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File Number(s): Report No. 69/09; Petition 1385-06  
Session: Hundred Thirty-Fifth Regular Session (3 – 8 August 2009)  
Title/Style of Cause: Ruben Dario Arroyave Gallego v. Colombia  
Doc. Type: Decision  
Decided by: President: Luz Patricia Mejia Guerrero;  
First Vice President: Victor Abramovich;  
Second Vice President: Felipe Gonzalez;  
Commissioners: Sir Clare K. Roberts, Paulo Sergio Pinheiro, Florentin Melendez, Paolo Carozza.  
Dated: 5 August 2009  
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Represented by: APPLICANTS: Jose Luis Viveros Abisambra and Luis Felipe Viveros Montoya  
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## I. SUMMARY

1. On December 12, 2006, the Inter-American Commission on Human Rights (hereafter “the Commission”) received a petition lodged by José Luis Viveros Abisambra and Luis Felipe Viveros Montoya (hereafter “the petitioners”) alleging the responsibility of the Republic of Colombia (hereafter “the State,” “the Colombian State,” or “Colombia”) for the lack of judicial clarification of the facts surrounding the kidnapping of Rubén Darío Arroyave by members of an illegal armed group from the municipal jail in El Bagre, Department of Antioquia, on September 17, 1995, and his subsequent death.

2. The petitioners allege that the State was responsible for the violation of the right to life, the right to a fair trial, and the right to judicial protection established in Articles 4, 8, and 25 of the American Convention on Human Rights (hereafter the “Convention” or the “American Convention”), in connection with the obligation to respect human rights established in Article 1(1) of said treaty. In the course of processing of the petition, allegations were added concerning the violation of the right to equal protection set forth in Article 24 of the American Convention, in connection with the duty to adopt domestic legal provisions, stipulated in Article 2 of said treaty. For its part, the State alleged that the petitioners’ claims were inadmissible because of failure to comply with the requirement for prior exhaustion of domestic remedies, established in Article 46(1)(a) of the American Convention, as well as the lack of characterization of facts that had allegedly violated the American Convention. According to the petitioners, the requirement for exhaustion of domestic remedies was satisfied in accordance with Article 46(1)(a) of the American Convention.

3. After analyzing the parties' positions and compliance with the requirements established in Articles 46 and 47 of the American Convention, the Commission decided to declare the petition admissible in order to examine the alleged violation of Articles 2, 4(1), 8, and 25 in connection with Article 1(1) of the American Convention, to notify the parties of the report, to publish it, and to include it in its Annual Report to the OAS General Assembly.

## II. PROCESSING BY THE COMMISSION

4. The IACHR registered the petition as number P1385-06 and after making a preliminary analysis, forwarded a copy of the relevant parts to the State on April 17, 2008, giving it two months to present information as provided in Article 30(2) of the Rules of Procedure. In reply, the State requested an extension of 30 days for submitting observations, which the IACHR granted. The State submitted its observations on July 25, 2008, which were forwarded to the petitioners for their observations. The IACHR received the petitioners' observations on January 22, 2009, which were transmitted to the State for observations within one month. In reply, the State requested an extension of 30 days for submitting its observations, which the IACHR granted. On April 7, 2009, the State submitted its final observations.

## III. POSITIONS OF THE PARTIES

### A. Position of the petitioners

5. The petitioners indicate that Rubén Darío Arroyave had a mental disability and was confined in the municipal jail in El Bagre, Department of Antioquia. They indicate that Rubén Darío Arroyave repeatedly requested transfer to another confinement facility because he feared for his life, but prison officials did not process his requests. They allege that on September 17, 1995, armed men, presumably members of an illegal armed group, entered the jail and took Rubén Darío Arroyave, without any action by the authorities to prevent it. They state that on September 20, 1995, Rubén Darío Arroyave's body was found in the neighboring municipality of Zaragoza, Department of Antioquia.

6. The petitioners indicate that a preliminary investigation of homicide was opened at the local prosecutor's office in the municipality of Zaragoza, Department of Antioquia, with case number 711. They state that the alleged victim's mother had requested access to the criminal case file, but her request was denied on the grounds that the investigation was in the confidential phase. The petitioners indicate that at the time it was not possible to become a civil party to the case because the Penal Code in force when the facts took place (Article 45) established that there could be no civil party to a case until after the indictment and before a second instance or sole instance verdict is rendered.

