I. SUMMARY

1. On May 16, 2000, the Inter-American Commission on Human Rights (hereinafter also "the Inter-American Commission," "the Commission," or "the IACHR") received a petition lodged on his own behalf by Mr. Agustín Bladimiro Zegarra Marín (hereinafter also "the petitioner" or "the alleged victim") in which he alleged that the Republic of Peru (hereinafter also "Peru," "the State," or "the Peruvian State") violated the rights enshrined in Articles 5, 7, 8, 9, 10, 11, 24, and 25 of the American Convention on Human Rights (hereinafter also "the American Convention," "the Convention," or "the ACHR").

2. The petitioner said that in 1994, he was prosecuted for the alleged commission of crimes against public documents in his capacity as a commander in the National Police (hereinafter also "the PNP"), and that those proceedings concluded with his conviction. He claimed that during the proceedings he was illegally detained and several judicial guarantees were violated, most particularly the presumption of innocence. He also stated that during his criminal trial, the PNP forced him into retirement without prior administrative proceedings and without grounded reasons. With regard to the admissibility requirements, he claimed that he filed remedies for the annulment and review of his conviction, but that those appeals were ruled inadmissible. He also stated that he filed for the reconsideration and annulment of the decision to force him into retirement, to which no favorable response was given.

3. In turn, the State of Peru argued that the criminal prosecution of the alleged victim was undertaken because of evidence of his guilt and that the proceedings observed the guarantees of due process. It also stated that the petitioner had access to all legal remedies for establishing his legal situation. Regarding his forced retirement, the State noted in its most recent communication

that in accordance with Law 28805, a formal apology was extended to the alleged victim and the amount of his pension was increased, but his reinstatement was not possible since he had passed the retirement age for his rank.

4. After examining the parties' positions in light of the admissibility requirements set out in Articles 46 and 47 of the American Convention, the Commission concluded that it is competent to hear the claim and that the petition is admissible as regards the alleged violation of the rights enshrined in Articles 8 and 25 of the American Convention, in conjunction with the general obligations set out in Article 1.1 thereof. The Commission also concluded that the petition is inadmissible as regards the alleged violation of the rights enshrined in Articles 5, 7, 9, 10, 11, and 24 of the American Convention. Consequently, the Commission resolved to notify the parties, to publish this report on admissibility, and to include it in its Annual Report.

II. PROCESSING BY THE COMMISSION

5. On May 16, 2000, the initial petition was received and was registered as No. P-235/00.

6. On December 18, 2000, July 20 and November 6, 2001, the petitioner submitted additional information.

7. In a communication dated December 18, 2000, the petitioner lodged a request for precautionary measures, specifically for the Commission to order the voiding of Supreme Resolution No. 0037-95-IN-PNP whereby he was forced into retirement.

8. On April 21, 2003, in compliance with Article 30 of its Rules of Procedure, the Commission forwarded the relevant parts of the petition to the State and asked it to return its reply within the following two months.

9. On June 20, 2003, the Peruvian State sent its reply, which was conveyed to the petitioner on July 9, 2003, along with a 45-day deadline for him to submit any comments deemed relevant.

10. On July 3, 2003, the State's reply, including annexes, was received. Those documents were forwarded to the petitioner on July 29, 2003, along with a request for him to return any relevant comments within one month.

11. On August 21, 2003, the petitioner submitted his comments on the State's reply.

12. On September 11, 2003, the petitioner submitted additional comments.

13. On January 22 and February 23, 2004, the petitioner submitted additional information, which was conveyed to the State on April 22, 2004, along with a one-month deadline for it to submit any comments deemed relevant.

14. On June 30, 2004, the Peruvian State asked for an extension of the deadline for returning its comments; accordingly, a one-month extension was granted on July 13, 2004.

15. On August 16, 2004, the State requested a further extension, which was granted by the Commission on August 27, 2004, for an additional one-month period.

16. On January 19, 2005, the Commission repeated its request for the State to submit information. On February 24, 2005, the State requested an extension, which was granted on April 8, 2005.

17. On May 12, 2005, the State's comments were received, and they were forwarded to the petitioner on June 1, 2005, along with a one-month deadline for him to return any comments deemed relevant.

18. On June 30, 2005, the petitioner submitted his comments, which were conveyed to the Peruvian State on September 21, 2005, with a one-month deadline for comments.

