

**REPORT No. 13/11<sup>1</sup>**  
PETITION 548-04  
ADMISSIBILITY  
BLANCA OLIVIA CONTRERAS VITAL ET AL.  
MEXICO  
March 23, 2011

**I. SUMMARY**

1. On June 9, 2004 the Inter-American Commission on Human Rights (hereinafter the "Inter-American Commission," "Commission," or "IACHR") received a complaint submitted by José de Jesús Esqueda Díaz, a federal public defender attached to the Unitary Court of the XXIII Circuit in Zacatecas (hereinafter the "petitioner"), acting as the representative of Blanca Olivia Contreras Vital, José Antonio Martínez Jiménez, Roberto Clemente Álvarez Alvarado, Juan Gerardo Murillo Murillo, and José Eduardo Martínez de Luna<sup>2</sup> (hereinafter the "alleged victims"), against the United States of Mexico (hereinafter the "Mexican State," "Mexico," or "State"). The complaint alleges that the alleged victims' right to a defense had not been respected during the preliminary investigations against them.

2. The petitioner asserts that the State violated Articles 1 (obligation to respect rights), 2 (duty to adopt domestic legal provisions), 7 (right to personal liberty), 8 (right to a fair trial), and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter the "Convention" or "American Convention") and Articles 1, 2, 6, 9, and 14 of the "United Nations Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms".<sup>3</sup> He alleges that all domestic remedies were exhausted and invokes the exception established in Article 46.2.a of the Convention. He asserts that the petition was submitted within the timeframe established in the Convention and that he did not file with any other international organization.

3. The State alleges that the petition is inadmissible because one of the alleged victims did not exhaust the domestic remedies and three other alleged victims submitted the petition after the Convention's deadline of six months. The State also invokes the "fourth instance" formula.

4. Without prejudging the merits of the complaint, after analyzing the positions of the parties, and pursuant to the requirements established in Articles 46 and 47 of the American Convention, the Commission decides to declare the case admissible for purposes of examining the alleged violation of the rights enshrined in Articles 7 and 8 of the American Convention, as they relate to Article 1.1 of the same Convention, to the detriment of Blanca Olivia Contreras Vital and Roberto Clemente Álvarez Alvarado. In addition, it decides to declare the petition inadmissible for the alleged violation of Articles 2 and 25 of the American Convention. It also feels that in accordance with the provisions of Article 46.1.b of the Convention, the petition is inadmissible with respect to José Antonio Martínez Jiménez, Gerardo Murillo Murillo, and José Eduardo Martínez Luna. Finally, the Commission resolves to notify the parties, publish this admissibility report, and include it in the Annual Report to the General Assembly of the OAS.

**II. PROCESSING BY THE COMMISSION**

5. The petition was received on June 9, 2004 and recorded as P-548-04. On June 29, 2005 it was forwarded to the State, allowing it a period of two months to submit its observations. The IACHR received Mexico's response on August 29, 2005.

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<sup>1</sup> In accordance with the provisions of 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 discussion or the decision in this case.

<sup>2</sup> Mr. José Eduardo Martínez de Luna was included as an alleged victim in the briefs received on July 29, 2004 and September 27, 2005.

<sup>3</sup> United Nations Declaration approved by the General Assembly according to Resolution 53/144. Distr.GENERAL. A/RES/53/144. 8 March 1999.

6. The Commission also received information from the petitioner on the following dates: August 17, September 20 and 27, and October 13, 2005; December 18 and 28, 2006; January 4, April 11 and 24, and June 5, 2007; and April 13, 2010. Those communications were duly forwarded to the State. For its part, Mexico sent information on October 27, 2006 and June 15, 2007. These communications were duly forwarded to the petitioner.

### **III. POSITION OF THE PARTIES**

#### **A. The petitioner**

7. The petitioner, a federal public defender, alleges that during the criminal proceedings against Blanca Olivia Contreras Vital, José Antonio Martínez Jiménez, Roberto Clemente Álvarez Alvarado, Juan Gerardo Murillo Murillo, and José Eduardo Martínez de Luna<sup>4</sup> their right to an adequate defense was not respected and as a result their convictions were arbitrary and in violation of the American Convention.

