

REPORT No. 152/11¹
PETITION 1400-06
ADMISSIBILITY
LUIS AND LEONARDO CAIZALES DOGENESAMA
COLOMBIA
November 2, 2011

I. SUMMARY

1. On December 13, 2006, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a petition submitted by Pedro Julio Mahecha Dávila (hereinafter “the petitioner”), alleging that officials of the Republic of Colombia (hereinafter “the State”) are responsible for the extrajudicial execution of Luis Caizales Dogenesama and injuries caused to Leonardo Caizales Dogenesama (hereinafter, “the alleged victims”), members of the Embera Chamí people, on December 13, 2001, in the Itaurí settlement, municipality of Pueblo Rico, department of Risaralda.

2. The petitioner maintains that the State is responsible for violations to the right to life, personal integrity, personal freedom, judicial guarantees and judicial protection enshrined in Articles 4, 5, 7, 8 and 25 of the American Convention on Human Rights (hereinafter the “American Convention”) in relation to Articles 1.1 and 2 thereof, to the detriment of the alleged victims and their family members. The State, in turn, alleges that the complaint is inadmissible because the claims made do not constitute violations of human rights, as the domestic judgments handed down respected the rights and guarantees enshrined in the American Convention and the Commission is not a fourth instance. The State further alleges the petition is inadmissible because direct legal action for redress has not been exhausted.

3. Without prejudging the merits of the complaint, after analyzing the positions of the parties and compliance with the requirements of Articles 46 and 47 of the American Convention, the Commission decided to declare the petition admissible for purposes of examining the alleged violation of Articles 4, 5, 7, 8 and 25 of the American Convention in accordance with Article 1.1 thereof. The Commission further decided to declare the petition inadmissible for purposes of examining an alleged violation of Article 2 of the American Convention. It has also decided to notify the parties of this decision and publish and include it in its Annual Report to the Organization of American States’ General Assembly.

II. PROCEEDING BEFORE THE COMMISSION

4. On December 13, 2006, the Commission registered the claim as number P-1400-06 and on April 23, 2008, sent the relevant parts thereof to the State for its comments.

5. On June 24, 2008, the State requested an extension, which the Commission granted. On September 5, 2008, the State reported to the Commission that it had not received any communication regarding whether its request had been accepted, and therefore it again requested an extension. In this regard, on September 22, 2008, the Commission informed the State that in accordance with Article 30.3 of the IACHR Rules of Procedure, it was unable to grant the extension requested.

6. On September 24, 2008, the State submitted its response, which was sent to the petitioner for comment on October 7, 2008. On October 6, 2008, the State submitted annexes to its communication of September 24, 2008, which were forwarded to the petitioner for comment on November 5, 2010. The petitioner presented a response on December 22, 2010, which was sent to the state for its observations.

¹ Pursuant to the provisions set forth in Article 17.2 of the IACHR Rules of Procedure, Commissioner Rodrigo Escobar Gil, a Colombian citizen, did not participate in the debate or decision on this petition.

7. On January 5, February 11 and March 22, 2011, the State requested three extensions, which the Commission granted. On April 29, 2011, the State submitted its response, which was forwarded to the petitioner on May 5, 2011 for his information.

III. POSITION OF THE PARTIES

A. The Petitioner

8. The petitioner states that on December 13, 2001, the brothers Luis and Leonardo Caizales Dogenesama, members of the Indigenous Council of the Municipality of Pueblo Rico, Risaralda and the Arenales community of the reservation Embera Chamí (the first indigenous governor and health advocate and the latter school teacher) left their homes in the El Arenal settlement to collect their wages in la Unión. That afternoon when they returned they were assaulted by members of the San Mateo No. 8 Artillery Battalion, who fired indiscriminately at them and at Alonso Molina Vargas, with whom they had crossed paths. The petitioner indicates that Alonso (or also Alfonso) Molina Vargas² was injured. Leonardo Caizales Dogenesama was wounded in the left leg and left shoulder blade by a fire arm, while Luis Caizales Dogenesama suffered injuries to the spinal column and died.

9. Based on the information provided by the petitioner, it can be gathered that on December 13, 2001, the abovementioned Colombian army anti-guerrilla "attack" battalion had been involved in an armed confrontation with the *Ejercito Revolucionario Guevarista* (hereinafter "ERG") in the Puente La Unión and the alleged victims and Alonso Molina suffered injuries as a result of said confrontation. The petitioner alleges that the State violated the right to freedom of Leonardo Caizales Dogenesama, who was arbitrarily detained by members of the aforementioned battalion, brought before the Pereira Prosecutor's Complaint Filing Office on December 14, 2001, and accused of belonging to the ERG.