7. The petitioners claim that the investigation was suspended and provisionally archived. They allege that this demonstrates the investigation's ineffectiveness for clarification of the facts and identification and punishment of those responsible for the death of Rubén Darío Arroyave.

8. With respect to the administrative litigation proceeding, the petitioners claim that on September 11, 1997, Rubén Darío Arroyave's next of kin filed a claim for direct compensation against the Instituto Nacional Penitenciario y Carcelario [National Penitentiary and Jail Institute] (INPEC) and the municipality of El Bagre, Department of Antioquia. They state that in a ruling of June 2, 2005, the Antioquia Administrative Tribunal declared it could not rule on the merits and declared admissible the exception of "act of a third party" because "[...] persons other than the jail staff were the ones who violently broke into the jail to seize him and later to kill him." [FN1] They claim that they appealed this judgment, but the appeal was denied in a ruling of September 9, 2005. The petitioners indicate that pursuant to Law 954 of 2005 the suit for direct compensation filed by the alleged victim's family was considered by an Administrative Tribunal in a single instance because of the amount of the compensation sought.

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[FN1] The petitioners cite the Antioquia Administrative Tribunal, Fourth Decision Chamber, Judgment of June 2, 2005. Annex to the initial petition received by the IACHR on December 12, 2006.

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9. The petitioners state that they filed motions for reconsideration and complaint (reposición y queja) against the decision that denied the appeal, [FN2] which were also denied. They also say that they filed a suit for protection (tutela) against the judgment of the Fourth Decision Chamber of the Antioquia Administrative Tribunal that denied the direct compensation motion, which was rejected.

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[FN2] The petitioners say that the ruling on the complaint motion was handed down on June 13, 2006. Annex to the initial petition received by the IACHR on December 12, 2006.

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10. Firstly, the petitioners allege that the State is responsible for the violation of the right to life, protected in Article 4 of the American Convention in connection with Article 1(1) of the same treaty, to the detriment of Rubén Darío Arroyave. To support this, they state that Rubén Darío Arroyave was in the custody of the State and it was a guarantor for his rights. [FN3]. They also allege that the lack of judicial clarification of the facts presented in the petition violates the rights to a fair trial and judicial protection established in Articles 8 and 25 of the American Convention in connection with the general obligation to ensure respect of the rights set forth in the Convention, guaranteed in its Article 1(1).

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[FN3] The petitioners cite the judgment of the Inter-American Court of Human Rights in the case of Miguel Castro Castro Prison, which stated: "The compliance of Article 4, related to Article 1(1) of the American Convention, not only presupposes that nobody will be arbitrarily deprived of their life (negative obligation), but it also requires that the States adopt all the appropriate measures to protect and preserve the right to life (positive obligation), pursuant to the right to guarantee the full and free exercise of the rights of all the people under its jurisdiction. This active protection of the right to life by the State not only involves its legislators, but the

entire state institution and those that must protect the security, being these either police forces or armed forces.” Inter-American Court, Case of the Miguel Castro-Castro Prison v. Peru, Judgment of November 25, 2006, Series C No. 160, para. 237. Communication from the petitioners received by the IACHR on June 22, 2009.

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11. Secondly, the petitioners allege that the State is responsible for the violation of the right to a fair trial, to equal treatment, and to judicial protection protected in Articles 8, 24, and 25 in connection with Articles 1(1) and 2 of the American Convention. The petitioners argue the alleged violation in which a temporary law (Law 954 of 2005) provided that some administrative litigation proceedings would be of single instance by virtue of their amount, as was the case of the suit for direct compensation filed by Rubén Darío Arroyave’s family, which “placed a disproportionate burden on citizens in connection with the State’s purpose to relieve the judicial backlog.”[FN4]

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[FN4] Communication from the petitioners received by the IACHR on June 22, 2009.

