

**REPORT No. 172/11**  
PETITION 13-04  
ADMISSIBILITY  
RICARDO VACA ANDRADE  
ECUADOR  
November 3, 2011

**I. SUMMARY**

1. On January 7, 2004, the Inter-American Commission on Human Rights (hereinafter “the Commission”) received a petition lodged by Ricardo Vaca Andrade (hereinafter “the petitioner”), alleging that the Republic of Ecuador (“the State”, “the Ecuadorian State”, or “Ecuador”) was responsible for his removal as a member of the National Council of the Judiciary, in breach of guarantees contained in the American Convention.

2. The petitioner claimed that the State was responsible for violating the rights to humane treatment, to a fair trial, to protection of honor and dignity, to freedom of thought and expression, and to judicial protection established in Articles 5, 8, 11, 13, and 25 of the American Convention on Human Rights (hereinafter “Convention” or “American Convention”), in conjunction with Article 1.1 of the same treaty. For its part, the State contended that the petitioner’s claims were inadmissible on grounds that the requirement of prior exhaustion of domestic remedies had not been met, as established in Article 46.1 of the American Convention, and that the petitioner was seeking to use the Commission as a fourth instance.

3. After analyzing the parties’ positions and compliance with the requirements established in Articles 46 and 47 of the American Convention, the Commission decides to: declare admissible the claims concerning the alleged violation of Articles 5, 8, 9,13, 25 of the American Convention, all in conjunction with Article 1.1 of the same treaty; declare inadmissible Article 11, in conjunction with Article 1.1, of the American Convention; notify the parties of the decision; and order its publication in the Annual Report to the OAS General Assembly.

**II. PROCESSING BY THE COMMISSION**

4. The IACHR registered the petition as number P13-04, and after doing a preliminary analysis, on March 31, 2009, the IACHR forwarded the State a copy of the relevant parts and gave it two months to submit information, in accordance with Article 30 of its Rules of Procedure. In response, the State requested an extension, which was granted by the Commission. The State submitted its observations on August 13, 2009; these were forwarded to the petitioner for his observations. The IACHR received the petitioner’s observations on September 14, 2009; these were forwarded to the State. On October 19, 2009, the State submitted its brief containing observations; this was forwarded to the petitioner for his information. On September 9, 2010, the petitioner submitted a brief in which he reiterated his position; this was forwarded to the State for its information.

**III. POSITIONS OF THE PARTIES**

**A. Petitioner’s Position**

5. The petitioner indicates that on December 21, 1998, he took office as a member of the National Council of the Judiciary (hereinafter “CNJ”) and was immediately elected President of the Human Resources Committee, which handles disciplinary aspects, complaints, and sanctions within the judicial system. The petitioner indicates that once he assumed office, he took on the task of combating judicial corruption in Ecuador. He alleges that as a result of his efforts, on June 14, 2000, some Justices of the Supreme Court attempted to remove him from office simply because he had given an interview to DINERS Magazine in which he admitted that there was in fact corruption in the judicial system. He indicates that the attempt to remove him failed, since the Supreme Court Justices themselves concluded they did not have jurisdiction to judge or punish members of the CNJ.

6. However, the petitioner claims that the attacks against him did not end and in fact intensified when he began to receive complaints regarding certain irregular and/or criminal actions on the part of Justices of the Supreme Court, complaints that were allegedly reported to its successive Presidents. He indicates that the Presidents of the Supreme Court, who in turn are Presidents of the CNJ, have the obligation to take corrective and punitive measures, which in practice did not occur. He claims that, to the contrary, due to pressures from a Justice of the Supreme Court, an additional attempt was made to remove him and another CNJ member from office.

7. The petitioner indicates that by September 2002 his presence on the CNJ had become intolerable for the majority of Justices on the Supreme Court, as well as for the leadership of the Federation of Judicial Public Servants, since in carrying out his duties the alleged victim had reportedly imposed controls on illegal trips, excessive telephone usage, and unnecessary purchases, among other actions by the Justices of the Supreme Court. He claims that against this backdrop, through reports published in the newspapers *El Comercio* (September 9, 2002) and *El Universo* (September 17, 2002), he was accused of a series of irregular and false actions, such as having continued to practice law after being named a member of the CNJ; having defended fugitive bankers by means of his son (who practices law); and having interfered in cases brought by former workers of the Ecuadorian Social Security Institute (IESS) against that institution, to the detriment of the former workers, among other allegations. He claims that these published reports included calls for the Commission for Civic Control of Corruption and the Supreme Court of Justice to investigate the facts.

