

REPORT No. 73/10¹
PETITION 980-04
ADMISSIBILITY
FERNANDO RODRIGUEZ GONZALEZ
MEXICO
July 12, 2010

I. SUMMARY

1. On September 30, 2004,² the Inter-American Commission on Human Rights (hereinafter the "Commission," Inter-American Commission, or "IACHR") received a petition lodged by Fernando Rodríguez González and Carlos Fernando Rodríguez Ramírez (hereinafter "the petitioners") on behalf of Fernando Rodríguez González (hereinafter the "alleged victim"). The petition was lodged against the United Mexican States (hereinafter "the State," "the State of Mexico," or "Mexico"), and alleges that this person was illegal detained and tortured, and subsequently sentenced to a prison term without observance of due process, including use of a confession obtained under torture.

2. The petitioners allege that the State of Mexico is responsible for violation of the rights established in Articles 5 (humane treatment), 7 (personal liberty), 8 (fair trial), 9 (freedom from ex post facto laws), 24 (equality before the law), and 25 (judicial protection) of the American Convention on Human Rights (hereinafter the "Convention" or "American Convention"), considered in conjunction with the general obligation in Article 1.1 of said international instrument. They further contend violation of Articles 1, 6, and 10 of the Inter-American Convention to Prevent and Punish Torture, and state that they have exhausted all judicial remedies provided for under Mexican law.

3. The State for its part maintains that the petition should be declared inadmissible, since the facts of the case do not entail human rights violations. It argues that the petitioners are asking the Commission to act as a fourth jurisdictional level, to review the proceedings of the domestic courts. The State does not dispute the petitioners' arguments regarding exhaustion of internal remedies.

4. Without prejudice to the merits of the case, after analyzing the positions of the parties and in compliance with the requirements stipulated in Articles 46 and 47 of the American Convention, the Commission has decided to declare the case admissible for purposes of examining the alleged violation of the rights established in Articles 5, 7, 8, 9 and 25, in accordance with Article 1.1 of said instrument, in addition to Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Fernando Rodríguez González. The Inter-American Commission additionally declares that this petition is inadmissible with respect to the alleged violation of Article 24 of the American Convention. The Commission has also decided to report this decision to the parties, and to publish and include it in its Annual Report for the OAS General Assembly.

II. PROCEDURES BEFORE THE COMMISSION

5. On September 30, 2004, the Commission received the petition by electronic mail; it was stamped October 1, 2004, and assigned number 980-04.

6. On November 3, 2006, the IACHR transmitted the pertinent parts of the petition to the State of Mexico, requesting it to present its response within two months, in accordance with Article 30.2 of the IACHR's Rules of Procedure. The State's response was received on February 13, 2007.

7. In addition, the IACHR received information from the petitioners on the following dates: November 9, 2004, May 22, 2007, September 12, 2007, October 10, 2007, June 3, 2008, August 21, 2008,

¹ According to Article 17.2(a) of the Commission's Rules of Procedure, Commissioner José de Jesús Orozco Henríquez, a Mexican national, did not participate in the deliberations or the decision in the present case.

² Petition N° 980-04 was received by e-mail on September 30, 2004, and stamped October 1, 2004.

December 29, 2008, January 22, 2009, June 4, 2009, and January 4, 2010. These communications were duly forwarded to the State.

8. The IACHR also received observations from the State on the following dates: August 9 and 15, 2007, November 28, 2007, January 23, 2008, September 26, 2008, March 13, 2009, and September 10, 2009. These communications were duly forwarded to the petitioners.

III. POSITION OF THE PARTIES

A. The petitioners

9. The petitioners allege that Fernando Rodríguez González and María Eugenia Ramírez Arauz were tried for the murder of José Francisco Ruiz Massieu. They maintain that they were detained as a result of the statements made under torture by Daniel Aguilar Treviño on September 28, 1994.

10. They report that on October 4, 1994, María Eugenia Ramírez Arauz was transferred by members of the Federal Judicial Police to facilities of that agency, where she was tortured by police agents, including beating, insults, humiliation, and sexual violation. They report that her children, Carlos Fernando and María Fernanda, who at the time were 13 and 8 years of age, respectively, were forcefully brought to the facilities of the Federal Judicial Police to increase the pressure on their mother and coerce her to incriminate herself and Fernando Rodríguez González in the homicide of José Francisco Ruiz Massieu. They report that three days later, María Eugenia Ramírez was sent to the *Reclusorio Preventivo Varonil Sur* [South Men's Preventive Detention Center], and hours later, without a court order, she was sent to the Almoloya de Juárez State Prison, outside the jurisdiction of the judicial organs of the Federal District, in a prison for convicted men, in total isolation. They report that the torture inflicted on María Eugenia Ramírez Arauz caused "injuries to her ears, a vaginal infection, and sores in her private parts."

