

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 71/08; Petition 1290-04
Session:	Hundred Thirty-Third Regular Session (15 – 31 October 2008)
Title/Style of Cause:	Jose Dutra da Costa v. Brazil
Doc. Type:	Decision
Decided by:	Chairman: Paolo Carozza; First Vice-Chairwoman: Luz Patricia Mejia Guerrero; Second Vice-Chairman: Felipe Gonzalez; Commissioners: Sir Clare K. Roberts, Florentin Melendez, Victor Abramovich. Commissioner Paulo Sergio Pinheiro, of Brazilian nationality, did not participate in the deliberations and vote on the instant report in accordance with Article 17(2)(a) of the Commission’s Rules of Procedure.
Dated:	16 October 2008
Citation:	Dutra da Costa v. Brazil, Petition 1290-04, Inter-Am. C.H.R., Report No. 71/08, OEA/Ser.L/V/II.134, doc. 5 rev. 1 (2008)
Represented by:	APPLICANTS: the Centro de Justicia Global, the Sindicato dos Trabalhadores Rurais de Rondon do Para, the Comissao Pastoral da Terra, and Terra de Direitos
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I. SUMMARY

1. On December 9, 2004, the Centro de Justiça Global, the Sindicato dos Trabalhadores Rurais de Rondon do Pará, the Comissão Pastoral da Terra (CPT), and Terra de Direitos (hereinafter "the petitioners"), lodged a complaint before the Inter-American Commission on Human Rights (hereinafter "the Commission", "the Inter-American Commission" or "the IACHR") against the Federative Republic of Brazil (hereinafter "the State" or "Brazil") for the alleged violation of the rights to life, physical integrity, personal liberty, a fair trial and judicial protection, enshrined in Articles 4, 5, 7, 8 and 25 respectively of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), in relation to the general obligation to respect rights set forth in Article 1(1) of that treaty, to the detriment of José Dutra da Costa (hereinafter "the alleged victim.")

2. The petition claims that the alleged victim, a trade union leader and president of the Union of Rural Workers of the Municipality of Rondon do Pará, in Pará state, was murdered on November 21, 2000. According to the petitioners, the crime was motivated by José Dutra da Costa’s activities in the struggle for workers’ rights in the region, and the perpetrators have gone unpunished.

3. The State argues that domestic remedies related to the death of the alleged victim have not been exhausted and that the petition is therefore inadmissible, insofar as it fails to meet the requirement set forth in Article 46(1)(a) of the Convention. In relation to the alleged violation of Article 7, the State also argues the inadmissibility of the petition for failing to meet the requirement set forth in Article 46(1)(b).

4. After examining the positions of the parties in light of the admissibility requirements set forth in Articles 46 and 47 of the American Convention, the Commission decides to declare the case admissible in relation to Articles 4, 8(1) and 25 of the American Convention in conjunction with the general obligation set forth in Article 1(1) of that instrument. In addition, based on the principle of *iura novit curia*, the IACHR declares the petition admissible with respect to potential violations of Articles 5 and 16 of the Convention. The Commission also finds the petition inadmissible with respect to the alleged violation of Article 7 of the American Convention. The Commission, therefore, decides to notify the parties, publish this Admissibility Report, and include it in its Annual Report.

II. PROCESSING BEFORE THE COMMISSION

5. On December 9, 2004, the Commission received the initial complaint lodged by the petitioners. On January 24, 2006, the IACHR forwarded the relevant portions of the complaint to the State with a period of two months, beginning on January 27, 2006, for it to submit its response.

6. On February 23, 2006, the Commission received an *amicus curiae* brief from the Robert F. Kennedy Memorial Center for Human Rights. On May 10, 2006, the Commission received the response from the Brazilian State concerning the petition.

7. The IACHR received additional information from the petitioners on June 12, 2006, November 6, 2006, November 30, 2006, April 23, 2007, July 6, 2007, January 11, 2008 and May 27, 2008. These communications were duly forwarded to the State.

8. For its part, the State submitted additional information to the Commission on August 18, 2006, June 5, 2007 and April 23, 2008. These communications were duly forwarded to the petitioners.