8. The petitioner alleges that on September 9, 2002, he addressed a communication to the President of the Supreme Court of Justice in which he stated that he had no problem with the creation of an investigative commission to prove that the accusations were false. On September 26, 2002, the petitioner was notified that a special commission had been established, made up of Justices Galo Galarza Paz, Julio Jaramillo Arízaga, and Bolívar Vergara Acosta. On July 28, 2003, this commission informed the petitioner of its decision, issued July 15, 2003, in which it indicated that "the accusation of interference in the administration of justice or the practice of bringing influence to bear on the processing of cases is a serious offense [...] these improper actions, because of the legal and regulatory structure, it must be kept in mind that justification is generally possible by means of conjectural or circumstantial evidence."

9. He claims that on August 13, 2003, he gave an interview to the newspaper *El Comercio* in which he called into question the decision of the aforementioned commission. He indicates that as a result, on August 21, 2003, the Supreme Court of Justice met in plenum and appointed a commission to begin administrative proceedings to judge the alleged victim's blatant misconduct. Through a ruling of August 21, 2003, the *ad hoc* Supreme Court commission, made up of Justices Jorge Andrade Lara and Ángel Lescano Fiallo, took on the case and opened an "administrative file to examine the conduct of Dr. Ricardo Vaca Andrade, member of the National Council of the Judiciary, in light of the statements that were made and published in the newspaper *El Comercio*."

10. The petitioner alleges that the ruling of August 21, 2003, was handed down in contravention of the Ecuadorian Constitution, as he contends that the Supreme Court of Justice, through a "mere resolution" adopted by a majority of votes, granted itself legal and disciplinary powers that it does not have, seeking to judge the alleged victim in his capacity as a member of the CNJ. He alleges that he directed numerous communications to the Presidents of the Supreme Court of Justice and the National Council of the Judiciary, as well as to the Justices who made up the *ad hoc* commission; however, he claims he was not told what specific law was involved in the supposed administrative offense he had allegedly committed, what sanctions applied, or what procedures governed the alleged trial to which he was being subjected.

11. The petitioner alleges that the Supreme Court of Justice met in plenum on September 1, 2003, and that 21 of the Court's 31 Justices decided to remove him from his post as a member of the CNJ. He alleges that he was not so much as given a simple copy of the deliberations from the session of the plenum of the Supreme Court of Justice in which the decision was approved. The petitioner asked to be given a summary of the minutes of the September 1, 2003, session via communications dated September 4 and 11, 2003, addressed to the President of the Supreme Court; however, in a communication dated September 19, 2003, the President of the Supreme Court denied the petitioner's request, based on Article 102, paragraph 1, of the Organic Law of the Judiciary, which prohibits court reporters from "issuing certificates instead of literal transcripts of the corresponding original. Those containing any other content shall have no value whatsoever, and the secretaries who infringe this provision shall be removed from employment, in accordance with the Law."

12. The petitioner claims that even though no recourse was available, he filed a constitutional *amparo* action challenging the August 20, 2003, decision of the plenum of the Supreme Court of Justice that established the *ad hoc* commission and the August 21, 2003, decision in which that commission opened disciplinary proceedings against him. He indicates that the *amparo* action was heard by the Fourth Civil Judge of Pichincha, who denied the appeal on grounds that he should petition the Court of Administrative Litigation, which is below the Supreme Court of Justice in the hierarchy. The petitioner alleges that he learned unofficially that the Judge had asked that his decision be understood in light of his dependence on the Supreme Court and on the judiciary employees union that exercises control over its associates. The petitioner claims that the decision of the Fourth Judge was appealed and that on December 11, 2003, the Constitutional Court confirmed the Fourth Civil Judge's decision. He indicates that he was notified of the judgment on December 15, 2003.