19. On October 24, 2005, the State sent its reply.

20. On May 8, 2007, the petitioner submitted information and asked the IACHR to make itself available to the parties for a possible friendly settlement. That communication was forwarded to the State on August 7, 2007, asking it to return any comments on it within the following month.

21. On September 7, 2007, the State requested an extension of the deadline; accordingly, a one-month extension was granted on September 12, 2007.

22. On May 29, 2008, the State filed a reply in which it expressed no interest in a friendly settlement. That communication was conveyed to the petitioner on June 26, 2008, along with a one-month deadline for comments.

23. On July 10, 2008, the petitioner submitted his comments, which were forwarded to the State on August 21, 2008.

III. POSITIONS OF THE PARTIES

A. Petitioner

24. The petitioner narrates a series of events related to his criminal prosecution and conviction and to the PNP's decision to retire him from service because of a staff renewal program. In the petitioner's view, those incidents constituted violations of the rights enshrined in Articles 5.1, 5.2, 7.1, 7.2, 7.3, 7.5, 7.6, 8.1, 8.2, 9, 10, 11.1, 24, and 25 of the American Convention.

25. The petitioner states that in 1994, when he held the rank of Commander in the National Police of Peru, he was appointed Assistant Director for Passports. He states that in August and September 1994, the media covered a news story about Peruvian passports bearing forgeries of his signature and seal being seized from criminals.

26. According to the petitioner, when he discovered that those documents had been issued and received by the Head of the Immigration Office, and upon learning about the "crude forgery" of his signature, he publicly denounced the situation, in writing, to the Minister of the Interior and requested the immediate opening of an investigation.

27. He states that the corresponding investigation was begun, the result of which was Police Report No. 079 of October 21, 1994, which identified the possible perpetrators, including police officers and civilians, and that his name did not appear on the list. With that document, he adds, judicial proceedings began. According to be petitioner's version of events, one of the accused, "in collusion with the prosecutor" and acting beyond the confines of the police investigation, presented alleged "statements given in the investigation" that were not included in the Police Report and that were "maliciously" concealed by the prosecutor for 24 hours, until the formal criminal charges were filed on October 21, 1994, with the sole purpose of denying the alleged victim his right of defense.

28. Those statements, he reports, accused him of actions he did not commit and were made in reprisal for his denouncing the sale of passports to criminal gangs. He states that this succeeded in removing the other accused from the focus of the press scandal, since from that time forward, the media portrayed him as the boss of the mafia.

29. The petitioner states that based on those accusations, the prosecutor included him in the criminal complaint and sought his arrest, without previously summoning him to offer a defense against the charges leveled at him. The judge began the committal proceedings and ordered his arrest; thus, he was detained for a period of eight months until the Fifth Criminal Chamber, in a ruling of June 22, 1995, granted him release on bail on the grounds that the evidence indicated that the charges on which the arrest warrant was based no longer existed.[FN1] The petitioner claims that his arrest and detention was unnecessary, abusive, unfair, and motivated by an assumption of guilt instead of innocence.

[FN1] Textually, the grounds for the bail order were: "the existence of contradictions regarding the charges that he made against the appellant in his statement given to the investigation (…) the accused Cárdenas Hurtado states that it was Commander Zegarra Marín who personally handed the 525 passports over to him, but that claim has been disproved with the discovery that he received the batch of passports in question from Víctor Salcedo Silva, a civilian employee at the Subdirectorate of Immigration Control under the authority of Commander Julio Lozada Castro (...) The Expert Handwriting Report prepared by the Criminalistics Laboratory of the National Police of Peru (…) indicates that passport number zero forty-one fifty-nine eighteen, issued in the name of Daniel Enrique Vega Acha, bears the forged signature of the accused Zegarra Marín (…) and consequently, the charges that gave rise to the arrest warrant no longer exist."

---

30. The petitioner states that – paradoxically, given his release on bail – on November 8, 1996, the Fifth Criminal Chamber sentenced him to a four-year suspended prison term for crimes against public documents and against the administration of justice and for the corruption of public officials. He claims that the sole basis for this conviction was the accusation made by one

of his fellow defendants, which was supported by no additional proof and failed to take into account the numerous statements and other evidence indicating his innocence. The petitioner notes that the judgment inverted the burden of proof and that one of the grounds for his conviction was that he had not totally established his innocence; this was stated in the following terms:

more so, since it has not been fully shown that Zegarra Marín was not aware of those events, in that no evidence has arisen indicating his total innocence of the crimes with which he is charged, since the expert evidence and organizational chart only served for his pre-trial release on bail.[FN2]

[FN2] Annex 10 of the initial petition, received on May 16, 2000.

