REPORT No. 66/10
PETITION 737-01
GUILLERMO ERNESTO YAPIAS CAMAVILCA
ADMISSIBILITY
PERU
June 21, 2010

I. SUMMARY

1. On October 26, 2001, the Inter-American Commission on Human Rights (hereinafter also referred to as "the Inter-American Commission," "the Commission," or "the IACHR") received a petition submitted by Factora Camavilca Marmolejo and Hugo César Izaguirre Maguiña (hereinafter also referred to as "the petitioners"), representing Guillermo Ernesto Yapias Camavilca (hereinafter also referred to as "the alleged victim"), alleging the violation by the Republic of Peru (hereinafter also referred to as "Peru," "the State" or "the Peruvian State") of the rights enshrined in Articles 1.1, 2, 5, 7, 8, 9, 10, 11, 24 and 25 of the American Convention on Human Rights (hereinafter also referred to as "the American Convention," "the Convention" or the "ACHR"). The petitioners asserted that Mr. Yapias Camavilca was arbitrarily arrested in July 1998 and forced to sign reports of arrest and statements by means of threats and torture. It is alleged that, on the basis of evidence presumably taken under conditions contrary to the guarantees of due process, Mr. Yapias Camavilca was sentenced to eight years imprisonment for the crime of terrorism. They indicated that, in October 2002, the alleged victim benefited from a decree of pardon, but that the Peruvian State must still fulfill its obligation to provide redress for material and moral damages to which he was subject.

2. The State sustained that the facts initially alleged by the petitioners have varied substantially after Mr. Guillermo Ernest Yapias Camavilca benefited from a pardon decree of October 2002. It argued that the alleged victim was released and that his criminal records were expunged, and that he was eligible to benefit from a series of social reinsertion measures governed by national interministerial commissions. Finally, the State indicated that the incidents described in the petition do not tend to establish a violation of provisions of the Convention and requested that it be declared inadmissible by virtue of Article 47.c) of the same international instrument.

3. After examining the position of the parties in the light of the requirements for admissibility provided for in Articles 46 and 47 of the Convention, the Commission concluded that it is competent to hear the petition and that it is admissible for the alleged violation of rights enshrined in Articles 5, 7, 9, 10, 8 and 25 of the American Convention, with regard to articles 1.1 and 2 of the same instrument; and in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture. The Commission decided to notify the parties of the present Report of Admissibility, make it public and include it in its Annual Report.

II. PROCEEDINGS WITH THE COMMISSION

4. On October 26, 2001, the petition was received, and it was registered under number P 737-01. On October 28, 2002, the petitioners submitted additional information. On November 30, 2007, this documentation was transferred to the State, granting it a time-limit of two months to submit an answer in accordance with the IACHR Rules of Procedures.

5. On February 11, 2008, the State submitted its reply, which was sent to the petitioners on March 11, 2008. The petitioners submitted additional communications on April 8, 2008 and January 6, 2009, which were sent to the State on October 31, 2008 and January 27, 2009, respectively.

III. POSITION OF THE PARTIES

Preliminary considerations

6. In the proceedings of the present complaint, the petitioners and the State indicated successive criminal proceedings against Mr. Guillermo Ernesto Yapias, carried out in the light of a legislative framework on terrorism adopted in 1992 and in force until January 2003. Before describing the positions of the parties, the IACHR deems it is necessary to refer to the above-mentioned regulatory framework in which the alleged facts would have occurred.

Legislative framework in which the criminal proceedings against the alleged victim were held

7. Decree Law No. 25475, dealing with different forms of the crime of terrorism, was enacted in May 1992. In August of that year, Decree Law No. 25659 was enacted, criminalizing the offense of treason against the fatherland and giving the military justice system competence over the prosecution of that crime. Those decrees, along with decrees Nos. 25708, 25744, 25880, and other complementary provisions, equipped the Peruvian legal system with new exceptional procedures for investigating, examining, and prosecuting individuals accused of terrorism or treason against the fatherland.