13. In short, the petitioner claims that, based on the facts in this case, the State is responsible for violating the rights to humane treatment, to a fair trial, to protection of honor and dignity, to freedom of thought and expression, and to judicial protection, established in Articles 5, 8, 11, 13, and 25 of the American Convention, in conjunction with Article 1.1 of the same treaty.

14. In terms of compliance with the requirement of prior exhaustion of domestic remedies, established in Article 46.1 of the American Convention, the petitioner alleges that these remedies were exhausted with the final *amparo* judgment handed down by the Constitutional Court on December 11, 2003, and notified to him on December 15, 2003.

15. In terms of the State's argument regarding the failure to exhaust domestic remedies, the petitioner claims that it was not his objective to challenge the Supreme Court of Justice's administrative decision, and thus an administrative litigation appeal would not have been appropriate. He claims, on the contrary, that his aim was to lodge a judicial appeal over the violation of his human rights by means of an *amparo* action. He indicates, moreover, that the members of the Court of Administrative Litigation had been penalized by him, and thus there was a clear antagonism, aversion, and enmity toward him that would have resulted in a negative ruling on his claim. In addition, the petitioner indicates that all the actions the State had suggested were appropriate would have been heard by the Supreme Court of Justice, in other words the same entity he had taken legal action against in the Constitutional Court over the alleged violation of his rights.

## **B. State's Position**

16. The State contends that the claim is inadmissible, since the petitioner had purportedly failed to exhaust the remedies established under domestic law, as required by the American Convention. Specifically, the State claims that on September 4, 2004, the Fourth Civil Judge of Pichincha, in ruling on the *amparo* action, stated that the petitioner should pursue the appropriate legal action if he believed the "illegitimate acts" he was challenging were illegal; thus, he rejected the *amparo* action as inadmissible and indicated that the claims should be raised with the Court of Administrative Litigation. The State indicates that the decision in question was upheld by the Constitutional Court.

17. In this regard, the State indicates that the *amparo* action has a special, exceptional, and subsidiary nature. It contends that the administrative decision challenged by the petitioner through the constitutional *amparo* action was based on Article 120 of the Political Constitution of Ecuador and Article 8 of the Organic Law of the National Council of the Judiciary, which stipulate as follows:

Article 120 – No authority, official, or public servant shall be exempt from responsibility for any act carried out in the exercise of his/her duties, or for his/her omissions. The exercise of public dignities and functions constitutes a service to the public, which shall demand capability, honesty, and efficiency.

Article 8 – The members of the National Council of the Judiciary shall cease in their duties due to: a) Death; b) End of the term to which they were elected; c) Resignation; d) Separation due to incapacity or inability, at the time of or subsequent to their designation, as decided by the Supreme Court of Justice; and e) Removal from office by the National Congress, on grounds established in the Political Constitution of the Republic (*sic*) and in the Law.

18. In view of the foregoing, the State contends that the *amparo* action lodged by the petitioner does not exhaust domestic remedies, nor is it the appropriate avenue by which to appeal with regard to his rights that were allegedly violated. The State also contends that the alleged victim did not employ the administrative and civil litigation actions provided under Ecuadorian laws as adequate, effective remedies. Specifically, it states that "...he allowed the statute of limitations to expire in the contentious administrative proceeding"; that he did not try to bring an action for damage and loss against the Justices who would have heard his case; a financial compensation action against the State for pain and suffering; a recusal motion; or a remedy of cassation.

19. Finally, the State contends that, in light of his disagreement with the judicial decisions, the petitioner is seeking to use the Commission as a review body to examine the merits of judicial proceedings that have legitimately come to an end, and that therefore the Commission would become a fourth instance. In view of the foregoing arguments, the State asks the Commission to declare the petition at hand to be inadmissible.

20. As to the petitioner's arguments regarding the alleged lack of independence and impartiality of the Supreme Court of Justice and the Court of Administrative Litigation, the State contends that according to the European Court of Human Rights, "[i]n principle, the personal impartiality of the members of a 'tribunal' must be presumed until there is proof to the contrary." In this regard, it indicates that the petitioner has not demonstrated that the members of the Court had engaged in acts of corruption or lack of integrity in carrying out their duties; thus, his fear that the case would be decided in a biased manner is subjective.