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12. With respect to compliance with the requirement for prior exhaustion of domestic remedies, set forth in Article 46(1)(a) of the American Convention, the petitioners first said that the exception stipulated in Article 46(2)(c) would apply because many years after the death of Rubén Darío Arroyave the criminal investigation was suspended and provisionally archived, while still in the preliminary investigation phase, without the responsible parties having been identified or punished. Later, the petitioners argued that the suspension and archiving of the criminal investigation constituted exhaustion of ordinary criminal jurisdiction and that in the case of the administrative litigation jurisdiction; the process was exhausted with the ruling that rejected the complaint appeal on May 25, 2006, of which the petitioners were notified on June 13, 2006.[FN5]

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[FN5] Communication from the petitioners received by the IACHR on June 22, 2009. The petitioners referred to the IACHR jurisprudence that disciplinary or contentious administrative proceedings “do not constitute adequate mechanisms, in and of themselves, to address human rights violations of the sort denounced here or to satisfy the obligation to clarify judicially what happened.” The petitioners cite IACHR, Report on Admissibility No. 55/04, María del Consuelo Ibarguen Rengifo et al., Colombia, October 13, 2005, para. 27.

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13. Regarding the State’s arguments on application of the fourth instance formula (see *infra* Position of the State), the petitioners argue that one essential prerequisite for its applicability is that there has been an effective legal remedy and no violations of due process, so the formula is not applicable in this case because the remedies were ineffective.

B. Position of the State

14. The State alleges that the facts claimed in the petition submitted to the Commission, i.e., the kidnapping of Rubén Darío Arroyave from a jail and his subsequent death, are attributable to third parties and not to agents of the State. It states that the petition does not present any evidence of alleged death threats for Rubén Darío Arroyave, or any requests for transfer or special protection supposedly made by him.

15. As for the preliminary investigation launched by the local prosecutor's office in the municipality of Zaragoza – case number 711 – for the homicide of Rubén Darío Arroyave, the State says that the investigation was effectively carried out and that although the process has been suspended and provisionally archived, without identification of the responsible parties, “[...] the injured parties still have recourse to criminal proceedings if new evidence is found to warrant reopening of the investigations.”[FN6] The State clarifies that the archiving and provisional suspension of the investigation does not preclude subsequent reopening of the case based on evidence from any source, provided it is legal evidence.

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[FN6] Communication with the State's observations DDH.GOI/37268/1826 of July 21, 2008, para. 4.c.iii.

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16. With respect to the petitioners' allegation of the impossibility of becoming a civil party in the preliminary investigation phase of the criminal proceeding, the State alleges that “although the petitioners explain that there was generally a legal framework that in their view ignored the Convention's guarantees, in terms of the procedural opportunity for becoming a civil party they do not show the prior exhaustion of this domestic remedy in the criminal investigation [...]”[FN7] The State indicates that through a criminal complaint the victims and their next of kin can take an active part in the preliminary investigation. It says that, as the Constitutional Court has established, “the complainant or plaintiff (who is presumably one with a direct interest in clarification of the facts) may provide the evidence deemed appropriate [...], request revocation of the inhibitory resolution (328), appeal it to the respective supervisor, and in this case appoint a lawyer to represent him or her and be informed of the investigative steps carried out.”[FN8] It claims that in the present case the petitioners have not demonstrated their intent to participate in the investigations of the prosecutor's office.

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[FN7] Communication with the State's observations DDH.GOI No. 17887/0880 of April 6, 2009, para. 3.

[FN8] The State is referring to Constitutional Court Judgment C-293 of 1995. Communication with the State's observations DDH.GOI No. 17887/0880 of April 6, 2009, para. 12.

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17. Concerning the administrative litigation proceeding, the State says the petitioners' allegations on the ineffectiveness of remedies applied in said jurisdiction ignore that its purpose is to supplement the proceedings underway in the criminal jurisdiction. It further says that the proceeding for direct compensation was carried out with “the celerity and prudence commensurate with the administration of justice, with full respect for due process

guarantees.”[FN9] In that regard, concerning the alleged violation of Article 8 of the Convention in connection with Articles 24 and 2 of the same treaty, the State says that the alleged violation of the guarantee of two instances with the promulgation and approval of Law 954 of 2005, was challenged as unconstitutional but the action was decided by the Constitutional Court when it ruled that “the exceptional nature of the exclusion of double instance in these case is due purely and simply to the temporary nature of the provision.”[FN10]

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[FN9] Communication with the State’s observations DDH.GOI No. 17887/0880 of April 6, 2009, para. 29.