8. The decrees that made up what was known as the "antiterrorist legislation" had the stated purpose of reining in the escalation of targeted killings against officers of the judiciary, elected officials, and members of the security forces, as well as of disappearances, bombings, kidnappings and other indiscriminate acts of violence against the civilian population in different regions of Peru, attributed to outlawed insurgent groups.

9. Among other changes, these decrees allowed the holding of suspects incommunicado for specified lengths of time,[1] holding closed hearings, solitary confinement during the first year of prison terms,[2] and summary deadlines for presenting charges and issuing judgments in the case of the crime of treason against the fatherland.[3] In addition, these decrees denied suspects the assistance of a legal representative prior to their first statement to an agent of the Public Prosecution Service[4] and restricted the attorney's participation in the criminal proceedings, disallowed the recusal of judges or other judicial officers,[5] established concealed identities for judges and prosecutors ("faceless courts"),[6] prevented the summoning, as witnesses, of state agents who had participated in preparing the police arrest report.[7]

10. As for their provisions of material law, these decrees allowed for the possibility of applying more than one criminal offense to actions of a similar or identical nature; they did not differentiate between different levels of *mens rea*;[8] and they only indicated minimum prison terms, without setting maximum penalties.[9]

11. On May 12, 1992, the Executive Branch passed Decree-Law 25499, also called the Repentance Law, which regulated the reduction, exemption, remission or mitigation of imprisonment sentences for persons charged or convicted for the crime of terrorism who provided information leading to

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[1] Decree Law No. 25475, Art. 12(d).

[2] Decree Law No. 25475, Art. 20.

[3] Investigations, prosecutions, and sentencing for treason against the fatherland were governed by Decree Laws Nos. 25708 and 25744.

[4] The right to the assistance of freely chosen defense counsel from the very onset of criminal proceedings was later established by Article 2 of Law No. 26447.

[5] Decree Law No. 25475, Art. 13(h).

[6] With the enactment of Law 26671 on October 12, 1996, faceless judges and prosecutors were abolished.

[7] Decree Law No. 25744, Art. 2.

[8] Decree Law No. 25475, Art. 2.

[9] Decree Law No. 25475, Art. 3.

the capture of chiefs, heads, leaders or principal members of terrorist organizations.[10] By means of Supreme Decree No. 015-93-JUS of May 8, 1993, the Executive Branch adopted the Regulations for the Repentance Law, which provided, among other measures, the secrecy or change of identity for the repentant persons making the statement.[11] The Repentance Law expired on October 31, 1994.[12]

A. Position of the petitioners

12. They stated that Guillermo Ernesto Yapias Camavilca was arrested by members of the National Anti-Terrorism Department (*Dirección Nacional Contra el Terrorismo—DINCOTE*) of the National Police Force of Peru on July 14, 1998 while he was driving his motor vehicle in the district of Ate Vitarte, province of Lima, although he was not perpetrating any crime at the time. The police officers had supposedly reported that Mr. Yapias Camavilca was being summoned by the Tenth Criminal Court of Lima and by the Special Correctional Court for Crimes of Terrorism, but they did not explain the purpose of the investigation or the existence of any concrete charge. It was indicated that the alleged victim was confined in the facilities of the DINCOTE for several days and was subjected to physical and psychological torture so that he would confess.

13. The petitioners asserted that days after being arrested, Guillermo Ernesto Yapias was informed of three criminal proceedings against him, with case file numbers 02-93, 80-98 and 606-93, the first two subsequently joined with case file No. 04-93. They indicated that, in all the proceedings, the alleged victim was charged with being a member of a medical support and assistance group for the Shining Path (*Sendero Luminoso*) called the People's Relief (*Socorro Popular*), between 1990 and 1993. They indicated that the respective charges brought by the prosecutors were based on a single statement of recognition made on September 23, 1993 by a person identified by the codename A2A200037, who applied for the benefits of the Repentance Law. The petitioners emphasized that the statement of recognition does not make any reference to the name of the alleged victim, but rather to various pseudonyms. They pointed out that one of the pseudonyms was randomly attributed to him by the DINCOTE, without giving him the chance to challenge the version of the person making the statement.

