REPORT No. 4/12
PETITION 4115-02
ADMISSIBILITY
RICARDO JAVIER KAPLUN AND FAMILY
ARGENTINA
March 19, 2012

I. SUMMARY

1. On September 30, 2002, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a petition lodged by Juan María Kaplun, Oscar Patricio Kaplun, Diego Ernesto Kaplun, Cora Elizabeth Kaplun, Guillermo Gabriel Kaplun, Moira Viviana Kaplun, Pablo Gustavo Kaplun, and the *Comisión de Familiares de Víctimas Indefensas de la Violencia Social* [Committee of Relatives of Defenseless Victims of Social Violence] (hereinafter "COFAVI" and, as a whole the "petitioners"),[1] in which they argue that the Republic of Argentina ("Argentina" or the "State") is responsible for the injuries inflicted on Ricardo Javier Kaplun (the "alleged victim"), purportedly by police officers while he was in detention, which resulted in his death, and for the absence of an effective investigation to prosecute and punish those responsible for the events. The petitioners claim that the State is responsible for violating the rights set out in Articles 4 (right to life), 5 (right to humane treatment), 8 (right to a fair trial), and 25 (judicial protection), in conjunction with the obligation to respect and guarantee the rights embodied in Article 1.1 of the American Convention on Human Rights (hereinafter the "American Convention").

2. With regard to fulfillment of the admissibility requirements, the petitioners claimed that the exception provided for in Article 46.2.c of the American Convention is applicable due to unwarranted delay in rendering the decision. For its part, the State argued that the petition is inadmissible because criminal investigations are still under way and, consequently, available domestic remedies have not been exhausted.

3. After reviewing the positions of the parties and in keeping with the requirements established in Articles 46 and 47 of the American Convention, the Commission decides to declare the case admissible for the purpose of examining the alleged violation of the rights of the alleged victim and his relatives enshrined in Articles 4, 5, 7, 8, and 25, in conjunction with Article 1.1 of that instrument. In addition, the Commission decides to inform the parties of this decision, to publish it, and to include it in its Annual Report to the OAS General Assembly.

II. PROCESSING BY THE COMMISSION

4. The petition was received by the IACHR on September 30, 2002, and recorded as No. P-4115-02. The Commission transmitted it to the State on July 31, 2007, giving the State two months to submit a reply. The State asked the IACHR for a one-month extension for its reply, which was granted on October 31, 2007. The Commission received the State's reply on May 30, 2008, which was duly transmitted to the petitioners.

5. The petitioners submitted observations and additional information on March 29, 2006, December 8, 2008, September 1, 2009, April 8, 2010, October 27, 2010, June 8, 2011, and August 8, 2011, and the State submitted observations and additional information on June 19, 2009, December 22, 2009, January 27, 2010, September 21, 2010, and March 15, 2011. Said observations and additional information were duly transmitted to each of the parties.

[1] Mrs. María Carmody, the mother of the alleged victim, initially lodged the petition with the IACHR. The co-petitioners reported that she passed away on February 6, 2004. Similarly, by a note received on March 29, 2006, relatives of the alleged victim asked to be included as petitioners.

6. Finally, the IACHR called the parties to a working meeting, held on October 27, 2010, at which they expressed their desire to cooperate to try to achieve a possible friendly settlement. That desire was reaffirmed by both the State, on March 15, 2011, and the petitioners, on August 8, 2011. Subsequently, by a note dated February 23, 2012, which was transmitted to the State for information, the petitioners asked the IACHR to examine the evidence presented and, as appropriate, to admit the petition.

III. POSITIONS OF THE PARTIES

A. Position of the petitioners

7. The petitioners maintain that Argentina is internationally responsible for depriving Ricardo Javier Kaplun of his life, owing to various injuries caused by police officers during his detention, as well as for a failure to investigate the facts, which remain unpunished. They stated that in the early morning of November 28, 2000, Ricardo Javier Kaplun and Alejandro Marcelo Alliano had an argument with their neighbors, who chased them home, along with police officer Jorge Renato Gaumudi. They noted that, after the alleged victim was tackled by Officer Gaumudi, the neighbors started to hit him just a few meters away from his house, where his brother Juan María Kaplun was at the time. They said that while this was going on Officer Gaumudi simply looked on without intervening, and they stated that Alejandro Marcelo Alliano was also hit.