8. He reports that the alleged victims underwent a preliminary investigation for the alleged commission of different crimes and then convicted. He asserts that during the preliminary investigations they were not able to communicate freely, in private, and on a timely basis with their defenders before making their initial statements to the Office of the Public Prosecutor. As a result, he feels that the defendants' statements at prosecution were unlawful and their use as evidence in the respective proceedings violated the right to a fair trial.

9. According to the petitioner, this lack of due process is due to the fact that the designation of a defender assisting an individual under indictment occurs when the accused is taken to provide a statement to the Office of the Public Prosecutor and "in the best of cases" the accused is given the opportunity to communicate with his attorney prior to the statement but not in a private meeting.<sup>5</sup>

10. In his judgment, it is not enough for the defense attorney to be present when the accused makes this statement. Rather, the accused should be provided legal assistance with sufficient time and resources so that his defense can be prepared. The petitioner believes that the failure to appoint the public defender prior to the initial statement and the absence of a private meeting between the public defender and the accused, prior to the initial statement, affects the right to adequate legal assistance.

11. Regarding the exhaustion of domestic remedies, the petitioner maintains that the mechanisms established by law were utilized. He reports that the alleged victims were convicted in the first instance court for committing various crimes and their convictions were upheld on appeal. He indicates that direct appeals for constitutional protection were filed with the Supreme Court of Justice of the Nation to challenge the convictions and the rejection of these appeals led to the filing of direct appeals for constitutional protection on review.

12. He asserts that when hearing the appeals for constitutional protection on review filed by the alleged victims in the various proceedings (with decisions handed down between 2002 and 2004), the Supreme Court determined that the presence of a defense attorney was not necessary until the initial statement made by the accused, because it would not be known whether someone was being indicted for a crime – even though he or she was deprived of liberty – until the moment when the accused made a statement to the Office of the Public Prosecutor. Regarding Blanca Olivia Contreras Vital, the petitioner

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<sup>4</sup> The alleged victims were deprived of liberty on the date the petition was submitted. In a note received on April 30, 2010, the petitioner reported that they had been released upon completing their sentences.

<sup>5</sup> In this regard, he explains – and documents – cases in which the public defender's request to meet with the accused was allowed, under the condition that the meeting be held in the presence of personnel from the Office of the Public Prosecutor. He adds that, unlike the public defender's situation, personnel from the Office of the Public Prosecutor are allowed to interview the accused in private.

indicates that an appeal for recognition of innocence was also filed, with the Court ruling against her claims on June 23, 2005.

13. According to the petitioner, the case law changed because the Supreme Court, in appeal for constitutional protection No. 1236/2004, recognized that a private interview between the defense attorney and the accused was part of the accused's right to a defense. However, he clarifies that this direct appeal was not filed on behalf of the alleged victims in this petition, but rather on behalf of a third party and as a result the decision in that case did not benefit his clients.

14. The petitioner asserts that in Mexico there is no effective remedy to repair the alleged human rights violations and seeks application of the exception to the exhaustion of domestic remedies rules established in Article 46.2.a) of the Convention. This is because the appeal for constitutional protection becomes ineffective given the attitude of officials who give probative value to actions involving human rights violations and because, although appeal for constitutional protection 1236/2004 acknowledged that the legal assistance of the defense attorney is necessary at all times, this is ineffective in practice.

15. In addition, the petitioner rejects the grounds for inadmissibility alleged by the State. Regarding the "fourth instance" assumption invoked by Mexico, the petitioner alleges that he is not making application to the IACHR in order to obtain a "simple review of the decisions handed down" but is arguing, rather, that the alleged victims did not have access to judicial proceedings that respected the rules of due process. Regarding the alleged lack of timeliness in submitting the petition with respect to Antonio Martínez Jiménez, Juan Gerardo Murillo, and Blanca Olivia Contreras Vital, the petitioner states that: i) all the alleged victims were timely in submitting petitions given that the criterion established by the Supreme Court in the appeal for constitutional protection on review 1236/2004 should have benefited all those persons who were in the same legal situation; ii) with respect to José Antonio Martínez Jiménez and Juan Gerardo Murillo in particular, the petitioner indicates that the date of submission did not preclude the timeframe established in the Convention, given that they were suffering the consequences of the violations of their fundamental rights, as they continued to be deprived of liberty; and iii) with respect to Blanca Olivia Contreras Vital, the petitioner asserts that the period of six months must be calculated from the date when the appeal for recognition of innocence filed in her favor was decided. In this respect, he maintains that even though it is an extraordinary remedy, it is a mechanism through which the unlawful action of the State could have been remedied.

