

**REPORT No. 140/10**  
PETITION 4357-02  
ADMISSIBILITY  
FAMILY OF JOSÉ LEONARDO ABRIL ARMIJOS  
ECUADOR  
November 1, 2010

**I. SUMMARY**

1. On October 16, 2002, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a petition submitted by José Eliseo Abril Guzmán and Diego Delgado Jara (hereinafter “the petitioners”) alleging the responsibility of the Republic of Ecuador (hereinafter “the State” or “the Ecuadorian State”) for lack of diligence on the part of the judicial authorities in investigating and punishing the persons responsible for the death of Mr. Abril Guzman’s child, José Leonardo Abril Armijos, in a traffic accident that occurred on February 24, 1997, in Saraguro district, along the road from the city of Loja to Cuenca, as well as the consequent impossibility of obtaining reparation for the harm suffered.

2. The petitioners allege that the State is responsible for violation of the rights to recognition of juridical personality, humane treatment, a fair trial, private property, equality before the law, and judicial protection, enshrined in Articles 3, 5, 8, 21, 24, and 25 of the American Convention on Human Rights (hereinafter “the American Convention”), all in conjunction with the general obligation to respect and ensure the rights, provided for in Article 1(1) of the same treaty. In addition, they allege that the State violated the rights provided for in Articles II, VI, XIV, XVII, XVIII, XXIII, XXIV, XXX, XXXIII, and XXXVII of the American Declaration of the Rights and Duties of Man (hereinafter “the American Declaration”), as well as the rights established at Articles 1, 2, 6, 7, 8, and 10 of the Universal Declaration of Human Rights.

3. The State argues that the petitioners’ claims are inadmissible considering that the petition was filed after expiration of the term provided for at Article 46(1)(b) of the American Convention, and also that it failed to comply with the requirement of prior exhaustion of domestic remedies, provided for in Article 46(1)(a) of the American Convention. For their part, the petitioners argue that the petition is admissible considering that domestic remedies had been exhausted in keeping with Article 46(1)(a) of the American Convention.

4. After analyzing the parties’ positions and compliance with the requirements set forth at Articles 46 and 47 of the American Convention, the Commission decided to find admissible the claims in respect of the alleged violation of Articles 8(1) and 25, in conjunction with Article 1(1) of the American Convention, to notify the parties, and to order the publication of the report in its Annual Report to the General Assembly of the OAS.

**II. PROCESSING BEFORE THE COMMISSION**

5. The IACHR recorded the claim under number 4357-02 and after analyzing the petition proceeded to transmit a copy of the pertinent parts to the State on April 25, 2005; it gave the State two months to submit observations. On September 1, 2009, the IACHR reiterated its request for observations to the State. The State made its observations on October 19, 2009, and these were forwarded to the petitioners for their observations.

6. On November 19, 2009, the Commission received the petitioners’ observations, which were transmitted to the State for its observations. On January 22, 2010, the State presented its observations. On March 25, 2010, the petitioners presented additional information, which was forwarded to the State for its observations.

### III. THE PARTIES' POSITIONS

#### A. The petitioners' position

7. The petitioners indicate that José Eliseo Abril Guzmán had purchased, together with his wife Rosa Esperanza Armijos, a Mercedes Benz bus, which he handed over, as an economic contribution, in his capacity as a partner, to the Cooperativa de Transportes Pullman Viajeros. They allege that on February 24, 1997, the José Eliseo Abril Guzmán's son, José Leonardo Abril Armijos, was driving the bus towards the city of Cuenca, province of Loja, accompanied by three persons. They indicate that along the way, near the town of Urdaneta, in the canton of Saraguro, at approximately 11:30 pm, the bus had been hit by a Volvo tractor-trailer carrying a load of 25 tons of cement. They indicate that the tractor-trailer, whose driver fled after the accident, had dragged the bus for 60 meters, and as a result it was destroyed in its entirety, and four occupants died.

