

**REPORT No. 106/11**  
PETITION 1082-03  
ADMISSIBILITY  
REINALDO BARRETO MEDINA AND FLORENCIO FLORENTIN MOSQUEIRA  
PARAGUAY  
July 22, 2011

**I. SUMMARY**

1. On September 3, 2003 the Inter-American Commission on Human Rights (hereinafter, "the Commission") received a petition lodged by Reinaldo Barreto Medina and Florencio Florentin Mosqueira (hereinafter, "the petitioners"). The petition alleges that State of Paraguay (hereinafter, "the State" or the "State of Paraguay") is responsible for the violation of the petitioners' rights to juridical personality, personal liberty, fair trial, freedom from ex post facto laws, freedom of association, equality under the law, and judicial protection, as contained in Articles 3, 7, 8, 9, 16, 24, and 25 of the American Convention on Human Rights (hereinafter, the "Convention" or the "American Convention") in relation to Articles 1.1 and 2 of that treaty.

2. The petition indicates that as a consequence of their union involvement, the petitioners were included, in June 2000, in the criminal prosecution of directors of the *Banco Nacional de Trabajadores* [Workers' National Bank] (BNT) and of the company PEGASUS S.A. The petitioners claim that as members of the *Central Sindical de Trabajadores del Estado* [Federation of Government Workers' Unions] (CESITEP), they were prosecuted as accomplices in the crimes of fraud and betrayal of trust, for signing loans and promissory notes with BNT, which led to the collapse of BNT. The petitioners were sentenced to four years in prison.

3. The petitioners indicate that they were punished for a crime defined in the 1997 Criminal Code, and not according to what is set forth in the 1914 Criminal Code, the code in force at the time the facts occurred. The petitioners also indicate that they were prosecuted under the 1890 Procedural Code when they should have been prosecuted under the new Criminal Procedural Code, which took effect on 1 March 2000.

4. The State argues that not all remedies under domestic law have been exhausted. The State claims that delays in court rulings have occurred because of problems with the composition of the Appeals Tribunal and because of the complexity of the case, given the number of defendants and the reiterations of appeals filed by the petitioners.

5. Concerning this, the State indicates that domestic law allows for a few more remedies, which must be exhausted by the petitioners. These include the extraordinary appeal for annulment and the appeal for revision, appeals not available under the 1890 Procedural Code but available under the new Procedural Code that is currently in force. The State claims that yet another additional appeal remains, which would challenge the constitutionality of a ruling by the Supreme Court of Justice if the ruling is injurious to the petitioners.

6. Pursuant to the provisions of Articles 46 and 47 of the American Convention, as well as Articles 30 and 36 of its Regulation, and having analyzed the positions of the parties, the Commission has decided to declare the petition admissible. Therefore, the IACHR has decided to notify the parties of its decision and to continue with an analysis of the merits of the alleged violations of Article 7 (right to personal liberty), 8 (right to fair trial), 9 (freedom from ex post facto laws), 16 (freedom of association), and 25 (right to judicial protection) as it relates to 1.1 (the obligation to guarantee rights) and 2 (the duty to adopt measures under domestic law) of the American Convention. The Commission has also decided to notify the parties of its decision, to publish it, and to include it in its Annual Report to the General Assembly of the Organization of American States.

**II. PROCEEDINGS BEFORE THE COMMISSION**

7. On September 3, 2003, the Commission confirmed receipt of the petition. On December 29, 2004, the Commission opened proceedings on the petition and gave the State two months to file its observations regarding the admissibility of the case. On March 29, 2005, the State filed its response to the petition, which was transmitted to the petitioners on May 2, 2005.

8. The petitioners filed additional observations on September 18, 2008, February 9, 2009, March 12, 2009, November 13, 2009, and September 21, 2010. These observations were duly transmitted to the State.

9. The State, for its part, filed its observations on January 22, 2009, July 20, 2009, and August 14, 2009. These observations were duly transmitted to the petitioners.