14. According to the allegations, after his arrest on July 14, 1998, Mr. Yapias Camavilca was questioned by agents of DINCOTE, who threatened to transfer him to a military court and to arrest his wife, sisters, and parents if he did not sign statements of self-incrimination. It was claimed that the policemen hit him in the face and required payment of two thousand dollars to set him free. It was indicated that, in this context of coercion and torture and without the presence of an attorney of his own choice, Mr. Yapias Camavilca signed a police report whose contents had been drafted by members of the DINCOTE.

15. The petitioners stated that it was only on July 27, 1998 that the alleged victim's preliminary investigation records were transferred to the Office of the 28th Provincial Prosecutor of Lima, who on that same date filed a criminal charge, which led to the judicial proceedings with case file number 80-98. They alleged that, when making his statement at the inquiry held on August 5, 1998, Mr. Yapias Camavilca reported that he had been threatened and tortured in the facilities of the DINCOTE, highlighting as well the fact that his statements at the police station were the result of blackmail and coercion.

16. The petitioners indicated that, on February 8, 1999, the National Superior Prosecutor Against Terrorism ruled that the case did not show grounds for trial, underscoring the fact that the repentant person with codename A2A200037 had not ratified her statement before a judicial authority, and that there was no additional evidence to hold the accused criminally liable. The petitioners stated that, despite the above-mentioned ruling by the National Superior Prosecutor, the Superior Corporate Criminal Chamber for Cases of Terrorism (hereinafter referred to as the National Court Chamber on

[10] Decree Law No. 25499, Articles 1.II.a and 1.III.

[11] Supreme Decree No. 015-93-JUS, Articles 8.a and 36.

[12] The Repentance Law was repealed by Law 26345 of August 30, 1994.

Terrorism) decided on March 10, 1999, to extend the time-limits for the preliminary inquiry. It was claimed that, on June 8, 1999, the National Superior Attorney General against Terrorism reiterated the absence of objective evidence to bring the case of Mr. Yapias Camavilca to trial.

17. The petitioners stated that, despite the two rulings issued by the Superior Attorney General to definitively shelve proceeding 80-98, on July 19, 1999, the National Court Chamber on Terrorism drew attention to the fact that other proceedings under case file number 04-93 contained sheets of papers seized from persons being tried for terrorism, with references to the name of Guillermo Ernesto Yapias Camavilca. They indicated that the National Court Chamber on Terrorism ordered that case file 80-98 be joined with 04-93 against Víctor Zavala Cataño and others. They pointed out that, on August 31, 1999, the Superior Attorney General against Terrorism, changing his decision to shelve the case, filed charges against Mr. Yapias Camavilca, accusing him of belonging to the Shining Path organization in the health section of the People's Relief Committee between 1990 and 1993.

18. The petitioners stated that, on December 6, 1999, the National Court Chamber on Terrorism held a hearing with dozens of persons charged in proceedings joined under case file No. 04-93. They alleged that the questioning of Mr. Yapias Camavilca was conducted as an inquisition, with biased questions and without any connection to his possible criminal liability for the incidents he was being accused of. For example, they mentioned that the court magistrate Mogrovejo Motta asked Mr. Yapias Camavilca his personal opinion about "Presidente Gonzalo" (nickname of the head of Shining Path, Abimael Guzmán) and in which section of the Miguel Castro Castro Penitentiary he was imprisoned.