8. They indicate that on February 25, 1997, the Second Provincial Transit Court of Loja ordered the official act of removing the bodies, identification, exterior recognition, and autopsy of the deceased, and inspection of the place of the accident and of the vehicles involved, with the participation of official experts from the National Police of Loja. They argue that on February 26, 1997, the Second Provincial Judge of Transit of Loja proceeded to appoint two National Police Officers from Loja and the place of the accident was inspected. They argue that the report given by the experts concluded that

It is presumed that participant (1) [Volvo tractor-trailer] crossed into the lane of participant (2) [Mercedes Benz bus] and on realizing it was there performed an evasive maneuver, resulting in a frontal lateral collision on two-thirds of each vehicle .... There is a basis for finding possible excess speed, taking into account the cargo carried by vehicle (1) and the distance that it dragged vehicle (2) in a direction opposite its travel inertia.

9. They allege that on March 3, 1997, the Second Provincial Transit Court of Loja instituted criminal proceedings against perpetrators, accomplices, and aiders and abettors determined in the course of the proceeding, and ordered that several investigative steps be taken. On March 10, 1997, the Second Court extended the proceeding to include the driver of the Volvo tractor-trailer and issued a preventive arrest warrant for him, which was not executed as he was a fugitive. On March 30, 1997, the legal representative of the Cooperativa de Transportes Pullman Viajeros presented a private accusation against the owner of the Volvo tractor-trailer and the driver, which was accepted on April 8, 1997.

10. They argue that on October 15, 1997, the Second Prosecutorial Transit Agent of Loja handed down an indictment of the driver of the Volvo tractor-trailer in his capacity as perpetrator of the punishable acts established at Article 75 in relation to Article 7(b) and (c) of the Transit and Transport Act.<sup>1</sup> On November 12, 1997, an oral and public hearing for trial was called, nonetheless the call ceased to have effect as of November 24, 1997, considering that the defendant continued to be a fugitive. In this same act the Second Court declared the suspension of the criminal transit proceeding, without prejudice to the accused being apprehended to answer to the justice system. On November 26, 1997, the private accusers asked for the order suspending the proceeding to be lifted; their request was denied by the Second Judge on December 1, 1997.

11. On December 4, 1997, the private accusers appealed the refusal to lift the order; that appeal was denied on December 9, 1997. On December 10, the private accusers filed a de facto appeal (*recurso de hecho*) against the resolutions of November 24 and December 1, 1997, which was granted on December 16, 1997, before the Superior Court of Justice of Loja. On March 24, 1998, the Superior Court of Justice of Loja set aside the procedures as of folio 109 inclusive, considering that the manager of the

---

<sup>1</sup> The petitioners make reference to Article 75: "If the death of one or more persons occurs as the result of an accident caused by excess speed, lack of skill, or knowing that the vehicle is in poor mechanical condition, the penalty will be three to five years imprisonment, suspension for the same time of the driver's license, and a fine of eight to 40 general minimum salaries." They also refer to Article 70: "Without prejudice to those considered in the Criminal Code, the following are aggravating circumstances, when not constitutive of or modifying the infraction: ... (b) Abandoning persons affected by an accident or not seeking the assistance they need when able to do so; (c) evading the action of justice by flight or concealment...."

Cooperativa de Transportes Pullman Viajeros, a person not a party to the proceeding – since the vehicle was the property of José Eliseo Abril Guzmán and his wife – intervened in the proceeding as private accuser without having posted a bond in the event the action is found to be frivolous, which according to the Court was a procedural violation that can influence the decision of the case.

12. On December 14, 1998, the First Provincial Transit Judge of Loja took cognizance of the case. They allege that on March 25, 2002, once more than five years had elapsed since the criminal proceedings were instituted, the First Provincial Transit Judge of Loja found that the action had prescribed to the benefit of the driver of the tractor-trailer and ordered that the case be archived. The petitioners allege that some of the parties involved had been notified, but not them, and that they had found out about the Court's decision through other persons in October 2002. The petitioners allege that the State did not take the necessary measures, beyond issuing various arrest warrants, to locate and bring under its jurisdiction the driver of the tractor-trailer, even though he participated actively, through his defense counsel, in the criminal investigation.

13. They allege that in violation of the Transit and Overland Transport Act<sup>2</sup>, the owner of the tractor-trailer was never criminally accused despite being jointly liable for the events, considering that he is "one of the wealthiest citizens of Loja ... and alternate deputy of the current administration." In addition, they argue that the Court impeded the participation of the alleged victim in the proceeding, since he appointed a common attorney, who was to appear on behalf of all the accusers, even though this person lived in the Amazonian province of Zamora, which is very far from where the proceeding was being conducted.