8. They indicated that Juan María Kaplun, brother of the alleged victim, had reported the incident by phone to police officers at Police Station No. 31 of the Argentine Federal Police. They said that three police officers, Paula Mariana Ronsoni Rossi, Diego Javier García, and Assistant Inspector Julio Alberto Soldani, had arrived at the location in question and that the last-named had immobilized the alleged victim, handcuffing him while applying pressure to his back. They affirmed that the alleged victim had insulted Assistant Inspector Julio Alberto Soldani since he was causing him intense pain and asked him to be taken to a hospital. The petitioners claimed that the police officers simply took the statement of one of the neighbors and of two people who had not witnessed what occurred, as well as Juan María Kaplun's statement and personal data.

9. They said that the police officers got into a patrol car with the alleged victim, who was perfectly conscious and did not have any wounds or blood stains on his clothing, to take him to Police Station No. 39. Riding in the car with him was Assistant Inspector Julio Alberto Soldani and Officer Diego Javier García, who was driving. They asserted that those occurrences were also witnessed by Oscar Patricio Kaplun, another brother of the alleged victim, and they specified that Alejandro Marcelo Alliano had also been taken to Police Station No. 31.

10. They contended that at about 1:20 a.m. on November 28, 2000, an entry was made in the log book indicating that "NN" had arrived at Police Station No. 31. They maintained that said entry corresponded to Ricardo Javier Kaplun's arrival, which was later confirmed by Dr. María del Rosario Josefina De Dominicis, of the Emergency Medical Care Service, who said that she had treated the alleged victim, registered as "NN," that day in Police Station No. 31 and that he had a blunt/penetrating injury to the right supraorbital ridge and abrasions on the left lumbar region and that he was vomiting food, in addition to which he could not speak at all, which prompted her to recommend that he be hospitalized. They said that the alleged victim was admitted, as patient "NN," to the "Dr. I. Pirovano" Hospital in Buenos Aires at approximately 2:20, in the company of police officer María Alejandra Miño. They stated that Dr. Horacio Enrique Ferrario sutured the wound on the alleged victim's right supraorbital ridge. The petitioners said that at 4:15, Ricardo Javier Kaplun suffered cardiopulmonary arrest and, following the medical team's efforts to resuscitate him, he died at about 4:30 on November 28, 2000.

11. The petitioners maintained that the State is responsible for depriving Ricardo Javier Kaplun of his life, owing to the injuries he suffered at the hands of Argentine Federal Police officers while in detention. They allegued that the injuries were caused by the police officers since the alleged victim did not have any injuries when he got into the police car, and subsequently, when he was treated by Dr. Dominicis at Police Station No. 31, he had several injuries, his clothing was stained with blood, and he

was not able to speak at all. They argued that the police officers never notified judicial authorities or recorded Mr. Kaplun's personal data, in order to conceal the beating and return him to Police Station No. 31 after his hospitalization. In this regard, they argued that at the time of logging his entry into Police Station No. 31 and later admitting him to the hospital, the alleged victim was registered as "NN," when the police officers were aware of his personal data, and they claimed that the police never informed judicial authorities that the alleged victim had been moved to a hospital while in custody.

12. They claimed that the National Court of Criminal Investigation No. 40 (*Juzgado Nacional de Instrucción en lo Criminal No. 40*) launched a criminal investigation into a "death from unknown causes"; ordered that the body be identified by family members; ordered an investigation of the various police officers in Police Station No. 31, along with Officer Gaumudi and the victim's neighbors; ordered an autopsy; received Dr. De Dominicis' statement; accepted the alleged victim's mother as a complainant; and ordered various expert medical analyses. They stated that on March 27, 2002, said criminal court dismissed the criminal case against the alleged victim's neighbors and Officer Gaumudi. However, the petitioners pointed out the criminal court ordered that a criminal investigation be opened with respect to the accused Roberto Gallo, Eduardo David Beragua, and Jorge E. Soria Puig—police officers who were in Police Station No. 31 at the time of the events—as alleged co-perpetrators of the crime of "noncompliance with the duties of a public official."