16. Regarding the situation of Mr. Martínez de Luna, the petitioner notes that, although Mexico made no observations regarding him, the IACHR should understand that the State accepts the charges made.<sup>6</sup>

17. In summary, the petitioner believes that the rights protected in Articles 1, 2, 7, 8, and 25 of the American Convention and Articles 1, 2, 6, 9, and 14 of the "United Nations Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" have been violated, to the detriment of the alleged victims.

## **B. The State**

18. The Mexican State alleges that the petition is inadmissible due i) to the failure to exhaust domestic remedies with regard to one alleged victim; ii) to the failure to adhere to the six month period for submitting the petition with regard to three of the alleged victims; iii) generally to the fact that a "fourth instance" is involved.

19. The State argues that the alleged victims had adequate and effective remedies for the protection of their rights, even going so far as filing with the Supreme Court of Justice of the Nation and

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<sup>6</sup> Note of September 27, 2005, forwarded to the State in a communication from the IACHR dated August 28, 2006.

that in the various jurisdictions applied to on appeal they obtained confirmation of their criminal liability for the various crimes of which they had been accused.

20. The State recognizes that the decision in the direct appeals for constitutional protection on review filed on behalf of Antonio Martínez Jiménez, Juan Gerardo Murillo Murillo, and Blanca Olivia Contreras Vital exhausted the domestic jurisdiction. In the case of Mr. Álvarez Alvarado it initially indicated that the domestic remedies had been exhausted.<sup>7</sup> It reported that the direct appeal for constitutional protection on review filed on his behalf was declared inadmissible by the Supreme Court in that “important and transcendent” requirements had not been met in accordance with the *Amparo* Law, in that the subject of constitutionality<sup>8</sup> posited had been resolved in case law from that same Court.

21. In addition, the State argues that it is inadmissible because the facts alleged do not point to possible violations of rights protected by the Convention. As a result, it feels that the petitioner made application to the IACHR so that it would “constitute a fourth instance,” reviewing the rulings of Mexican courts and overturning the decisions reached.

22. In the view of the State, during the proceedings conducted against the alleged victims, their right to an adequate defense was guaranteed; the competent authorities acted with respect for human rights; and the guarantees of due process and judicial protection provided in the laws, the Constitution, and the American Convention were respected. It emphasizes that even the Supreme Court found that the decisions handed down in each case had been issued in accordance with the law and that the proceedings had respected the right to a defense. Specifically, the State asserts that in the cases identified, the defendant’s statement at prosecution was made in the presence of the public defender and in this way the alleged victims’ right to an adequate defense was respected, and the defendants had been informed regarding the constitutional and legal guarantees protecting them. In addition, the State notes that “assuming without granting that the defendants’ statements at prosecution were made without a prior interview with their defense attorneys,” these statements were not the only evidence evaluated in the criminal proceedings. As a result, the State feels that the alleged victims’ deprivation of liberty was the result of criminal penalties that meet the requirements of domestic law and international standards in the area of human rights.

23. The State also indicates that the period of six months has not been observed in the cases of Antonio Martínez Jiménez, Juan Gerardo Murillo, and Blanca Olivia Contreras Vital. Regarding the first, the State notes that the complaint was submitted 18 months after notification of the decision that exhausted the domestic remedies, which was confirmed on January 29, 2003. Regarding the second and third, the State points out that the complaint was submitted 15 months after the exhaustion of domestic remedies, because the alleged victims were notified of the decisions handed down in the direct appeals for constitutional protection on review on March 19 and 25, 2003, respectively.

24. Regarding appeal for constitutional protection 1236/2004, referred to by the petitioner, wherein the decision of the Supreme Court recognized that a private interview between the defense attorney and the accused was part of the right to a defense, the State indicates that since this decision involves a different investigation, it cannot be applied to the facts of the petition in the instant case.

25. In conclusion, the State asks that the petition be declared inadmissible on the basis of Article 47 of the American Convention and Article 34 of the IACHR Rules of Procedure.

#### **IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY**

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<sup>7</sup> The State’s initial observations dated November 6, 2006 assert that the domestic remedies with respect to Mr. Álvarez Alvarado were exhausted with the filing of the direct appeal for constitutional protection on review before the Supreme Court and the subsequent decision on inadmissibility.