### III. POSITIONS OF THE PARTIES

#### A. Position of the petitioners

10. The petitioners indicate that in April 1996, while holding the offices of Secretary of Finance (Florencio Florentín) and Secretary-General (Reinaldo Barreto Medina) of the *Central Sindical de Trabajadores* (CESITEP), they signed loan applications and promissory notes with *Banco Nacional del Trabajo* (BNT) to enable the company PEGASUS S.A. to conduct two construction projects commissioned by the Government. They claim to have signed the loan applications and promissory notes under mandate by the General Assemblies of their respective union federations as a guarantee of compliance with the obligation assumed with BNT.

11. The petitioners indicate that in 1997 a criminal case was filed against the directors of BNT and of the company PEGASUS S.A. for the crimes of fraud, criminal deception, and others. They state that three years after prosecution had begun in the case, and after it had reached the full trial phase, the alleged victims were included in the case and that, as members of the *Central Sindical de Trabajadores del Estado* (CESITEP), they were prosecuted as accomplices in the crimes of fraud and betrayal of trust, charged with having diverted funds from BNT to the company PEGASUS S.A., in April 1996, and that this had led to the collapse of BNT.

12. The petitioners believe there was anti-union persecution against them for having called a general workers' strike on the same day they were included in the criminal proceedings. Likewise, they indicate that they were not given equal treatment, as several representatives of other labor unions were not included in the criminal case despite also having done business with BNT and the company PEGASUS S.A. and having assumed the same commitments as the petitioners.

13. The petitioners claim that their right to defense was violated in that they were unable to control the evidence presented and the proceedings during the summary phase of the trial. Likewise, they state that they were prosecuted for crimes defined in the 1997 Criminal Code and not in the 1914 Criminal Code, which was the applicable law, given that the deeds for which they are being charged (diversion of funds) occurred in April 1996.

14. The petitioners manifest that on October 8, 2001, the trial judge determined that the petitioners had diverted funds to the company PEGASUS S.A., thus leading to the failure of the *Banco Nacional de Trabajadores* and therefore sentenced them to four years in prison. On October 11, 2001, they were sentenced to house arrest, as a precautionary measure, a sentence they served for two years and three months, after which they regained their freedom. The petitioners claim to have been the object of imprisonment for debts, which goes against the provisions of the American Convention.

15. The petitioners add that on October 22, 2001 they appealed both the guilty verdict and the precautionary measure that restricted their freedom before an appeals court. The petitioners claim that during those appeal proceedings a series of improper delays and illegal actions took place, which include: (a) the provision for delivering the file in photocopy form while the Criminal Procedural Code

orders the file to be presented in original form; (b) the unjustified reduction of the procedural time frames for filing the appeals; and (c) the denial of access to the file.

16. Furthermore, when the petition was broadened on February 13, 2006, petitioner Reinaldo Barreto Medina indicated that despite having been given freedom of movement, the State continued to violate several of his rights contained in Articles 1, 2, 3, 8, 9, 16, 24, and 25 of the American Convention on Human Rights. He also requested that the IACHR granted him a precautionary measure requiring the State payment of wages not received since November 1999, bonuses, vacation pay, and reinstatement of the duties he performed as a professor, in addition to an indemnity payment for moral and material damages. This precautionary measure was not granted.

17. In subsequent written communications the petitioners state that in 2004 they went before the Appeals Tribunal, seeking to have the criminal charges expunged and dismissal of the trial, though their request was rejected on April 26, 2004. On July 29, 2004, they appealed that ruling, requesting that it be nullified. This appeal was denied on July 18, 2005. The petitioners state that on July 25, 2005 they once again appealed to the Supreme Court of Justice, seeking the nullification of the rulings that denied their appeal, and on March 11, 2008 the Court declared the appeals void.

