

**REPORT No. 39/13**  
PETITION 424-99  
ADMISSIBILITY  
GERARDO BEDOYA BORRERO AND FAMILY  
COLOMBIA<sup>1</sup>  
July 11, 2013

**I. SUMMARY**

1. On September 23, 1999, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a petition from the Inter-American Press Association (hereinafter "IAPA" or "the petitioner"), which argues that the Republic of Colombia (hereinafter "the State" or "Colombia") is internationally liable for the alleged violation of Articles 4 (right to life), 8 (right to a fair trial), 25 (judicial protection) and 13 (freedom of expression) of the American Convention on Human Rights (hereinafter the "American Convention" or the "Convention"), to the detriment of the journalist and columnist of newspaper *El País*, a resident of Cali, Colombia, Gerardo Bedoya Borrero (hereinafter, "the alleged victim" or "Gerardo Bedoya").

2. According to the petitioner, Gerardo Bedoya was assassinated on March 21, 1997, in presumed retaliation for his critical statements and especially for the numerous columns he wrote decrying the infiltration of criminal organizations into political circles and in regional and national government. The petitioner argued that appeals to Colombian justice had proved unavailing, since the case had not progressed beyond the compilation of evidence. Indeed, the petitioner noted that the investigation has suffered delays and slow going such that, to date, the State has yet to find those responsible for the crime.

3. In turn, the State alleges that the petition is inadmissible, first, because the appropriate and effective domestic remedies to identify, prosecute and punish the perpetrator and the mastermind of the crime have not been exhausted. This comes from the fact that the criminal investigation has not ended and the family did not lodge an appeal under the administrative contentious jurisdiction for direct reparations, which would allow them to request that the Inter-American system compensate them for material and immaterial damages. Second, the State considers that the criminal investigation has not suffered unwarranted delay, since (i) this is a complex case; (ii) interested parties have not brought civil charges at this stage of the proceedings which domestic law allows; and (iii) the State has met its obligation to investigate and institute criminal proceedings against those responsible as ongoing procedural action shows. Finally, the State contends that the petition is inadmissible given the facts as they fail to constitute a responsibility of State either by action or omission, directly or indirectly, and rather point clearly to responsibility by third parties.

4. Having examined the positions of the parties in light of the admissibility requirements established in Articles 46 and 47 of the American Convention, and without prejudging the merits of the case, the Inter-American Commission decides to declare the petition admissible as to the alleged violation of Articles 4, 8, 13 and 25 of the American Convention, given the general obligation to respect the rights enshrined therein, pursuant to Article 1.1 of the same instrument. Finally, the Commission

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<sup>1</sup> Pursuant to the provisions of Article 17.2 of the Rules of Procedure of the Commission, Commissioner Rodrigo Escobar Gil, a Colombian national, did not participate in the debate or in the decision related to the present petition.

decides to publish the present report and to include it in its Annual Report to the General Assembly of the Organization of American States.

## **II. PROCEDURE BEFORE THE INTER-AMERICAN COMMISSION**

5. The petition was received by the IACHR on September 23, 1999. On June 23, 2000 the Commission asked the petitioner for additional information regarding exhaustion of remedies at the domestic level, but the request received no response. On February 2, 2009 the IACHR again requested that the petitioner provide information on progress achieved in the criminal investigation allegedly launched to look into the death of journalist Gerardo Bedoya, as well as on any appeal that may have been lodged in the process. The Commission also asked for a single copy of major decisions, warrants or appeals issued throughout such proceedings, if applicable. On February 4 and April 3, 2009 the petitioner provided the requested information.

6. On June 3, 2009 the IACHR open the petition for processing, and on June 5 of that same year, the Commission forwarded it in pertinent part to the State, requesting its answer within a period of two months from the date of submission of said request. On August 6, 2009, the State provided its answer to the present petition, pertinent portions of which were forwarded to the petitioner on August 26, 2009.

7. The petitioner offered additional observations on November 30, 2009. For its part, the State sent additional observations on July 9, 2010. Both contributions were duly communicated to the respective counterpart.