11. According to the petitioners, Fernando Rodríguez González was detained on October 10, 1994, by members of the Federal Judicial Police. They report that he was tortured during the two and a half days he was detained at the police facilities; he was kept awake the entire time, he was beaten on the ears until he became deaf, and blindfolded, with his feet and hands tied he was thrown on the floor, and mineral water was put up his nostrils until he was almost asphyxiated, while the police jumped up and down on his stomach. They maintain that subsequently, the Inspector General of the Office of the Attorney General [*Procuraduría General de la República*] forced him to sign a statement without reading it. They allege that on October 12, 1994, Fernando Rodríguez González was transferred to CEFERESO No. 1 maximum security penitentiary in Almoloya de Juárez. They indicate that the medical report showed that the alleged victim arrived at the penitentiary with "bilateral tympanitis." Once there, he was held in total isolation for seven months, without permission to speak with family members or his defense attorney, until June 26, 1995, when he was transferred to the *Reclusorio Preventivo Varonil Sur* in the Federal District.

12. They allege that Fernando Rodríguez González was tried for the crimes of homicide and possession of a weapon restricted to the use of the National Army, and María Eugenia Ramírez Arauz was charged with homicide.³ The trial took place in a federal criminal court of the Federal District, and the court issued a judgment of conviction on March 20, 1995. Subsequently, the judgment was appealed (appeal 84/95-IV) and the Fourth Criminal Court for criminal matters [*Cuarto Tribunal Unitario en materia penal*] acquitted María Eugenia Ramírez Arauz of charges of homicide and Fernando Rodríguez González of illegal possession of weapons restricted for the use of the Army, but upheld his conviction for murder. They report that during the 78/94 criminal proceeding, in each of the appeals filed, they denounced the illegality of the detention, trial, and conviction, due to the fact that they were based on statements obtained under torture.

13. They argue that the federal court was not competent to investigate and try the alleged victim, because homicide is under the jurisdiction of state and not federal courts. On this point, they

³ The petitioners indicate that they were both accused in criminal case No. 78/94 (and jointly in 90/94).

allege that the reason why Fernando Rodríguez González was charged with the crime of illegal possession of arms restricted for the use of the Army was to bring the case into the federal courts. The judge of the trial court under federal jurisdiction based his jurisdictional arguments on Article 10 of the Federal Code of Criminal Procedure of August 30th 1934, which establishes that: “[...] in the case of multiple criminal offenses, the Federal Public Ministry shall have jurisdiction to try crimes under state jurisdiction that are related to federal crimes, and federal judges shall be competent to render judgment on them [...].”

14. They contend that the provisions of the Federal Code of Criminal Procedures that permit federal authorities to hear offenses under state jurisdiction when they are committed in connection with crimes under federal jurisdiction are unconstitutional. They base their argument on the fact that according to the Constitution, those powers that are not expressly granted to federal agents are conferred on the states; consequently, federal authorities are not permitted to invade the sphere of competence of states, even if a secondary law should order, permit, or authorize them to do so.

15. In view of the conviction on December 19, 1996, they report that the alleged victim filed an amparo petition, claiming that application of Article 10 of the Federal Code of Criminal Procedures violated his individual guarantees, because at the time the events occurred, the Constitution did not establish constitutional jurisdiction for federal courts to hear crimes that correspond to the jurisdiction of states.

16. They point out that there was a constitutional reform on July 3, 1996, under which a second paragraph was added to Section XXI of Article 73, that established that “the federal authorities may also try cases involving crimes under state jurisdiction when they are related to federal crimes.” The reform took place when the criminal proceedings against him had already begun and months before the court issued its conviction on December 19, 1996. Subsequently, the Supreme Court of Justice, in the direct amparo petition filed by the alleged victim, referred to the constitutional amendment and validated the federal jurisdiction. Consequently, they allege that the principle of non-retroactivity was violated.