18. The petitioners indicate that in 2008 they filed a complaint before the Appeals Tribunal, claiming that the statute of limitations for criminal prosecution had expired. They also indicate that on June 4, 2009 the First Courtroom of the Criminal Appeals Tribunal denied their statute-of-limitations request and upheld the four-year sentence, despite the existence of a report by the Prosecutor's Office that favored dismissal of the case because of the statute of limitations. They state that the Tribunal reasoned that it could not find for the expiration of the statute of limitations, given the complexity of the matter, citing not only the number of defendants but also the difficult task of investigating financial and estate dealings.

19. The petitioners indicate that on June 5, 2009 they expressed to the Supreme Court of Justice the damages that ensued from the denial of the statute of limitations, beseeching the Court to repeal the verdict and declare that the statute of limitations had expired, given that more than fourteen years had passed since the proceedings began. They claim that prosecutor's opinion No. 1047 of August 9, 2010 expressed itself in favor of the request for expiration of the statute of limitations. In their most recent communication, dated May 23, 2011, the petitioners reported that the Supreme Court of Justice, by resolution on December 29, 2010, had denied their appeal. The petitioners claim that the composition of the Criminal Section of the Supreme Court was irregular and illegitimate, and that their procedural and constitutional rights continued to be violated. The petitioners added that in response to the resolution they had filed a clarification appeal and a motion to nullify actions.

20. The petitioners also claim to have been victims of the violation of the procedural benefits entitled to those who were tried during the transition from the 1890 Criminal Procedural Code to the New Procedural Law, pursuant to Transition Law No. 1444, Article 5. This article indicates that for cases prosecuted under the 1890 Procedural Code that had not yet reached a final judgment by February 28, 2003, the criminal case would be expunged. They claim that not only was the aforementioned article the object of a lawsuit for unconstitutionality, but that Articles 136 and 137 of the 1890 Procedural Code, which enshrine the maximum amount of time a criminal prosecution can last, were declared inapplicable.

21. Based on the foregoing, the petitioners request that the Commission declare that the State of Paraguay has violated their rights to juridical personality, personal liberty, fair trial, freedom from ex post facto laws, freedom of association, equality under the law, and judicial protection contained in Articles 3, 7, 8, 9, 16, 24, and 25 of the American Convention as pertains to Articles 1.1 and 2 of that treaty.

## **B. Position of the State**

22. The State claims that all remedies under domestic law have not been exhausted, given that the case being prosecuted against the petitioners was still in the Appeals Tribunal of the First Court of Jurisdiction of the Capital at the time the petition was lodged with the Commission.

23. The State indicates that delays in resolving the appeal owe to the complexity of the case (33 defendants) and the defense strategies employed by the parties, and for this reason the case in question had not yet received a final judgment and sentence, pursuant to the provisions of the 1890 Procedural Code, the law under which the petitioners were prosecuted.

24. The State claims that despite difficulties in the composition of the Tribunal, the Tribunal had studied other appeals filed, such as the motion to nullify the precautionary measures and the dismissal of the criminal case.

25. The State also indicated that if the appeal were to be denied, domestic law of the State allows for the filing of two additional appeals: the extraordinary appeal for annulment and the appeal for revision, appeals not contained in the 1890 Procedural Code but that do exist in the current Code, which by application of the principle of benign retroactivity of the law would be applicable to this case. The State claims that a third option exists, namely, a constitutional challenge before the Supreme Court of Justice, if the resolution of those extraordinary appeals result to be injurious to the petitioners. In its most recent communication of April 4, 2011, the State informed the Commission that on December 29, 2010, the Court had resolved not to grant the appeal filed. It reiterated that the petitioners took their case to the IACHR prior to having exhausted all remedies under domestic law and that for this reason the petition should be declared inadmissible.

26. As for the substance of the case, the State claims that the alleged victims were included in the criminal case because they were found to be responsible for the failure of BNT, as accomplices of the directors of that entity, for having acquired loans made to the union body they represented for the purpose of diverting those loans to the company PEGASUS S.A. The State indicated that the petitioners were not imprisoned for debt, as they claim, but for the commission of crimes.