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

### **A. Position of the Petitioner**

8. The petitioner organization argued in its petition that journalist Gerardo Bedoya was assassinated on March 21, 1997 in the city of Cali, Colombia, in presumed retaliation for his critical statements and especially for the numerous columns he wrote decrying the infiltration of criminal organizations into political circles and in regional and national government. The petitioner contended that appeals before Colombian justice had proven ineffective since the case remained at the evidence-gathering stage after more than a decade. In that regard, the petitioner pointed to delay and slowness in the investigation and highlighted the fact that, to date, the State has failed to identify any perpetrators. The petitioner emphasized that at the time of his homicide the alleged victim was working as a journalist and columnist for the newspaper *El País*, in Cali, Colombia.

9. The petitioner argued that the Cali Regional District Attorney spent two years trying to prove an alleged crime of passion for which there was insufficient proof yet failed to consider the link there might have been between the homicide and the journalist's writings. It observed that in April 1999 the investigation began to be reviewed by coordinators of the Attorney General's Office and noted that, while file includes a verbal description of the assassin, he has yet to be identified. The petitioner emphasized that prime suspects for the homicide were allegedly members of drug trafficking organizations operating in Valle del Cauca.

10. According to the petitioner, the journalist had spent months furiously denouncing drug trafficking and the complicity of major political figures with such illegal groupings. It affirmed that the published article that cost him his life was an editorial entitled "*Aunque me llamen proyanqui*" ("Even if I'm considered pro-Yankee") published on February 27, 1997, just three weeks before the homicide. The article explained that the journalist would rather be subject to pressure brought by the United States than contend with that of the drug lords, indicating that American pressure resulted in: 1) "a law against money laundering"; 2) "longer prison sentences for drug traffickers"; 3) "greater security in the jails"; 4) "the fumigation of thousands of hectares of poppy and coca fields"; 5) "the resurgence of the issue of extradition as a legitimate matter"; and 6) "the forging of social behavior that recognizes the damage drugs are inflicting on the Colombian political system." By contrast, the effect of pressure imposed by the drug lords brought: 1) "a penal code drafted under the influence of and by lawyers that work for the traffickers"; 2) "prison sentences imposed on the criminals"; 3) "the elimination of extradition (of Colombian citizens) as a means of combating international crime"; 4) "political corruption" and "[...] 7) financial contributions to a presidential campaign that won the elections."

11. The petitioner indicated that on the night of March 20, 1997 the journalist left the newspaper's headquarters at 7:30 P.M. Upon leaving, his chauffeur drove him to a residential complex in the southern part of Cali where for some ten minutes he awaited Ms. María Eugenia Arango (hereinafter "María Arango" or "Arango"). When she appeared, they both proceeded to another private residential area but a few minutes away. According to information provided by the petitioner,

"Arango and Bedoya left the car and walked through an entry gate to see an apartment. The area was dark as, inexplicably, there had been an electric outage that very day. The guard told the chauffeur to park a few feet away, which meant that upon exiting through the gate some minutes later they had to walk a short distance along a row of trees. A man emerged from the shadows and shot Bedoya five times. The perpetrator was wearing a white tee-shirt and a baseball cap. As he emptied his gun of the last bullet, the killer shouted: 'Bedoya, you pervert!' [...] Arango threw herself to the ground; the chauffeur was quaking in the car. The hit man headed away from the gate and walked to the corner. Then he fled on a motorcycle."

12. The petitioner argued that owing to delays in the investigative process, trails have gone cold and that has "made it complicated to progress in the investigation in any just and exhaustive manner." It adduced that investigators had concentrated on the personal life of the journalist, focusing on his supposed sexual orientation without ever considering the drug trafficking hypothesis.

13. In its communication of February 4, 2009, the petitioner indicated that the investigation into the journalist's murder has remained stuck at the fact-gathering stage without a single suspect having been arrested. The petitioner observed that in June 2004 the Office of the Public Prosecutor reported that the investigation had come to an end. Nonetheless, in March 2006, at the petitioner's behest, the investigative proceedings were chosen along with 11 other cases to be put on a faster track in hopes that possible suspects might be found. The petitioner informed, however, that throughout 2007 and 2008 there was no indication this had occurred.

