

**REPORT No. 69/10**  
PETITION 11.444  
ADMISSIBILITY  
AMPARO CONSTANTE MERIZALDE  
ECUADOR  
July 12, 2010

**I. SUMMARY**

1. On November 4, 1994, the Inter-American Commission on Human Rights (hereinafter "the Commission") received a petition lodged by the Ecumenical Commission on Human Rights (CEDHU) (hereinafter "the petitioners") alleging the responsibility of the Republic of Ecuador (hereinafter, "the State," "the Ecuadorian State," or "Ecuador") for the arbitrary and illegal arrest, among other violations of the rights to personal liberty, a fair trial, and judicial protection, and the alleged torture by agents of the State of Amparo Constante Merizalde, between January 13 and April 6, 1994, in the city of Quito.

2. The petitioners held that the State was responsible for the violation of Articles 5, 7, 8, and 25 of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") in connection with Article 1(1) thereof. For its part, the State argued that the complaints of the petitioners were inadmissible as the rule of prior exhaustion of domestic remedies provided in Article 46(1)(a) of the American Convention had not been met.

3. Having examined the positions of the parties and compliance with the requirements provided in Articles 46 and 47 of the American Convention, the Commission decided to declare the case admissible for the purposes of examination of the alleged violations of Articles 5, 8, and 25 of the American Convention in connection with Article 1(1) of said treaty, and inadmissible with regard to Article 7 thereof. It also decided to notify the parties of this report and order its publication in its Annual Report.

**II. PROCESSING BY THE COMMISSION**

4. The Commission registered the petition as No. 11.444 and on March 13, 1995, proceeded to transmit a copy of the pertinent portions to the State, giving it 90 days to submit information in accordance with Article 34(2) of its Regulations in force until April 30, 2001. The IACHR reiterated its request for information to the State on July 6, 1995.

5. The State informed the Commission on August 3, 1995, that it lacked the necessary elements to respond and that it would inform the IACHR as soon as it had received them. On March 26, 1996, the IACHR informed the State that unless it received the information in 30 days it would begin to consider the possible application of Article 42 of the Regulations then in force, to the effect that the facts described in the petition would be presumed to be true; the petitioners were apprised of this.

6. On June 5, 1996, the State sent the IACHR a copy of the police report on an investigation of Amparo Constante Merizalde, which was referred to the petitioners for observations.

7. On July 4, 1996, the petitioners presented their response, which was forwarded on August 21, 1996, to the State so that it might submit its observations within 30 days. On November 27, 1996, the State sent its response, which was relayed to the petitioners for observations on December 31, 1996; the appendices thereto were forwarded on March 25, 1997.

8. On December 13, 1996, the State presented additional information, which was conveyed to the petitioners on January 13, 1997, for observations. On May 19 the petitioners submitted their reply, which was forwarded to the State on July 11, 1997.

9. On December 3, 1998, the IACHR placed itself at the disposal of the parties with a view to reaching a friendly settlement. On March 15, 1999, the State agreed to initiate a friendly settlement

procedure. On April 4, 2001, the State informed the IACHR about the upcoming signing of new friendly settlement agreements in various cases, among them that of Amparo Constante Merizalde.

10. On October 28, 2008, the petitioners informed the IACHR that a friendly settlement had not been reached and requested that it continue its processing of the case. On April 16, 2009, the IACHR requested updated information from the State. The petitioners presented their response on June 12, 2009.

11. On October 8, 2009, the State requested the IACHR for "all the information in its files" on the case as it did not have sufficient information. In response on October 22, 2009, the IACHR transmitted the pertinent portions of the record to the State together with the response of the petitioners of June 12, 2009, and reiterated the request for information of April 16, 2009.

12. On March 19, 2010, the State presented its response which was relayed to the petitioners for their consideration. On May 27, 2010, the petitioners submitted additional information which was relayed to the State for its attention.

### **III. POSITIONS OF THE PARTIES**

#### **A. The petitioners**

13. The petitioners allege that on January 13, 1994, Amparo Constante Merizalde was detained, without an arrest warrant or while committing a crime,<sup>1</sup> as a suspect in a robbery committed on January 10, 1994. They say that on January 15, 1994, the alleged victim was tortured by the agents Valverde and Castillo, who were in charge of the investigation, in order to extract from her a confession admitting her guilt. They say that she was tortured with electricity applied to one of her arms while she was slapped and her hair pulled by agent Valverde.<sup>2</sup> They claim that Amparo Constante Merizalde was also threatened with death if she reported them. They say that as a result of the torture Amparo Constante Merizalde admitted to the offense. They believe that this constitutes a violation of Articles 5 and 8(2)(g) of the American Convention inasmuch as she was forced by means of torture to sign a statement in which she incriminated herself.