III. POSITION OF THE PARTIES

A. The petitioners

9. The petitioners claim that José Dutra da Costa was president of the Union of Rural Workers of the Municipality of Rondon do Pará [Sindicato dos Trabalhadores Rurais do Município de Rondon do Pará], (hereinafter “the Union”), in the state of Pará. The alleged victim played a key role in representing rural agricultural workers in that federated state. He had denounced the slave-like conditions of some workers, the existence of clandestine cemeteries on private property, and killings of trade union leaders and rural workers perpetrated by large landowners in the region. He had also advocated in favor of the implementation of land reforms

by raising awareness and encouraging workers to occupy lands that had been illegally acquired by ranchers [“grilagem de terras”]. As a result of the alleged victim’s activities, the police authorities were able to verify the presence of human remains on a private ranch in the region.

10. The alleged victim reportedly began to receive threats indicating that he should desist from his union activities and his denunciations, as well as his encouragement of land occupations. José Dutra da Costa addressed and publicized these threats at union events and through the media. The alleged victim attributed the threats against him to a group of ranchers, landowners in the region, led by Josélio de Barros Carneiro and José Decio (or Decio José) Barroso Nunes, both of whom wielded enormous political power in the state of Pará.

11. The petitioners claim that on November 21, 2000, José Dutra da Costa was murdered in front of his home, having been shot three times with a firearm wielded by Wellington de Jesus Silva. They assert that, before he died, the wounded José Dutra da Costa fought with his assailant and managed to shove him into a well, where he was later found and arrested by citizens. Therefore, the material author of the crime was detained in flagrante delicto. According to the petitioners, the alleged victim’s murder took place against a backdrop of insecurity and threats, the deaths of other leaders of rural workers in Rondon do Pará, and similar acts, which persist to this day.

12. The petitioners indicate that on December 7, 2000, a police investigation [Inquérito Policial] was opened, IPL No. 031/2000. One of the initial actions was to issue an arrest warrant [determinación de prisión] for the alleged middlemen, who remain at large to this day. The petitioners observe that the police investigation was presumably suspended after it was opened.

13. According to the petitioners, the investigation was reopened due to the initiatives and efforts of rural workers, who located a key witness for the investigation. On December 1, 2000, the police concluded their investigation, identifying Wellington de Jesus Silva as the material author, Givaldo José Pereira, Ygoismar Mariano da Silva and Rogerio de Oliveira Dias as middlemen, and Decio José Barroso Nunes as the intellectual author, all accused in the death of the alleged victim.

14. According to the petitioners, on December 7, 2000, the Public Ministry indicted [denúncia][FN2] four of the five individuals identified supra, namely Wellington de Jesus Silva, Ygoismar Mariano da Silva, Rogerio de Oliveira Dias and Decio José Barroso Nunes, and opened Criminal Case [Acción Penal] No. 046/000. According to the Public Ministry’s indictment, the crime was committed at the behest of Decio José Barroso Nunes, with Ygoismar Mariano da Silva and Rogerio de Oliveira Dias acting as middlemen, and Wellington de Jesus Silva as the triggerman. Defendant Decio José Barroso Nunes was ordered held in pretrial detention. This order, however, was subsequently revoked by the Pará Court of Justice, pursuant to a habeas corpus petition filed on December 14, 2000. Lourival de Souza Costa and Domício de Souza Neto were subsequently charged in the crime and processed in a case separate from that of the other defendants.

[FN2] The Denúncia is established in Article 41 of the Brazilian Criminal Procedures Code.

15. The petitioners claim that the case remained paralyzed for slightly over 3 years, due to an expert opinion that was pending completion from April 20, 2001 to April 27, 2004. Moreover, the criminal proceedings against fugitives Ygoismar Mariano da Silva and Rogerio de Oliveira Dias were allegedly suspended. The petitioners report that the only defendant actually brought to trial was Wellington de Jesus Silva. On November 13, 2006, he was sentenced to 29 years in prison in a unanimous verdict by a jury. After obtaining a favorable ruling on appeal, the prisoner was retried. The conviction was upheld, however, in a final ruling on April 12, 2007. Notwithstanding this, in their May 27, 2008 communication, the petitioners claim that Wellington de Jesus Silva was authorized to leave prison from December 24, 2007 to January 2, 2008, to spend the Christmas holidays with his family, at which time he took advantage of the opportunity to escape and remains at large to date.