14. Likewise, the petitioner established that in its January 2009 report, the Office of the Public Prosecutor had directed various task forces and working groups of the Judicial Police to gather information based on the working hypothesis that the journalist's murder resulted from personal sentimental problems, not from his articles against corruption.

15. In observations dated November 30, 2009, the petitioner pointed out that, far from the State's contention that the investigation carried out by authorities had been sustained and diligent, it had in fact been characterized by long periods of inaction, and by the fact that authorities have acted only—albeit without success—when the IAPA has pressured them to make headway with the investigation.

16. The petitioner argued that appeals under Colombian law have been ineffective, as evidenced by the fact that the case has been mired at the fact-gathering stage for over a decade. It also reiterated its contention that lack of progress in the investigation stems from the fact that the investigating unit has always questioned the motive behind this murder—and, in particular, to the fact that priority was always given to the theory that it was the journalist's personal love life that triggered the crime, not his writing. The petitioner noted in this respect that for the entire year preceding the homicide, one of every two columns published by the journalist in the newspaper *El País* were leveled "against the government, the drug traffickers or *Proceso 8000* (financing of the presidential campaign by the drug traffickers)."

17. Finally, the petitioner alluded to a series of questions raised publicly in its reports on impunity as to specific issues of the investigation that it understands have not been addressed in the investigation of the case. No attention has been paid, for instance, to a manuscript submitted by the journalist's sister that includes information on drug traffickers with property located near the journalist; nor to an alleged relationship between the person who witnessed the crime and individuals linked to drug trafficking; nor to the freeing of a person who might have been accused as prime suspect and whom the woman in question had allegedly identified as the hired assassin, *inter alia*.

18. For all these reasons, the petitioner argues that the State is liable for the violation of Articles 4, 8, 13 and 25 of the American Convention.

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

19. The State, in its submission of August 6, 2009, asked that the petition be declared inadmissible because (i) there has been no exhaustion of appropriate and effective domestic remedies to identify and bring to justice the principal and intellectual authors of the facts alleged in the petition, nor has there been any undue delay in that regard, such that the exception contemplated in Article 46.2.c) of the American Convention does not apply; and (ii) no fact described implies a responsibility of State either by action or omission, directly or indirectly, since the facts alleged in the petition point clearly to sole responsibility by third parties.

20. The State argued first that it was the IACHR's responsibility to submit the petition to the State within a reasonable period, that the Commission should process complaints promptly and in compliance with the reasonable period principle since any infringement thereof can affect the rights of victims. In this regard, the State requested that the Commission expose the reasons that caused a delay of nearly ten years in submitting the petition set forth in the present case.

21. With regard to remedies under domestic law, the State pointed out that a criminal investigation of the facts that gave rise to this petition is currently underway, filed as case number 552 before the National Human Rights Unit of the Office of the Public Prosecutor. It established that the case was assigned to that unit by the National Directorate of Public Prosecutors (*Dirección Nacional de Fiscalías*) pursuant to Resolution No. 394, dated July 13, 1999. The State provided a list of actions undertaken within the framework of the investigation between 1999 and 2009 and emphasized that the conduct of the authority-led investigation has been both intense and diligent since all procedural steps have been taken, orders issued, and evidence gathered to identify and punish the perpetrators.

22. The State maintained that adequate and effective remedies for the alleged violation under domestic law have not been exhausted in this case. It indicated that the criminal investigation launched to ascertain the facts surrounding the journalist's death constitutes the adequate and effective remedy needed to redress the alleged violation of rights denounced by the petitioner, specifically those set forth in Articles 4 (right to life) and 13 (freedom of expression) of the American Convention. But the investigation is not yet concluded.

23. According to the State, although it has proven impossible thus far to identify the perpetrators, the investigation launched by the Office of the Public Prosecutor has been conducted with diligence, and it is evident that judicial authorities have persisted in the endeavor. There can therefore be no question of unwarranted delay in the conduct of the investigation. The State observed that, pursuant to the criterion the Inter-American Court itself established, the reasonableness of the period within which the criminal investigation has been conducted must consider three elements: a) the complexity of the case; b) the interested party's procedural activity; and c) the conduct of judicial authorities.

