

REPORT No. 55/13
PETITION 375-07
ADMISSIBILITY
SPENCER FRIEND MONTEHERMOSO *Et. Al.*
GUATEMALA
July 16, 2013

I. SUMMARY

1. On March 13, 2007, the Inter-American Commission on Human Rights (hereinafter, the “Commission,” the “Inter-American Commission,” or the “IACHR”) received a petition filed by the Pontificia Universidad Católica of Ecuador’s Center for Human Rights; the Fundación Regional de Asesoría en Derechos Humanos [Regional Human Rights Advisory Foundation] (INREDH), and Valentina Tatiana Friend Montehermoso (hereinafter, the “petitioners”), in representation of Spencer Friend Montehermoso, Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, Carlos Alberto Delgado López, and Walter Panezo, all Ecuadorian nationals (hereinafter, the “alleged victims”). The petition was lodged against the State of Guatemala (hereinafter, the “State,” “State of Guatemala,” or “Guatemala”), for allegedly violating Mr. Friend’s right to life and Mr. Panezo’s right to humane treatment, when the former died and the latter was wounded as a result of shots fired by Guatemalan authorities during an attempt to detain the boat they were on, as well as for failing to investigate these events. They also allege the violation of the right to a defense during the prosecution of Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, Carlos Alberto Delgado López, and Walter Panezo, after they were arrested in Guatemalan territory.

2. The petitioners hold that the State of Guatemala is responsible for violating the rights enshrined in Articles 1(1) (obligation to respect rights), 5 (right to humane treatment), and 8 (right to a fair trial) of the American Convention on Human Rights (hereinafter, the “American Convention” or “Convention”), with respect to Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, Carlos Alberto Delgado López, and Walter Panezo; and the right protected under Article 4 (right to life) of the American Convention with respect to Spencer Friend Montehermoso.

3. The State, for its part, notes that the petition should be declared inadmissible because the circumstances do not amount to a violation of human rights, the petitioners did not exhaust domestic remedies, and because the petitioners failed to meet the six-month deadline for submitting their petition to the IACHR.

4. Without prejudging the merits of the matter, and having analyzed the parties’ positions and verified compliance with the requirements set forth under Articles 46 and 47 of the American Convention on Human Rights (hereinafter, the “Convention” or “American Convention”), the Commission decides that the petition is admissible for purposes of examining the alleged violation of the rights protected under Articles 5(1), 8(1), and 25 of the Inter-American Convention, in accordance with Article 1(1) thereof, with respect to Walter Panezo and the family members of Spencer Friend Montehermoso. The Commission likewise deems admissible Article 4 of the American Convention, in accordance with Article 1(1) thereof, with respect to Spencer Friend Montehermoso. The IACHR decides to declare inadmissible the petition on behalf of Messrs. Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, and Carlos Alberto Delgado López, pursuant to Article

46(1)(b) of the Convention. The Commission further decides to inform the parties of this decision and publish and include it in its Annual Report to the OAS General Assembly.

II. PROCEEDINGS BEFORE THE COMMISSION

5. On March 13, 2007, the Commission received the petition and assigned it number 375-07. On January 9, 2008, the IACHR forwarded the relevant portions of the petition to the State of Guatemala, requesting a response within a period of two months in accordance with the stipulations of Article 30 of the IACHR Rules of Procedure in force at the time. The State's response was received on March 7, 2008 and was duly forwarded to the petitioners.

6. The IACHR received further information from the petitioners on May 31, 2007, May 1, 2008, September 23, 2008, November 24, 2009, April 26, 2010, May 3, 2011, and November 3, 2012. Those communications were duly forwarded to the State.

7. The IACHR likewise received information from the State on June 12, 2008, June 24, 2008, May 21, 2009, July 2, 2009, February 5, 2010, October 31, 2011, January 20, 2012, and March 14, 2012. Those communications were duly forwarded to the petitioners.

III. POSITIONS OF THE PARTIES

A. The petitioners

8. The petitioners hold that on May 16, 2005, the alleged victims, fishermen who are Ecuadorian nationals, set off from Manta, Ecuador to sail in Ecuadorian waters aboard the boat "Angel Junior I," and on May 18, 2005, they headed toward the Galapagos Islands. After providing assistance to another vessel on the open sea, they reportedly experienced a problem with their transmission and floated adrift for four days without knowing where they were.