[FN10] The State is referring to Judgment C-509 of July 6, 2006. See also Constitutional Court Judgment C-046 of February 1, 2006. Communication with the State’s observations DDH.GOI No. 17887/0880 of April 6, 2009, paras. 31 and 34.

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18. In its final observations the State requests that the petition be found inadmissible because the facts do not tend to establish violations of the American Convention and a finding by the Commission concerning the alleged violations of Articles 8 and 25 would be a fourth instance.

#### IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

##### A. Competence

19. The petitioners are eligible in principle under Article 44 of the American Convention to submit petitions to the Commission. The petition indicates that the alleged victim is person, for whom the Colombian State has undertaken to respect and guarantee the rights established in the American Convention. As for the State, the Commission notes that Colombia has been a State Party to the American Convention since July 31, 1973, the date on which it deposited its instrument of ratification. The Commission therefore has *ratione personae* competence to examine the petition.

20. The Commission has *ratione loci* competence to examine the petition, because it alleges violations of rights protected in the American Convention that allegedly occurred in the territory of Colombia, a State Party to that treaty. The Commission has *ratione temporis* competence because the obligation to respect and guarantee the rights protected in the American Convention was in force for the State when the facts alleged in the petition were said to have occurred. Finally, the Commission has *ratione materiae* competence because the petition alleges violations of rights protected by the American Convention.

##### B. Requirements for admissibility

###### 1. Exhaustion of domestic remedies

21. Article 46(1)(a) of the American Convention stipulates as a requirement for admission of a petition alleging violations of the Convention that remedies under domestic law have been exhausted in accordance with generally recognized principles of international law.

22. Article 46(2) of the Convention provides that the requirement for 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

According to the Inter-American Court, whenever a State alleges a failure to exhaust domestic remedies, it must demonstrate that there are remedies that remain to be exhausted and that they are “adequate,” which means that the function of those remedies within the legal system is suitable to address an infringement of a legal right.[FN11]

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[FN11] Article 31(3) of the IACHR’s Rules of Procedure. See also I/A Court H.R. Velasquez Rodriguez Case, Judgment of July 29, 1988, paragraph 64.

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23. In the instant case the State alleges that the petition does not satisfy the requirement for prior exhaustion of domestic remedies set forth in Article 46(1)(a) of the American Convention because the national Attorney General’s Office took the necessary steps to investigate and identify those responsible for the facts denounced in the petition, although to date the results have been negative. It states that the lack of results is due to the complexity of the case, because the acts were carried out by illegal armed groups and these groups’ modus operandi is to destroy evidence and generate confusion about the material and intellectual authors of the crime.[FN12] The State holds that the simple passage of time does not justify the application of the exception established in Article 46(2)(c). As regards the administrative litigation proceeding, the State says that it was conducted and rapidly concluded, although the result was not what the petitioners sought.

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[FN12] Communication with the State’s observations DDH.GOI/37268/1826 of July 21, 2008, paras. 26-28.

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24. For their part, the petitioners first alleged that the exception to prior exhaustion of domestic remedies stipulated in Article 46(2)(c) would apply because there had been a confirmed delay in the criminal investigation begun at the national level. Later, the petitioners allege that domestic remedies were exhausted on June 13, 2006, with the notification of the rejection of the complaint appeal in the administrative litigation jurisdiction.[FN13]

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[FN13] Petitioners’ communication received by the IACHR on June 22, 2009.

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25. In view of the parties' positions, it is first necessary to clarify which domestic remedies must be exhausted in a case like this, in the light of the jurisprudence of the Inter-American system. Precedents established by the Commission recognize that in crimes of public action the State has an obligation to set the criminal law system into motion and to process the matter until the end[FN14] and that in these cases this is the appropriate means for clarification of the facts, trial of the responsible parties, sentencing them accordingly, and facilitating other forms of monetary reparations. The Commission notes that the facts presented by the petitioners with respect to the kidnapping of Rubén Darío Arroyave from a jail and his subsequent death are classified by domestic legislation as ipso facto criminal offenses that the State itself must investigate and prosecute.

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[FN14] IACHR, Report N° 52/97, Case 11.218, Arges Sequeira Mangas, Annual Report of the IACHR 1997, paras. 96 and 97. See also Report N° 55/97, Case 11.137, Abella et al., para. 392.