13. They contended that said dismissal of March 27, 2002, had not been appealed by the Public Ministry of the Nation through the Office of the National Prosecutor, despite the complainant's request that this be done. They added that the complainant had filed an appeal against the aforementioned decision but that said appeal had been denied for untimely filing. The petitioners said that Roberto Gallo, Eduardo David Beragua, and Jorge E. Soria Puig had also filed an appeal against said decision with the National Court of Appeals, which had confirmed its indictments on October 3, 2002, but ordered that a medical team be established to determine the causes of the alleged victim's death. The petitioners pointed out that on February 3, 2003, the National Court of Criminal Investigation No. 40 (*Juzgado Nacional de Instrucción en lo Criminal No. 40*), pursuant to the decision of October 3, 2002, ordered that the medical team be set up, that new expert analyses be carried out, and that an investigation be conducted to determine whether the care provided by the medical personnel from the time of the alleged victim's arrival at Police Station No. 31 until his death had been adequate.

14. They stated that on March 31, 2005, the National Court of Criminal Investigation No. 40 (*Juzgado Nacional de Instrucción en lo Criminal No. 40*) dismissed the case in connection with the medical personnel, turned the file over to Correctional Court No 14 (*Juzgado Correccional No. 14*), which was competent to take up the crime on noncompliance with the duties of a public official that the three police officers had been charged with, and declared fulfilled the orders of the National Court of Appeals (*Cámara Nacional de Apelaciones*) on the basis of an expert report that concluded that sequencing of the alleged victim's deoxyribonucleic acid (DNA) was impossible since the genetic material was unsuitable, without being able to determine whether the alleged victim's death was due to trauma or not. The petitioners said that COFAVI, as a new complainant,[2] after filing an appeal against the decision of March 31, 2005, and an appeal to vacate with the National Court of Appeals (*Cámara Nacional de Apelaciones*), filed a complaint appeal with the National Court of Criminal Cassation, Chamber III (*Cámara Nacional de Casación Penal, Sala III*), which ruled on February 6, 2007, that the criminal investigation should be pursued as it was incomplete.

15. They contended that, since the decision of February 6, 2007, the National Court of Criminal Investigation No. 40 (*Juzgado Nacional de Instrucción en lo Criminal No. 40*) had taken the statements of Assistant Inspector Norberto Álvaro Velasco and Inspector Leonardo Horacio Cura, the highest-ranking officials in Police Station No. 31, and, on December 19, 2008, had initiated proceedings against officers Julio Soldani, Diego García, Paula Mariana Ronsoni Rossi, and María Alejandra for the crime of "negligent injury". They added that the complainant had filed an appeal against that decision and,

[2] The petitioners noted that when Mrs. María Carmody, the mother of the alleged victim, passed away, COFAVI asked to be considered a complainant in the criminal proceeding, a request that was granted by the National Court of Appeals.

subsequently, a cassation appeal (*recurso de casación*). which the National Court of Appeals (*Cámara Nacional de Apelaciones*) denied; filed a complaint appeal (*recurso de queja*) with the National Criminal Court of Appeals, Chamber III (*Cámara Nacional de Casación Penal, Sala III*), which was rejected; and on March 3, 2010, filed an extraordinary appeal (*recurso extraordinario*) to request modification of the legal qualification "negligent injury," since there was evidence indicating that the injuries were perpetrated by police officers while the alleged victim was in custody and had not been caused by his falling off a chair during his detention. They indicated that settlement of the extraordinary appeal was pending in the Supreme Court of Justice.

16. The petitioners contended that there were several deficiencies in the criminal investigation as well as negligence on the part of the various officials involved in it. They claimed that it would be difficult and probably impossible to clarify what occurred on November 28, 2000, 10 years after the alleged victim's death. In that regard, they argued that the automobile in which the alleged victim had been taken to Police Station No. 31 had never been inspected, nor had the police car's radio communication tapes ever been requested. They also clarified that no statement had ever been taken from Alejandro Marcelo Alliano, who had had been arrested on the same day as the alleged victim and had died in 2003. They maintained that the incompetence and delays in examining the genetic sample to determine whether the death had been caused by trauma seriously impaired the investigation, as had the failure to properly reconstruct the events. They argued that throughout the process the judicial authorities had systematically rejected requests for evidence and for opening of lines of investigation proposed by the complainants and stated that over the years the entire procedural handling of the case had been driven exclusively by the complainants rather than the Public Ministry.