14. The petitioners further allege that on January 27, 1998, they filed a complaint for prevarication before the Superior Court of Justice of Loja against the principal judge of the Second Court. They indicate that on January 13, 1999, the Superior Court of Justice of Loja dismissed the case with prejudice. They allege that they filed an appeal, and on June 8, 1999, the First Chamber of the Superior Court of Justice affirmed the decision appealed.

15. In summary, the petitioners allege that the State is responsible for violating the right to recognition of juridical personality, humane treatment, a fair trial, private property, equality before the law, and judicial protection, enshrined at Articles 3, 5, 8, 21, 24, and 25 of the Convention, all in conjunction with the general obligation to respect and ensure the rights, provided for at Article 1(1) of the same treaty. In addition, they allege that the Ecuadorian State violated the rights provided for at Articles II, VI, XIV, XVII, XVIII, XXIII, XXIV, XXX, XXXIII, and XXXVII of the American Declaration, as well as the rights established in Articles 1, 2, 6, 7, 8, and 10 of the Universal Declaration of Human Rights.

16. The petitioners allege that the denial of justice in the instant case has had serious consequences for the parents, sister, domestic partner, and daughter of the alleged victim, who had only recently been born at the time of the accident.

17. In terms of compliance with the requirement of prior exhaustion of domestic remedies, provided for at Article 46(1)(a) of the American Convention, the petitioners allege that there is no remedy which they can pursue, since they have all been exhausted.

18. In terms of the State's argument that indicates that the petitioners could have pursued the remedies of appeal (*apelación*) or annulment (*nulidad*) (see *infra* III.B The State's Position), the petitioners allege that the time periods for filing such remedies had expired without them being filed because they were not notified of the decision on prescription of the case. As for the State's argument on failure to meet the requirement of Article 46(1)(b) of the Convention (see *infra* III.B The State's Position), the petitioners argue that since they were not given timely notice that the ruling on prescription, the six-months period did not apply.

---

<sup>2</sup> The petitioners make reference to Article 117 of the Law on Transit and Overland Transport: "the owner of the vehicle or his or her representative, as the case may be, shall be summonsed with the criminal complaint at the request of the private accuser, for the purposes of joint and several civil liability."

## B. The State's Position

19. The State alleges, first, that the petitioners' claim is inadmissible, since the petition was not submitted within the six-month period established in Article 46(1)(b) of the American Convention. In this respect, it notes that the decision that exhausted domestic remedies was the resolution on prescription of the case, issued in keeping with legal requirements on March 25, 2002 by the Second Transit Court of the Province of Loja and that the petition was presented to the Commission on October 16, 2002, i.e. six months later.

20. Second, the State argues that the petition is also inadmissible because of the failure to exhaust domestic remedies, as required by Article 46(1)(a) of the American Convention. More specifically, it notes that the petitioners could have filed an appeal (*apelación*) against the prescription order, or a motion to annul the proceeding.

21. As for the motion of appeal, the State argues that pursuant to Article 348 of the Code of Criminal Procedure of 1983, applicable in supplemental fashion to the Transit and Transport Act, a *recurso de apelación* may be brought with respect to prescription orders that end the proceeding. As for the annulment remedy (*recurso de nulidad*), it notes that Article 123 of the Transit Act<sup>3</sup> and the Third Section of Title IV, Fourth Book, of the Code of Criminal Procedure, establishes the grounds for annulment in respect of which the petitioners could have filed the remedy.

22. The State also indicates that the mere fact that a domestic remedy does not produce a favorable result for the claimant does not show, in itself, the non-existence or exhaustion of all effective domestic remedies, for it could be, for example, that the claimant has not pursued the appropriate procedure in timely fashion.<sup>4</sup> In this regard, it states that the proceeding, which to date has culminated with the prescription order, unfolded with the judicial guarantees established in the American Convention. In view of the foregoing arguments, the State asks that the Commission find the petitioners' claim inadmissible and proceed to archive the matter.

## IV. ANALYSIS OF ADMISSIBILITY

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

23. The petitioners are authorized in principle by Article 44 of the American Convention to submit petitions to the Commission. The petition names as the alleged victim an individual person with respect to whom the Ecuadorian State undertook to respect and ensure the rights enshrined in the American Convention. As regards the State, the Commission notes that Ecuador has been a state party to the American Convention since December 28, 1977, the date on which it deposited its instrument of ratification. Therefore the Commission is competent *ratione personae* to examine the petition.