9. They maintain that on the night of May 24, 2005, they caught sight of a small boat they were unable to identify. They claim that this boat did not identify itself over a loud speaker or over the radio and thus the victims did not stop. An hour later, the Guatemalan coast guard ship "Osorio Saravia," which they recognized to be a maritime patrol vessel, reportedly appeared. The patrol is said to have fired 10 warning shots with two tracers visible in the dark. Subsequently, shots were purportedly fired at the "Angel Junior I's" engines. The alleged victims reportedly signaled to get the firing to stop because two crew members of the "Angel Junior I" had been wounded. Mr. Friend had been shot in the head, which left him seriously wounded, while Mr. Panezo had been shot in the leg.

10. Later, the crew of the "Angel Junior I" was reportedly arrested at sea and isolated, not being allowed to see the alleged victims who had been wounded or call their families. They claim they were taken to Guatemalan territory in handcuffs and treated like criminals, thrown in jail in the department of Escuintla, and left incommunicado. The two wounded crewmembers were reportedly brought to the "San Juan de Dios" hospital in Guatemala City. Spencer Friend Montehermoso died as a result of his gunshot wound.

11. According to the petitioners, the alleged victims who had been arrested apparently had no defense attorney until the second hearing for the first plea, which constitutes a violation of their right to a fair trial. They report that the State assigned them a defense attorney since they could not

afford to hire a private attorney. They claim the public defender did not provide an effective defense in failing to bring up the violations allegedly committed during the arrest.

12. The petitioners report that the detained crewmembers decided to exercise their right to remain silent during prosecution in order to obtain a full acquittal as quickly as possible. This is apparently why they did not report the alleged violations during their trial. After having been held in five different jails, the petitioners maintain that the crewmembers were deported to Ecuador on June 8, 2005 after the trial court judge of the criminal court of the department of Escuintla released them owing to a lack of grounds. Once the criminal proceeding concluded, the detained crewmembers are said to have been deported from Guatemala, which would have prevented them from going to the Guatemalan authorities to report the alleged violations of their human rights. Family members of the alleged victims paid the costs of their return travel to Ecuador.

13. The petitioners hold that the State of Guatemala has the obligation to investigate these events, even when the alleged victims or their families may not have reported them. They note that no investigation was opened into the death of Spencer Friend. They later discovered that Mr. Friend's body had not been claimed by any Guatemalan or foreign authority or individual and was buried in a common grave and identified with an "XX" in the "La Verbena" public cemetery. A judge subsequently ordered the body be exhumed, and the Government of Ecuador covered the costs of repatriation. On June 9, 2005, Mr. Friend's mother found out through the press that her son had died.

14. Regarding the exhaustion of domestic remedies, the petitioners claim an exception applies owing to a lack of financial means to cover the legal assistance required. They report that Mrs. Valentina Friend lives in Manta, Ecuador, and thus the costs of the process would include a trip to Guatemala in order to hire an attorney, payment for representation, and living expenses while there the amount of time necessary to complete the required procedures; Mrs. Friend would have to spend an estimated US\$3,400 to travel to and remain in Guatemala for one month. They further state that Valentina Friend earns US\$206.61 a month and it is therefore impossible for her to come up with the aforementioned amount. Moreover, they also maintain that the State had the obligation to open a criminal investigation on the death of Spencer Friend, which they assert it never did.

B. The State

15. The State holds that the petition should be declared inadmissible because the circumstances do not amount to a violation of human rights, the petitioners did not exhaust domestic remedies, and because the petitioners failed to meet the six-month deadline for submitting the petition to the IACHR.