27. As for the legal proceedings followed against the petitioners, the State claims that they have been accorded all legal and constitutional guarantees related to their defense in trial.

28. As pertains to depriving the petitioners of their freedom, the State reported that the day after the sentence of four years' imprisonment was handed down, the alleged victims requested measures other than imprisonment, for which their sentences were replaced with the easier measure of house arrest; therefore, the petitioners did not spend a single day in prison. The State added that this measure was applied pursuant to criminal law and extended for the amount of time established by applicable law (six months) and, after these sentences were served, the Court authorized freedom of movement for the petitioners, whose only obligation was to report when they exited or entered the country.

29. As for the procedural law applied in the trial of the petitioners, the State indicates that the illegal deeds in which the petitioners are alleged to have been involved occurred at a time when the 1890 Criminal Procedural Code was in force, and that they were included in the prosecution in 2000, during which time the New Criminal Code (Law no. 1286/98) was in effect. The State indicates that Transition Law No. 1444/99 establishes the procedures for transition from one Code to another.

30. The State indicates that this transition period extended from July 9, 1999 to February 28, 2003, during which period cases filed under the 1890 Criminal Procedural Code would be prosecuted to conclusion according to the procedural forms established in that Code and those established by the Transition Law. Furthermore, Article 5 provides for the dismissal of proceedings initiated under the 1890 Criminal Procedural Code that failed to arrive at a verdict and sentencing by February 28, 2003, resulting in the case being expunged.

31. The State indicates that a challenge of the constitutionality of the aforementioned article of that law was upheld by the Supreme Court of Justice in 2002, which also ruled as being inapplicable Articles 136 and 137 of the 1998 Criminal Procedural Code, which address the reasonable time frame of: the procedural behavior of the parties, the complexity of the case, the facts that could support the interruption or suspension of a criminal prosecution, and the duty of the State to render protective oversight.

32. Therefore, the State requests that the Commission declare this petition inadmissible because not all remedies under domestic law have been exhausted and because the facts as manifested by the petitioners do not characterize violations of their human rights.

#### **IV. ANALYSIS OF ADMISSIBILITY**

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

33. The petitioners have legitimate standing to lodge a petition with the Commission, according to what is set forth in Article 44 of the American Convention. The petition presents as an alleged victim an individual with whom the State of Paraguay has assumed a commitment to respect and guarantee the rights recognized by the American Convention. As for the State, the Commission takes note of the fact that the State of Paraguay is party to the Convention, having duly deposited its ratification document on 24 August 1989. Therefore, the Commission has the *ratione personae* jurisdiction to examine this petition.

34. The Commission has *ratione loci* jurisdiction to examine the petition, given that the alleged violated rights protected by the Convention took place within the territory of a State that is party to the Convention. The IACHR has *ratione temporis* jurisdiction, given that the obligation to respect and guarantee the rights protected under the American Convention were in effect for the State on the date the alleged rights violations claimed in the petition occurred. Lastly, the Commission has *ratione materiae* because the petition contains allegations of violations of human rights protected by the American Convention.

**B. Other admissibility requirements of the petition****1. The exhaustion of all remedies under domestic law**

35. Article 46 of the American Convention establishes that for a case to be admitted it is necessary "that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law". The purpose of this requirement is to allow national authorities to hear cases of alleged violations of a protected right and, when appropriate, to resolve these before they are heard by an international body.

36. The requirement that remedies under domestic law be exhausted refers to all available, adequate, and effective remedies under domestic law that could resolve the alleged human rights violation. The Convention also stipulates that this provision is not to be applied when domestic remedies are not available for reasons of fact or law. More specifically, Article 46.2 establishes exceptions to the general principle of exhaustion of remedies under domestic law when: (a) the domestic legislation of the State 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; or (c) there has been unwarranted delay in rendering a final judgment on the matter.