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

### **A. Competence**

21. Under Article 44 of the American Convention, the petitioner is entitled, in principle, to lodge petitions with the Commission. The petition names as the alleged victim an individual person to whom the Ecuadorian State undertook to respect and guarantee the rights enshrined in the American Convention. With respect to the State, the Commission notes that Ecuador has been a party to the

American Convention since December 8, 1977, the date on which it deposited its instrument of ratification. The Commission therefore has competence *ratione personae* to examine the complaint.

22. The Commission also has competence *ratione loci* to consider the petition, as the petition alleges violations of rights protected in the American Convention that allegedly took place within the territory of Ecuador, a State party to that treaty. The Commission has competence *ratione temporis* since the obligation to respect and guarantee the rights protected in the American Convention was already in force for the State on the date on which the incidents alleged in the petition reportedly occurred. Finally, the Commission has competence *ratione materiae* since the petition describes possible violations of human rights that are protected by the American Convention.

## **B. Admissibility requirements**

### **1. Exhaustion of domestic remedies**

23. Article 46(1) of the American Convention requires the prior exhaustion of the remedies available in domestic jurisdiction, in accordance with generally recognized principles of international law, as a requirement for admitting claims regarding the alleged violation of the American Convention.

24. Article 46(2) of the Convention provides that the requirement of prior exhaustion of domestic remedies does not apply when:

- a) the State's domestic legislation does not afford due process of law for protection of the right or rights that have allegedly been violated;
- b) the party alleging violation of his or her 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 provisions of the IACHR Rules of Procedure, and statements by the Inter-American Court, any time a State alleges that the petitioners have failed to exhaust domestic remedies, it has the burden of identifying which remedies have yet to be exhausted and to demonstrate to the Commission that the remedies that have not been exhausted are "adequate" to address the violation being alleged, that is to say that the function of these remedies within the domestic legal system is suitable to address the legal right that has been infringed.<sup>1</sup>

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<sup>1</sup> Article 31(3) of the Rules of Procedure of the Commission. See also I/A Court H.R., *Case of Velásquez-Rodríguez v. Honduras*, Judgment of July 29, 1988, para. 64.

25. In the case at hand, the State contends that the petition does not meet the requirement of prior exhaustion of domestic remedies under Article 46.1.a of the American Convention, as the petitioner did not file an administrative litigation complaint or bring an action for damage and loss against the Justices who would have heard his case; a financial compensation action against the State for pain and suffering; a recusal motion; or a remedy of cassation.

26. For his part, the petitioner alleges that the domestic remedies were exhausted with the decision handed down by the Constitutional Court on December 11, 2003. He states that he did not lodge an administrative litigation action against the Supreme Court of Justice's administrative decision, which the petitioner considers to be illegal, but rather lodged an *amparo* action against the August 20, 2003, decision by the plenum of the Supreme Court of Justice setting up the *ad hoc* commission, and against the August 21, 2003, decision in which that commission opened disciplinary proceedings against him, on grounds that the Supreme Court of Justice had assumed powers it did not have. He alleged that the basis for the *amparo* action was the fact that he was not told what specific law was involved in the administrative offense he had supposedly committed, what sanctions applied, or what procedures governed the alleged trial to which he was being subjected.

27. In view of the parties' allegations, it must first be made clear what domestic remedies must be exhausted in a case such as this one. The Inter-American Commission has ruled that only those remedies appropriate for resolving the alleged violations need be exhausted. Adequate domestic remedies are

those which are suitable to address an infringement of a legal right. A number of remedies exist in the legal system of every country, but not all are applicable in every circumstance. If a remedy is not adequate in a specific case, it obviously need not be exhausted. A norm is meant to have an effect and should not be interpreted in such a way as to negate its effect or lead to a result that is manifestly absurd or unreasonable.<sup>2</sup>

28. The Commission notes that the petitioner lodged an *amparo* action to challenge the August 20, 2003, decision by the plenum of the Supreme Court of Justice setting up the *ad hoc* commission, and the August 21, 2003 decision in which that commission opened disciplinary proceedings against him, on grounds that such steps violated his constitutional rights to legality, equal protection of the law, and a fair trial.