16. According to the State, on May 24, 2005, a Guatemalan coast guard vessel conducting a routine maritime patrol intercepted, in Guatemalan territorial waters, the "Angel Junior I" fishing boat and as a result, pursuant to the United Nations Convention of the Law of the Sea, proceeded to inspect it. In order to do so, signals were made for the boat to stop; however, when the "Angel Junior I" detected the presence of the coast guard, it switched on its engines and fled and so the coast guard went after it in hot pursuit. The coast guard caught up with the fishing boat and once it had the situation under control, proceeded to tow the "Angel Junior I" away. They found the alleged victims in a hidden area of the fishing boat's engine room; these alleged victims stated that moments earlier they had unloaded approximately 100 undocumented migrants on some Pacific beach, not knowing their

whereabouts, prompting the conclusion that the alleged victims were illegally trafficking migrants. The State reports that the alleged victims were informed of their rights.

17. The State points out that the fishing boat lacked navigation documents, had failed to pay the navigation rights fees for seafaring vessels, and was neither listed nor registered in accordance with Guatemalan law. The State maintains that the crewmembers knew that a Guatemalan coast guard ship was pursuing them and even so, they fled. As proof thereof, the State cites a press clipping attached by the petitioners in which in statements to the Ecuadorian press, the crewmembers stated that when they saw a Guatemalan patrol, they hightailed it out of there.

18. The State indicates at first that at the time of their arrest, the crewmembers of the "Angel Junior I" were assigned a defense attorney. The State later indicates that the attorney who represented the petitioners was not a public defender but rather a private attorney.

19. The State argues that from the time they were detained, the crewmembers were made aware of why they were being arrested and of everything related to their defense and other constitutional rights before proceeding to take their first statements within the legal deadline. On May 25, 2005, in a hearing before the magistrate's court in the municipality of Puerto de San José, Escuintla, the defendants, in the presence of their defense attorney and a representative of the Public Ministry, refrained from making statements before the magistrate of the municipality of San José, Escuintla, and thus, the proceeding for the first plea was rescheduled for May 31, 2005.

20. Regarding the petitioners' claim that they were cut off from communication, the State notes that they themselves affirm that they requested assistance from the Ecuadorian consul in Guatemala and the consul, when he appeared, informed them that he could not help since the case had nothing to do with him. This proves, according to the State, that the alleged victims were never incomunicado.

21. The State makes reference to a series of actions taken within the criminal proceeding, i.e., a visual inspection of the boat and several official letters addressed to different authorities. On May 31, 2005, the Constitutional Rights Judge (Trial court judge for Criminal Matters, Drug Trafficking, and Environmental Crimes) ruled in favor of the defendants based on a lack of grounds for the charge of illegally transporting persons; the case was thus closed provisionally and an order was issued to expel the defendants from Guatemalan territory and return them to their country of origin. On June 7, 2005, the request by the Public Ministry and the defense attorney was settled by means of a ruling that released Mr. Panezo on a lack of grounds and ordered he be expelled from Guatemalan territory. The State points out that the defense did not challenge the judge's ruling because it was favorable to his clients.

22. The State likewise maintains that the immediate expulsion of the petitioners was legal since the State, in exercising its sovereignty, may expel from its territory any individual who has broken its domestic laws—in this case, the Law on Migration and its attendant regulations, when they attempted to enter Guatemalan territory illegally. As to the boat, the State holds that on May 25, 2005, the Pacific Naval Command turned the "Angel Junior I" over to the competent judge; it was declared that the Court's Warehouse was to take custody of the seized vessel and an investigation thereof is ongoing.

23. Regarding Spencer Friend Montehermoso, the State indicates that on June 15, 2005, an official letter dated June 8, 2005 was received from the National Civil Police of the municipality of Puerto

de San José, in the department of Escuintla, reporting the death of an unidentified individual who had been admitted to the San Juan de Dios hospital. On June 22, 2005, the Public Ministry, through its assistant prosecutor, requested authorization to exhume the body buried as XX, with the corresponding order being authorized and issued.

24. The State reports that the investigation into the death of Spencer Friend Montehermoso and the injuries suffered by Mr. Walter Panezo is being handled by the Public Ministry under case file MP059/2005/4370. It adds that at this time, no one has been charged with Mr. Montehermoso's death or with the wounds suffered by Mr. Panezo.