37. The petitioners claimed that they pursued all pertinent remedies that could have revoked the guilty verdict and expunged the criminal case, and in each attempt the courts denied their appeals. They report having filed an appeal of the sentence handed down on June 4, 2009, which upheld the sentence of four years' imprisonment and that denied the reinstatement of the statute of limitations. In a communication dated April 23, 2011, the petitioners informed the Commission that on December 29, 2010, the Supreme Court had denied their appeal, upholding the ruling of June 4, 2009. They state that in response to that ruling, they filed a clarification appeal and a motion to nullify actions.

38. The State of Paraguay claimed that the petitioners did not meet the requirement set forth in Article 46 of the Convention, given that at the time the petition was lodged with the Commission appeals under domestic law were still pending. The State indicated that if the pending appeal received an unfavorable ruling, the petitioners would have had to exhaust other available remedies, such as: the extraordinary appeal for annulment, the appeal for revision provided for under the new criminal code, and a constitutionality challenge before the Supreme Court of Justice. The Commission observes that the remedies the State claims should have been exhausted are extraordinary in character.

39. The Commission recognizes that the petitioners have filed various appeals provided for under Paraguayan law that would seek to revoke the guilty verdict and expunge the criminal case. Likewise, it is worth noting that in its most recent communication, on April 4, 2011, the State reported to the Commission that a final judgment had been given on the appeal on December 29, 2010.

40. In light of the foregoing, and considering that the alleged victims were included in the criminal case in 2000, that in 2001 a guilty verdict was pronounced against them, and that on December 29, 2010 a ruling was given on the appeal filed by the petitioners, the Commission concludes that the requirement to exhaust all remedies under domestic law has been met, as set forth in Article 46 of the American Convention.

## 2. Time frame for lodging a petition

41. Article 46.1b of the Convention establishes that all petitions must be lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment at the national level.

42. In the present case, the Commission observes that the ordinary remedies under domestic law were exhausted on December 29, 2010, subsequent to the lodging of the petition. This being the case, the fulfillment of the requirement that the petition be timely lodged is intrinsically linked to the exhaustion of remedies under domestic law.

## 3. Duplication of proceedings and cases tried by international bodies

43. Article 46.1.c of the American Convention stipulates that admission of petitions is subject to the matter not being “pending in another international proceeding for settlement,” and Article 47.d of the Convention stipulates that the Commission will not admit any petition that “is substantially the same as one previously studied by the Commission or by another international organization.” The Commission recognizes that the International Labor Organization (ILO) issued a ruling in 2002. In this regard, the State of Paraguay reports that it has taken into consideration the recommendations made by that organization and that, this fact notwithstanding, the criminal cases with guilty verdicts for which appeals are pending must be resolved by judges of national jurisdiction.

44. It is observed in this case that through a communication on May 31, 2000, the *Sindicato de Trabajadores del Ministerio de Salud Pública y Bienestar Social* [Union of Workers in the Ministry of Public Health and Social Welfare] (SITRAMIS) and the *Central Sindical de Trabajadores del Estado Paraguayo* [Federation of Paraguayan Government Workers' Unions] (CESITEP) lodged a complaint with the ILO Committee on Freedom of Association, the primary allegations of which were anti-union firings and transfers, under case No. 2086. In June, August, September, October, and December 2001, the *Central Unitaria de Trabajadores* [Federation of Worker's Unions] (CUT), the *Confederación Paraguaya de Trabajadores* [Paraguayan Confederation of Workers] (CPT), and the *Central Sindical de Trabajadores del Estado Paraguayo* [Federation of Paraguayan Government Workers' Unions] (CESITEP) delivered communications related to the case and proposed that the Committee make a visit to Paraguay, a visit which, having been accepted by the Government, took place on March 18-12, 2001. In their allegations, CESITEP, CUT, and CPT claim that in a context of anti-union persecution, the presidents of those three federations (Mssrs. Reinaldo Barreto Medina, Alan Flores, and Jerónimo López) were prosecuted in criminal court and found guilty of committing the crime of fraud and sentenced by the trial court to privation of liberty, despite numerous irregularities in the judicial process.