17. The petitioners claimed that there were various irregularities associated with the lack of impartiality and independence of the judicial authorities in the criminal case. They reported that, from the start of the criminal investigation until at least 2006, the National Court of Criminal Investigation No. 40 (*Juzgado Nacional de Instrucción en lo Criminal No. 40*) had not met because of the principal judge's illness and subsequent death, which meant that the judicial authority was replaced every three months, with 21 alternate judges occupying the post over a five-year period, and that those circumstances hindered the development of the investigation and the common resolve to move forward with it. They maintained that, despite the constant change in judges, the court secretary, Dr. Jorge Ávila Herrera, had been the only stable official during the criminal case; however, he had regularly demonstrated an unwillingness to pursue the investigation throughout the process, which had led the complainant to ask that he remove himself from the case. Likewise, they argued that without any justification Dr. Viviana Fein de Oliveri, after few interventions, had voluntarily withdrawn from the case in November 2007 because of questions raised by the Kaplun family about her work. They reported that the Attorney General of the Nation had ordered a preliminary investigation to shed light on the prosecutor's responsibility and stated that said investigation had shown that the prosecutor committed some irregularities.

18. The petitioners maintained that the trial against officers Eduardo David Beragua and Jorge E. Soria Puig for noncompliance with the duties of a public official could not be considered a suitable means of clarifying the causes of the alleged victim's death, or sufficient and just punishment for those officers who failed to meet their obligation to inform judicial authorities as soon as possible of the alleged victim's transfer to the hospital, as they tried to conceal the injuries caused by the police officers who arrested him. They indicated that, in compliance with the ruling of February 6, 2007, the National Court of Criminal Investigation No. 40 (*Juzgado Nacional de Instrucción en lo Criminal No. 40*) had referred the matter to Correctional Court No 14 so that it might continue the investigation into the crime of noncompliance with the duties of a public official, notwithstanding the continuation of other criminal investigations. They pointed out that Correctional Court No. 14 (*Juzgado Correccional No. 14*) had convicted two of the three agents, Eduardo David Beragua and Jorge E. Soria Puig, ordering them to pay fines and suspending them. However, they contended that on February 3, 2010, the National Court of Criminal Cassation (*Cámara Nacional de Casación Penal*) acquitted them, in response to which the complainant filed an extraordinary appeal on February 19, 2010, which is still pending settlement in the Supreme Court of Justice.

19. As concerns fulfillment of the admissibility requirements, the petitioners argued essentially that in the instant case the causes of the alleged victim's death had not been clarified, that more than 10 years had elapsed since the alleged victim's death owing to the judicial authorities' inadequate investigation and failure to act, and therefore that the exception to the exhaustion of domestic remedies provided for in Article 46.2.c of the American Convention was applicable. Also, in order to consider the possibility of having an open space for dialogue toward a potential friendly settlement, they request the Commission to examine the evidence presented and, as appropriate, admit the petition.

B. Position of the State

20. The State argues that the petition is inadmissible in view of the admissibility requirement of prior exhaustion of domestic resources provided in Article 46.1.a of the American Convention, since to date various court proceedings are under way.

21. On the one hand, the State contended that on February 6, 2007, the National Court of Criminal Cassation, Chamber III (*Cámara Nacional de Casación Penal, Sala III*), decided to set aside the decision rendered by the National Court of Appeals on August 8, 2005, and to refer the proceedings to the National Court of Criminal Investigation No. 40 (*Juzgado Nacional de Instrucción en lo Criminal No. 40*) to enable the criminal investigations to proceed. Pursuant to that decision, it stated that on September 11, 2008, the judicial authorities ordered Julio Alberto Soldani, Diego Javier García, Paula Mariana Ronzoni Rossi, and María Gabriela Miño to make their statements.

22. On the other hand, the State claimed that the case regarding charges against Roberto Gallo, Eduardo David Beragua, and Jorge E. Soria Puig for the crime of noncompliance with the duties of a public official were still pending in National Correctional Court No 14 (*Juzgado Correccional No. 14*), and reported that on March 26, 2009, Eduardo Beragua and Jorge Ernesto Soria Puig had been convicted and ordered to pay a fine and had been suspended from duty for one year, whereas the case against the defendant Roberto Gallo had been dismissed.

23. Lastly, the State had asked the IACHR in writing on March 15, 2011, to inform the petitioners of the former's willingness to explore the possibility of getting together for the purpose of arriving at a peaceful settlement, without this implying an express or tacit waiver of its right to make submissions regarding the admissibility or merits of the matter at hand.