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26. The Commission observes that more than 13 years after the occurrence of the facts presented in the petition the criminal investigation remains suspended and provisionally archived, and no person has been found criminally responsible. In this regard, the Commission notes that as a general rule a criminal investigation must be carried out promptly to protect the victims' rights, preserve the evidence, and also to protect the rights of every suspect in the context of the investigation. As the Inter-American Court has stated, although every criminal investigation must comply with a series of legal requirements, the rule of prior exhaustion must never lead to a halt or delay that would render international action in support of the defenseless victim ineffective.[FN15] In the present case, the State has had ample opportunity to investigate and respond to the alleged facts and since the criminal investigation was suspended and provisionally archived it has not reported any efforts made to clarify the facts or the corresponding responsibility.

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[FN15] I/A Court H.R., Velásquez-Rodríguez Case. Preliminary Objections. Judgment of June 26, 1987, para. 93.

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27. Therefore, given the characteristics of the instant case, the length of time since the facts presented in the petition and that the criminal investigation remains provisionally archived, the Commission considers the exception provided in Article 46(2)(c) of the American Convention concerning unwarranted delay in rendering a final judgment in domestic proceedings applies, so the requirement for exhaustion of domestic remedies is waived.

28. The invocation of exceptions to the rule of exhaustion of domestic remedies prescribed in Article 46(2) of the Convention is intimately linked to the finding of possible violations of certain rights established in that instrument, such as the guarantees to a fair trial. However, by its nature and purpose Article 46(2) is an autonomous provision vis á vis the substantive clauses of

the Convention. Therefore, the determination of whether the exceptions to the rule for exhaustion of domestic remedies apply in this case must be made previously and independently from the analysis of the merits of the case, because it requires a different standard of appraisal than that used to determine the possible violation of Articles 8 and 25 of the Convention. It should be noted that the causes and effects that prevented the exhaustion of domestic remedies will be analyzed in the Commission's report on the merits of the case, to determine whether they constitute violations of the American Convention.

29. Concerning the petitioners' argument on the exhaustion of domestic remedies based on their claim for compensation through the administrative litigation jurisdiction, it should be noted that that approach is only for compensation for damages caused by the action or omission of State agents. Therefore, in principle, it is unnecessary to exhaust this sort of remedy in connection with the petition regarding the alleged responsibility of the State for the kidnapping and death of Rubén Darío Arroyave,[FN16] and for the alleged denial of justice.

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[FN16] IACHR, Report No. 55/04, María del Consuelo Ibarguen Rengifo et al., Colombia, October 13, 2005, para. 27.

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30. As for the alleged violation of Articles 1, 2, 8, 24, and 25 of the American Convention by application of Law 954 of 2005 on easing the case backlog in the administrative litigation system, the petitioners argue that they exhausted all remedies of reconsideration, complaint,[FN17] and protection against the judgment of the Fourth Decision Chamber of the Antioquia Administrative Tribunal that denied the claim for direct compensation.[FN18] For its part, the State claims the Constitutional Court ruling upheld the constitutionality of Law 954 of 2005.[FN19] The Commission considers that all domestic remedies for the matter in the present claim were exhausted with the Constitutional Court's decision of July 6, 2006 upholding the constitutionality of the single instance based on the amount of the claim in the administrative litigation proceedings in application of Law 954 of 2005.

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[FN17] The petitioners say they were notified of the ruling on the complaint motion on June 13, 2006. Annex to the initial petition received by the IACHR on December 12, 2006.

[FN18] Administrative Litigation Chamber of the Council of State, Fourth Section, Judgment on Protection (tutela) of March 9, 2006. Annex to the initial petition received by the IACHR on December 12, 2006.

[FN19] Judgment of the Constitutional Court C-509 of July 6, 2006. See also Judgment of the Constitutional Court C-046 of February 1, 2006. Communication with observations from the State DDH.GOI No. 17887/0880 of April 6, 2009, paras. 31 and 34.