17. In addition, they maintain that the court that investigated, detained, and judged the alleged victim was created after the date of the acts in question. In this regard, they allege that it was after the federal authority took over the case that the Office of the Special Assistant Attorney General [*Subprocuraduría Especial*] was created on December 29, 1994, and even though Fernando Rodríguez González had been detained on October 10, 1994, this new entity continued with the investigation of his case.

18. They indicate that the Internal Comptroller of the Office of Attorney General initiated an administrative investigation against the agents responsible for the torture committed against Fernando Rodríguez González and María Eugenia Rodríguez Arauz (administrative case file No. 508/95 against Jorge Anastasio Stergios Gómez *et al*). They allege that the investigation concluded that Fernando Rodríguez González and other persons were forced to sign statements by means of threats and violence, and that María Eugenia Rodríguez was physically, morally, and sexually assaulted while she was in detention to coerce her to sign.

19. According to the petitioners, as a result of this procedure, the Office of Attorney General punished the former inspector general by disqualifying him from employment, posts, or commissions in the public service for 20 years, and also sanctioned other public agents. At the same time, this Office opened pretrial investigations SE/005/95-2 and SE/006/95-03, in which it brought criminal action against Jorge Anastasio Stergios and others as probable perpetrators of the crimes of abuse of authority, undue exercise of public service, torture, intimidation, acts contrary to the administration of justice, and concealment, which resulted in criminal proceeding 91/95 in the First District Court for criminal matters of the Federal District. On June 29, 1998, they report that all of the persons on trial were convicted solely on the charge of abuse of authority. However, they maintain that on April 28, 2000, in its decision on the appeal filed by the convicted public agents, the Fourth Court of the First Circuit found that the federal judicial police agents were not criminally liable for the crime of abuse of authority, and it ordered their immediate release.

20. They allege that by only imposing an administrative sanction on the persons accused of torture, the State, in their opinion, has failed to perform its duty to duly punish the perpetrators of such serious offenses. They further maintain that on repeated occasions, they were denied a copy of the judgments of the trial and appeal courts that conducted the proceedings against Jorge Anastasio Stergios and others. Consequently they filed administrative complaint No. 213/2000 with the Council of the Federal Judicature. In its decision issued on March 27, 2001, the Council upheld the courts' refusal to provide them with copies of the case records on the grounds that they were not part of the case and that the Public Ministry served as their representative. They reported that they were not allowed to participate actively in this proceeding or to bring evidence. As a result, they contend that their right of access to justice was violated.

21. They argue that the prison sentence against Fernando Rodríguez González is based on statements extracted under torture. They further contend that he was denied an impartial and independent trial, since the brother of the victim of the homicide, Mario Ruiz Massieu, participated directly in the initial investigation, is currently serving as Assistant Attorney General, and is the one who ordered that the alleged victim be confined to a maximum security penitentiary far from the place where the criminal proceedings were taking place.

22. They report that the right of due process of Fernando Rodríguez González was violated, since he was held in solitary confinement in CEFERESO No. 1 during the seven months of the preliminary criminal proceedings on the crime charged to him. They allege that during this period of time, his possibility of defending himself in the proceeding against him was unduly affected, and that he was represented by different public defenders who never examined the case files. They assert that after receiving a complaint about this situation, the Special Assistant Prosecutor at the time designated a former agent of the Public Ministry as a private counsel for the alleged victim, but that the same Office of the Attorney General paid his fees.

23. With regard to the requirements of admissibility, they maintain that they exhausted domestic remedies in accordance with the provisions of Article 46 of the American Convention. They indicate that following the conviction and sentence to a 50-year prison term by the trial court on March 20, 1995, an appeal was filed. On December 19, 1996, the appeal court for criminal matters [*Tribunal Unitario en Materia Penal*] issued a new sentence convicting him to 37 years, 6 months for murder, and acquitting him of the offense of possession of a firearm restricted for the use of the Armed Forces and Air Force. A direct amparo petition was filed with the Third Collegiate Court for Criminal Matters of the First Circuit, and on February 28, 2002, that court denied amparo and protection for the alleged victim. Finally, they report that an appeal for review (*recurso de revisión*) was filed with the Supreme Court of Justice, which upheld the judgment sentencing the alleged victim to 37 years and 6 months in prison.

B. The State

24. The State maintains that the alleged victim was deprived of his liberty as a result of a criminal punishment, imposed after a judge determined his criminal liability for participating in the crime of murder. It further indicates that the detention and criminal proceedings and trial were carried out in observance of the provisions of the American Convention, and that the judicial authorities complied strictly with reason and the law in interpreting and respecting its judicial guarantees.