---

31. The petitioner reports that he challenged his conviction through an appeal for annulment, which the Supreme Criminal Chamber resolved on December 17, 1997, by upholding the conviction. On September 14, 1998, he filed an appeal for review with the President of the Supreme Court of Justice, which was dismissed as inadmissible on August 24, 1999. The petitioner states he was notified of that decision on November 5, 1999.

32. He points out that the appeal was ruled inadmissible on formal grounds, and that the decision was based on an opinion by two Supreme Court justices that clearly stated that while the remedy was not formally admissible, both his arrest and conviction were arbitrary in that they violated the most basic principles of due process as well as constitutional and legal human rights provisions. The petitioner textually cites the following sections of that opinion:

Having examined the JUDGMENT questioned by the appellant, we see that effectively not all the evidence in the case file was assessed, particularly that identified in annex 9 of this opinion which is favorable to the appellant's position (…).

The judgment is essentially based on the accusation of the other defendants, and there is no other evidence to corroborate those accusations (…).

It is argued in the judgment establishing the guilt of ZEGARRA MARÍN (THIRTEENTH "WHEREAS") that he did not provide evidence to prove his innocence in full, thus violating due process in that sufficient grounds for that judgment do not exist: grounds that require the analysis and appraisal of all the evidence in the case, as provided by Article 139.5 of the Constitution and Article 285 of the Code of Criminal Procedure (…).

In addition, because of the violation and inversion of the principle of presumption of innocence, which as a fundamental right of all individuals is enshrined in Article 2.24.e of our Constitution (…).[FN3]

[FN3] Annex 10 of the initial petition, received on May 16, 2000.

---

33. He claims that as a result of his unfair inclusion in the judicial proceedings, based on the accusations of a criminal, both the written and broadcast media attacked him "cruelly and heartlessly, as if he were a lawbreaker of the worst kind" and that he was "treated inhumanly during his journeys to and from the court."

34. The petitioner claims that the press coverage of the incident practically forced the Government to retire him from the National Police, and that his removal from service took place not on disciplinary grounds but because of a process of "staff renewal," without justification and without first summoning or hearing from him, but thanking him for his services to the Nation. In the petitioner's view, this deprived him of the "most basic right of defense."

35. With regard to the State's claim that he did not exhaust the available domestic remedies in pursuit of his reinstatement, the petitioner responds that he did exhaust both the administrative and judicial resources available and received unfavorable decisions.

36. The annexes submitted by the petitioner indicate that on March 20, 1996, he lodged an administrative appeal for reconsideration with the PNP, which was dismissed on January 8, 1997, on the grounds that it was presented after the filing deadline. The text of that resolution indicates that the appellant became aware of his new situation with respect to the police months before the date on which he claimed notice was served. That claim was based on the Law of General Standards of Administrative Procedures, a report by the General Legal Advice Office of the Interior Ministry, an opinion from the Legal Service of the General Directorate of the National Police, a statement by the Personnel Director of the National Police of Peru, and the opinion of the Director General of the National Police.[FN4]

[FN4] Annex to the initial petition, received on May 16, 2000. Supreme Resolution No. 003-97-IN/PNP.

---

37. The information presented by the petitioner also indicates that on April 3, 1997, he lodged an administrative appeal for annulment with the Specialized Civil Chamber of the Supreme Court of the Republic, arguing that he was notified of the resolution whereby he was retired from service on March 11, 1996, and at that time he was apprised of its contents. In that filing the petitioner stated that, "it would be illogical for me to present, or to have presented, a challenge to an administrative decision that was not in my power and whose contents and arguments I therefore did not know, since that only took place on March 11, 1996, and not before, and in response to the request I had made."[FN5] That appeal was also dismissed as inadmissible, on the grounds that the petitioner's reconsideration remedy had in fact been presented after the filing deadline.[FN6]

[FN5] Annex to the initial petition, received on May 16, 2000. Document filing for an administrative annulment remedy, lodged with the Specialized Civil Chamber of the Supreme Court of the Republic.
[FN6] Annex to petitioner's submission, received on August 21, 2003. Judgment of January 26, 2000, by the Civil Chamber of the Supreme Court of the Republic.
---

38. He adds that his forced retirement took place after 20 years' service, when he had a brilliant record that promised a bright future in the National Police, and that it caused grave and irreparable harm to his personal, family, and professional life since, by now, he would have the rank of General.