14. The petitioners say that the statements given on January 15 and 17, 1994, were done so without counsel present which, they say, amounts to a violation of Article 8(2)( e) and (d). To the response of the State to the effect that the mother of the alleged victim was present and signed the statement (see section III. B below), the petitioners counter that she was not present when Amparo Constante Merizalde gave her statement and that on January 15, 1994, "her mother was persuaded to sign the statement with the promise that they would release her."

15. They say that on January 18, 1994, the order was issued to prosecute Amparo Constante Merizalde for the theft of a watch valued at US\$3700 and a manicure set valued at 169,000 sucres. They also said that she was ordered to be placed in pre-trial detention at the Women's Public Prison in Quito. In this connection, the petitioners say that the alleged victim was held in provisional detention without

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<sup>1</sup> The petitioners attach to their comments a constitutional arrest warrant for Amparo Constante dated February 1, 1994, issued by the Judge of the Fifth Criminal Court in and for Pichincha. Appendix to the comments of the petitioners received on July 19, 1996.

<sup>2</sup> The petitioners attach to the petition the report of a forensic medical examination carried out at the provisional detention center, which records that Amparo Constante had "[a]n area of swelling and light bruising about 2 cm in diameter on the right side of her lower jaw; several circular surface burns each measuring 2 mm in diameter on the middle third of the back of her forearm; an abrasion measuring 1 cm in diameter on the left side of her left ankle; two abrasions each measuring 2 mm in diameter on her right side. These injuries are the result of trauma with a hard blunt object and the skin's contact with electricity, which have rendered her ill and physically incapable of work for THREE DAYS counted from the date they occurred." Forensic report to the Fourth National Commissioner of the Department of Forensic Medicine of the National Bureau of Investigations of the National Police, January 18, 1994.

charge for longer than the 48-hour limit provided in the Constitution and the Code of Criminal Procedure in force at the time, which constitutes a violation of Article 7 of the American Convention.

16. The petitioners say that on February 1, 1994, the Fifth Criminal Court took up the case and that on February 17, 1994, Amparo Constante gave her statement to the judge in which she held that she had been working at the Lord Nelson store, pleaded innocent to the theft, and charged

that the statement that I supposedly gave at the OID is false since they prepared the statement themselves;<sup>3</sup> I should mention that the prosecutor, who, as far as I know, was supposed to be present, was not, and the only person present was the owner of the store who was pressing, the agents of the [OID], tortured me physically and psychologically, and even threatened me [...] that if I said I had been mistreated they would get someone to kill [me]. Therefore, your honor, I demand that I be immediately released since I am innocent of all the charges.<sup>4</sup>

17. In this regard, they allege that the accused is supposed to give a statement at a preliminary hearing before a judge within 24 hours after their arrest and that Amparo Constante Merizalde gave hers 24 days after her arrest, which violates Article 7(5) of the American Convention.

18. They allege that the torture was reported both to the Chief of Police, who investigated the case, and to the Judge of the Fifth Criminal Court in and for Pichincha, and yet the State did not order the investigation of these offences, which are publicly actionable. They argue that the State has the obligation to investigate by every available means any violation of the rights enshrined in the Convention. Therefore, they believe that the State's failure to ensure that a torture investigation was conducted within a reasonable time or that Amparo Constante Merizalde was provided with access to a prompt and simple remedy amounts to a violation of Articles 8 and 25 of the American Convention.

19. To the argument of the State regarding the subsequent legalization of Amparo Constante Merizalde's arrest (see section III. B below), the petitioners respond that in the instant case Amparo Constante Merizalde was first unlawfully arrested and then the arrest warrant obtained the next day. In this regard they argue that it is not possible to legalize something that stemmed from an unlawful act and permitted the torture of the detained woman.

20. Based on the foregoing, the petitioners allege that the State has violated the rights of Amparo Constante Merizalde to humane treatment, personal liberty, judicial protection and a fair trial.