25. It reports that on September 30, 1994, the Eleventh District Court in Criminal Matters in the Federal District issued a warrant for the arrest of Fernando Rodríguez González, because there was sufficient evidence to establish his probable responsibility for the homicide of José Francisco Ruiz Massieu. On October 10, 1994, he was detained on charges of homicide and possession of a firearm restricted for the exclusive use of the Army. On October 10, 1994, Fernando Rodríguez González made a ministerial statement before the Federal Public Ministry, and during this procedure, he was assisted by a defense attorney. On October 13, 1994 he made his preparatory statement in court.

26. The State maintains that on March 20, 1995, the Eleventh District Court of Federal Criminal Proceedings in the Federal District issued a conviction, finding the alleged victim guilty of the crime of homicide, and sentenced him to 50 years in prison. The State alleges that the alleged victim appealed the judgment and, on appeal, the Fourth Court upheld the lower court's judgment of December 19, 1996, but it reduced the sentence to 37 years and 6 months in prison, absolving him of the crime of possession of a firearm restricted for the exclusive use of the armed forces.

27. According to the State, the alleged victim filed a direct amparo petition against the judgment issued by the Fourth Criminal Court of the First Circuit, alleging that the final judgment of December 19, 1996 and the decision of March 1995 were unconstitutional. The Supreme Court upheld the judgment in its decision of March 30, 2004.

28. The State reports that the evaluation records showed that the alleged victim received the necessary medical care during his stay at the "Altiplano" Federal Center for Social Rehabilitation No. 1, and that he did not complain to the authorities of that center that he had been tortured. Moreover, the physicians who treated him did not report physical or psychological injuries resulting from torture. Thus, as regards investigation into the physical and mental torture alleged by the presumed victim, the State claims that the complaint was dealt with and punished in accordance with the law.

29. According to the State, the conviction judgment issued against Fernando Rodríguez González was based on the analysis conducted by the authorities of all of the evidence presented during the trial, and not solely the incriminating statements of the alleged victim. Consequently, it contends that the allegations of torture do not relieve the victim of his responsibility for committing the crime of intentional homicide against José Francisco Ruiz Massieu.

30. It alleges that the petition should be declared inadmissible, because it has been proven that the petitioner had access to all of the ordinary remedies provided for by law, and the fact that the results were not in his favor does not *per se* represent a human rights violation. The State claims that the petitioners have not set forth acts that characterize violations of the human rights guaranteed by the Convention on Human Rights. In this regard, it argues that the petition should be declared inadmissible on the grounds that the petitioners want the Inter-American Commission to act as a fourth jurisdictional level with regard to domestic judicial rulings.

IV. ANALYSIS OF ADMISSIBILITY

A. Jurisdiction of the Commission *ratione personæ, ratione loci, ratione temporis y ratione materiæ*

31. In principle, petitioners are authorized to lodge petitions with the Commission under Article 44 of the American Convention. The petition indicates that the alleged victim is an individual in respect of whom the State of Mexico pledged to respect and guarantee the rights established in the American Convention. With regard to the State, the Commission points out that Mexico has been a state party to the American Convention since March 24, 1981, the date on which it deposited its instrument of ratification. Moreover, Mexico has been a party to the Inter-American Convention to Prevent and Punish Torture since June 22, 1987. Consequently, the Commission has personal jurisdiction to examine the petition. It also has territorial jurisdiction to examine the petition, since it contains allegations of the violation of rights protected by the American Convention that took place in Mexican territory, a state party to that instrument.

32. The Commission has temporal jurisdiction, since the obligation to respect and guarantee the rights protected in the American Convention was already in effect for the State on the date that the acts alleged in the petition occurred. Finally, the Commission has subject matter jurisdiction, because the petition refers to possible violations of human rights protected by the American Convention.

B. Other requirements for admissibility of the petition

1. Exhaustion of domestic remedies

33. Article 46(1)(a) of the American Convention establishes prior exhaustion of remedies under domestic law in accordance with generally recognized principles of international law as a requirement for admission of a petition lodged with the Inter-American Commission pursuant to Article 44 of the Convention. The purpose of this requirement is to enable national authorities to take cognizance of an alleged violation of a protected right and, if appropriate, to have an opportunity to settle the case before it is referred to an international jurisdiction.