25. The State holds that the petition should be declared inadmissible. Firstly, state agents acted within law and as a result, the circumstances do not constitute a violation of human rights. Secondly, the State notes that the petitioners argue that domestic remedies have not been exhausted in Guatemala because Mrs. Valentina Friend Montehermoso lacks the financial means. The State points out that in this case, the exception to the failure to exhaust domestic remedies due to indigency does not apply because the petitioners had access to a private attorney who represented them in Guatemala and later had another attorney in Ecuador who could have represented them. The State further claims that the petitioners made no effort to report the circumstances referred to in the petition through either regular or special channels within the country. Thirdly, the State points out that the events occurred in 2005 and the petition was filed in 2007, thus failing to meet the six-month deadline.

IV. ANALYSIS OF ADMISSIBILITY

A. Competence of the Commission *ratione personæ, ratione loci, ratione temporis, and ratione materiæ*

26. The petitioners are entitled, under Article 44 of the American Convention, to file complaints with the Commission. The petition names as alleged victims individuals on whose behalf the State of Guatemala undertook to respect and ensure the rights enshrined in the American Convention. Regarding the State, the Commission notes that Guatemala has been party to the American Convention since May 25, 1978, when it deposited the respective instrument of ratification. The Commission, therefore, has *ratione personæ* to examine the petition. The Commission likewise has *ratione loci* to examine the petition inasmuch as it alleges violations of rights protected under the American Convention that are said to have taken place within the territory of Guatemala, a state party to said treaty.

27. The Commission is competent *ratione temporis* because the obligation to respect and ensure the rights protected in the American Convention was already in force for the State when the facts alleged in the petition are said to have occurred. Lastly, the Commission is competent *ratione materiae* because the petition alleges violations of human rights protected by the American Convention.

B. Other Admissibility Requirements for the Petition

1. Exhaustion of domestic remedies

28. Article 46(1)(a) of the American Convention provides that for a petition filed with the Inter-American Commission pursuant to Article 44 of the Convention to be admitted, the remedies under domestic law are required to have been pursued and exhausted in accordance with generally recognized principles of international law. The objective of this requirement is to enable national authorities to examine the alleged violation of a protected right, and, where appropriate, have the opportunity to settle the case before it is referred to an international body. Article 46(2) of the Convention, for its part, recognizes three circumstances in which the rule of prior exhaustion of domestic remedies does not apply: (a) when the domestic legislation of the state concerned does not afford due process of law for the protection of the right or group of rights that have allegedly been violated; (b) 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; and (c) when there has been unwarranted delay in rendering a final judgment under the aforementioned remedies. These circumstances refer not only to the formal existence of such remedies, but also to such remedies being adequate and effective.

29. The petitioners argue that in this case, the exception to prior exhaustion of domestic remedies would apply owing to a lack of financial means to afford the legal assistance necessary. They further allege that the State has not opened an official criminal investigation into the death of Spencer Friend. The State, for its part, points out that the exception to prior exhaustion of domestic remedies due to indigency would not apply because the detained crew members had access to a private attorney who represented them in Guatemala and later had another attorney in Ecuador who could have represented them. The State likewise maintains that the petitioners reportedly made no effort to report the circumstances referred to in the petition through regular or special channels.

30. Regarding Mr. Panezo's wounds and the death of Mr. Friend, the State reports that an internal investigation was launched in 2005 and is being handled the Public Ministry (Case file MP059/2005/4370). In this connection, the IACHR notes that more than eight years have lapsed since the events in question transpired without, as of the date this report was drafted, the State having provided specific information on any steps taken to move forward with the investigation or other related measures.

31. In this regard, the IACHR has ruled that when an alleged crime involving state officials is committed, the State is obliged to bring and pursue criminal proceedings and that, in such cases, this is the best way to clarify the facts, adjudicate any possible responsibility, and determine the corresponding criminal punishments, in addition to enabling other forms of monetary compensation to be established.¹ It is through such criminal proceedings that adequate and effective domestic remedies are exhausted.

32. Consequently, with regard to Mr. Panezo's wounds and the death of Mr. Friend, the exception to prior exhaustion of domestic remedies established under Article 46(2)(c) of the American Convention applies.