19. According to the alleged victim, on February 3, 2000, the National Court Chamber on Terrorism convicted Mr. Yapias Camavilca for the crime of causing public unrest by perpetrating acts of terrorism and sentenced him to ten years imprisonment and other accessory sanctions. On October 31, 2000, the First Transitory Criminal Chamber of the Supreme Court of Justice ruled to not overrule the judgment and reduced punishment to eight years imprisonment. The petitioners underscored the fact that the Supreme Court ruling of February 3, 2000 was never reported to the alleged victim nor was it ever published in the Official Journal *El Peruano*. They claimed that the alleged victim was apprised of this ruling only on July 2, 2001, when the management of the Miguel Castro Castro Penitentiary handed him certified copies of the judicial case file.

20. The petitioners reported that, on February 3, 2001, the wife of the alleged victim, Mrs. Catalina Torres Mandujano de Yapias, provided copies of principal excerpts of case file number 04-93 to the Office of the Director of the Miguel Castro Castro Penitentiary, requesting they be given to alleged victim. They asserted that the penitentiary authorities held these documents, and that this demeanor was denounced to the Director of the Miguel Castro Castro Penitentiary, the Office of the Human Rights Ombudsman and the National Court Chamber on Terrorism.[13]

21. The petitioners stated that, alongside proceedings No. 04-93, Mr. Yapias Camavilca was subjected to a second proceeding under case file No. 606-93, for which he was acquitted by the National Court Chamber on Terrorism on May 26, 2000, indicating that this decision was agreed. They asserted that proceedings 04-93 y 606-93 were based on the same evidence and revolved around the same accusation that Mr. Yapias Camavilca had belonged to the health section called People's Relief between 1990 and 1993. They underscored the fact that, in addition to being tried twice for the same incidents and on the basis of the same evidence, the alleged victim was convicted on February 3, 2000 and then acquitted on May 26, 2000 by the same National Court Chamber on Terrorism.

22. The petitioners stated that, on October 11, 2002, the Ministry of Justice adopted Supreme Resolution No. 213-2002-JUS, whereby it granted Mr. Guillermo Ernesto Yapias Camavilca a pardon. They stated that this pardon and his release from prison did not redress the material and moral

[13] Initial petition received on October 26, 2001, annexes, complaint addressed to the National Corporate Chamber for Crimes of Terrorism of the Superior Court of Lima with stamp confirming receipt dated August 7, 2001; complained filed with the Office of the Human Rights Ombudsman, with stamp confirming receipt dated June 5, 2001; letters addressed to the Management of the Miguel Castro Castro Penitentiary, with stamp confirming receipt dated April 20, May 3 and 7, and June 16, 2001.

damages sustained by Mr. Yapias Camavilca, as a result of his imprisonment for four years and three months in the Miguel Castro Castro Penitentiary, torture and mistreatment purportedly occurring in the facilities of the DINCOTE in July 1998. Finally, they alleged that there is subsistent obligation by the Peruvian State to redress the violation of rights enshrined in Articles 1.1, 2, 5, 7, 8, 9, 10, 11, 24 and 25 of the American Convention.

B. Position of the State

23. The State described the actions taken by the Office of the General Prosecutor and the Judicial Branch in the criminal proceedings brought against the alleged victim between 1998 and 2001. It indicated that, on August 31, 1999, the Superior National Prosecutor Against Terrorism brought charges against Guillermo Ernesto Yapias Camavilca, by virtue of Articles 288-C of Law 24953 and 321 of the Criminal Code, all of which in the context of proceedings under case file No. 04-93. It pointed out that the charges by the prosecution were based on the statement made by the defendant at the police station and the statement of a person opting for benefits under the Repentance Law identified by the codename A2A20003.[14] It stated that, on February 3, 2000, the National Court Chamber on Terrorism convicted the accused to ten years imprisonment and accessory fines and civil reparations. It indicated that this conviction was subsequently amended to eight years imprisonment by means of supreme ruling of October 31, 2000.