21. Finally, it should be mentioned that the petitioners have not notified the IACHR whether the criminal proceeding against Amparo Constante Merizalde continues or has concluded.

## **B. The State**

22. As regards facts, the State alleges that a theft took place at the Lord Nelson store on January 13, 1994, at approximately 20:00 hrs and that on the same day Amparo Constante Merizalde was captured "because she had been caught in the act of stealing on the premises [...] by the proprietor, Mr. Fabián Anda, who asked that she be arrested."

23. The State claims that Amparo Constante Merizalde was admitted as a detainee to the Provisional Detention Center at approximately 20:30 hrs on January 13, 1994, for investigation in connection with the theft that had occurred.

24. The State alleges that the arrest of Amparo Constante Merizalde was made with a detention and investigation order issued for Aurora Beatriz Díaz Villareal and Amparo Constante

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<sup>3</sup> Criminal Investigation Office [in Pichincha].

<sup>4</sup> Statement given to the Judge of the Fifth Criminal Court on February 17, 1994. Appendix to the comments of the petitioners received on July 19, 1996.

Merizalde on January 14, 1994, by the Chief of Police of Pichincha. It says that Fabián Anda filed his complaint with the Chief of Police of Pichincha and the Preliminary Hearing Judge, thereby legalizing the arrest of Amparo Constante Merizalde less than 24 hours after it was made, which meant that it was not arbitrary.<sup>5</sup>

25. The State alleges that on January 15 and 17, 1994, Amparo Constante Merizalde was taken to the OID-P offices to present her testimony in the preliminary hearing. The State says that Lilian Noemí Merizalde was present when her daughter gave her statement on January 15, 1994, and affixed her signature at the bottom of the statement. The State says that the statement of January 17, 1994, was given in the presence of a prosecutor. It argues that it cannot be concluded, therefore, that there was any mistreatment when Amparo Constante Merizalde was giving her statement.

26. It also maintains that it cannot be concluded that Amparo Constante Merizalde's injuries were caused by agents at the OID-P offices because in none of the statements given before the prosecutor did she say that she had been physically mistreated and that in her statement she declared that she had given it "FREELY AND VOLUNTARILY, WITHOUT ANY KIND OF COERCION, WHETHER EMOTIONAL OR PHYSICAL, OR ANY OFFER WHATSOEVER, IN FULL USE OF HER FACULTIES AND COGNIZANT OF HER CONSTITUTIONAL GUARANTEES."<sup>6</sup>

27. In this regard it states that Amparo Constante Merizalde was taken from the Provisional Detention Center to the OID-P offices on January 14, 15, and 17, 1994. The state maintains that according to the petitioners the alleged torture

reportedly took place on Saturday, January 15. However, thereafter two days elapsed until January 18 when the forensic medical report which the petitioner claims supports her complaint was issued. The odd thing about the case is that on January 16 the petitioner must have been confined in the Provisional Detention Center until the 17th, when she again went to the OID. However, there is no record or evidence at all of any witnesses in the detention center to confirm that on January 16, Ms. Constante already had injuries. Moreover there is no convincing proof whatever, other than Ms. Constante's account, to show that the injuries were caused while she was giving her statements at the OID.<sup>7</sup>

28. The State also states that "it is known from different sources that when a person, be they a man or woman, charged with committing an offense first arrives at the Provisional Detention Center, they are received at the prison facility with the well-known welcome from the inmates who for one reason or another have been detained there for some time, and presumably this happened to Ms. JANETH CONSTANTE."<sup>8</sup>

29. The State argues that it has always abided by legal and administrative regulations in complying with standards on the use of force and control in detention facilities.

30. It says that on January 19, 1994, the order to institute proceedings was issued and that by drawing of lots the case was assigned to the Fifth Criminal Court in and for Pichincha, which took up the case on February 1, 1994, and confirmed the pre-trial detention. The State mentions that on April 6, 1994, the order was issued for the release of Amparo Constante Merizalde because bail was posted.

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<sup>5</sup> Report of the Chief of the Capture and Criminal Intelligence Squad, OID-P, to the Chief of the Criminal Investigation Office of Pichincha. Enclosed in the observations of the State received on November 27, 1996.

<sup>6</sup> Memorandum No. 961031, Office of the Police Superintendent, April 25, 1996. Response of the State received on June 5, 1996.

<sup>7</sup> Official letter No. 12904 from the Office of the Prosecutor General, received on March 19, 2010.