10. The petitioner alleges that the injuries and death were investigated by Examining Military Criminal Court 56, located in Pereira, Risaralda. The petitioner states that the army officials who were accused claimed that they were attacked by insurgents against whom they defended themselves, and charged that the alleged victims were rebels. He points out that on May 2, 2006, Office 18 of the Military Criminal Prosecutor Assigned to the Ninth Court of Brigade Instance concluded its investigation of the six army officials, assessed the probative value of the evidence, decided to abstain from issuing an indictment [*resolución acusatoria*] and ordered all proceedings against the accused be dropped. The petitioner indicates that after an appeal was filed by the plaintiffs in a civil suit this decision was confirmed on June 13, 2006, by Prosecutor's Office 2 of the Military Criminal Court.

11. He points out that these acts gave rise to a disciplinary investigation of three Colombian army officials by the Office of the Delegated Disciplinary Solicitor for the Defense of Human Rights under case 008-72924/2002. This proceeding was shelved on July 25, 2003.

12. The petitioner indicates that proceedings were initiated against Leonardo Caizales Dogenesama for rebellion in which the Indigenous Governor of the Council of Pueblo Rico submitted a request that the proceeding be transferred from the Office of the Prosecutor General of the Nation [*Fiscalía General de la Nación*] (hereinafter "FGN") to the special indigenous jurisdiction. He further indicates that the Apia Risaralda Sectional Prosecutor's Office 23 denied this request on January 22, 2002. The petitioner finally states that the Pereira Circuit Third Criminal Court acquitted Leonardo Caizales Dogenesama on December 5, 2002. The petitioner considers that Leonardo Caizales Dogenesama's detention was arbitrary and his access to a judicial remedy to demand his freedom was hindered.

13. Thereafter, the petitioner has alleged that although it seems that on December 13, 2001, regular forces were involved in a battle with insurgent forces, this battle was also waged against at least three civilians, which of course runs counter to the legal and constitutional responsibilities entrusted to the

² This petition was not submitted on behalf of Alonso Molina Vargas, which is why he does not appear as an alleged victim in this report.

Colombian army. Therefore, the attack the indigenous individuals suffered [...] could never be considered acts of military service.”

14. The petitioner alleges that they have not gone before the administrative courts seeking redress, “among other reasons, because in Colombia these courts are unable to go forward with a true proceeding for redress in the manner provided for under international human rights law. “

15. The petitioner alleges that the death and the violations of the rights of the alleged victims should be investigated by the ordinary criminal courts, which provide for courts of record with jurisdiction over human rights violations and an impartial tribunal. He contends that military criminal courts do not offer an effective remedy and that these acts have gone unpunished. He further contends that these acts were not effectively investigated and tried because the decisions issued by military criminal justice were arbitrary.

16. In response to the State’s charge that the petitioner’s disagreement with the domestic decisions handed down would mean that the Commission would be acting as a fourth instance, the petitioner asserts that his disagreement is not with the decisions rather with the military criminal jurisdiction the State selected to investigate and prosecute violations of conventional rights.

17. Finally, the petitioner claims that the State is responsible for violations of Articles 4, 5, 7, 8 and 25 of the American Convention on Human Rights in relation to Articles 1.1 and 2 thereof to the detriment of Luis and Leonardo Caizales Dogenesama and their family members.

B. The State

18. In response to the claim presented, the State alleges that the petition does not describe acts that violate the American Convention given that the domestic proceedings that took place respected due process and the guarantees set forth in said instrument; hence, were the petition to be admitted, the Commission would be acting as a fourth instance. The State further alleges that the petition does not comply with the requirement of exhausting domestic remedies inasmuch as direct legal action for redress has not been exhausted.

19. With regard to the facts, the State maintains that pursuant to Operations Order No. 118-01, issued by the San Mateo Battalion commander, troops began operations in Pueblo Rico, Santa Cecilia, in the Department of Risaralda, in order to locate and neutralize the advancement of terrorists from the Aurelio Rodríguez squad of the *Frente Armado Revolucionario de Colombia* (hereinafter “FARC”) and the ERG in the Itaurí and Puente de la Unión settlements. The information provided by the State indicates that the guerillas had taken position in the hills located on one side of Puente La Unión and the army was on the other side. The State indicates that the troops were ambushed and only opened fire after being attacked by the enemy, aiming their fire at the hills from which the rebels were shooting at them. The attack therefore was carried out in legitimate defense and in accordance with international humanitarian law (hereinafter “IHL”).