34. In the case in point, the parties agree that the petitioners had exhausted all domestic remedies available in the State of Mexico to settle their case. The petitioners maintain that the alleged victim pursued and exhausted remedies in the domestic courts. The State asserts that the alleged victim had access to all remedies provided under the domestic legal system, even though the results of these proceedings were unfavorable to him.

35. In fact, the IACHR notes that following the conviction judgment issued by the lower trial court on March 20, 1995, an appeal was filed and decided on December 29, 1996, with a new judgment containing a sentence of 37 years and 6 months in prison for the crime of homicide. A direct amparo petition was then filed, and rejected on February 28, 2002. In view of that result, an appeal for review was filed, and culminated in the judgment of the Supreme Court of Justice of March 30, 2004, that upheld the final judgment of 37 years and 6 months in prison.

36. With regard to the complaint of torture, the IACHR observes that in cases in which torture is alleged, and it is an actionable criminal offense in Mexico, the adequate and effective remedy is normally a criminal investigation and trial. The IACHR notes that in 1995, an inquiry was opened to investigate torture, abuse of authority, and undue exercise of public service, and on June 29, 1998, a judgment of conviction against 10 public agents was handed down solely for the crime of abuse of authority committed to the detriment of María Eugenia Ramírez Arauz, Fernando Rodríguez González, and other defendants. The convicted public agents appealed this judgment to the Fourth Court of the First Circuit, which on March 28, 2000 handed down its decision in which it found that the police agents were not criminally liable for the crime of abuse of authority, and ordered their immediate release.

37. On May 30, 2000, the alleged victim, as the aggrieved party, filed a petition with the Fourth Criminal Court of the First Circuit, requesting a certified copy of the decision issued in that criminal proceeding. On June 2, 2000, the petitioner was notified that his request was denied, on the grounds that the alleged victim did not have recognized legal standing in the criminal proceedings, and that his interests were being represented by the agent of the Public Ministry of the Federation. On June 5, 2000, the alleged victim lodged a complaint against the criminal court regarding the request for a certified copy of the decision issued by the Fourth Criminal Court of the First Circuit. On March 27, 2001, the Discipline Committee of the Council of the Federal Judicature determined that the administrative complaint was without merit.

38. Based on the terms of Article 46 of the Convention and Article 31 of the Rules of Procedure and the information in the case records, the Commission concludes that the requirement of prior exhaustion has been met. Consequently, the Inter-American Commission verifies that the remedies provided by Mexican legislation have been exhausted and determines that the petition analyzed meets the requirements stipulated in Article 46.1(a) of the Convention.

2. Deadline for filing the petition

39. In accordance with the provisions of Article 46(1)(b) of the Convention, in order for a petition to be admissible, it must be lodged within a period of six months from the date on which the petitioning party was notified of the final judgment.

40. In the present case, the Commission observes that the alleged victim was detained on October 10, 1994, and afterwards criminal proceedings were initiated against him on the charge of

homicide. During the proceedings, and in view of the allegations of torture, a criminal proceeding was opened to investigate the facts, culminating in a judgment issued on March 28, 2000. The criminal proceedings for homicide against the alleged victim, in which said victim claimed that he was tortured to force a confession, continued until March 30, 2004, the date on which the Supreme Court handed down its final judgment, by denying amparo procedure 654/2002. As the petition was filed on September 30, 2004, the Commission concludes that said petition meets the requirement established in Article 46.1(b) of the American Convention.

3. Duplication of international procedures and *res judicata*

41. The case records do not show that the subject of the petition is pending other international settlement procedures, or that it replicates a petition already examined by this or another international organization. Therefore, the requirements set forth in Articles 46(1)(c) and 47(d) of the Convention are considered as having been met.

4. Characterization of the alleged facts

42. The Commission is of the view that in this stage of the procedure, it is not appropriate for it to decide whether or not alleged violations occurred to the detriment of the alleged victim. For purposes of admissibility, at this point the IACHR must determine only if the acts described would, if proven, tend to establish violations of the American Convention, as stipulated in Article 47(b) therein, and if the petition is “manifestly groundless” or is “obviously out of order,” pursuant to the terms of subparagraph (c) of that Article.