29. The Commission notes that the petitioner called into question two decisions of the Supreme Court of Justice constituted as a disciplinary authority, the first of these the decision that created an *ad hoc* commission and the second the decision by which the *ad hoc* commission opened disciplinary proceedings against him. The Commission also notes that the petitioner alleges that the decision removing him from his post is simply a consequence of the purportedly illegal decisions that had been adopted previously by the Supreme Court. Specifically, the petitioner claims that the procedure used to remove him from his post ran contrary to the domestic legal system and the standards established in the American Convention. Consequently, the Commission notes that it was not unreasonable for the petitioner to have attempted an *amparo* appeal to challenge the procedure that had taken place—that is, the creation of the *ad hoc* commission and the opening of disciplinary proceedings against him because although the State alleges that an *amparo* was not the appropriate recourse, the Commission observes that the Constitutional Court in effect considered the merits of the case.

30. In terms of the recourse of administrative litigation, the Commission notes that the alleged victim contends that he was not in a position to challenge the administrative decision by which the plenum of the Supreme Court of Justice decided to remove him as a member of the CNJ in view of the fact that, as he alleges, he did not have access to the legal reasoning adopted by the *ad hoc* commission to justify his removal from the post; that is he was not told what specific law was involved in the supposed administrative offense he had allegedly committed, what sanctions applied, or what procedures governed

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<sup>2</sup> I/A Court H.R., Case of Velásquez-Rodríguez. Judgment of July 29, 1988. Series C No. 4, para. 64.

the alleged trial to which he was being subjected and that he was not so much as given a simple copy of the deliberations from the session of the plenum of the Supreme Court of Justice in which the decision to remove him was approved, despite he requested it (see *supra* paragraphs 10 and 11). The alleged lack of access was not challenged by the State. Therefore, the Commission observes that the petitioner did not have remedy available in order to Challenge the decision of the *ad hoc* commission of the Supreme Court.

31. In view of the foregoing, the situation alleged by the petitioners fits within the exception to the exhaustion of domestic remedies requirement set out at Article 46(2)(b) of the Convention that establishes that said exception applies when "the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them."

32. In terms of the remedies of recusal,<sup>3</sup> an action for damage and loss against the Justices,<sup>4</sup> cassation,<sup>5</sup> and a compensation action for pain and suffering established in the Civil Code,<sup>6</sup> all of which are mentioned by the State in its arguments, the Commission notes that those are not remedies designed to settle the issues that are the subject matter of this claim, and therefore they are not applicable in determining the claim's admissibility.

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<sup>3</sup> Article 856 of the Code of Civil Procedure establishes that "a judge, whether in a tribunal or court, may be recused by any of the parties and must refrain from hearing the case for any of the following reasons: 10. Not handling the proceeding within three times the period indicated." Recusal is also contemplated in Article 265 of the Code of Criminal Procedure.

<sup>4</sup> Article 979 of the Code of Civil Procedure establishes: "Action for damage and loss is admissible against a magistrate or judge who in the performance of his duties causes economic damage to the parties or interested third parties, due to delay or denial of justice, for breaking express laws, for usurping functions, for granting denied appeals, or for rejecting remedies expressly granted by the law, or for altering the decision when finalizing it. This action is also admissible against clerks and other employees of the Judiciary, who through their action or omission have caused economic damage, through bad faith or negligence. Registrars and notaries, in particular, will answer for damages caused in identical circumstances."

<sup>5</sup> Article 1 of the Cassation Law establishes that "the remedy that is the subject of this Law falls under the competence of the Supreme Court of Justice, which acts as a court of cassation in all matters, through its specialized chambers."

<sup>6</sup> Articles 2232 and 2232 of the Civil Code indicate that "in any case not contemplated in the preceding provisions, anyone who suffers damages that are merely psychological [pain and suffering] may also demand financial compensation by way of reparation, when such compensation is found to be justified by the particular gravity of the damage suffered and of the offense. With the exception of the punishment imposed in cases involving crimes or quasi-crimes, those who have special obligations to provide this type of reparation are those who, in cases other than those indicated in the preceding article, stain the reputation of another, through any type of defamation; those who cause injury or commit rape, statutory rape, or indecent assault; those who provoke illegal or arbitrary detentions or arrests, or unjustified prosecutions, and in general, physical suffering or psychological suffering such as anguish, anxiety, humiliations, and similar offenses. The reparation for pain and suffering may be sought if such damages are the direct result of the defendant's action or illegal omission, and the judge has the discretion to determine the value of compensation, mindful of the circumstances contemplated in the first section of this article." The statute also indicates that "[the right to] an action for pain and suffering belongs exclusively to the victim or his/her legal representative. And in the event that is physically impossible, the action may be brought by his/her legal representative, spouse, or relatives up to the second degree of blood relationship. If the illegal act caused the victim's death, the victim's rights holders may bring the action, pursuant to the norms established in this Code...."