16. The petitioners further assert that the process relating to the alleged intellectual author of the crime, Decio José Barroso Nunes, was paralyzed from April 20, 2001 to March 9, 2004. On March 26, 2007, the judge issued a ruling of Impronúncia in the case of the accused.[FN3] The third party to the prosecution [coadyuvante] lodged an appeal [recurso in strictu sensu] which is pending before the Court of Justice of Pará, based on the petitioners' May 27, 2008, communication.

[FN3] In crimes prosecuted by a jury trial, following the pre-trial proceedings [instrução procesal], a judge must examine the available evidence in the criminal case to determine whether the probable existence of a felony [crimen doloso] against life can be established, as well as the respective alleged authorship. The judge then prepares a Pronúncia finding, stating whether the existing evidence points to the commission and authorship of the crime and indicating the legal provision the accused is understood to have violated. If those elements are not present, the judge issues a finding of Impronúncia. For further information about Pronúncia, see Article 408 of the Brazilian Criminal Procedures Code.

17. In their July 6, 2007, communication, the petitioners assert that Maria Joel Dias da Costa, the alleged victim's wife and current president of the Union of Rural Workers of Rondon do Pará, has been targeted by threats including anonymous telephone calls, being followed, and the presence of armed gunmen around her house. They further report that on April 27, 2007, Mrs. Dias da Costa was approached at the Union office by Luiz Gonçalves da Silva, who told her that a rancher had hired him to kill her in exchange for R\$2,000.00 (two thousand reais), but he was not going to do it because he was familiar with her struggle. However, the gunman demanded the amount of R\$300.00 (three hundred reais) from her in exchange for leaving the city without carrying out the job. According to the petitioners' information, the rancher in question was Decio José Barroso Nunes.

18. In synthesis, the petitioners claim that the State failed to adopt the necessary preventive measures to safeguard the life of the alleged victim, despite countless public denunciations and requests for protection presented to the competent authorities, the prevailing insecurity, and

previous acts of violence in the city of Rondon do Pará. With respect to the alleged violation of physical integrity, the petitioners state that, before the murder, they had lodged several complaints concerning the threats against the victim's life and physical integrity, and yet no measures were taken to protect him. With respect to the alleged violation of personal liberty against the alleged victim, the petitioners state that a judge issued an arrest warrant against him in May 1999, supposedly in relation to press statements he had made concerning the forced removal of landless workers.

19. The petitioners add that, to date, no one has effectively been punished for what happened by means of a final judgment, which constitutes a violation of the right to due process and access to justice to the detriment of the alleged victim's next of kin.

20. With regard to the admissibility requirements, the petitioners contend that there has been an unwarranted delay in proceedings in the domestic courts inasmuch as, since the death of the trade union leader to date, the criminal investigations and proceedings conducted have not punished all of the perpetrators of the crime by means of a final judgment. They claim that the alleged delay in domestic proceedings is attributable to the conduct of the State, which has failed to provide a prompt, serious and effective investigation. As a result, the petitioners claim that the exception set forth in Article 46(2)(c) of the American Convention is applicable. They further claim that they have lodged their complaint within a reasonable time period.

B. The State

21. The State contends that the petition is inadmissible pursuant to Article 46(1)(a) of the American Convention. In its understanding, the requirement of prior exhaustion of domestic remedies has not been met. Brazil maintains that the petitioners are trying to bring the case before the international jurisdiction before allowing the State the opportunity to criminally prosecute its own nationals. It further contends that it is making efforts to resolve the issue and there has been no unwarranted delay, as the petitioners claim.

22. In relation to the alleged violation of Article 7 (personal liberty), the State argues that the petition is inadmissible under Article 46(1)(b) of the American Convention, because it is a separate issue from the main thrust of the petition and has been presented extemporaneously. In the State's understanding, the arrest warrant was issued on May 18, 1999, the alleged victim was deprived of liberty on May 19, 1999, and the matter was not brought before the Inter-American Commission until December 9, 2004.

23. With respect to the petitioners' claim of an unwarranted delay in finalizing the expert opinion on the tapes and the attendant paralysis of the process (*supra* para. 15), the Brazilian State contends that the tapes were of low quality and the delay arose out of the need to obtain special software in order to discern the contents of this item of evidence.