24. In this respect, the State understands that investigation of the present case rises to the standard of a complex matter, given that throughout the investigation various working hypotheses have been weighed as to the motive behind the journalist's death, while to date the real reason for his demise remains unproven. It also averred that Gerardo Bedoya never received threats or suffered acts of intimidation prior to the assault that killed him. The State's communication of July 9, 2010, went on to say that per the Office of the Attorney General's report dated May 31, 2010, the main hypotheses considered in the instant case were: (i) "the practice of journalism," in particular his columns and articles in support of extradition, and his attacks and criticism of individuals linked to drug trafficking; (ii) "possible financial motivation, based on the victim's assets;" (iii) the "intervention of individuals closely linked to the journalist sentimentally;" (iv) the "intervention of members of armed organizations operating outside the law;" and (v) "possible mix-up of the victim" given that "it appears that someone who did receive death threats lived in the residential complex where the murder took place."

25. As to procedural activity in this case, the State maintained that the victim's next of kin have not asked to proceed as civil parties within the ongoing criminal procedure and requested that the Commission "invite petitioners to avail themselves of this important means of enabling the victim's family to spur on internal proceedings with due haste". It argued that jurisprudence of the Colombian Constitutional Court has made it possible for interested parties to sue under civil law at this procedural stage when cases remain at a preliminary stage of enquiry and suspects have not been identified. This avenue becomes available because the aim is for parties in civil proceedings not only to be compensated for damages, but also to exercise their right to truth and justice.

26. With respect to the conduct of judicial authorities, the State maintained that they had remained involved in constant procedural matters and stressed that, despite a request from the Public Prosecutor's Office (*Ministerio Público*) dated March 30, 2001 for a decision as to whether or not to suspend the investigation four years after the incident, the investigative unit resolved that it would not be viable to suspend the investigation since "it remained necessary to clarify aspects surrounding the death of the journalist, especially those related to motive and the identity of the killers."

27. The State stressed that both the State's duty to investigate and to prevent are an obligation of means and not of result; the aim is to encourage States to promote investigations with rigor and impartiality, which in no way implies an obligation to identify a perpetrator at all costs. The State noted that the simple passage of time cannot be construed in any circumstance as violating of the reasonable period standard, and that the present case offers no proof of lack of due diligence or disregard for the protection of any of those impacted by the alleged victim's homicide. It emphasized that throughout the process 16 statements have been issued, 28 reports have been submitted by the judicial police, 1 ballistic report was drawn up, and 2 judicial inspections and 2 photographic reconnaissance missions were conducted. It was likewise affirmed that "the Office of the Public Prosecutor, aware of the importance and relevance of the case, assigned the investigation to its National Unit for Human Rights back in 1999."

28. In addition, the State argued that parties affected opted against the remedy of direct reparation available under administrative contentious jurisdiction which aims to redress the injury caused by omissions or operations attributable to the Colombian State, a remedy it considers ideal to secure reparations in the event that the demise of an alleged victim might be imputed to some action or omission by agents of the State. It sustained that the remedy does have a statute of limitation of two years and, not having been used by the interested parties, these would be deemed to have tacitly renounced their right to obtain monetary damages under domestic law. In this respect, the lack of a direct reparation remedy filed under administrative contentious jurisdiction in the domestic context should prevent alleged victims from later seeking reparations for material or immaterial damages within the Inter-American System.

29. Finally, the State referred to alleged facts to constitute violations of the Convention, and noted that for a petition to be declared admissible by the Commission there must be a showing of facts deemed to violate the Convention, an essential condition this case does not satisfy. According to the State, the absolute absence of proof as to threats made against the journalist, or any indication that he faced a situation of risk, makes it impossible to affirm that the State failed in its duty to protect Gerardo Bedoya. It also maintained that since this was a totally unforeseen event which did not afford the State any reasonable possibility to prevent it, neither is it possible to ascribe indirect responsibility to it (for acts by third parties) for violation of the rights enshrined in Articles 4 and 13 of the American Convention given there was no lack of due diligence in preventing a violation of human rights on the part of the State. The State therefore requested that the petition not be considered admissible as it failed to identify facts constituting a violation of the Convention, in accordance with Article 47.b of the same instrument.