<sup>8</sup> Memorandum No. 961031, Office of the Police Superintendent, April 25, 1996. Response of the State received on June 5, 1996.

31. The State maintains that it was shown in the criminal proceeding pursued against Amparo Constante Merizalde that due process was observed and that she was afforded the appropriate guarantees within a reasonable time. The state asserts that the accused was ensured an adequate defense and that a fair and impartial trial was guaranteed.

32. The State holds that the petitioners did not exhaust domestic remedies. It argues that Amparo Constante Merizalde “never even attempted to present her case to the domestic judicial authorities” and that before lodging the petition with the IACHR the petitioners should have filed suit with the Office of the Attorney General so that the complaints of Amparo Constante Merizalde could be investigated, and that this subverts the principle of subsidiarity of the Inter-American human rights system.<sup>9</sup> The State considers “that in the exercise of rights no one can do more or better than someone with legitimate standing. Therefore, Ms. Constante could not simply expect the State to initiate investigations of its own accord into alleged violations that were merely mentioned and not brought before a court of law.” It argues that the petitioners had at their disposal every legal tool and recourse that the Ecuadorian legal system offers individuals subject to its jurisdiction but that they “simply did not use them.”<sup>10</sup>

33. The State claims that in the instant petition “it has not been demonstrated in any part of the proceedings that the State authority acted arbitrarily in either arresting Ms. Constante or depriving her of liberty; rather, it has been shown that the measures adopted [...] were in accordance with domestic laws.” In view of the foregoing, the State believes that the petition should be archived.

34. Finally, it should be mentioned that the State has not notified the IACHR whether the criminal proceeding against Amparo Constante Merizalde continues or has concluded.

#### **IV. ANALYSIS**

##### **A. Competence**

35. The petitioners have standing under Article 44 of the American Convention to lodge petitions with the IACHR. The petition names as the alleged victim an individual on whose behalf the Ecuadorian State undertook to observe and ensure the rights enshrined in the American Convention. As regards the State, the Commission notes that Ecuador has been a party to the American Convention since December 8, 1977, when it deposited its instrument of ratification. Thus, the Commission has *ratione personae* competence to examine the petition. The Commission is competent *ratione loci* to examine the petition because it alleges violations of rights protected in the American Convention that are purported to have occurred within the territory of Ecuador, a state party to said treaty.

36. The Commission is competent *ratione temporis* because the obligation to observe and ensure the rights protected in the American Convention was already binding upon the State at the time the events described in the petition are alleged to have occurred. Finally, the Commission has *ratione materiae* competence because the petition alleges violations of human rights protected by the American Convention.

##### **B. Admissibility requirements**

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

37. Article 46(1)(a) of the American Convention provides that admission of petitions alleging violation of the Convention shall be subject to the requirement that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law.

<sup>9</sup> In support of its argument the State cites: IACHR, Report No. 18/02 César Verduga Vélez of February 27, 2002.

<sup>10</sup> Official letter No. 12904 from the Office of the Prosecutor General, received on March 19, 2010.

38. The state argues that the petitioners' complaint does not meet the requirement of prior exhaustion of domestic remedies provided at Article 46(1) of the American Convention because the petitioners should have filed suit with the Office of the Attorney General so that the complaints of Amparo Constante Merizalde might be investigated. For their part, the petitioners say that Amparo Constante Merizalde brought the alleged facts that are the subject matter of the petition to the attention of the authorities, that torture is a publicly actionable offense, and that the State has the obligation to investigate by every available means any violation of the rights enshrined in the Convention.

39. The Commission must clarify which domestic remedies need to be exhausted in the instant case. The Inter-American Court has found that the only those remedies that are adequate for addressing an alleged violation need be exhausted. In the words of the Court:

Adequate domestic remedies are those which are suitable to address an infringement of a legal right. A number of remedies exist in the legal system of every country, but not all are applicable in every circumstance. If a remedy is not adequate in a specific case, it obviously need not be exhausted. A norm is meant to have an effect and should not be interpreted in such a way as to negate its effect or lead to a result that is manifestly absurd or unreasonable.<sup>11</sup>

40. The Commission notes that the instant petition refers specifically to acts connected with the alleged arbitrary detention and torture of Amparo Constante Merizalde as well as to aspects concerning the failure to investigate said acts. The precedents established by the Commission recognize that when a publicly actionable offense is committed, the State has the obligation to institute criminal proceedings and pursue them,<sup>12</sup> and that in such cases, this is the best way to clarify the facts, judge the perpetrators, and establish the corresponding criminal punishment, in addition to providing for other forms of pecuniary reparation.