24. With respect to the administration of justice, the Brazilian State reports that the investigations were conducted in a regular manner. In relation to the accused, Wellington de Jesus Silva was detained in flagrante delicto, tried, and sentenced to 29 years in prison. With respect to the accused, Domicio de Souza Neto, the State reports that with the assistance of the

Federal Police, he was found, imprisoned and prosecuted and his case is in the pre-trial proceedings phase [fase de instrucción criminal].

25. With regard to fugitive suspects Ygoismar Mariano da Silva and Rogerio de Oliveira Dias, the process has been suspended to avoid the criminal statute of limitations. Regarding suspects Givaldo José Pereira and Lourival de Souza Costa, the State confirms that they were not prosecuted as there was no evidence connecting them to the crime.

26. In relation to the accused José Decio (or Decio José) Barroso Nunes, the alleged intellectual author of the crime, the State reports that he was prosecuted and, on March 26, 2007, the Court concluded that there was insufficient evidence pointing to his participation in the crime. The State contends that the filing of a remedy by the third party to the prosecution [Coadyuvante de la Acusación], which is still pending, is proof of the failure to exhaust domestic remedies.

IV. ANALYSIS OF ADMISSIBILITY

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

27. In accordance with Article 44 of the American Convention and Article 23 of the Commission's Rules of Procedure, the petitioners, as legally recognized nongovernmental entities, are entitled to lodge petitions before the IACHR concerning alleged violations of the American Convention. With regard to the State, the Commission observes that Brazil has been party to the American Convention since it ratified that treaty on September 25, 1992. The Commission finds that the petition indicates as the alleged victim José Dutra da Costa, an individual person with respect to whom the Brazilian State has undertaken to respect and guarantee the rights enshrined in the American Convention. The Commission, therefore, has competence *ratione personae* to examine the complaint.

28. With regard to its competence *ratione temporis*, the Commission is competent to examine the alleged violations insofar as they are alleged to have occurred when the obligation to respect and guarantee the rights enshrined in the American Convention was in effect for the State, that is, after September 25, 1992.

29. Likewise, the Commission observes that the petition reports violations of rights that are protected in the American Convention. Therefore, the IACHR has competence *ratione materiae* to examine the complaint.

30. Finally, the Commission has competence *ratione loci* to take up this petition insofar as it claims violations of rights protected in the American Convention that are alleged to have occurred in the territory of a State party to that international instrument.

B. Other admissibility requirements for the petition

1. Exhaustion of domestic remedies

31. Article 46(1) of the American Convention establishes as a requirement for admissibility the prior exhaustion of remedies available in the domestic jurisdiction of the State.

32. Subparagraph 2 of the same Article stipulates that the provisions related to the exhaustion of domestic remedies shall not be applicable when

- a. the domestic legislation of the State concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated;
- b. the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or
- c. there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

33. The Commission observes that, with regard to domestic remedies to investigate and punish the murder of the alleged victim, there is no disagreement over the fact that the criminal proceedings involving the alleged perpetrators have not been completed (*supra paras.* 12-16 and 22-26) to date. The murder of José Dutra da Costa occurred on November 21, 2000.

34. In this regard, the IACHR underscores that the police investigation was opened on December 7, 2000. The Public Ministry then proceeded to indict four people: Wellington de Jesus Silva, Ygoismar Mariano da Silva, Rogerio de Oliveira Dias and Decio José Barroso Nunes, thereby opening Criminal Case No. 046/000[FN4].

[FN4] Report from the Public Ministry. First communication from the petitioners, December 9, 2004, Annex 32.

35. The pre-trial proceedings [etapa de instrucción procesal] pertaining to one of the accused—the alleged material author—ended on September 13, 2005, with a Pronúncia finding against defendant Wellington de Jesus Silva, ordering him to stand trial before a jury (Tribunal do Júri)[FN5]. On November 13, 2006, this defendant was convicted and sentenced to 29 years in prison in a unanimous verdict by the jury. According to the information provided, his conviction was upheld in an April 12, 2007, ruling. Nonetheless, in December 2007, Wellington de Jesus Silva escaped from prison and currently remains at large.