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

##### **A. Preliminary question on presentation of the petition**

30. The State contends that in this case the petition was not submitted within a reasonable period of time since it was sent to the State a full ten years after the petitioner presented it to the IACHR. In addition, failure to comply with the reasonable period requirement translates into diminished exercise of rights by the victims. It consequently asked that the Commission expose the reasons for the delay in submitting the complaint set forth in the present case.

31. On this point, the IACHR recalls that the petition was received September 23, 1999 and that on June 23, 2000 the petitioner was asked to provide additional information on exhaustion of remedies under domestic law, such information being indispensable to the petition's admissibility analysis. The request was reiterated by the Commission, and answered by the petitioner on February 4 and on April 3 of 2009. Given the information received, the Commission decided to begin its consideration of the petition on June 3, 2009 and on June 5 of that same year forwarded pertinent portions of it to the State.

32. The Commission likewise observes that, as of the drafting of this report, the facts that gave rise to the complaint continue to exist, for which reason it reiterates that, as to the processing of individual petitions before IACHR, there is no statute of limitations *ipso iure* based on the passage of time. In that regard, all information provided has been sent on to both parties for appropriate comment, in accordance with pertinent conventional and regulatory provisions.

##### **B. The Commission's competence *ratione materiae*, *ratione personae*, *ratione temporis* and *ratione loci***

33. Pursuant to Article 44 of the American Convention and Article 23 of the Rules of Procedure of the IACHR, the petitioner has *locus standi* to submit petitions to the Inter-American Commission. As to the State, Colombia is a party to the American Convention and is therefore answerable in the international arena for violations of that instrument. The alleged victim is a natural person in respect of whom the State committed to protect the rights enshrined in the American Convention. The Commission is thus competent *ratione personae* to examine the petition.

34. The IACHR is competent *ratione materiae* inasmuch as the petition refers to alleged violations of human rights protected by the American Convention. Further, the Commission notes that Colombia has been a State Party to the Convention since July 31, 1973 when it deposited its instrument of ratification. Therefore, the Commission is competent *ratione temporis* to examine the petition.

35. Finally, the Inter-American Commission is competent *ratione loci* to hear the petition inasmuch as it alleges violations of rights protected in the American Convention which are alleged to have occurred on Colombian territory.

## C. Other Requirements for Admissibility of the Petition

### 1. Exhaustion of Domestic Remedies

36. Article 46.1.a of the American Convention provides that, in order for a denunciation brought before the Inter-American Commission in accordance with Article 44 of the Convention to be admissible, it is necessary that remedies under domestic law be attempted and exhausted pursuant to generally recognized principles of international law. The purpose of this requirement aims to allow national authorities to hear cases positing the alleged violation of a protected right and, where applicable, be given the opportunity to redress the matter before it is brought before an international body.

37. The prior exhaustion requirement applies when the national system offers adequate and effective remedies to redress the alleged violation. In that sense, Article 46.2 specifies that the requirement does not apply (i) when domestic legislation does not offer due process to protect the right in question; or (ii) if the alleged victim had no access to remedies under domestic law; or (iii) if there is unwarranted delay in rendering a final judgment under such remedies.

38. As the Commission has pointed out, in order to analyze whether the requirement for exhaustion of domestic remedies has been met, a determination is needed as to the adequate remedy to be exhausted depending on the circumstances of the case, that being understood as the remedy best able to redress the legal situation infringed.<sup>2</sup> In cases of alleged arbitrary deprivation of the right to life, the adequate remedy is the launching and maintenance of an investigation along with criminal proceedings instituted by the State in order to identify and to punish the perpetrators.<sup>3</sup>

39. The Commission observes that any time a crime, whose investigation must be launched ex officio, is committed, the State has an obligation to promote and sustain the criminal process.<sup>4</sup> One such crime is homicide, for which an investigation and legal proceedings must be carried out ex officio by the State. The criminal process itself therefore constitutes the ideal remedy to establish the facts of the case, bring the perpetrators to trial, and mete out appropriate criminal sentences, among other means of reparation of a pecuniary nature.<sup>5</sup>

40. The petitioner alleged that an unwarranted delay has arisen in the criminal investigation of this case, such that the requirement of prior exhaustion of domestic remedies is inapplicable. The petitioner affirms likewise that more than twelve years after the murder, the State has yet to identify a single suspect.