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## 2. Filing period

31. The American Convention stipulates that 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 his rights

was notified of the final judgment. In the petition under analysis, the IACHR has recognized applicability of the exceptions to the exhaustion of domestic remedies pursuant to Article 46(2)(c) of the American Convention. On this matter, Article 32 of the Commission's Rules of Procedure provides that in those cases in which the exceptions to the requirement of prior exhaustion of domestic remedies are applicable, the petition shall be presented within a reasonable period of time, as determined by the Commission. For this purpose, the Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.

32. In this case, the petition was received on December 12, 2006, and the facts presented in the case occurred on September 20, 1995. Their effects in terms of the alleged lack of the administration of justice continue to the present time. The Commission also takes into account that the next of kin of the alleged victim filed supplementary motions to protect their rights, which were in process until 2006. Therefore, in view of the context and the characteristics of this case, and the fact that an investigation has still not resulted in a definitive decision, the Commission considers that the petition was lodged within a reasonable period of time and the deadline for the presentation of petitions has been met.

### 3. Duplication of proceedings and *res judicata*

33. There is no indication in the file that the subject of the petition is pending in another international proceeding for settlement or that the petition is substantially the same as one previously examined by the Commission or by another international organization. Therefore, the requirements established in Articles 46(1)(c) and 47(d) of the Convention have been satisfied.

### 4. Characterization of the alleged facts

34. Based on elements of fact and law presented by the parties and the nature of the matter submitted to it, the IACHR considers that the petitioners' allegations on the extent of the alleged responsibility of the State with respect to the lack of juridical clarification of the facts surrounding the kidnapping of Rubén Darío Arroyave from the municipal jail of El Bagre and his subsequent death tend to establish possible violations of the rights to life, a fair trial, and judicial protection, guaranteed in Articles 4(1), 8(1), and 25, all in connection with Article 1(1) of the American Convention.

35. Firstly, regarding the alleged violation of the right to life protected in Article 4(1) of the Convention, in connection with Article 1(1) of the same treaty, the IACHR must analyze the possible extent of the State's responsibility in its role as guarantor of the rights of those deprived of their freedom.[FN20] Both parties concur that the kidnapping and death of Rubén Darío Arroyave was perpetrated by members of an illegal armed group, without participation of State agents or equivalent persons. Secondly, as regards the alleged violation of the right to a fair trial and to judicial protection established in Articles 8(1) and 25 of the American Convention in connection with Article 1(1) of the same treaty, it is necessary to analyze the extent of possible State responsibility for the criminal investigation carried out in the local prosecutor's office, which was suspended and provisionally archived.

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[FN20] Inter-American Court, Case of the “Juvenile Reeducation Institute.” Judgment of September 2, 2004. Series C No. 112, paras 151 and 152. See also Inter-American Court, Case of Baldeón García. Judgment of April 6, 2006. Series C No. 147, paras. 85 and 105.  
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36. With respect to the petitioners’ allegation of violations of Articles 1, 2, 8, 24, and 25 of the American Convention by the application of Law 954 of 2005 (on competence, relieving the backlog, efficiency, and access to the administration of justice) to the direct compensation proceeding they instituted in the administrative litigation jurisdiction, the Commission considers that the allegations warrant an analysis of the merits under the standards of Article 8 of the Convention. Regarding the alleged violation of the rights to equal treatment and judicial protection established in Articles 24 and 25 of the American Convention in connection with Article 1(1) of said treaty, the Commission finds this aspect of the petition not admissible.

## V. CONCLUSIONS

37. The Commission concludes that it is competent to examine the petitioners’ complaints of the alleged violation of Articles 2, 4(1), 8, and 25 in connection with Article 1(1) of the American Convention as regards the alleged kidnapping and death of Rubén Darío Arroyave and its judicial clarification, and that these are admissible under the requirements set forth in Articles 46 and 47 of the American Convention. The Commission also concludes that the complaints of alleged violation of Articles 24 and 25 in connection with Article 1(1) of the American Convention by the application of Law 954 of 2005 (on competence, relieving the backlog, efficiency, and access to the administration of justice) to the petitioners’ direct compensation proceeding are inadmissible.

38. By virtue of 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 present petition admissible as regards Articles 2, 4(1), 8, and 25 in connection with Article 1(1) of the Convention.
2. To notify the Colombian State and the petitioners of this decision.
3. To continue with analysis of the merits of the case.
4. To publish this decision and include it in the Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 5th day of the month of August 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.