39. Regarding the State's argument that if his legal situation had been taken into account then he would have been retired on disciplinary grounds, he notes that the regulations cited by the State indicate the way in which such steps are to be taken: that is, following a ruling by the Investigations Board and after summoning him to appear and be heard. He states that an analysis of the evidence would also be required, and that no such analysis was performed. In any event, he claims, the State's argument is irrelevant since he was retired in 1994 and the conviction was handed down in 1997.

40. Regarding the Peruvian State's claim that his forced retirement followed a procedure established by the Organic National Police Law, the petitioner maintains that those regulations cannot be placed above the Constitution. He holds that forced retirement, whether on renewal grounds or for any other reason, must be based on administrative proceedings in which the right of defense is guaranteed.

41. In a more recent communication, the petitioner reported that on April 4, 2007, at a public ceremony held at the Officers Academy, the Minister of the Interior, representing the Peruvian State, apologized to him and vindicated him by recognizing that his forced retirement had been wrong. He explains that his ceremony took place as a result of Law 28805. In any event, he notes, the order for his reinstatement did not have the desired effect, because he had passed the age limit of 56 years for holding the rank of Commander in the PNP.

42. He also reports that on December 13, 2000, he made a criminal accusation for the crime of perverting the course of justice against the three judges who had convicted him. That complaint, he says, was dismissed. He claims that one of the judges named in his accusation sent him a threatening note, asking for a payment of US$100,000 for having filed the complaint against him.

B. State

43. The State describes a series of domestic proceedings similar to the narrative given by the petitioner.

44. Peru maintains that an analysis of the circumstances that led to the petitioner's criminal prosecution, his imprisonment, and his subsequent release indicates that those events obeyed

jurisdictional procedures against which, at the time, appeals were made at the highest level. The State further maintains that during the petitioner's entire prosecution for crimes against public documents, the rights enshrined in Articles 8 and 25 of the American Convention were upheld.

45. The State holds that the right of all individuals to due process and a fair trial must provide all trial participants with the opportunity for the timely and correct exercise of their rights. It maintains that in proceedings characterized by due process and that respected the principles of legality, equality, and judicial guarantees, the petitioner was given the opportunity to establish his legal situation, which was determined by the judiciary in accordance with the criminal procedure provisions then in force, with the Constitution, and with the international human rights instruments to which Peru is a party.

46. In the State's opinion, Mr. Zegarra Marín's conviction was handed down in regular proceedings after defeating the presumption of innocence, which is a procedural guarantee that requires judges, prosecutors, and all other parties to hold the accused innocent at all stages of the investigation and trial until such time as he is convicted by a final judgment.

47. The State notes that Article 159 of the Constitution stipulates the powers of the Public Prosecution Service, which include "bringing, on an ex officio basis or at the request of a third party, judicial action to defend the legal order and the public interests that the law protects." Those powers, says the State, also include "ensuring the independence of jurisdictional agencies and the correct administration of justice" and "conducting, from the onset, investigations of crimes. With that aim, the National Police is obliged to abide by the instructions of the Public Prosecution Service within the scope of its duties."

48. Consequently, the State maintains, the fact that the petitioner was included in the investigation even though he was not named in the police report does not imply a violation of his rights, since the report of the investigations carried out by the National Police serves merely as a reference and does not constitute full evidence against the persons subject to investigation.

49. The State also argues that the fact that the petitioner was granted pre-trial release on bail cannot be taken as proof of his innocence, since the bail order was given because the three elements required by Article 135 of the Code of Criminal Procedure were not present, and not as a direct consequence of his lack of guilt.

50. Regarding the petitioner's forced retirement, the State said that it took place in accordance with a procedure governed by the internal laws of the National Police – in particular, Article 32 of the Organic National Police Law – for the purpose of renewing the PNP's staff. It notes that if his legal situation had been taken into account at that time, then he would have been retired on disciplinary grounds.

51. The State points out that the petitioner does not refer to any legal action he took through administrative channels in pursuit of his reinstatement into active police service. In that regard, it argues that for his reinstatement, he should first have exhausted the available administrative procedures against the National Police of Peru, in accordance with Article 46.1.a of the American Convention.