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<sup>2</sup> IACHR. Report No. 23/07. Eduardo José Landaeta Mejías et al.. Petition 435-2006. Admissibility. March 9, 2007. Para. 43.

<sup>3</sup> IACHR. Report No. 23/07. Eduardo José Landaeta Mejías et al. Petition 435-2006. Admissibility. March 9, 2007. Para. 43; IACHR. IReport No. 15/06. María Emilia González, Paula Micaela González and María Verónica Villar. Petition 618-01. Admissibility. March 2, 2006. Para. 34; IACHR. Report No. 52/97. Case 11.218. Arges Sequeira Mangas. Annual Report 1997. Para. 96 and 97. See also Report No. 55/97. Para. 392 and IReport No. 55/04. Para. 25.

<sup>4</sup> IACHR. Annual Report 1997. Report No 52/97. Case 11.218. Arges Sequeira Mangas. Paras. 96 and 97. See also Report No. 55/97 Para. 392.

<sup>5</sup> IACHR. Report No. 99/09. Petition 12.335. Gustavo Giraldo Villamizar Durán. Colombia. October 29, 2009. Para. 33.



41. The State, in turn, argued that action undertaken by the investigating unit has remained diligent and constant, and that there has been no unwarranted delay in the criminal investigation. In that regard, the State indicated that (i) this is a complex matter; (ii) the interested parties did not ask to proceed civilly at this stage of the proceedings although domestic law allows it; and (iii) the State has met its obligation to investigate and to bring criminal charges against the perpetrators by remaining engaged in procedural activity.

42. The IACHR understands that a determination as to whether exceptions to the rule requiring the exhaustion of domestic remedies are applicable to the present case must be made prior to and apart from an analysis on the merits of the case, since such a finding hinges on a standard of appreciation distinct from that used to establish possible violations of Articles 8 and 25 of the Convention<sup>6</sup>. Accordingly, it becomes necessary to distinguish between the concept of unwarranted delay referenced in Article 46.2 of the Convention, applicable to the admissibility stage of a petition, on one hand, and the reasonable period standard, on the other, the latter being applicable to the analysis of possible violations to Article 8.1 of the Convention to be conducted at the merits stage of the controversy.

43. In the present case, a determination can be made based on available information that while a criminal investigation was indeed launched following the death of journalist Gerardo Bedoya, 16 years after the murder took place, internal aspects of that investigation remain at the preliminary stage of enquiry<sup>7</sup>, and that no one has been identified as a possible suspect. The Commission thus concludes that the exception contemplated in Article 46.2.c of the Convention is established.

## 2. Period for Submission of the Petition

44. Article 46.1.b of the Convention provides that to be admissible, the petition must have been submitted within a period of six months from the date when the interested party was notified of the final judgment that exhausted domestic remedies. The rule does not apply when the Commission finds that any of the exceptions to the standard on exhaustion of domestic remedies envisaged under Article 46.2 of the Convention obtain. In such instances, the Commission must determine whether the petition was submitted within a reasonable period in accordance with Article 32.2 of its Rules of Procedure, which provides 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. For this purpose, the Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.”

45. The Commission observes that the facts of the present case pinpoint March 21, 1997 as the date of the alleged victim’s murder, yet as of the date of this report, the criminal investigation remains at an initial stage. The petition was submitted by the petitioner on September 23, 1999 alleging

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<sup>6</sup> IACHR. Report No. 151/11. Luis Giován Laverde Moreno et al. Colombia. Petition 1077-06. Admissibility. November 2, 2011. Para. 31.