24. The State indicated that, in a second proceeding under case file No. 606-93, Mr. Yapias Camavilca was acquitted on May 26, 2000 by the National Court Chamber on Terrorism. It pointed out that, in this decision, the National Chamber indicated that Mr. Yapias Camavilca responded to the same charges in another proceeding with case file No. 04-93, "restricting its ruling to what was specifically there in terms of evidence, which it finally considered to be insufficient to demonstrate the liability of the accused." The State asserted that the judgment of acquittal of May 26, 2000 referred exclusively to the evidence submitted by the Office of the General Prosecutor, "that is, on the basis of testimony of a repentant and the denial made by the accused, who insisted on his innocence, which the Chamber considered to be a sincere."

25. The State indicated that, by means of Law 26655 of August 15, 1996, an ad hoc commission was set up with instructions to evaluate, qualify and propose to the President of the Republic, as an exception, the granting of a pardon and right to clemency, "for those who were convicted for the crime of terrorism or treason on the basis of insufficient evidence, making it possible to reasonably presume that there had been no type of connection with terrorist elements, activities or organizations." It asserted that, in that context, the National Human Rights Coordination had drawn up a request for pardon for the benefit of Mr. Guillermo Ernesto Yapias Camavilca, which was granted by means of Supreme Resolution No. 213-2002-JUS on October 11, 2002. It added that, by means of a judgment issued on May 30, 2003, the National Court Chamber on Terrorism ordered that any criminal records and arrest warrants that there might be against Mr. Guillermo Ernesto Yapias be expunged.

26. The State pointed out that the alleged victim is eligible for the benefits governed by the Special Commission for Assistance to Innocent Reprieved Persons and by the High Commission in charge of Monitoring Political Actions of the State in Peace Keeping, Collective Reparations and National Reconciliation. It pointed out that these entities are implementing nonmonetary reparations programs nationwide, as well as providing other types of assistance to persons benefiting from Law 26655.

27. The State claimed that the requests made by the petitioners have already been met by domestic judiciary and administrative entities and it asked the IACHR to declare the petition inadmissible by virtue of Article 47.c) of the American Convention. The State did not submit information about specific allegations regarding the presumed violations of the personal integrity of Mr. Guillermo Ernesto Yapias Camavilca, while he was confined in the facilities of DINCOTE in July 1998.

[14] In a communication sent February 11, 2008, the State mentioned the following identification codename: "A2A20003". Nevertheless, in a communication from the petitioners received on October 28, 2002, a copy of the document with the statement of the above-mentioned repentant person is attached, indicating the identification codename as "A2A200037".

IV. REVIEW OF COMPETENCE AND ADMISSIBILITY

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

28. Article 44 of the American Convention entitles the petitioners to lodge complaints. The alleged victim was under the jurisdiction of the Peruvian State at the time of the reported incidents. As for Peru, it ratified the American Convention on July 28, 1978. As a result, the Commission has jurisdiction *ratione personae* to examine the petition.

29. The Commission has jurisdiction *ratione loci* to hear the petition, because they allege violations of rights protected by the American Convention occurring in the territory of a State party to this treaty.

30. Likewise, the Commission has jurisdiction *ratione temporis* because the obligation to respect and guarantee the rights protected by the American Convention was already in force for the State at time that the incidents alleged in the petition had occurred.

31. Finally, the Commission has jurisdiction *ratione materiae*, because as explained below in the section on characterization, the petition alleges incidents that could tend to establish a violation of rights protected by the American Convention and by the Inter-American Convention to Prevent and Punish Torture, ratified by the Peruvian State on February 27, 1990.

B. Exhaustion of remedies under domestic law

32. Article 46.1.a) of the American Convention provides that, for admission of a petition lodged with the Inter-American Commission in accordance with Article 44 of the Convention, remedies under domestic law must have been pursued and exhausted in accordance with generally recognized principles of international law. This requirement is aimed at enabling national authorities to be apprised of the alleged violation of a protected right and, if appropriate, to have the opportunity to settle the matter before it is heard by an international body.