<sup>8</sup> Mr. Álvarez Alvarado sought interpretation of Article 20 of the Constitution in order to establish what comprises an adequate defense and to determine whether it includes a private interview between the defense attorney and the defendant prior to the defendant’s statement on prosecution.

**A. Competence *ratione personae*, *ratione temporis*, *ratione loci*, and *ratione materiae***

26. The petitioner is authorized by Article 44 of the American Convention to submit petitions to the Commission. The petition indicates as alleged victims natural persons with respect to whom the State of Mexico committed to respect and guarantee the rights enshrined in the American Convention. With respect to the State, the Commission notes that Mexico has been a State Party to the American Convention since March 24, 1981, the date it deposited its ratification instrument. Therefore, the Commission is competent *ratione personae* to examine the petition. In addition, the Commission is competent *ratione loci* to hear the petition in that it alleges violations of rights protected in the Convention that occurred within the territory of Mexico, a State Party to that treaty.

27. The Commission is competent *ratione temporis* in that the obligation to respect and guarantee the rights protected in the American Convention were already in effect for the State on the date when the facts alleged in the petition would have occurred. Finally, the Commission is competent *ratione materiae*, because the petition alleges possible violations of human rights protected by the American Convention.

28. On the other hand, the IACHR is not competent to opine on possible violations of rights established in the “United Nations Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,” because this is not an instrument approved within the regional scope of the inter-American system.

**B. Admissibility requirements**

**1. Exhaustion of domestic remedies**

29. Article 46.1.a of the American Convention provides that in order for a complaint filed with the Inter-American Commission to be admissible in accordance with Article 44 of the Convention the domestic remedies must have been pursued and exhausted in accordance with generally recognized principles of international law. The purpose of this requirement is to allow domestic authorities to learn of the alleged violation of a protected right and, if appropriate, resolve it before it is heard by an international body. Article 46.2 of the Convention provides that the prior exhaustion of domestic remedies requirement is not applicable when: a) the domestic legislation of the State concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; and c) there has been an unwarranted delay in rendering a final decision under the aforementioned remedies.

30. Regarding satisfaction of this requirement under the Convention, the petitioner alleges that the domestic remedies were exhausted through the filing of direct appeals for constitutional protection on review before the Supreme Court of Justice, on behalf of each of the alleged victims. Regarding Mrs. Contreras Vital, the petitioner indicates that the appeal for recognition of innocence has been exhausted as well. In addition, the petitioner invokes the exception to the exhaustion of domestic remedies rule established in Article 46.2.a of the Convention because he believes that in Mexico there was no effective remedy for repairing the alleged violations of human rights. For its part, Mexico recognizes that the decision in the direct appeals for constitutional protection on review filed on behalf of Antonio Martínez Jiménez, Juan Gerardo Murillo Murillo, and Blanca Olivia Contreras Vital signified the exhaustion of domestic remedies. Also in the case of Mr. Álvarez Alvarado, the State initially recognized that the domestic remedies had been exhausted.

31. Accordingly, it falls to the IACHR to analyze whether in the instant case the domestic remedies were exhausted with respect to each of the alleged victims, or whether one of the exceptions under Article 46 of the Convention is applicable.

32. **i) Blanca Olivia Contreras Vital:** Convicted of a crime against health in the form of trafficking (purchasing) cocaine chlorhydrate on August 30, 2002<sup>9</sup> by the First District Court of Zacatecas. On October 29, 2002 the Unitary Court of the Twenty-Third Circuit upheld the conviction. On February 13, 2003 the First Collegiate Court of the Twenty-Third Circuit ruled against the direct appeal for constitutional protection 674/2002, filed on her behalf and challenging the second instance decision. On May 21, 2003 the First Chamber of the Supreme Court upheld the decision issued in the appeal for constitutional protection (direct appeal on review 426/2003). On June 23, 2005 the First Collegiate Court of the Twenty-Third Circuit declared the appeal for recognition of innocence filed on her behalf to be groundless.<sup>10</sup>