20. The State points out that when the armed confrontation ended, the brothers Luis and Leonardo Caizales Dogenesama, together with Alonso Molina Vargas, were found injured by members of the Battalion at the end of the bridge next to the hills. They were given first aid, detained and removed from the bridge area while under attack by guerilla forces.

21. According to the information provided by the State, Luis Caizales was carrying a backpack with rebel propaganda, two camouflage T-shirts and rubber boots. Furthermore, it is claimed that an army official saw Luis Caizales throw in the river what looked like a rifle, which was never recovered. The same information indicates that Alonso Molina, who was riding a motorcycle that was seized, was wearing a green T-shirt.

22. The State indicates that the Caizales brothers and Alonso Molina were transferred to the Pueblo Rico health clinic and that Luis Caizales died on the way there. It further indicates that on

December 14, 2001, Leonardo Caizales and Alonso Molina were brought before the Pereira Prosecutor's Complaint Filing Office for an alleged crime of rebellion.

23. The State indicates that on December 20, 2001, an order for a preventive detention measure without bail was issued. When the investigation was concluded on April 11, 2002, Prosecutor's Office 23 Assigned to the Apia Circuit Criminal Court accused them of the crime of rebellion. According to the information provided, Leonardo Caizales defense was led by a defense attorney hired by the Public Defender's Office under the National Ombudsman. The State maintains that on December 5, 2002, the Risaralda Circuit Third Criminal Court sentenced Alfonso Molina Vargas to 81 months in prison for the crime of rebellion and acquitted Leonardo Caizales Dogenesama.

24. In said ruling the judge appreciated that Leonardo was a person who was widely known in the indigenous community because he was a teacher and that he had found himself involved in an unfolding armed confrontation that "he was forced to experience in the company of his brother." He likewise appreciated that "his belongings did not contain elements that would lead us to believe" that he belonged to a criminal organization and that "he could only be accused of accompanying his brother, admitting as true -for the sake of argument- that he had discarded a rifle."

25. Furthermore, the State alleges that on December 14, 2001, Examining Military Criminal Court 56, the court of record having jurisdiction, opened a preliminary investigation against six army officials for the crimes of homicide and personal injury to the alleged victims. The State asserts that on August 23, 2002, the Court decided not to issue preventive security measures for the accused, having determined that they had acted in accordance with their constitutional responsibilities.

26. The State points out that on April 2, 2003, the plaintiff's civil suit was admitted and on June 11, 2003, and the plaintiff gave rise to a jurisdictional dispute between the military and ordinary courts. The State indicates that on January 13 and July 24, 2004 the FGN requested information regarding the status of the proceedings in the case in order to decide on the advisability of allowing the jurisdictional dispute to go forward, which was done in July 2004. The State maintains that on August 20, 2004, the Military Criminal Prosecutor's Office 18 closed the investigation.

27. The States points out that per request by the plaintiff in the civil suit, on November 2, 2004, the Ninth Court of the First Instance for the Sixth and Ninth Brigades ruled on the matter of jurisdiction, arguing that the proceeding fell fully under the purview of military justice and the Superior Council of the Judiciary (hereinafter "CSJ") was competent to resolve this dispute. The State indicates that on November 24, 2004, the CSJ ruled that a jurisdictional conflict did not exist.

28. The State indicates that on March 2, 2006, of the Military Criminal Prosecutor's Office 18 Assigned decided not to issue an indictment against the six army officials. The State further indicates that the plaintiff in the civil suit filed a remedy of appeal of that decision. On June 13, 2006, a ruling was issued by the Prosecutor's Office 2 Assigned to the Superior Military Court, confirming that the investigation was closed.

29. The State asserts that a disciplinary proceeding was initiated by the Office of the Solicitor General of the Nation [*Procuraduría General de la Nación*] regarding the facts that were the subject of the petition. Said Office decided to archive the case in July 2003, based on a significant amount of evidence and that this decision was adopted in observance of the procedural rights of the party to the civil suit.

30. The State highlights that the petitioner had at his disposal appropriate and effective remedies to challenge the legal proceedings, which is why there is no indication that there has been a violation of due process or other rights enshrined in the Convention. The State alleges that although the rulings handed down in the criminal and disciplinary proceedings rejected the petitioner's claims, they were nonetheless decided in accordance with current domestic law and pursuant to the State's international obligations as well.