¹ See, Report No. 52/97, Case 11.218, *Argues Sequeira Mangas*, Nicaragua, paragraphs 96 and 97; Report No. 57/00, Case 12.050, *La Granja - Ituango*, Colombia, October 2, 2000, paragraph 40; Report No. 88/09, Petition 405-99, *Patricio Fernando Roche Azaña Et. Al.* (Admissibility) Nicaragua, August 7, 2009.

33. Regarding the exhaustion of domestic remedies with respect to Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, Carlos Alberto Delgado López, and Walter Panezo for the alleged infringement of Articles 8 and 25 of the American Convention, the alleged victims claim a lack of a proper defense but fail to provide more specific details on other deficiencies that reportedly existed during the criminal proceeding initiated against them. The State has made no reference to other available domestic remedies. The petitioners argue an exception to the exhaustion of domestic remedies due to indigency and refer to the specific financial situation of Mrs. Valentina Friend, the mother of Mr. Friend, to support the exception asserted. In that particular case, the IACHR believes that Mrs. Valentina Friend's financial situation is in no way related to the specific financial situation of Messrs. Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, Carlos Alberto Delgado López, and Walter Panezo.

34. Nevertheless, the IACHR does note that these five alleged victims were arrested on May 24, 2005 and on June 8, 2005 the criminal trial court judge ruled they should be released based on a lack of grounds. This means that the criminal proceeding concluded with a judgment in their favor and thus, pursuit of other remedies would not have been required of the alleged victims for purposes of exhaustion. Therefore, absent further information or allegations, the IACHR concludes that domestic remedies in the case of Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, Carlos Alberto Delgado López, and Walter Panezo have been exhausted.

35. It only remains to point out that invocation of the exceptions to the rule requiring exhaustion of domestic remedies established under Article 46(2) of the Convention is closely linked to the determination of possible violations of certain rights enshrined therein, such as the guarantee of access to justice. Nevertheless, Article 46(2) is, by its very nature and purpose, a provision with autonomous content vis-à-vis the substantive precepts of the Convention. Consequently, whether or not the Convention's exceptions to the rule requiring exhaustion of domestic remedies are applicable in the case at hand must be decided prior to and separate from the analysis of the merits of the case, and that is because it depends on a standard of appreciation that is different from the one used to determine whether or not Articles 8 and 25 of the Convention have been violated. It bears clarifying that the causes and effects preventing the exhaustion of domestic remedies in the case at hand will be analyzed, as appropriate, in the Commission's future report on the merits of the matter, in order to verify whether or not they constitute possible violations of the Convention.

2. Timeliness of the petition

36. Article 46(b) of the American Convention provides that for petitions to be deemed admissible by the Commission, they must be filed within a period of six months following notification of the final judgment to the alleged victim. The six-month rule ensures legal stability and certainty once a judgment has been made.

37. In the case at hand, the IACHR has already ruled above that exceptions to the rule requiring the exhaustion of domestic remedies apply pursuant to Article 46(2)(c) of the Inter-American Convention in the case of Spencer Friend Montehermoso and Walter Panezo. In that connection, Article 32 of the Commission's Rules of Procedure provides that in those cases where 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 that end, the Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.

38. In the case at hand, the petition was received on March 13, 2007 while the criminal investigation into the circumstances that are said to have wounded Mr. Panezo and killed Mr. Friend was still underway. The Commission therefore considers the petition to have been filed during a reasonable period with respect to these two individuals and that as a result, the admissibility requirement for filing deadlines has been met.

39. With respect to the filing deadline in the case of Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, Carlos Alberto Delgado López, and Walter Panezo, the IACHR notes that the petition was filed on March 13, 2007, nearly two years after the May 31, 2005 issue of the final ruling by means of which they were reportedly released due to a lack of grounds. Consequently, the stipulated six-month deadline was not met.

3. Duplication of proceedings and *res judicata*

40. The case file does not indicate that the substance of the petition is pending 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 American Convention have been met.

4. Characterization of the alleged facts

41. The Commission considers that this stage in the proceedings does not call for a determination as to whether the violations said to have been committed against the alleged victims happened or not. For purposes of admissibility, the IACHR must determine at this time only whether or not, if proven, the facts alleged would amount to violations of the American Convention under its Article 47(b), and whether the petition is “manifestly groundless” or “obviously out of order,” pursuant to Article 47(c).

