135.

[FN6] I/A Court H.R., Case of the Mayagna (Sumo) Awas Tingni Community. Preliminary Objections. Judgment of February 1, 2000. Series C No. 66, para. 53; Castillo Petruzzi et al. Case. Preliminary Objections. Judgment of September 4, 1998. Series C No. 41, para. 56; and I/A Court H.R., Loayza Tamayo Case. Preliminary Objections. Judgment of January 31, 1996. Series C No. 25, para. 40. The Commission and the Court have established that “the initial stages of the proceedings” should be understood to be “the stage of admissibility of the case before the Commission, in other words, before any consideration of the merits [...]” See, e.g., IACHR Report N° 71/05, petition 543/04, Admissibility, Ever de Jesús Montero Mindiola, Colombia, October 13, 2005, which cites I/A Court H.R., Herrera Ulloa Case. Judgment of July 2, 2004. Series C No. 107, para. 81.

[FN7] IACHR, Report N° 32/05, petition 642/03, Admissibility, Luís Rolando Cuscul Pivaral and others affected by HIV/AIDS, Guatemala, March 7, 2005, paras. 33-35; I/A Court H.R., Case of the Mayagna (Sumo) Awas Tingni Community. Preliminary Objections, supra note 3, para. 53; Durand and Ugarte Case. Preliminary Objections. Judgment of May 28, 1999. Series C No. 50, para. 33; and Cantoral Benavides Case. Preliminary Objections. Judgment of September 3, 1998. Series C No. 40, para. 31.

38. As was stated in paragraph 28 to 31 above, the State indicated only informed about the penal process against the presumed victim indicating that such was pursuit in accordance and respect of the Venezuelan law, while also informing about the decision of December 2007 by which the Court of Execution ordered to conditionally suspend the execution of the sentence for one year. Consequently, the State had not presented a response with regard to exhaustion and has thus tacitly renounced its right to object on the grounds of non-exhaustion of domestic remedies.

39. The Commission observes that throughout the trial the petitioner exercised the normal remedies available to him – appeal - and attempted to use special remedies - cassation and amparo - challenging not only the conviction, but also the alleged violations of due process and the prohibition to leave the country, but that none of these resulted in favorable decisions. The petitioner alleged that once the decision of February 7, 2006 denied his last attempt, the cassation appeal, there was no further recourse. The State, for its part, did not indicate any additional remedies which the petitioner could have used.

40. The Commission observes that the cassation remedy attempted before the Supreme Court was ruled inadmissible on February 7, 2006 on the grounds that the second instance decision was not appealable in this way according to Article 459 of the Organic Criminal Procedure Code.[FN8] Additionally, a reading of the relevant provisions of said Code does not seem evident that the decision can be appealable under any other mechanism.

[FN8] Decision of the Cassation Court of the Supreme Court dated February 7, 2006 which denied the appeal.

41. In this regard, the Commission finds that the requirement established in Article 46(1)(a) of the Convention was satisfied on the date when the Criminal Cassation Court of the TSJ denied the cassation appeal.

2. Deadline for presentation

42. Article 46(1)(b) of the Convention establishes that in order for a petition to be admissible it must be lodged within a period of six months from the date on which the party alleging violation of the rights was notified of the final judgment which exhausted domestic remedies.

43. The Commission concluded that the petitioner exhausted domestic remedies on the date that the cassation appeal was denied, that is, February 7, 2006. The petition was lodged on April 25, 2006, making it apparent that the deadline was met.

3. Duplication of proceedings and *res judicata*

44. Article 46(1)(c) of the Convention establishes that admission of a petition is subject to the requirement that the matter not be “pending in another international proceeding for settlement,” while Article 47(d) of the Convention stipulates that the Commission will not admit a petition or communication that “is substantially the same as one previously studied by the Commission or by another international organization.” In the present case, the parties have not alleged the existence of either of these conditions of inadmissibility, nor can these be deduced from the file.

4. Description of the alleged facts

45. For the purposes of admissibility, the Commission must decide whether the petition refers to facts that could characterize a violation, as is stipulated in Article 47(b) of the American Convention, or whether the petition is “manifestly groundless or obviously out of order,” according to subparagraph (c) of said Article. The standard for judgment of these extremes is different from that required to decide on the merits of a petition. The Commission must conduct a *prima facie* evaluation to examine whether the complaint refers to facts that could characterize a violation of a right guaranteed by the Convention, and not whether such violations actually occurred. This review is a summary analysis that does not prejudge or advance an opinion on the merits.[FN9]

[FN9] See IACHR, Report N° 128/01, Case N° 12.367, Herrera and Vargas (“La Nación”), Costa Rica, December 3, 2001, para. 50; Report N° 4/04, Petition 12.324, Rubén Luis Godoy, Argentina, February 24, 2004, para. 43 and Report N° 29/07, Petition 712-03, Elena Tellez Blanco, Costa Rica, April 26, 2007, para. 58.

46. The Commission considers that, if proven, the facts regarding criminal sanctions for the dissemination of information presumably of public interest, the effects that said sanctions have had on the petitioner, and the alleged irregularities in the criminal trial, could characterize a possible violation of the rights established in Articles 13, 8, and 25 of the American Convention regarding obligations established in Article 1(1) of that instrument. Likewise, although it was not alleged by the petitioner, by virtue of the principle of *iura novit curia* (the courts know the law), the Commission considers pertinent to analyze a possible application of Article 2 of the American Convention in its merit report.

47. The Commission also considers that the facts related to the inability to leave the country, or to vote or be elected to political posts, within the framework of a criminal trial and/or as a result of conviction presumably incompatible with the American Convention, may constitute possible violations of the rights established in Articles 22 and 23 of that instrument.

48. Finally, the Commission finds that the facts alleged and the information submitted by the petitioner do not characterize potential violations of the rights established in Articles 11 and 24 of the American Convention. Therefore, it declares that part of the petition inadmissible.

V. CONCLUSION

49. Based on the arguments of fact and law presented above, and without pre-judging the merits of the case, the Inter-American Commission concludes that this case meets the requirements of admissibility stipulated in Articles 46 and 47 of the American Convention, and therefore

THE INTER-AMERICAN COMMISSION OF HUMAN RIGHTS,

DECIDES:

1. To declare this petition admissible with regard to the alleged violations of the rights established in Articles 13, 22, 23, 8, and 25 pursuant to Articles 1(1) and 2 of the American Convention. The possible application of article 2 of the American Convention was included by the IACHR so as to analyze it in the merits phase by virtue of principle *iura novit curia*.
2. To declare inadmissible the complaint under Articles 11 and 24 of said instrument.
3. To notify the State and the petitioner of this report.
4. To publish this decision and include it in its Annual Report.

Done and signed at the headquarters of the Inter-American Commission on Human Rights in the city of Washington, D.C., on the 24th day of July, 2008. (Signed): Paolo G. Carozza, Chairman; Felipe González, Second Vice Chairman; Sir Clare K. Roberts, Paulo Sérgio Pinheiro, and Víctor E. Abramovich, members of the Commission.