31. The State contends that direct legal action for redress before the administrative courts is ideal and effective for the purposes of obtaining compensation for alleged damages the victims suffered as a result of actions taken by officials of the State. In this regard, the State affirms that the petitioner has expressly recognized not having exhausted domestic remedies—specifically, direct legal action for redress—and it should therefore be considered that the petitioner waived requesting such redress.

32. The State contends that the petitioner wants the Commission to reevaluate domestic rulings handed down and thus considers that the Commission would be acting as a fourth instance. The State maintains that military criminal courts were the ideal and effective jurisdiction for investigating military officials as regards the facts that are the subject of this petition as military criminal justice is a jurisdiction that is constitutionally recognized and is an appropriate body to administer justice in investigating facts related to the military service.

33. Additionally, the State maintains that it is necessary to confirm the indigenous status of the alleged victims, as well as that of the members of their community's Council, and the fact that they have not been included in the precautionary measures issued by the Commission on March 15, 2002, to protect some members of the Embera Chamí indigenous people.

IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

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

34. The petitioner is eligible in principal to submit petitions to the Commission under Article 44 of the American Convention. The victims who appear in the petition are individuals with respect to whom the Colombian state committed to respecting and ensuring rights enshrined in the American Convention. As regards the State, the Commission points out that Colombia has been a State party to the American Convention since July 31, 1973, when it deposited its ratification instrument. The Commission is therefore competent *ratio personae* to examine the petition. The Commission is likewise competent *ratione loci* to hear the petition inasmuch as it alleges violations of rights protected under the American Convention that took place in Colombia, a State party to said treaty.

35. The Commission is competent *ratione temporis* given that the obligation to respect and guarantee the rights protected under the American Convention were in force for the State on the date that the facts alleged in the petition occurred. Finally, the Commission is competent *ratione materiae* because the petition reports possible violation of human rights protected by the American Convention.

B. Requirements for the Petition's Admissibility

1. Exhaustion of domestic remedies

36. Article 46.1(a) of the American Convention provides that for a petition submitted to the Inter-American Commission to be admissible under Article 44 of the Convention it is necessary that domestic remedies be attempted and exhausted, in accordance with generally recognized principles of international law. Said requirement has the aim of allowing national authorities to hear alleged violations of a protected right and, where appropriate, to resolve the conflict in accordance with their domestic law before the matter is heard by an international body, which is particularly valid in the international human rights jurisdiction.

37. Article 46.2 of the Convention stipulates that the requirement for prior exhaustion of domestic remedies does not apply 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; or, (c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies. According to IACHR Rules of Procedure, when the petitioner contends that he or she is unable to prove compliance with the requirement indicated in this

article, it shall be up to the State concerned to demonstrate to the Commission that the remedies under domestic law have not been previously exhausted, unless that is clearly evident from the record³.

38. The Commission notes that the claim from the petitioner is two-fold: firstly, it addresses the death of Luis Caizales and injuries to Leonardo Caizales, as well as the military criminal investigations and proceedings conducted with regard to the army officials who were accused; secondly, it addresses the alleged arbitrary detention of Leonardo Caizales and the lack of access to remedies for his defense in the ordinary criminal proceeding instituted against him.

39. The State contends that the petitioner has expressly recognized not having exhausted direct legal action for redress and that for this reason the petition does not fulfill admissibility requirements. With regard to the first part of the claim, the petitioner, in turn, maintains that the military criminal jurisdiction is not ideal for [addressing] violations of human rights and that no judicial authority has conducted an ordinary investigation of the facts that are the subject of this petition. As to the second part of the claim, the petitioner further maintains that he has not gone before the administrative jurisdiction to seek redress because, among other reasons, this jurisdiction is not in a position to go forward with a true proceeding for redress as set forth under international human rights law.

40. Firstly, the Commission observes that the events resulting in the death of Luis Caizales Dogenesama occurred during an armed confrontation between the army and guerilla forces, which also led to the injury and detention of Leonardo Caizales Dogenesama, for an alleged crime of rebellion. The death of Luis Caizales Dogenesama gave rise to a preliminary investigation of six army officials that began on December 14, 2001 under the military criminal jurisdiction. On August 23, 2002, Examining Military Criminal Court 56 decided not to hand down preventive security measures for the individuals accused, having determined that they acted within the purview of their constitutional responsibilities.