33. Invoking the exceptions to the prior exhaustion rule provided for at Article 46(2) of the Convention is closely tied to the determination of possible violations of certain rights enshrined in it, such as the guarantees of access to justice. Nonetheless, Article 46(2), given its nature and purpose, has autonomous content vis-à-vis the substantive provisions of the Convention. Therefore, the determination as to whether the exceptions to the rule requiring exhaustion of domestic remedies apply to the case in question must be made prior to and separate from the analysis of the merits, since it depends on a different standard from that used to determine the possible violation of Articles 8 and 25 of the Convention. It should be clarified that the causes and effects that impeded the exhaustion of domestic remedies will be analyzed in the report the Commission adopts on the merits, in order to determine whether there are violations of the American Convention.

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

34. Article 46.1.b of the American Convention establishes that for a petition to be deemed admissible by the Commission, it must be lodged within a period of six months from the date in which the alleged injured party has been notified of the final decision. In the case at hand, the petition was received on January 7, 2004, and the last decision adopted in domestic jurisdiction was handed down on December 11, 2003; consequently, the Commission deems that the admissibility requirement related to the deadline for lodging the petition has been met.

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

35. The case file does not show that the substance of the petition is pending decision in any other international settlement proceeding or that it is substantially the same as another petition already examined by this Commission or any other international body. Hence, the requirements set forth in Articles 46.1.c and 47.d of the Convention have been met.

## **4. Characterization of the allegations**

36. Based on the elements of fact and law presented by the parties and the nature of the matter under its consideration, the IACHR believes that the allegations related to the procedure used to separate the alleged victim from his post as a member of the National Council of the Judiciary could tend to establish possible violations of the right to humane treatment, to a fair trial, and to judicial protection protected in Articles 5, 8, and 25, in conjunction with Article 1.1, of the American Convention.

37. In terms of the alleged violation of the right to freedom of thought and expression, the petitioner claims that his separation from his post as a member of the CNJ was based on the statements he made to the media could tend to establish a possible violation of Article 13 of the Convention; thus, the Commission believes it is appropriate to analyze this aspect of the claim in the merits phase.

38. 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. The Commission further believes that in view of the claim that the alleged victim was removed from his post for an administrative infraction not contemplated in the legal system, and by an *ad hoc* commission that did not have jurisdiction do so, it is appropriate to examine in the merits phase, whether the State could be responsible for the alleged violation of the legality principle established in Article 9 of the Convention.

39. With respect to the alleged violation of the right to protection of honor and dignity, established in Article 11 of the American Convention, the Commission notes that the petitioners have not presented arguments that would tend to establish violations of the American Convention, and thus does not find that claim admissible.

## **V. CONCLUSIONS**

40. The Commission concludes that it is competent to hear the petitioners' claims regarding the alleged violation of Articles 5, 8, 9, 13, 25 of the American Convention, in conjunction with Article 1.1 therein, and that those claims are admissible under the requirements established in Articles 46 and 47 of the American Convention. It further concludes that it must rule inadmissible the claim alleging a violation of Article 11, in conjunction with Article 1.1, of the American Convention.

41. Based on the foregoing considerations of fact and law, and without prejudging the merits of the case,

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

#### **DECIDES:**

1. To declare the claim admissible as regards Articles 5, 8, 9, 13, and 25, in conjunction with Article 1.1, of the Convention.
2. To give notice of this decision to the Ecuadorian State and to the petitioner.
3. To continue with its analysis of the merits of the complaint.
4. To publish this decision and to include it in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 3<sup>rd</sup> day of November 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.