IV. ANALYSIS OF ADMISSIBILITY

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

24. The petitioners have a legitimate right to lodge a petition with the Convention, as provided for in Article 44 of the American Convention. The petition names as the alleged victim an individual for whom the State has assumed the commitment to respect and guarantee the rights recognized by the American Convention. As for the State, the Commission notes that Argentina has been a State Party to the Convention since September 5, 1984, the date on which it deposited its instrument of ratification. The Commission is therefore competent *ratione personae* to examine the petition.

25. The Commission is competent *ratione loci* to consider the petition, in that it alleges violations of rights protected by the American Convention committed within the territory of a State Party thereto. The IACHR is competent *ratione temporis*, since the State's obligation to respect and guarantee the rights protected in the American Convention existed on the date it is claimed that the violations of rights alleged in the petition occurred. Finally, the Commission is competent *ratione materiae*, because the petition alleges violations of human rights protected by the American Convention.

B. Other admissibility requirements

1. Exhaustion of domestic remedies

26. For a complaint regarding the alleged violation of the provisions of the American Convention to be admitted, it must meet the requirements established in Article 46.1 of said international instrument. Article 46.1.a. of the American Convention establishes that to determine the admissibility of a petition or communication submitted to the IACHR in accordance with Articles 44 or 45 of the Convention, domestic remedies must have been pursued and exhausted, in accordance with generally recognized principles of international law.

27. For its part, Article 46.2 of the American Convention stipulates that the prior exhaustion requirement is not applicable when: (a) the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; (b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or (c) there has been unwarranted delay in the judgment on the aforementioned remedies.

28. Both the Commission and the Inter-American Court have stated that only those remedies adequate to redress the violations allegedly committed must be exhausted.[3] In this regard, the Commission notes that, since this petition involves the alleged deprivation of the right to life of an individual owing to injuries allegedly inflicted by State agents when said individual was in custody, the suitable remedy for clarifying the facts is a criminal investigation to ascertain the truth of what occurred and thereby determine any responsibility on the part of the State agents involved.

29. In the instant case, the State argues that the criminal investigations are fully under way and that the petitioners have therefore not exhausted the domestic remedies designed to protect the rights allegedly violated. For their part, the petitioners maintain that the State is responsible for unwarranted delay in the criminal investigation, which means that the domestic remedies exception provided for in Article 46.2.c of the American Convention is applicable.

30. In cases such as the instant one, involving offenses subject to public prosecution, that is those which can be prosecuted by the State at its own initiative, particularly when agents of the State are implicated in said offenses, the State has the obligation to investigate them. In any case therefore the State is the holder of the punitive action and of the obligation to promote and pursue the various procedural stages, in fulfillment of its obligation to guarantee the right to justice. This burden must be borne by the State as its own legal duty, not as an instrument of the interests of private individuals, and it may not be contingent upon the initiative of those individuals or the evidence they provide.[4]

31. The Commission observes that the facts of the case took place on November 28, 2000, and that criminal proceedings are still pending 10 years after that date, without being possible for the Commission to infer that to date, those allegedly responsible for the injuries to the alleged victim and, as the case may be, his death, have been convicted. Said circumstances would constitute *prima facie* unwarranted delay under the terms of Article 46.2.c. of the American Convention. Consequently, the petitioners must be exempted from the rule requiring them to exhaust domestic remedies before turning to the inter-American system for protection.

32. It should be noted that Article 46.2 by its nature and purpose is a norm that stands alone vis-à-vis the substantive norms of the American Convention. Consequently, the decision about whether the exceptions to the rule of exhaustion of domestic remedies are applicable to the case at hand must be made as a prior and separate matter from the merits of the case, since it depends upon a different standard of evaluation from that used to determine a possible violation of the American Convention.[5]

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[3] The I-A Court of Human Rights has determined that an adequate remedy is one that is suitable for protecting the infringed legal right; thus, remedies that do not have any effect or are manifestly absurd or unreasonable need not be addressed. I-A Court of Human Rights. *Case of Velásquez Rodríguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 4, par. 64.

[4] See IACHR, Report No. 68/08, Petition 231-98, Admissibility, *Ernesto Travesi*, Argentina, October 16, 2008, par. 32.

[5] IACHR, Report No. 13/09, Petition 339-02, Admissibility, *Vinicio Poblete Vilches,* Chile, March 19, 2009, par. 54.