45. The Committee took into account the report on the mission and made a series of recommendations about some of the procedural and material irregularities. In June 2002, at its 284<sup>th</sup> Annual Meeting, the ILO Administrative Council approved the Committee's recommendations and recommended in its Resolution No. 328 that the State take all necessary measures to free Mssrs. Alan Flores, Jerónimo López, and Reinaldo Barreto Medina, expressing its hope that judicial authorities would accelerate the proceedings. In November 2002, through Resolution No. 329, the Committee's report was approved, in which the Committee reported its deep regret that the State had not taken the recommended measures and urged it to do so.

46. In November 2003, through Resolution No. 332, the Administrative Council indicated that the ILO found that the trial judge had violated the prohibition against application of ex post facto laws and that the verdict was reached on the basis of a crime that was classified subsequent to the facts that had been tried in court, in response to which the ILO urged “firmly, therefore, once again, that the Government immediately take all measures to free union leaders Messrs. Reinaldo Barreto Medina, Jerónimo López, and Alan Flores”.

47. The Commission and the Inter-American Court of Human Rights have indicated that for cases to share identity the parties, the object, and the legal basis of the cases must be the same. Mr.

Barreto Medina was presented as an injured party before the ILO, as well as before the Commission. The ILO Committee on Freedom of Association heard of some of the procedural and legal irregularities claimed in the present petition, against the State of Paraguay, and injurious to Mr. Barreto Medina. Nevertheless, it is worth noting that the Commission holds that to consider a case duplicated or a matter heard by an international body, the petition must be under consideration or have been decided by an international body that has jurisdiction to rule on specific facts in the petition, and on measures that lead to the effective resolution of the dispute in question<sup>1</sup>.

48. In this sense, the Commission has established that the recommendations issued by the ILO Committee on Freedom of Association are not of the same nature as proceedings to protect human rights before the Inter-American System<sup>2</sup>, given that such proceedings produce recommendations and not “an effective settlement of the claimed violation;” its decisions “do not have the effect of being legally binding, providing financial restitution, or indemnificatory in character.”<sup>3</sup>

49. Therefore, the Commission concludes that for this present case the requirements established in Articles 46.1.c) and 47 d) of the Convention have been met.

#### 4. Characterization of the alleged facts

50. It is incumbent on the Inter-American Commission to determine whether the facts described in the petition, once proven, could characterize violations of the rights enshrined in the American Convention, pursuant to the requirements of Article 47.b, or whether, pursuant to Article 47.c, the petition should be discarded for being “manifestly groundless” or “obviously out of order”. In this phase of the proceedings it is the responsibility of the IACHR to make a *prima facie* evaluation without prejudging the merits of the case.

51. The petitioners claim persecution of labor unions by the State. It is in this light that they allege having been included in the criminal prosecution for having called a general workers’ strike. For its part, the State has explained that the alleged victims were not prosecuted for their union affiliation, but rather that Paraguayan judicial bodies found them responsible for the bankruptcy of *Banco Nacional de Trabajadores*. It is not incumbent on the Commission, at this stage of the proceedings, to determine whether or not the State committed violations against the alleged victims. However, the Commission considers that if the allegations lodged by the petitioners prove true during the merits phase of the case, those facts could constitute a violation of Article 16 of the American Convention.

52. The petitioners argue that they received differential treatment by being included in the criminal prosecution, given that members of other organizations were not included despite having assumed the same obligations with BNT as did the petitioners. The Commission considers that the mere invocation of other facts in the same matter with different outcomes is not enough to characterize, *prima facie*, a possible violation of Article 24 of the Convention. At the same time, the Commission does not have elements that would allow it to infer a probable characterization of violations of Article 3 of the Convention.