41. In this regard, the petitioners indicate that Amparo Constante Merizalde brought the alleged torture to the attention of the authorities, including both the Chief of Police who investigated the case, and the Judge of the Fifth Criminal Court in and for Pichincha in her statement at the preliminary hearing on February 17, 1994. The authorities were, therefore, aware of the situation and should have opened investigations. The State, for its part, maintains that the alleged violations were merely mentioned and not brought before a court of law, and that the petitioners should have filed suit with the Office of the Attorney General.

42. The Commission finds that on February 17, 1994, Amparo Constante Merizalde denounced the alleged torture to the Judge of the Fifth Criminal Court in and for Pichincha along with the fact that she had given her statement with only the owner of the store and the two police agents present. In that way she sought to exhaust domestic remedies. The Commission also finds that the State, for its part, has not informed the IACHR of any investigation or proceeding initiated in response to the offences reported by Amparo Constante Merizalde, which should be for investigated and pursued *ex officio*. Therefore, given the characteristics and context of the instant petition, in particular the fact that more than 15 years have elapsed and no investigations have been initiated despite the alleged victim's complaint, the exception provided at Article 46(2)(b) of the American Convention is applicable, in view of the lack of recourse to an effective remedy, with respect to the alleged violations of Articles 5, 8, and 25 of the American Convention.

43. In second place, as regards the allegedly arbitrary arrest of Amparo Constante Merizalde, the petitioners point out that the State has a duty to investigate by every available means any of violation of the rights enshrined in the Convention. The State, for its part, says that the petitioners should have

<sup>11</sup> I/A Court H.R., *Velásquez Rodríguez Case*. Judgment of July 29, 1988. Series C No. 4, para. 63, I/A Court H.R., *Fairén Garbi y Solís Corrales Case*. Judgment of March 15, 1989. Series C No. 6, para. 88; IACHR Report No. 3/10 Segundo Norberto Contreras, para. 38.

<sup>12</sup> IACHR, *Annual Report 1997*, Report No. 52/97, Case 11.218, Arges Sequeira Mangas, pars. 96 and 97. See also Report No. 55/97, par. 392. IACHR, *Annual Report 2000*, Report No. 62/00, Case 11.727, Hernando Osorio Correa, para. 24.

filed suit with the Office of the Attorney General. In this respect, the Commission finds that Amparo Constante Merizalde was detained on January 13, 1994, and that the warrant for her arrest was issued on January 14, 1994. The alleged victim remained in custody until April 6, 1994, when the order for her release was issued because bail was posted.

44. The Commission notes that the petitioners have not indicated if they denounced the alleged illegal arrest or mentioned any factors that might have prevented the possibility of reporting it. The Commission also notes that, in principle, under Ecuadorian law the petitioners could have to attempted to challenge the alleged arbitrary arrest with a petition for a writ of amparo or legal habeas corpus to a judge higher than the one who ordered the deprivation of liberty.<sup>13</sup> Therefore, given the information provided in this petition, the Commission finds that the petitioners failed to meet the rule of prior exhaustion of domestic remedies contained in Article 46(1)(a) of the American Convention with respect to their argument on the right to personal liberty.

45. Invocation of the exceptions to the rule of exhaustion of domestic remedies provided in Article 46(2) of the Convention is closely linked to the determination of possible violations of certain rights set forth therein, such as guarantees of access to justice. However, Article 46(2), by its nature and purpose, is a self-contained provision *vis à vis* the substantive provisions contained in the Convention. Therefore, to determine whether or not the exceptions to the rule of exhaustion of domestic remedies are applicable to a particular case requires an examination carried out in advance of and separate from the analysis of the merits of the case, since it depends on a different standard of appreciation to that used to establish whether or not there has been a violation of Articles 8 and 25 of the Convention. It should be clarified that the causes and effects that have prevented exhaustion of domestic remedies in the instant case will be examined, where pertinent, in the report that the IACHR adopts on the merits of the dispute, in order to determine if they constitute violations of the American Convention.