[FN5] According to Article 5, subparagraph XXXVIII, of the Federal Constitution of 1998, a jury trial has competence in felony crimes against life.

36. In relation to the alleged intellectual author of the crime, Decio José Barroso Nunes, on April 20, 2001, the case was suspended pursuant to a habeas corpus ruling by the Court of Justice Pará. Nearly three years later, the case was reopened on March 9, 2004. More than three years after that date, the pre-trial proceedings came to a close on March 26, 2007, when the judge

issued an Impronúncia[FN6] ruling in relation to this defendant. Subsequently, the third party to the prosecution [Coadyuvante de la Acusación] lodged an appeal [recurso in sensu strictu], which remains pending before the Court of Justice of Pará. The Commission observes that there is no information in the file indicating whether there has been a ruling on that appeal.

[FN6] See supra note 3.

37. With respect to the other individuals accused in the criminal cases opened in relation to the murder of the alleged victim, Ygoismar Mariano da Silva, Rogerio de Oliveira Dias, Lourival de Souza Costa and Domício de Souza Neto, the Commission takes note of the following: Ygoismar Mariano da Silva and Rogerio de Oliveira Dias are fugitives from justice to date, and the respective criminal case has been suspended. With respect to Lourival de Souza Costa and Domício de Souza Neto, the pre-trial proceedings phase concluded on December 20, 2007, with a ruling of Impronúncia[FN7] in relation to the defendants. That decision was appealed to the Court of Justice of Pará. The Commission observes that there is no information in the file indicating whether or not there has been a ruling on that appeal.

[FN7] See supra note 3.

38. In summary, the Commission observes from the file that, to date, no one responsible for the murder of the alleged victim is actually serving a sentence nor has been convicted of the crime in a firm and final judgment. In this regard, the Commission takes particular note of the amount of time that has elapsed in the criminal proceedings without any apparent movement, as well as the fact that nearly 8 years have transpired since the murder of the alleged victim, and none of the criminal proceedings against the alleged authors have been completed. For its part, the State has not presented information with respect to special circumstances of complexity applicable to the instant case that might warrant the amount of time that has elapsed since the alleged victim's murder.

39. In the opinion of the IACHR, therefore, the exception for unwarranted delay found in Article 46(2)(c) of the Convention applies to the criminal case related to the murder of the alleged victim.

40. With respect to the alleged violation of Article 7 of the American Convention, however, the Commission observes that the arrest warrant issued against the alleged victim in May 1999, is unrelated to the facts contained in the instant petition with respect to the exhaustion of domestic remedies. In effect, those events appear unrelated to the situation of insecurity that culminated in the death of the alleged victim. What is more, the IACHR underscores that the petitioners made no reference to any remedy they might have pursued in relation to this alleged violation. Therefore, the Commission declares that the arguments concerning Article 7 of the American Convention are inadmissible, based on the failure to exhaust domestic remedies in accordance with Article 47(a) of that instrument.

41. Finally, it should be noted that the invocation of exceptions to the rule of exhaustion of domestic remedies set forth in Article 46(2) of the American Convention is closely linked to the determination of possible violations of certain rights enshrined therein, such as guarantees of access to justice. Nonetheless, Article 46(2) of the American Convention, by its nature and purpose, is a norm with autonomous content vis-à-vis the substantive provisions of the Convention. Therefore, the determination as to whether the exceptions to the rule of exhaustion of domestic remedies are applicable to the case in question must be carried out prior to, and separate from, the analysis of the merits, as it depends on a different standard of appreciation from that used to determine the possible violation of Articles 8 and 25 of the Convention[FN8]. It should be clarified that the causes and effects that impeded the exhaustion of domestic remedies shall be analyzed in the report the Commission adopts on the merits, in order to determine whether they constitute violations of the American Convention.

[FN8] CIDH, Report N°19/07, Petition 170-02, Admissibility, Ariomar Oliveria Rocha, Ademir Federicci, and Natur de Assis Filho, Brazil, March 3, 2007, para. 27 ; CIDH, Report N° 23/07, Petition 435-2006, Admissibility, Eduardo José Landaeta Mejía et al., Venezuela, March 9, 2007, para. 47; Report N° 40/07, Petition 665-05, Admissibility, Alan Felipe da Silva, Leonardo Santos da Silva, Rodrigo da Guia Martins Figueiro Tavares et al., Brazil, July 23, 2007, para. 55.