53. The petitioners indicate that they were prosecuted for crimes defined in the 1997 Criminal Code, and not those defined in the 1914 Code, which was in effect at the time the facts occurred. They further indicate that they were prosecuted under the 1890 Criminal Procedural Code when the provisions of the New Criminal Law No. 1.286/97 should have been applied, given that this was the law in effect at

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<sup>1</sup> IACHR, Report No. 89/05 (inadmissibility), Case 12.103, Cecilia Rosa Nuñez Chipana, (Venezuela), Paragraph 37.

<sup>2</sup> Inter-American Court of Human Rights, *Case of Baena Ricardo et al Vs. Panama*. Preliminary exceptions. Judgment of November 18, 1999, Series C, No 61, Paragraph 57.

<sup>3</sup> IACHR, Report No. 14/97, Case 11.381 (Nicaragua), 12 March 1997, Paragraph 47; IACHR Report No. 21/06, Petition 2893-02, *Trabajadores de la empresa Fertilizantes de Centroamérica (FERTICA)* (Costa Rica), March 2, 2006, Paragraph 40; IACHR Report No. 23/06, Petition 71-03, *Miembros del Sindicato de Trabajadores del Ministerio de Educación (ATRAMEC)* (El Salvador), March 2, 2006, Paragraph 27; IACHR Report No. 140/09, Petition 1470-05, *Miembros del Sindicato de Trabajadores Oficiales y Empleados públicos de Antioquia (SINTRAOFAN)* (Colombia), December 30, 2009, Paragraph 75.

the time the petitioners were included in the criminal case (2000). They claim that less beneficial criminal and procedural rules were applied against them. For its part, the State claims that the aforementioned provisions were applied because they were considered to be more beneficial to the petitioners. The Commission will analyze these arguments at the merits stage.

54. The petition also indicates that the alleged victims were included in the criminal prosecution as accomplices, in 2000, and that the verdict was reached in October 2001, for which they were sentenced to four years in prison. According to information provided both by the petitioners and the State, the case was closed with the ruling on the appeal of December 29, 2010. The petitioners claim that during the process irregularities and delays took place that violated their right to defense and due process, thereby affecting their personal liberty. The Commission will analyze these allegations during the merits phase.

55. From its analysis of the arguments and information presented both by the petitioners and by the State, and without prejudice regarding the merits of the case, the IACHR concludes that the petition contains allegations of fact that, if proven and if compatible with other requirements, could characterize violations of Articles 7, 8, 9, 16, and 25 of the American Convention, as pertains to 1.1 and 2 of that international instrument.

56. At the same time, the Commission does not have elements that would allow it to infer a presumed characterization of violations by the State of Paraguay of Articles 3 and 24 of the Convention.

## **V. CONCLUSIONS**

57. The Commission concludes that it has jurisdiction to hear the case at hand and that the petition is admissible pursuant to Articles 46 and 47 of the American Convention, as it relates to the rights contained in Articles 7, 8, 9, 16, and 25 of the American Convention, all of which have to do with the obligations deriving from Articles 1.1 and 2 of that international instrument.

58. At the same time, the Commission concludes that it does not have the judicial elements needed for it to infer a presumed characterization of violations of Articles 3 and 24 of the Convention.

59. By virtue of the arguments of fact and law previously presented, and without prejudice regarding the merits of the matter,

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

**DECIDES:**

1. To declare the case in question admissible insofar as it concerns the rights enshrined in Articles 7, 8, 9, 16, and 25 of the American Convention, regarding the obligations of Article 1.1 and 2 of that treaty.

2. To declare the case inadmissible insofar as it concerns the provisions of Articles 3 and 24 of the American Convention.

3. To transmit this report to the petitioners and to the State.

4. To continue its analysis of the merits of the case.

5. To publish this report and include in 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 22nd day of July 2011. (Signed): Dinah Shelton, President; José de Jesús Orozco Henríquez, First Vice-President; Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero, and María Silvia Guillén, Commissioners.