43. The standard for evaluation of these points of law is different from that required in deciding the merits of a petition. In a *prima facie* evaluation, the Commission must determine whether the petition establishes the basis for an apparent or potential violation of a right guaranteed by the Convention, but not whether it establishes the existence of a violation.⁴ This evaluation involves a summary analysis that does not entail a prejudgment or advance opinion on the merits. The very Rules of Procedure of the Commission, by establishing two separate stages of admissibility and merits, reflect this distinction between the evaluation that the Commission must perform for the purposes of declaring a petition admissible and the analysis required to establish the State’s responsibility for a human rights violation.⁵

44. The State has argued that this petition should be declared inadmissible on the grounds that human rights violations cannot be implied from the facts set forth. It contends that the petitioners want the Commission to review the proceedings of the domestic courts by acting as a higher court of appeal, or fourth jurisdiction. The petitioners, on the other hand, allege violations of a series of rights established in the American Convention and in the Convention to Prevent and Punish Torture.

45. With regard to the argument made by the State, the IACHR reiterates that it is competent to declare a petition admissible and to decide on its merits when it refers to a domestic judicial decision that has been handed down without due process, or that apparently violates any other right guaranteed by the Convention. If, however, the petition merely asserts that the judgment was wrongful or contains errors under domestic law, it must be rejected in accordance with the formula of “fourth jurisdiction.”⁶ In this case, the petitioners have presented allegations related to the alleged illegal detention and torture of Fernando Rodríguez González, and to violations of due process. In this regard, the IACHR considers

⁴ See IACHR, Report No. 128/01, Case 12367, *Mauricio Herrera Ulloa and Fernán Vargas Rohmoser of “La Nación” newspaper (Costa Rica)*, December 3, 2001, para. 50; Report No. 4/04, Petition 12324, *Rubén Luis Godoy (Argentina)*, February 24, 2004, para. 43; Report No. 32/07, Petition 429-05, *Juan Patricio Marileo Saravia et al (Chile)*, April 23, 2007, para. 54.

⁵ See IACHR, Report No. 31/03, Case 12195, *Mario Alberto Jara Oñate et al (Chile)*, March 7, 2003, para. 41; Report No. 4/04, Petition 12324, *Rubén Luis Godoy (Argentina)*, February 24, 2004, para. 43; Petition 429-05, *Juan Patricio Marileo Saravia et al (Chile)*, April 23, 2007, para. 54; Petition 581-05, *Víctor Manuel Ancalaf LLaupe (Chile)*, May 2, 2007, para. 46.

⁶ See IACHR, Report No. 39/96, Case 11673, *Santiago Marzioni (Argentina)*, October 15, 1996, para. 51; IACHR, Report No. 40/06, Case 11214, *Pedro Velásquez Ibarra (Argentina)*, March 15, 2006, para. 52.

that the alleged facts pertaining to Fernando Rodríguez González, if proven true, would characterize potential violations of the rights guaranteed in Articles 5, 7, 8, 9, and 25 of the American Convention, considered in conjunction with the general obligation to respect and guarantee rights contained in Article 1.1 of that international instrument, in addition to violations of Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture.

46. The IACHR is of the view that the information presented does not provide grounds for a violation of the rights protected under Article 24 of the American Convention.

V. CONCLUSIONS

47. The Inter-American Commission concludes that it is competent to examine the merits of this case and that the petition is admissible, in accordance with Articles 46 and 47 of the American Convention, and decides to continue with an analysis of the merits regarding the alleged violations of Articles 5, 7, 8, 9 and 25 of the American Convention, considered together with Article 1.1 of that international instrument, and of Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Fernando Rodríguez González.

48. On the basis of the above-mentioned arguments of fact and law,

THE INTER-AMERICAN COMMISSION OF HUMAN RIGHTS,

DECIDES:

1. To declare the present petition admissible insofar as it concerns alleged violations of the rights recognized in Articles 5, 7, 8, 9 and 25 of the American Convention, considered in relation to Article 1.1 of that instrument, and violation of Articles 1, 6, and 8 of the Convention to Prevent and Punish Torture, to the detriment of Fernando Rodríguez González.

2. To declare this petition inadmissible with regard to alleged violations of the rights recognized in Article 24 of the American Convention.

3. To notify the parties of this decision.

4. To publish this decision and include it in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 12th day of the month of July 2010. (Signed: Felipe González, President; Paulo Sérgio Pinheiro, Vice-President; Dinah Shelton, Second Vice-President; Luz Patricia Mejía Guerrero, María Siliva Guillén, and Rodrigo Escobar Gil, Members of the Commission).