42. The criterion to analyze these points is different from the one required to decide on the merits of a complaint. The IACHR must offer a *prima facie* evaluation and determine if the complaint provides grounds for an apparent or potential violation of a right guaranteed by the American Convention, not whether the violation has in fact occurred.² At the current stage what is appropriate is to make a concise analysis that does not entail a prejudgment or the advance of an opinion on the merits. The Inter-American Commission’s Rules of Procedure themselves, in establishing a state of admissibility and another one for the merits, reflects this distinction between the evaluation that the Inter-American Commission must conduct to declare a petition admissible, and the one required to establish whether a violation, imputable to the State, has been committed.³

² See IACHR, Report No. 128/01, Case 12.367, *Mauricio Herrera Ulloa and Fernán Vargas Rohrmoser of “La Nación” Newspaper* (Costa Rica), December 3, 2001, paragraph 50; Report No. 4/04, Petition 12.324, *Rubén Luis Godoy* (Argentina), February 24, 2004, paragraph 43; Report No. 32/07, Petition 429-05, *Juan Patricio Marileo Saravia Et. Al.* (Chile), April 23, 2007, paragraph 54.

³ See IACHR, Report No. 31/03, Case 12.195, *Mario Alberto Jara Oñate Et. Al.* (Chile), March 7, 2003, paragraph 41; Report No. 4/04, Petition 12.324, *Rubén Luis Godoy* (Argentina), February 24, 2004, paragraph 43; Petition 429-05, *Juan Patricio Marileo Saravia Et. Al.* (Chile), April 23, 2007, paragraph 54; Petition 581-05, *Víctor Manuel Ancalaf LLaupe* (Chile), May 2, 2007, paragraph 46.

43. Furthermore, neither the American Convention nor the IACHR's Rules of Procedure require the petitioner to identify the specific rights allegedly violated by the State in the matter submitted to the Commission although the petitioners may do so. If falls to the Commission, based on the system's jurisprudence, to determine in its admissibility reports what provision of the relevant Inter-American instruments applies and could establish a violation if the facts alleged are proven sufficiently.

44. In this regard, the IACHR considers that the facts alleged would constitute a possible violation of the rights established in Articles 5(1), 8(1), and 25 of the American Convention, pursuant to Article 1(1) of said treaty, with respect to Walter Panezo and the family members of de Spencer Friend Montehermoso. The Commission further decides to declare Article 4 of the American Convention admissible, pursuant to Article 1(1) thereof, with respect to Spencer Friend Montehermoso.

V. CONCLUSIONS

45. The Inter-American Commission concludes that it is competent to examine the merits of this case and that the petition is admissible under Articles 46 and 47 of the American Convention and decides to continue its analysis of the merits as regards the alleged violation of the rights protected in Articles 5(1), 8(1), and 25 of the American Convention, pursuant to Article 1(1) thereof, with respect to Walter Panezo and the family members of Spencer Friend Montehermoso. The Commission further decides to rule Article 4 of the American Convention admissible, pursuant to Article 1(1) thereof, in the case of Spencer Friend Montehermoso.

46. The IACHR decides to declare inadmissible the petition regarding Messrs. Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, and Carlos Alberto Delgado López on the grounds that it was filed too late.

47. Based on the foregoing considerations of fact and law,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To rule this petition admissible as regards the alleged violations of the rights protected in Articles 5(1), 8(1), and 25 of the American Convention, pursuant to Article 1(1) thereof, with respect to Walter Panezo and the family members of Spencer Friend Montehermoso. The Commission likewise decides to rule admissible Article 4 of the American Convention, pursuant to Article 1(1) thereof, with respect to Spencer Friend Montehermoso.

2. To rule inadmissible the petition with respect to Messrs. Hugo Quinapallo Mantuano, Oscar Arcado Pachay Calderón, Freddy Eduardo Delgado López, and Carlos Alberto Delgado López, pursuant to Article 46(1)(b) of the Convention.

3. To notify the parties of this decision.

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

Done and signed in the city of Washington, D.C., on the 16th day of July 2013. (Signed): Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Felipe González, Dinah Shelton, Rodrigo Escobar Gil and Rose-Marie Antoine, Commissioners.