2. Timeliness of the Petition

33. The American Convention provides that for a petition to be admissible before the Commission it must be lodged within a period of six months from the date on which the party alleging violation of his or her rights was notified of the final judgment. In the petition under consideration, the IACHR has established that one of the exceptions to the exhaustion of domestic remedies applies, in keeping with Article 46.2.c of the American Convention. In this connection, Article 32 of the Rules of Procedure of the Commission establishes that in those cases in which the exceptions to the requirement of prior exhaustion of domestic remedies are applicable, the petition shall be presented within a reasonable period of time, as determined by the Commission. To this end, the Commission must consider the date on which the alleged violation of rights occurred and the circumstances of each case.

34. In the instant case, the petition was received on September 30, 2002, the facts that are the subject of the claim began on November 28, 2000, and their effects in terms of the alleged failure of the administration of justice extend to the present day. The parties recognize that various criminal proceedings are pending as of the date of this report. Consequently, in view of the context and the characteristics of this case, the Commission finds that the petition was presented within a reasonable period of time and that the admissibility requirement regarding the filing deadline is satisfied.

3. Duplication of proceedings and *res judicata*

35. It cannot be inferred from the case file that the petition is pending in another international proceeding for settlement, nor that it is substantially the same as one previously studied by this or by another international organization. Therefore, the IACHR concludes that the exceptions provided for in Article 46.1.d and Article 47.d of the American Convention are not applicable.

4. Colorable claim

36. For purposes of admissibility, the Commission must decide whether the facts alleged tend to establish a violation of rights, pursuant to article 47.b of the American Convention, or whether the petition is "manifestly groundless" or "obviously out of order," pursuant to Article 47.c. The criterion for evaluating these requirements is different from the one used to decide on the petition's merits; the Commission must carry out a *prima facie* evaluation to determine whether the petition establishes grounds for the possible or potential violation of a right guaranteed under the American Convention, but not to establish whether an infringement of rights has occurred. This determination constitutes a preliminary analysis that does not entail a prejudgment on the merits of the case.[6]

37. Neither the American Convention nor the Rules of Procedure of the IACHR require the petitioners to identify the specific rights allegedly violated by the State in the case brought before the Commission, although the petitioners may do so. However, it is incumbent on the Commission, in keeping with the jurisprudence of the system, to determine in its admissibility reports which provision of the relevant inter-American instruments is applicable and could be deemed to have been violated if the alleged facts are proven by means of sufficient evidence and legal arguments.

38. To that end, given the elements of fact and law introduced by the parties and the nature of the matter brought before it, the IACHR finds that it must be established in the instant case that the petitioners' allegations regarding the alleged violation of the right to life and to humane treatment to the detriment of Ricardo Javier Kaplun, could tend to constitute violations of the rights protected in Articles 4 and 5, as they relate to Article 1.1 of the American Convention. Likewise, it must be established that the arguments put forward by the petitioners regarding the right to guarantees and judicial protection to the detriment of the relatives of the alleged victim could tend to constitute violations of the rights protected in

[6] See IACHR, Report No. 3/11, Petition 491-98, Admissibility, *Néstor Rolando López et al.*, Argentina, January 5, 2011, par. 37.

Articles 5, 8, and 25, as they relate to Article 1.1 of the American Convention. Lastly, the IACHR considers that the alleged facts could tend to constitute a violation of Article 7 of the American Convention by virtue of irregularities in his detention, as they relate to Article 1.1 of the American Convention.

VI. CONCLUSIONS

39. The Commission concludes that it is competent to examine the claims submitted in the instant case and that the petition is admissible pursuant to Articles 46 and 47 of the American Convention. Based on the arguments of fact and law set forth herein, and without prejudging the merits of the case,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare this case admissible with regard to the alleged violations of the rights recognized in Articles 4, 5, 7, 8, and 25 of the American Convention, considered in conjunction with Article 1.1 thereof.

2. To notify the parties of this decision.

3. To place itself at the disposal of the parties to initiate a friendly settlement procedure.

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

5. To make this report public and to publish it in its Annual Report to the General Assembly.

Done and signed in the city of Washington, D.C., on the 19th day of the month of March 2012. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Felipe González, Second Vice-President; Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz, and Rose-Marie Antoine, Commissioners.