33. The present petition alleges, on the one hand, acts of aggression and torture presumably perpetrated by agents of DINCOTE harming Mr. Guillermo Ernesto Yapias in July 1998. The petitioners indicated that these incidents were reported to Peruvian judicial authorities by means of verbal statements and submissions refuting the charges.

34. The Commission's established precedents indicate that whenever a publicly actionable offense is committed, the State has the obligation of bringing and pursuing criminal proceedings and that, in such cases, that is the best way to clear up incidents, prosecute the guilty, and impose the applicable criminal punishments, in addition to enabling other forms of applicable redress. The petitioners' allegations of torture and other violations of humane treatment point to criminal actions under domestic law that must be investigated and prosecuted on an *ex officio* basis by the judicial authorities, and consequently that procedure is the suitable remedy in the present petition.[15]

35. The Peruvian State has not submitted any information on investigations possibly initiated regarding the alleged tortures to the detriment of Mr. Guillermo Ernesto Yapias Camavilca, nor has it filed any objection that remedies under domestic law have not been exhausted regarding this case, as a result of which it has tacitly refrained from using this defense.

36. In addition to the alleged violations of personal integrity, the petition claims violation of other provisions of the American Convention as a result of the imprisonment and criminal trials against the alleged victim. Available information indicates that the trial that led to the imprisonment of Mr. Guillermo Ernesto Yapias Camavilca (case file 04-93) was ultimately decided by the First Transitory Criminal Chamber of the Supreme Court of Justice on October 31, 2000. In this regard, the IACHR concludes that the requirement provided for in Article 46.1.a) of the Convention has been met.

C. Time-limits for submitting the petition

37. Article 46.1.b) of the Convention provides that, for the petition to be declared admissible, it must have been 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 that exhausted remedies under domestic law.

38. In accordance with the provisions of paragraph 36 above, the criminal proceedings filed against the alleged victim culminated in a judgment issued by the Supreme Court of Justice on October 31, 2000. The petitioners claimed that it was only on July 2, 2001 that the alleged victim was notified on the basis of a certified copy of the above-mentioned judgment. The IACHR considers that the petitioners have provided sufficient evidence of the measures taken by Mr. Guillermo Ernesto Yapias Camavilca and his legal representative in order to be notified in due time of the judgment that exhausted remedies under domestic law. These measures included complaints filed with the Executive Branch, the Office of the Human Rights Ombudsman and the Director of the Miguel Castro Castro Penitentiary, reporting that the alleged victim had not been officially notified of the judgment issued by the Supreme Court of Justice and that a copy of the respective judicial case file, provided by his wife on February 3, 2001, had been held by agents of the Miguel Castro Penitentiary. Furthermore, the available information indicates that, after issuing the decree of pardon on October 11, 2002, the National Court Chamber on Terrorism adopted a judicial resolution on May 30, 2003, which ordered that any police records and warrants of arrest against

[15] IACHR, Report No. 99/09, Petition 12.335, Colombia, Gustavo Giraldo Villamizar Durán, October 29, 2009, para. 33.

Mr. Guillermo Ernesto Yapias within the case file No. 04-93 to be expunged. In view of the aforesaid, the IACHR deems that the particulars referred in paragraph 36 above meet the requirements provided for in paragraph 46.1.b) of the American Convention.

39. As for the allegations of torture and other supposed violations of personal integrity referred to in paragraph 33 above, in view of the absence of allegations by the State and of information in the case file on the initiation of a criminal inquiry, the IACHR concludes that the petition was submitted within reasonable time-limits.

D. Duplication of procedures and international *res judicata*

40. Article 46.1.c) of the Convention provides that the admissibility of a petition must meet the requirement that the subject of the petition "is not pending in another international proceeding for settlement"; and Article 47.d) of the Convention stipulates that the Commission shall consider inadmissible any petition or communication if it is substantially the same as one previously studied by the Commission or by another international organization. The parties have not put forward the existence of any of these two circumstances, nor can they be inferred from the case file.