52. In its most recent submission, the State reports that on July 10, 2007, the petitioner's length of service was recalculated at 36 years, 10 months, and 7 days as of February 7, 2007.

53. The State explains that the evaluation and positive assessment without reinstatement made by the Interior Ministry's Special Commission, the special ceremony of apology and vindication, the recalculation of his length of service, and the granting to the petitioner of a renewable retirement pension were made under Law 28805, which authorizes the reinstatement of officers, technicians, and noncommissioned members of the Peruvian Armed Forces and National Police. The State emphasizes that Mr. Zegarra Marín was not reinstated because he had exceeded the age limit.

IV. ANALYSIS OF ADMISSIBILITY

A. Competence

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

54. The petitioner is entitled, under Article 44 of the Convention, to submit complaints on his own behalf. The alleged victim in the case was under the jurisdiction of the Peruvian State at the time of the alleged incidents. In addition, the State of Peru ratified the American Convention on July 28, 1978. Consequently, the Commission has competence ratione personae to examine the petition.

55. The Commission has competence ratione loci to deal with the petition since it alleges violations of rights protected by the American Convention occurring within the territory of a State Party thereto.

56. In addition, the Commission has competence ratione temporis since the general obligation of respecting and ensuring the rights protected by the American Convention was already in force for the State on the date on which the incidents described in the petition allegedly occurred.

57. Finally, the Commission has competence ratione materiae, since the petition describes alleged violations of human rights that are protected by the American Convention.

B. Exhaustion of Domestic Remedies

58. Article 46.1.a of the American Convention states that for a complaint lodged with the Inter-American Commission in compliance with Article 44 of the Convention to be admissible, the remedies available under domestic law must have first been pursued and exhausted in accordance with generally recognized principles of international law. That requirement is intended to facilitate the domestic authorities' examination of the alleged violation of a protected right and, if appropriate, to enable them to resolve it before it is brought before an international venue.

59. The Peruvian State claims that the petitioner did not exhaust the available domestic remedies, in that he did not request his reinstatement in the PNP following his forced retirement. In turn, the petitioner claims he filed appeals against his conviction and against the resolution whereby he was retired from duty. The petitioner further reports that he later filed charges for the crime of perverting the course of justice against the judges who convicted him.

60. As the Commission sees it, the petitioner describes three different incidents that, in his opinion, constituted violations of his rights: (i) his arrest for more than eight months during his criminal trial; (ii) the decision to retire him on staff renewal grounds; and (iii) the inversion of the burden of proof regarding his guilt and his ensuing conviction.

61. Regarding the first of these points, the information available indicates that when the petition was presented, Mr. Zegarra Marín was no longer in prison, since an order was adopted during the proceedings declaring his preventive custody inadmissible. Thus, that aspect of the petition was resolved by the State through domestic channels. In such circumstances, the petitioner's claims would be limited to seeking redress for that circumstance, but no information appears regarding remedies pursued toward that end. Consequently, it declares that element of the petition inadmissible.

62. As regards the second point, the Commission notes that the alleged victim challenged the PNP resolution whereby he was forcibly retired through both administrative and judicial channels. The annexes to the case file indicate that both appeals were ruled inadmissible because the petitioner had lodged the reconsideration remedy after the filing deadline had passed, which prevented him from securing a judgment on the merits of the matter in accordance with applicable law. The petitioner claims that the delay in filing was because he was unaware of the resolution; however, the proceedings saw several items of evidence that led to the conclusion that Mr. Zegarra Marín had been apprised of the resolution. The Commission has no evidence to justify disputing that conclusion, nor did the petitioner submit further arguments in that regard. The Commission therefore considers that as regards this point, the petitioner exhausted the available domestic remedies incorrectly.

63. With regard to the third point, the Commission notes that the petitioner pursued the ordinary and special remedies available to him. Thus, the documents presented by the petitioner indicate that he lodged an appeal for annulment against his conviction. That appeal was dismissed by the Supreme Criminal Chamber on December 17, 1997, on the grounds that the guilt of the alleged victim had been established. The case file also indicated that on September 14, 1998, the petitioner lodged a special review appeal, alleging violations of due process and of the principle of presumption of innocence. That remedy was resolved unfavorably for him by the Supreme Court of Justice on August 24, 1999, which ruled it not to be covered by the grounds expressly provided for in law for its admissibility. The State has submitted no information about any other possible remedies available to the petitioner for challenging the alleged violations.