## **2. Timeliness of the petition**

46. The American Convention provides that for a petition to be admissible, it must be presented within six months after the date on which the party alleging violation of rights was notified of the final judgment adopted by the domestic courts. In addition, Article 32 of the Commission's Rules of Procedure states that when the exceptions to the rule requiring prior exhaustion of domestic remedies apply, the petition is to be presented within what the Commission deems to be a reasonable period.

47. As the Commission has already determined, the exception to rule on prior exhaustion of domestic remedies, provided at Article 46(2)(b) of the Convention, is applicable in this case. In deciding if a petition was lodged within a reasonable time in accordance with Article 32 of the Commission's Rules of Procedure, the Commission must consider the date on which the alleged violation of rights occurred and the circumstances of each case.

48. In the instant petition, Amparo Constante Merizalde was arrested on January 13, 1994, and the alleged torture and due process violations were reported to the Judge of the Fifth Criminal Court on February 18, 1994. The petition was lodged on November 4, 1994, and as at the date of approval of the instant report more than 15 years later no investigations into those complaints would appear to have been opened at the domestic level. In light of the characteristics of the instant case, the Commission considers that the petition was lodged within a reasonable time and that the admissibility requirement regarding the timeliness of the petition must be deemed met.

## **3. Duplication of international proceedings**

49. There is nothing in the record to suggest that the subject matter of the petition is pending in another international proceeding for settlement or that it is substantially the same as one previously

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<sup>13</sup> Provided in Article 458 of the Code of Criminal Procedure of 1983.

studied by the Commission or by another international organization. Therefore, the Commission finds that the requirements set forth in Articles 46(1)(c) and 47(d) of the Convention have been met.

#### **4. Characterization of the alleged facts**

50. In view of the non-exhaustion of domestic remedies with respect to the petitioners submissions on the right to personal liberty provided in Article 7 of the American Convention, the Commission will not analyze the possible characterization of the petition in that respect.

51. Given the information presented by the parties and the nature of the matter before it, the Commission finds that in the instant case the petitioners claims with respect to alleged violations of the rights to humane treatment, judicial protection, and a fair trial could, if proven, characterize possible violations of the rights protected under Articles 5, 8, and 25 of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of Amparo Constante Merizalde and her family. Since these aspects of the complaint are clearly not baseless or out of order, the Commission considers the requirements set forth in Articles 47(b) and (c) of the American Convention to be met.

52. Regarding article 5, the Commission will evaluate the petitioners' claims in the light of the State's obligations as guarantor of the security of the persons under its custody, which includes the analysis of the alleged tortures and the allegations of the State regarding the violence suffered by Amparo Constante Merizalde by hands of other detainees in the Provisional Detention Center. Since these aspects of the petition are not manifestly groundless or out of order, the Commission considers that the requirements established in Articles 47(b) and (c) of the American Convention have been met.

53. The parties have not furnished information with respect to the progress or conclusion of the criminal proceeding against Amparo Constante Merizalde since she was set at liberty in April 1994. Accordingly, the Commission does not have sufficient information in that regard at this stage of the proceeding. Therefore, the Commission must analyze in the stage on merits if the application of the right to a hearing by a judge within a reasonable time, as recognized in Article 8 of the Convention, is pertinent.

#### **V. CONCLUSIONS**

54. The Commission concludes that it is competent to examine the complaints contained in the petition that allege violation of Articles 5, 8, and 25 of the American Convention, in conjunction with Articles 1(1) thereof, and that said complaints are admissible in accordance with the rules set out in Articles 46 and 47 of the American Convention. It also concludes that the complaint with respect to the alleged violation of Article 7 of the American Convention is inadmissible.

55. Based on the factual and legal arguments given above and without prejudging the merits of the matter,

#### **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,**

#### **DECIDES:**

1. To declare the instant case admissible with respect to Articles 5, 8, and 25 of the American Convention in connection with Article 1(1) thereof.
2. To declare the instant case inadmissible with respect to Article 7 of the American Convention.
3. To notify the Ecuadorian State and the petitioners of this decision.
4. To proceed with its analysis of merits in the matter.



5. To publish this decision and included in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 12<sup>th</sup> day of the month of July, 2010.  
(Signed: Felipe González, President; Paulo Sérgio Pinheiro, First Vice-President; Dinah Shelton, Second Vice-President; María Silvia Guillén, José de Jesús Orozco Henríquez, Rodrigo Escobar Gil, and Luz Patricia Mejía Guerrero, members of the Commission).