41. Secondly, on December 14, 2001, an investigation of Leonardo Caizales (and Alonso Molina) was opened under the ordinary criminal jurisdiction. On December 20, 2001, a preventive detention measure was ordered and on April 11, 2002, having concluded the investigation, Prosecutor's Office 23 Assigned to the Apia Circuit Criminal Court accused them of rebellion. On December 5, 2002, the Risaralda Circuit Third Criminal Court convicted Alfonso Molina Vargas and acquitted Leonardo Caizales Dogenesama, who was released.

42. Furthermore, on January 22, 2002, the indigenous Governor of the Pueblo Rico Council requested that the criminal proceedings against Leonardo Caizales be transferred from the ordinary criminal jurisdiction to the indigenous jurisdiction. This request was denied by the Apia Risaralda Sectional Prosecutor's Office 23 on January 22, 2002⁴.

43. Precedents established by the Commission indicate that when there is commission of a crime prosecuted *ex officio*, the State has the obligation to institute and go forward with criminal proceedings.⁵ In such cases, this is the ideal manner to shed light on the facts, try those responsible and impose the corresponding criminal penalties, as well as enable other kinds of financial redress. The Commission observes that the facts described by the petitioner include the alleged commission of an extrajudicial execution, which under domestic law is a crime prosecuted *ex officio* whose investigation and trial must be led by the State itself. The Commission also takes note that the petitioner actively participated in the different domestic proceedings conducted—i.e., he appeared as a party to a civil suit in

³ Article 31(3) of the Commission's Rules of Procedure. Also see Inter-American Court of Human Rights', *Case of Velásquez Rodríguez v. Honduras*, Judgment of July 29, 1988, par. 64.

⁴ Case law of the Colombian Superior Council of the Judiciary considers that the crime of rebellion transcends the scope of indigenous culture and therefore is not a crime that can be tried in special indigenous courts. See Superior Council of the Judiciary, Jurisdictional Disciplinary Court, filings No. 19981025 A 155; 200501877 00; 200502254 00 (79-27); 20010769 01; 110010102000; 20060014701.

⁵ IACHR, Report No. 99/09, Petition 12.335, *Gustavo Giraldo Villamizar Durán*, Colombia, October 29, 2009, par. 33. See also IACHR, Report No. 52/97, Case 11.218, *Arges Sequeira Mangas*, *Annual Report of the IACHR 1997*, pars. 96 and 97, and IACHR Report No. 55/97, Case 11.137, *Abella et al.*, par. 392.

the criminal proceedings, claimed a conflict of jurisdiction and then filed an appeal. In this regard, the Commission believes that the suitability of domestic remedies is intrinsically linked to the merits of the matter, especially as regards the nature of the alleged victims, which is why it is fitting to delay its analysis until the merits stage.

44. Invoking exceptions to the rule on exhaustion of domestic remedies provided for in Article 46.2 is closely tied to determining possible violations of rights enshrined therein, such as judicial guarantees and protection. Nevertheless, Article 46.2, due to its nature and purpose, is a rule whose content is independent of the substantive rules of the American Convention. As a result, the decision as to whether the exceptions to the rule of exhaustion of domestic remedies are applicable in the case at hand must be addressed prior to and separate from the analysis of the merits of the matter, as the standard for its assessment is different from that used to determine possible violations of Articles 8 and 25 of the American Convention. It should be noted that the causes and effects that hindered exhaustion of domestic remedies will be analyzed in the report the Commission adopts on the merits of the matter, in order to determine whether they constitute violations of the American Convention.

2. Deadline for Submitting the Petition

45. The American Convention stipulates under Article 46.1(b) that for the Commission to admit a petition it must be submitted within six months of the date upon which the alleged victim has been notified of the final judgment. As regards this petition, the Commission has established that domestic remedies were exhausted with the decision made by Prosecutor's Office 2 Assigned to the Superior Military Court on June 13, 2006. The petition was submitted on December 13, 2006, thus fulfilling the deadline requirement.

3. Duplication of Proceedings and *res judicata*

46. There is no indication in the case record that the subject of this petition is pending in another proceeding before an international adjudicatory body, or that it reproduces a petition that has already been examined by this or another international body. Therefore, it is deemed that the requirements set forth in Articles 46.1(c) and 47 (d) of the Convention have been fulfilled.