24. In addition, the Commission is competent *ratione loci* to take cognizance of the petition insofar as it alleged violations of rights protected in the American Convention said to have taken place in the territory of Ecuador, a state party to that treaty. The Commission is competent *ratione temporis* insofar as the obligation to respect and ensure the rights protected in the American Convention was already in force for the State on the date of the facts alleged in the petition. Finally, the Commission is competent *ratione materiae*, because the petition alleges possible violations of rights protected by the American Convention.

---

<sup>3</sup> The State makes reference to Article 123 of the Transit and Transport act, which establishes: "A motion for annulment may also be filed, in keeping with the provision of the Third Section, Title IV, Fourth Book, of the Code of Criminal Procedure, as applicable."

<sup>4</sup> The State makes reference to I/A Court H.R., *Case of Velásquez Rodríguez v. Honduras*. Judgment of July 29, 1988. Series C No. 4, para. 67.

25. With respect to the allegations on violations of the American Declaration, mindful of the provisions of the Commission's Statute and Article 23 of its Rules of Procedures, the Commission is, in principle, competent *ratione materiae* to hear violations of the rights enshrined in that Declaration.<sup>5</sup> Nonetheless, the IACHR has previously established<sup>6</sup> that once the American Convention enters into force in relation to a State, it is that instrument – not the Declaration – that becomes the specific source of the right that the Inter-American Commission will apply, so long as the petition alleges violations of rights that are substantially identical in both instruments.<sup>7</sup> In the instant petition one observes that Articles VI, XVII, XVIII, and XXIII enshrined rights substantially identical to those protected in the American Convention; in respect of the other articles of the American Declaration alleged by the petitioners, Articles XIV and XXXVII, if relevant, the Commission would be competent *ratione materiae*.

26. As regards the alleged violation of provisions of the Universal Declaration of Human Rights, the Commission is not competent to issue rulings in respect of this instrument, without prejudice to which they can be used as a guideline for interpretation of obligations under the Convention, in light of Article 29 thereof, and the principles of the Vienna Convention on the Law of Treaties.

---

<sup>5</sup> I/A Court H.R., *Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights*, Advisory Opinion OC-10/89, July 14, 1989, Series A No. 10, para. 41.

<sup>6</sup> IACHR, Report No. 03/01, Case 11,670, *Amilcar Menéndez, Juan Manuel Caride, et al.*, (Argentina), January 19, 2001, para. 41.

<sup>7</sup> I/A Court H.R., *Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights*, Advisory Opinion OC-10/89, July 14, 1989, Series A No. 10, para. 46.

## B. Admissibility requirements

### 1. Exhaustion of domestic remedies

27. Article 46(1)(a) of the American Convention requires the prior exhaustion of domestic remedies in keeping with generally recognized principles of international law as a requirement for admitting claims alleging violation of the American Convention.

28. According to Article 31 of the Commission's Rules of Procedure, and what has been established by the Inter-American Court, whenever a state alleges that petitioner has failed to exhaust domestic remedies, it has the burden of showing that the remedies that have not been exhausted are "adequate" to cure the violation alleged, in other words, that the function of such remedies in the system of domestic law is suitable for protecting the legal situation infringed.<sup>8</sup>

29. In the instant case, as appears from the record, on March 3, 1997, the Second Provincial Transit Court of Loja instituted criminal proceedings for the collision of two vehicles along the road that leads from the city of Loja to Cuenca. On March 10, 1997, the Second Court extended the proceeding to the driver of the Volvo tractor-trailer and issued a preventive arrest warrant for him, which was not executed, as he was a fugitive. On October 15, 1997, the Second Prosecutorial Transit Agent of Loja indicted the driver of the tractor-trailer, and on November 12, 1997, he called an oral and public hearing for trial, which was set aside since the accused continued fugitive. In addition, the Second Court declared suspension of the criminal transit proceeding, without prejudice to the accused being apprehended so as to answer to the justice system. Finally, on March 25, 2002, after the period or more than five years since the criminal proceedings were instituted, established in the Criminal Code, had run, the First Provincial Transit Judge of Loja declared that the action had prescribed, to the benefit of the driver of the tractor-trailer, and ordered that the case be archived.