33. **ii) José Antonio Martínez Jiménez:** Convicted of the crime of aggravated robbery on July 31, 2002 by the Second District Court of the State of Aguascalientes. The decision was upheld on September 27, 2002 by the Unitary Court of the Twenty-Third Circuit. On November 27, 2002 the First Collegiate Court of the Twenty-Third Circuit ruled against the direct appeal for constitutional protection 591/2002 filed on his behalf and challenging the second instance decision. On March 9, 2003, the First Chamber of the Supreme Court upheld the decision in the appeals trial (direct appeal on review 98/2003);

34. **iii) Gerardo Murillo Murillo:** Convicted of a crime against health in the form of possession of marijuana with intent to sell and trafficking in the form of sale on November 30, 2001 by the Second District Court of the State of Zacatecas.<sup>11</sup> On February 13, 2002 the Unitary Court of the State's Twenty-Third Circuit upheld the conviction. On July 3, 2002, the First Collegiate Court of the Twenty-Third Circuit ruled against the direct appeal for constitutional protection 155/2002, filed in his behalf and challenging the second instance decision. On February 12, 2003 the First Chamber of the Supreme Court upheld the decision issued in the appeal for constitutional protection (direct appeal on review 1317/2002);

35. **iv) Roberto Clemente Álvarez Alvarado** was convicted by the Third District Court of the State of Aguascalientes on February 19, 2003 of a crime against health in the form of possession of narcotics for the purpose of engaging in one of the activities established in Article 194 of the Federal Penal Code. The decision was upheld on April 4, 2003 by the Unitary Court of the Twenty-Third Circuit. On October 9, 2003 the First Collegiate Court of the Twenty-Third Circuit ruled against the direct appeal for constitutional protection 254/2003, filed on his behalf and challenging the second instance decision. On April 19, 2004 he was notified that the Supreme Court rejected as inadmissible the direct appeal for constitutional protection on review filed to challenge the final decision.

36. **v) José Eduardo Martínez de Luna:** Convicted of a crime against health by the Third District Court of the State of Aguascalientes. On December 7, 2003 a final decision was handed down in the criminal proceeding against him. At the time, the First Chamber of the Supreme Court rejected the direct appeal for constitutional protection on review (682/2004) filed on his behalf.

37. Based on the above history, the IACHR concludes that:

a) With respect to Blanca Olivia Contreras Vital, the domestic remedies were exhausted in the decision on the appeal for recognition of innocence handed down on June 23, 2005. In this respect, the Commission notes that, although this is an extraordinary appeal for which exhaustion is not mandatory, its use indicates the real desire of the alleged victim to make use of all the mechanisms available to her under domestic law at the time and offered the possibility of responding to the complaints made.

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<sup>9</sup> The State indicates that the decision is dated April 29, 2002. However, the copies of the decisions attached to the file before the IACHR indicates that the decision is dated August 30, 2002.

<sup>10</sup> The State indicates that the decision is dated June 27, 2005. However, the copies of the decisions attached to the file before the IACHR indicates that the decision is dated June 23, 2005.

<sup>11</sup> The State indicates that the decision is dated November 31, 2001. However, the copies of the decisions attached indicate that the decision is dated November 30, 2001.

b) Regarding Messrs. Martínez Jiménez, Murillo Murillo, and Martínez de Luna – and applying the preceding line of reasoning – the remedies were exhausted with the decision in the direct appeals for constitutional protection on review filed on behalf of each of them and decided on March 9, 2003, February 12, 2003, and December 7, 2003, respectively. Regarding Mr. Álvarez Alvarado, as reflected in the State's observations of November 6, 2006, the remedies were exhausted when his direct appeal for constitutional protection on review before the Supreme Court was rejected as groundless, a decision he was informed of on April 19, 2004.

38. In conclusion, the requirement established in Article 46.1.a of the Convention is met. In that the alleged victims exhausted a series of remedies available to them, it is not appropriate to apply the exception established in Article 46.2.a of the Convention, as requested by the petitioner.

## **2. Deadline for submitting the petition**

39. As provided in Article 46.1.b) of the Convention, in order for a petition to be admitted it must be submitted within a period of six months from the date on which the complainant was notified of the final decision handed down at the domestic level. The six months rule guarantees certainty and legal stability once a decision has been adopted.

40. The State asserts that this rule was not honored with respect to some of the alleged victims because the petitions were submitted to the IACHR 13 and 18 months after the domestic remedies were exhausted. The petitioner rejects the State's argument and asserts that the petition were submitted within the established period.