<sup>7</sup> Ministry of Foreign Affairs of the Republic of Colombia. Communication on observations on the petition in the present case. August 6, 2009. Para. 15. Pg. 6. The State noted that: “The National Unit for Human Rights of the Attorney General’s Office is currently conducting the investigation under case file number 552. It is at a preliminary stage. This investigation was assigned to said Unit by the *Dirección Nacional de Fiscalías* per Resolution No. 394 dated July 13, 1999”.

unwarranted delay in the investigation's internal procedures. Given this, and in view of the salient aspects of this case—not least, the fact that an investigation of the facts is still pending—the Commission considers that the petition was presented timely and reasonably, and that the admissibility requirement must be deemed met as to the period within which the submission was made.

### 3. Duplication of Procedures and International Res Judicata

46. The file does not suggest that the issues set forth in the petition are contingent upon disposition of any pending international procedure, nor that the matter has already been presented under a petition already brought before this or another international governmental organization. That is why the requirements established in Articles 46.1.c and 47.d of the American Convention must be deemed to be met.

### 4. Characterization of Alleged Facts

47. It is the Inter-American Commission's responsibility to determine whether the facts set forth in the petition constitute violations of the rights enshrined in the American Convention American, in accordance with the requirements of Article 47.b, or whether the petition, in accordance with Article 47.c, must be dismissed as "manifestly groundless" or because it is "obviously out of order." At this procedural stage, the IACHR must undertake a *prima facie* evaluation to determine whether the complaint demonstrates an apparent or potential violation of a right protected by the American Convention, but not whether such a violation occurred. Such an evaluation is a summary review that does not prejudice or advance an opinion on the merits.<sup>8</sup>

48. Neither the American Convention nor the Rules of Procedure of the IACHR require that the petitioner identify specific rights that the State has allegedly infringed in the matter before the Commission, although petitioners may do so. It is for the Commission, based on jurisprudential precedence in the system, to determine within its admissibility reports which provision of the relevant Inter-American instruments apply and serve to substantiate a violation and whether the facts alleged show sufficient elements to prove the case.

49. Given the elements of fact and of law presented by the parties and the nature of the matter before it, the Commission considers that, if proven, the petitioner's allegations as to the absence of investigation and clarity regarding the death of journalist Gerardo Bedoya may constitute violations to the right to a fair trial and to judicial protection afforded by Articles 8 and 25 of the American Convention, in terms of Article 1.1 of the same, to the detriment of the alleged victim's family.

50. On the other hand, the Commission observes that the petitioner argued the existence of a possible link between the victim's work as a journalist and his homicide. It indicated in that regard that the latter might well have been an act of retaliation for his critical statements and, in particular, for his columns on criminal organizations and their infiltration of political circles in the country<sup>9</sup>. When it considers the merits of the case, the Commission shall undertake an analysis of the possible application

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<sup>8</sup> IACHR.Report No. 21/04. Petition 12.190. Admissibility. José Luis Tapia González et al. Chile. February 24, 2004. Paras. 33 and 52.

<sup>9</sup> Cf. IACHR. Report No. 130/99. Víctor Manuel Oropeza. Mexico. November 19, 1999. Paras. 25-26; Report No. 50/99. Héctor Félix Miranda. Mexico. April 13, 1999. Paras. 13-15.

of Articles 4 and 13 of the Convention to these assumptions. The Commission will analyze any possible violation of such provisions in light of the general obligation set forth in Article 1.1 of the Convention.

51. In conclusion, the IACHR decides that the petition is not “manifestly groundless” or “obviously out of order,” and consequently declares that the petitioner has met *prima facie* the requirements set forth in Article 47.b. of the American Convention as to potential violations of Articles 4, 8, 13 and 25 of the American Convention, in accordance with Article 1.1 of the same instrument as detailed above.

## **V. CONCLUSION**

52. The Inter-American Commission concludes that it is competent to judge the merits of this case and that the petition is admissible pursuant to Articles 46 and 47 of the American Convention. Based on the foregoing arguments of fact and law, and without prejudice to the merits of the matter.

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

1. To declare the present petition admissible as to alleged violations of the rights protected by Articles 4, 8, 13 and 25 of the American Convention as these relate to Article 1.1 of the same instrument.
2. To notify the parties of this decision; proceed with the analysis on the merits of the case; and
3. To publish the present decision and include it in its Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 11 day of July 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Felipe González, Dinah Shelton, Rose-Marie Antoine, Commissioners.