30. The petitioners allege that they were impeded from pursuing remedies against the ruling on prescription since they had not been given any notice of it. They also consider that their expectation of obtaining compensation for damages was obstructed by the prescription of the action and that they have exhausted the judicial remedies available to them, without obtaining justice in terms of establishing the responsibility of the driver of the tractor-trailer. They also allege that the State did not take the measures necessary, beyond issuing various arrest warrants, to locate the driver of the tractor-trailer and bring him under its jurisdiction, even though he participated actively, through his defense counsel, in the criminal investigation. The State has not provided information on the actions taken by the judicial authorities to locate the accused and obtain jurisdiction over him.

31. The State alleges, for its part, that the claim is inadmissible as it does not meet the requirement set out at Article 46(1)(a) of the American Convention, since the petitioners did not pursue remedies such as appeal (*apelación*) and annulment (*nulidad*).

32. The Commission observes that the petitioners' allegations referred to the alleged state responsibility for lack of due diligence in the investigation carried out into the traffic accident and specifically to locate the driver of the tractor-trailer. The petitioners indicate that the State did not take measures, beyond issuing arrest warrants, to locate the accused even though he participated actively in the proceeding through his defense counsel; they allege that the passive attitude resulted in an absence of impartiality. The remedies of *apelación*<sup>9</sup> and *nulidad*<sup>10</sup> to which the State refers in its arguments are

---

<sup>8</sup> See Article 31(3) of the Rules of Procedure and I/A Court H.R., *Velásquez Rodríguez Case v. Honduras*. Judgment of July 29, 1988. Series C No. 4, para. 64.

<sup>9</sup> Article 123 of the Transit and Transport Act: "The parties, within three days, counted from the notification of the judgment, may file an appeal remedy (*recurso de apelación*) before the Superior Court. In those cases within the court's jurisdiction, the provisions of the Organic Law on the Judicial Function shall apply. In addition, one may file a motion for annulment (*recurso de nulidad*), in keeping with the provisions of the Third Section, Title IV, Fourth Book, of the Code of Criminal Procedure, as applicable." Article 348 of the Code of Criminal Procedure of 1983: "When an appeal (*recurso de apelación*) may be brought.- An appeal may be brought when any of the parties files it with respect to the following rulings: 1. An order of dismissal without prejudice or with prejudice; 2. An order initiating the second phase of the trial (*plenario*); 3. An order of disqualification and of prescription that brings

extraordinary remedies and the State has not indicated and it is not evident how those remedies could have remedied the alleged obstruction, lack of due diligence in the administration of justice.

33. The Commission observes that the conduct that is the subject matter of the claim is provided for in the Transit and Transport Act in force at the time of the facts and constitutes a transit crime of public action; i.e. that must be prosecuted once it comes to the attention of the authorities.<sup>11</sup> Therefore, the transit proceeding is the suitable jurisdiction for clarifying the facts and making possible reparation for damages. In addition, the Commission understands that in the context of Ecuadorian legislation, the judicial determination of transit liability is a predicate for civil reparations for damages.<sup>12</sup> In view of the foregoing, the Commission considers that the petitioners' claim satisfies the requirement established at Article 46(1)(a) of the American Convention.

## 2. Deadline for filing a petition

34. Article 46(1)(b) of the American Convention establishes that for a petition to be admissible by the Commission, it must be filed within six months from the date on which the person allegedly harmed has been notified of the final decision. In the instant case, the petition was received on October 16, 2002, and the last decision adopted in the domestic jurisdiction was handed down on March 25, 2002. The State alleges that the petition exceeds the time period established at Article 46(1)(b). For their part, the petitioners allege that they were not notified of the decision on prescription and that they found out about it through third persons in October 2003. In this respect, the Commission observes that the State has not controverted the petitioners' argument with respect to the failure to give notice of that decision, and has not filed documentation with respect to notice thereof, therefore the Commission considers that the admissibility requirement regarding the time of filing has been met.