4. Characterization of the Alleged Facts

47. In this analysis, the Commission takes into account that the facts that are the subject of this petition took place during an armed confrontation between Colombian army officials and guerilla forces, and that the petitioner asserts that the alleged victims were civilians. The Commission also notes that by means of Leonardo Caizales Dogenesama's acquittal, handed down on December 5 by the Pereira Circuit Third Criminal Court, the Colombian justice system determined that the alleged victim did not commit the crime of rebellion of which he was found innocent. In that regard, the Commission considers that in light of the court decision that finds Leonardo Caizales Dogenesama innocent, which implies his status as a civilian, the investigation and possible criminal prosecution—of six Colombian army officials involved in the events—for alleged violations of his physical integrity should be decided in the ordinary criminal courts as in this case it is a matter of suspected violations of human rights.

48. Neither the American Convention nor the IACHR Rules of Procedure require a petitioner to identify the specific rights allegedly violated by the State in the matter brought before the Commission, although petitioners may do so. It is for the Commission, based on the system's jurisprudence, to determine in its admissibility report which provisions of the relevant Inter-American instruments are applicable and could be found to have been violated if the alleged facts are proven by sufficient elements.

49. Therefore, and in light of the elements submitted by both parties and the nature of the matter heard, the Commission considers that the disputed aspects of the matter at hand, should be resolved in the proceedings on the merits of the claim in order to establish whether—due to the absence of an investigation, trial, and penalty in the appropriate court—there have been violations of the right to life and personal integrity that may potentially constitute violations of rights protected under Articles 4 and

5 of the American Convention, in relation to Article 1.1 thereof, to the detriment of Luis Caizales Dogenesama.

50. It is also necessary to stipulate that if the petitioner's allegations regarding suspected violations of the right to personal integrity, judicial guarantees and protection are proven, they may potentially constitute violations of the rights protected in Articles 5, 8 and 25 of the American Convention, in relation to Article 1.1 thereof, to the detriment of Leonardo Caizales Dogenesama. Furthermore, the Commission considers that the petitioner's allegations that Leonardo Caizales Dogenesama's personal freedom was violated through alleged arbitrary detention and imprisonment may potentially constitute violations of the right protected under Article 7 of the American Convention in relation to Article 1.1 thereof, to the detriment of Leonardo Caizales Dogenesama.

51. These allegations may also potentially constitute violations of Articles 5, 8 and 25 of the American Convention in relation to Article 1.1, to the detriment of the Caizales Dogenesama brothers' family members⁶.

52. Inasmuch as these aspects of the claim are not manifestly groundless or irrelevant, the Commission considers that the requirements set forth in Articles 47(b) and (c) of the American Convention have been met.

53. Finally, the Commission considers that the petitioner has not shown the basic elements to substantiate his claims of an alleged violation of Article 2 of the American Convention. This claim therefore does not fulfill the requirements set forth in Articles 47(b) and (c) of the American Convention and said claim is thus declared inadmissible.

V. CONCLUSIONS

1. The Commission concludes that it is competent to examine the claims submitted by the petitioner regarding the alleged violation of Articles 4, 5, 7, 8 and 25 of the American Convention in accordance with Article 1.1 thereof, pursuant to the requirements stipulated in Article 46 and 47 of the American Convention and declares the case inadmissible as regards Article 2 of the Convention.

2. Based on the factual and legal arguments explained above, and without prejudging the merits of the matter,

THE INTER-AMERICAN HUMAN RIGHTS COMMISSION,

DECIDES:

1. To declare this petition admissible as regards Articles 4, 5, 7, 8 and 25 in accordance with Article 1.1 of the American Convention.

2. To declare this petition inadmissible as regards Article 2 of the American Convention.

3. To notify the Colombian State and the petitioner of this decision.

4. To proceed to analyze the merits of the matter.

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

⁶ The relatives of the alleged victims are included taking into account the provisions set forth under Article 35.1 of the Inter-American Court of Human Rights' Rules of Procedure and case law. See Inter-American Court of Human Rights' Case Radilla Pacheco v. Mexico. Judgment of November 23, 2009 and Resolution of January 19, 2009 regarding the case González et al. (Campo Algodonero) v. Mexico. Request to include alleged victims and denial of sending documentary evidence.

Done and signed in the city of Washington, D.C., on the 2nd day of November 2011. (Signed): Dinah Shelton, President; José de Jesús Orozco Henríquez, First Vice-President; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero, and María Silvia Guillén, Commissioners.