64. In consideration whereof, the Commission believes that as regards the alleged violations of due process, the petitioner did exhaust the domestic remedies in compliance with the requirement imposed by Article 46.1.a of the American Convention. In the following paragraphs,

the IACHR will restrict its analysis of the other admissibility requirements to that aspect of the petition.

C. Filing Period

65. Article 46.1.b of the Convention states that for a petition to be admissible, it must be lodged within a period of six months following the date on which the complainant was notified of the final judgment at the national level.

66. As indicated in paragraph 64 above, the domestic remedies were exhausted with the decision of the Supreme Court of Justice of August 24, 1999, of which notice was served on November 5 of that year.[FN7] The petition is dated February 8, 2000, and it was received by the IACHR on May 16, 2000. Although it is uncertain on what date it was sent, the Commission believes that it is reasonable to assume some delay between its deposit in the postal system and its delivery, and it therefore concludes that eleven days is a reasonable delay for the lodging of the petition. The Commission, citing the Inter-American Court, has on different occasions stated the generally accepted principle that the procedural system is a means of attaining justice, and that justice cannot be sacrificed for the sake of mere formalities.[FN8] It should be noted that the Peruvian State did not dispute this point. The Commission therefore believes that the requirement contained in Article 46.1.b has been met.

[FN7] Annex 8 of the initial petition, received on May 16, 2000. The Peruvian State does not dispute the date of notification.

[FN8] IACHR, Report 44/01, Emilio Moisés and Rafael Samuel Gómez Paquiyauri (Peru), March 5, 2001, paragraph 27; IACHR, Report 39/06, Carlos Rafael Alfonzo Martínez (Venezuela), March 15, 2006, paragraph 28. Citing: I/A Court H.R., Cayara Case. Preliminary Objections. Judgment of February 3, 1993, paragraph 42.

D. Duplication of Proceedings and Res Judicata

67. Article 46.1.c provides that the admissibility of petitions lodged with the Commission is subject to the requirement that the matter "is not pending in another international proceeding for settlement," and Article 47.d of the Convention provides that the Commission shall not admit a petition that is "substantially the same as one previously studied by the Commission or by another international organization." In the case at hand, the parties have not claimed that either of those reasons for inadmissibility are applicable, nor can they be deduced from the case file.

E. Characterization of the Alleged Facts

68. For admissibility purposes, the Commission must decide whether the petition states facts that could tend to establish a violation, as required by Article 47.b of the American Convention, and whether the petition is "manifestly groundless" or "obviously out of order," as stated in Article 47.c. The level of conviction regarding those standards is different from that which applies in deciding on the merits of a complaint. The Commission must conduct a prima facie

assessment to examine whether the complaint entails an apparent or potential violation of a right protected by the Convention and not to establish the existence of such a violation. That examination is a summary analysis that does not imply prejudging the merits or offering an advance opinion on them.

69. The Commission considers that facts reported by the petitioner regarding the alleged inversion of the burden of proof during his criminal trial, together with his conviction on the grounds that he did not fully establish his innocence, could tend to establish a violation of the rights enshrined in Articles 8 and 25 of the American Convention, in conjunction with the obligations contained in Article 1.1 thereof.

70. The Commission also holds that the petitioner did not submit sufficient evidence to give a prima facie indication of violations of Articles 5, 9, 10, 11, and 24 of the American Convention.

V. CONCLUSIONS

71. Based on the foregoing considerations of fact and law, and without prejudging the merits of the case, the Inter-American Commission concludes that this case satisfies the admissibility requirements set out in Articles 46 and 47 of the American Convention and, consequently,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare this petition admissible, as regards the rights protected by Articles 8 and 25 of the American Convention, in conjunction with the obligations contained in Article 1.1 thereof.
2. To declare this petition inadmissible as regards the rights protected by Articles 5, 7, 9, 10, 11, and 24 of the American Convention.
3. To give notice of this decision to the State and to the petitioner.
4. To begin its processing of the merits of the case.
5. To publish this decision and to include it in its Annual Report, to be submitted to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on March 19, 2009. (Signed): Luz Patricia Mejía Guerrero, President; Víctor E. Abramovich, First Vice-president; Felipe González, Second Vice-president; Sir Clare K. Roberts, Paulo Sérgio Pinheiro, Florentín Meléndez, and Paolo Carozza, members of the Commission.