## 3. Duplication and *res judicata*

35. Article 46(1)(c) of the Convention provides for a petition to be admitted by the Commission, it is required that "the subject of the petition or communication is not pending in another international proceeding for settlement," and at Article 47(d) it provides that the Commission shall find inadmissible any petition or communication when "is substantially the same as one previously studied by the Commission or by another international organization." It does not appear from the record that the subject matter of the petition is pending before any other international proceeding for settlement, nor that it reproduces a petition already examined by this or any other international body. Therefore, the requirements established at Articles 46(1)(c) and 47(d) of the Convention have been met.

---

the proceeding to an end; 4. Judgments of acquittal or convictions handed down in proceedings with special procedures; and, 5. Judgments handed down in proceedings for liquidation and payment of damages before criminal judges or courts."

<sup>10</sup> Article 360 of the Code of Criminal Procedure: Legal basis.- "A motion for annulment may be filed in the following cases: 1. When the Criminal Judge or Court has acted without jurisdiction; 2. When the order instituting criminal proceedings or private accusation has not named the accused or the public defender; 3. When the parties have not been notified of the appointment of experts, except for those cases in which the Law permits this omission; 4. When no notice has been given of the judgment to one of the parties; 5. When the Criminal Court has not been constituted lawfully; 6. When in the course of the hearing of the Criminal Court the procedure provided for in this Code has been violated; 7. When notice has not been given of the meeting of the Criminal Court in the period to which Article 271 refers; 8. When the Court has been constituted with one or more of its members who are recused as a matter of law; 9. When the judgment does not meet the requirement demanded in Article 333; and, 10. When in the substantiation of the proceeding the procedure provided for in the Law has been violated."

<sup>11</sup> Article 57 of the Transit and Transport Act: "The offenses and breaches defined in this Transit and Overland Transport Act are without malice and entail the joint and several civil obligations to pay court costs and damages by those responsible for the violations. The action to pursue them is public and to be investigated at the initiative of the prosecutorial authorities, in the context of which, if a private accusation is filed, the amount of the civil obligations indicated shall be established."

<sup>12</sup> Article 118 of the Transit and Transport Act: "Every judgment of liability for violations of the Transit Act entails the obligation of the person who caused or is responsible for the violation to pay court costs and damages. The civil obligations shall extend by joint and several liability to those natural or juridical persons, public or private, who are owners of the vehicle driven by the person held liable in the following cases: (a) If the driver is a worker or professional driver for the owner, or acted with the owner's authorization or knowledge; and, (b) If the person who was driving has a family relationship with the owner up to the second degree of consanguinity or affinity."

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

36. Based on the information provided by the parties and the nature of the matter put before it, the Commission finds that in the instant case, the petitioners' allegations regarding the alleged violation of the rights to judicial guarantees and judicial protection, if proven, could tend to establish possible violations of the rights protected at Articles 8(1) and 25, in conjunction with Article 1(1), all of the American Convention.

37. As for the petitioners' claim on the alleged violation of Articles 3, 5, 21, and 24 of the American Convention and Articles XIV and XXXVII of the American Declaration, the Commission observes that the petitioners did not present information which, if proven, would be sufficient to tend to establish their violation; accordingly, those claims are not found admissible.

38. As these aspects of the claim are not manifestly groundless or obviously out of order, the Commission considers that the requirements established at Articles 47(b) and (c) of the American Convention have been met.

#### **V. CONCLUSIONS**

39. The Commission concludes that it is competent to examine the claims presented by the petitioners on the alleged violation of Articles 8(1) and 25, in conjunction with Article 1(1) of the American Convention, and that these are admissible in keeping with the requirements established at Articles 46 and 47 of the American Convention. In addition, it finds inadmissible the claims regarding the alleged violations of Articles 3, 5, 21, and 24 of the American Convention and Articles XIV and XXXVII of the American Declaration of the Rights and Duties of Man.

40. Based on the foregoing arguments of fact and law, and without it constituting any prejudgment on the merits,

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

#### **DECIDES:**

1. To declare admissible the claims on the alleged violation of Articles 8(1) and 25 of the American Convention, in relation to Article 1(1) of the same treaty.

2. To give notice of this decision to the Ecuadorian State and the petitioners.
3. To continue with the analysis of the merits.
4. To publish this decision and include it in its Annual Report to be presented to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on November 1<sup>st</sup>, 2010. (Signed): Felipe González, President; María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, members of the Commission.