E. Characterization of the alleged incidents

41. For the purposes of admissibility, the Commission must decide whether or not the petition states facts that tend to establish a violation of rights as stipulated in Article 47.b) of the American Convention and whether or not the petition is "manifestly groundless" or "obviously out of order," according to subparagraph c) of the same article. The rule governing evaluation of these particulars is different from the one required to decide on the merits of a complaint. The Commission must conduct a *prima facie* evaluation to examine whether the complaint substantiates the apparent or potential violation of a right guaranteed by the Convention and not to establish the existence of a violation. This review is a summary analysis that does not involve any prejudgment or advanced opinion on the merits of the case.

42. In view of the elements of fact submitted by the parties, the IACHR considers that the circumstances in which the alleged victim was arrested and the alleged incidents of torture by the agents of DINCOTE could establish a potential violation of the rights enshrined in Articles 5 and 7 of the American Convention, in conformity with Articles 1.1 y 2 of the same instrument; likewise, by virtue of *iura novit curia* principle, of the rights enshrined in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture; all of which to the detriment of Guillermo Ernesto Yapias Camavilca. Furthermore, the IACHR considers that the effects of the facts referred to in the present paragraph, as well as the fact that the victim was held incommunicado in the facilities of DINCOTE and the alleged restrictions on access and visits to Mr. Guillermo Yapias Camavilca during his incarceration in the Miguel Castro Castro Penitentiary, could tend to establish a violation of rights enshrined in Article 5.1 of the Convention to the detriment of his relatives.

43. With respect to the allegations about the criminal proceedings filed against the alleged victim, as well as the cited incompatibility of the regulatory framework in which the incidents are inserted with the American Convention, the IACHR considers that it could tend to establish a violation of the rights enshrined in Articles 9, 10, 8 and 25 with regard to Articles 1.1 and 2 of the same instruments, all of which to the detriment of Guillermo Ernesto Yapias Camavilca.

44. With respect to Articles 11 and 24 of the American Convention, the IACHR considers that the petitioners have not submitted sufficient elements to indicate potential violation of the rights enshrined in these provisions.

45. As for the assertions of the Peruvian State that the granting of a pardon to Mr. Guillermo Ernesto Yapias Camavilca had provided redress for the alleged violations of the Convention's rights as a result of his imprisonment and that he was eligible for various national assistance and social reinsertion programs, the IACHR deems that it is linked to the possible evaluations on the merits of the petition. Therefore, the IACHR defer to the merits stage of the proceedings the analysis of whether the presumed

violations of the rights alleged by the petitions was redressed by the pardon granted to Mr. Guillermo Yapias Camavilca in October 2002 and his possible inclusion in national assistance and social insertion programs described by the State.

46. Finally, in that these aspects of the claims are not obviously groundless or out of order, the Commission concludes that the petition satisfies the requirements set by Articles 47(b) and 47(c) of the American Convention.

V. CONCLUSIONS

47. On the basis of the factual and legal arguments presented above and without prejudging the merits of the case, the Inter-American Commission concludes that the petition meets the requirements of admissibility set forth in Articles 46 and 47 of the American Convention and therefore

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare the admissibility of the petition related to Articles 5, 7, 9, 10, 8 and 25 of the American Convention in connection with the obligations provided for in Articles 1.1 and 2 of the same instrument.

2. To declare the admissibility of the petition, by virtue of the principle *iura novit curia*, with respect to Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture.

3. To declare the inadmissibility of the alleged violation of the rights enshrined in Articles 11 and 24 of the American Convention.

4. To notify the State and petitioners of this decision.

5. To publish this decision and include it in the Annual Report to be submitted to the General Assembly of the OAS.

Approved by the Commission on the June 21, 2010. (Signed: Felipe González, President; Paulo Sergio Pinheiro, First Vice-President; Dinah Shelton, Second Vice-President; María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, members of the Commission).