41. In the instant case, as established, the remedies were exhausted with respect to the different alleged victims on the following dates: Blanca Olivia Contreras Vital: June 23, 2005; José Antonio Martínez Jiménez: March 9, 2003; Roberto Clemente Álvarez Alvarado: April 19, 2004; Juan Gerardo Murillo Murillo: February 12, 2003; and Juan Eduardo Martínez de Luna: December 7, 2003.

42. Therefore, the IACHR considers the requirement established in Article 46.1.b of the Convention to have been met with respect to Blanca Olivia Contreras Vital and Roberto Clemente Álvarez Alvarado. With respect to José Antonio Martínez Jiménez, Gerardo Murillo Murillo, and José Eduardo Martínez de Luna, the Commission concludes that the petition was submitted after the period established under the Convention.

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

43. The case file does not indicate that the subject of the petition is pending settlement in any other international proceeding or that it reproduces a petition already examined by this or any other international body. It is thus appropriate to consider the requirements established in Articles 46.1.c) and 47.d) of the Convention to have been met.

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

44. For admissibility purposes, the Commission must decide whether the alleged facts, if proven, may tend to establish a violation of rights as stipulated in Article 47.b of the American Convention or whether the petition is "manifestly groundless" or "out of order" in accordance with subparagraph (c) of the same article. The criterion for evaluating these requirements is different from that used to rule on the merits of a petition; the Commission must perform a *prima facie* evaluation to determine whether the petition establishes the basis for a possible or potential violation of a right guaranteed by the Convention, but not to establish the existence of a violation of rights. This determination constitutes a preliminary analysis that does not imply prejudging the merits of the case.

45. The petitioner alleges that during the preliminary investigations conducted against the alleged victims their right to an adequate defense was not respected, in that they were not allowed to have a private interview with their defense attorneys prior to making their defendant's statement at

prosecution. For its part, the State maintains that the facts reported do not characterize alleged violations of rights under the Convention and asserts that the petitioner is applying to the IACHR in order to have the judicial decisions handed down by domestic authorities reviewed.

46. The Commission believes that, if proven, the alleged victims' alleged lack of legal assistance could tend to characterize alleged violations of the right to a defense.

47. In the analysis of the merits phase in this case, the Commission will analyze whether the failure to appoint a public defender prior to the defendant's first statement in a criminal proceeding and, as a result, the accused's inability to first meet privately with the defense attorney, violates provisions of the Convention. As a result, the IACHR concludes that if the allegations made by the petitioners were proven they could characterize possible violations of rights protected under Articles 2, 7, 8, and 25 of the American Convention, as they relate to Article 1.1 of the same instrument, to the detriment of Blanca Olivia Contreras Vital and Roberto Clemente Álvarez Alvarado. Thus, it considers the requirements established in Article 47.b and c of the Convention to have been met.

## **V. CONCLUSIONS**

48. The Commission concludes that it is competent to examine the complaint submitted by the petitioner, and that the petition is admissible, in accordance with Articles 46 and 47 of the Convention, for the alleged violation of Articles 2, 7, 8, and 25 of the American Convention as they relate to Article 1.1 of the same convention, to the detriment of Blanca Olivia Contreras Vital and Roberto Clemente Álvarez Alvarado. In addition, it believes that in accordance with the provisions of Article 46.1.b) of the Convention, the petition is inadmissible with respect to José Antonio Martínez Jiménez, Gerardo Murillo Murillo, and José Eduardo Martínez de Luna.

49. Based on the factual and legal arguments presented above, and without prejudging the merits of the question,

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

#### **DECIDES:**

1. To declare this petition admissible with respect to Articles 7 and 8 of the American Convention as they relate to Article 1.1 of the same convention, to the detriment of Blanca Olivia Contreras Vital and Roberto Clemente Álvarez Alvarado.

2. To declare this petition inadmissible with respect to Articles 2 and 25 of the American Convention.

3. To declare this petition inadmissible in accordance with Article 46.1.b of the American Convention with respect to José Antonio Martínez Jiménez, Gerardo Murillo Murillo, and José Eduardo Martínez de Luna.

4. To transmit this report to the petitioners and the State of Mexico.

5. To continue with its analysis of the merits of the case.

6. To publish this report and include it in the Commission's Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 23<sup>rd</sup> day of March 2011. (Signed): Dinah Shelton, President; Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero, and María Silvia Guillén, Commissioners.