2. Deadline for lodging a petition

42. Article 32(2) of the Commission's Rules of Procedure stipulates that "in those cases where 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."

43. In the instant case, the Commission observes that the murder of the alleged victim occurred on November 21, 2000, and that, to date, the remedies pursued in the framework of the criminal proceedings against several defendants remain pending. The petition was presented to the IACHR on December 9, 2004. Based on the foregoing, the IACHR is of the opinion that this petition was presented within a reasonable time frame and therefore, meets the requirement set forth in Article 32(2) of the Rules of Procedure of the Inter-American Commission.

3. Duplication of proceedings and res judicata

44. There is nothing in the file to indicate that the petition lodged before the Inter-American Commission is currently pending in any other international proceedings for settlement or that it is substantially the same as a petition or communication previously studied by the Commission or by any other international organization, as stipulated in Articles 46(1)(c) and 47(d) of the Convention, respectively.

4. Characterization of the alleged facts

45. Article 47(b) of the Convention establishes that the Commission shall declare inadmissible any petition or communication that “does not state facts that tend to establish a violation of the rights guaranteed by this Convention.” The criterion for evaluating these requirements is different from that used to pronounce on the merits of a petition. In effect, the Commission’s evaluation is meant to determine, *prima facie*, whether the petition includes the basis for the possible or potential violation of a right guaranteed by the Convention and not to establish the actual existence of a violation of rights. In other words, this determination is a preliminary analysis and in no way implies a prejudgment on the merits of the matter.

46. In relation to the alleged lack of due diligence on the part of the State to prevent and investigate effectively the events related to the deprivation of life of José Dutra da Costa, and to punish those responsible for that crime, the Commission is of the opinion, *prima facie*, that it could constitute violations of Articles 4, 8(1) and 25 of the American Convention, in relation to Article 1(1) of that instrument.

47. The petitioners also claim that the murder of the alleged victim was motivated by his activities as a trade union leader and carried out for the purpose of intimidating rural workers and their leaders. As a result, during the merits stage, the Commission shall analyze, based on the principle of *iura novit curia*, the potential violation of Article 16 of the American Convention. Moreover, during the merits stage, and based on the principle of *iura novit curia*, the Commission will also examine the possible violation of the right to personal integrity set forth in Article 5 of the Convention, in relation to the alleged threats against the alleged victim’s wife, who is the current president of the Union of Rural Workers of Rondon do Pará (*supra* para. 17), and to the alleged denial of justice to the detriment of the alleged victim’s next of kin..

48. With respect to the alleged violation of Article 5 of the American Convention based on the death threats against the alleged victim and the failure to protect his life and physical integrity prior to his murder, however, the Commission makes the following clarification. Based on the allegations, the events described refer to the obligation to prevent violations of the right to life, found in Article 4 in relation to 1(1) of the Convention, and not to a potential violation of Article 5.

49. The Commission concludes, therefore, that the petition is admissible in accordance with the provisions of Article 47(b) of the Convention, in the terms described above, with respect to alleged violations of Articles 4, 5, 16, 8(1) and 25 of the American Convention, in relation to Article 1(1) of that treaty.

V. CONCLUSIONS

50. The Commission concludes that it is competent to take up this petition and that it meets the requirements for admissibility set forth in Articles 46 and 47 of the American Convention.

51. Based on the foregoing arguments of fact and law, and without prejudging the merits of the matter,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
DECIDES:

1. To declare the petition admissible in relation to alleged violations of Articles 4, 5, 16, 8(1) and 25 of the American Convention in relation to Article 1(1) of that instrument; and inadmissible in regard to the allegations pertaining to Article 7 of the American Convention.
2. To notify the State and the petitioners of this decision.
3. To begin the process to examine the merits of the matter.
4. To publish this decision and include it in the Annual Report to be presented to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 16th day of the month of October, 2008.
(Signed): Paolo G. Carozza, Chairman; Luz Patricia Mejía Guerrero, First Vice Chairwoman, Felipe González, Second Vice Chairman; Sir Clare K. Roberts, Florentín Meléndez, and Víctor Abramovich, members of the Commission.