REPORT Nº 60/03
CASE 12.108
MARCEL CLAUDE REYES, SEBASTIÁN COX URREJOLA,
AND ARTURO LONGTON GUERRERO
ADMISSIBILITY
CHILE[1]
October 10, 2003

I. SUMMARY

1. On December 17, 1998, a group consisting of "ONG FORJA," "Fundación Terram," the "Clínica Jurídica de Interés Público" of Diego Portales University, and "Corporación la Morada" (Chilean organizations); the Institute of Legal Defense of Peru (Peruvian organization); "Fundación Poder Ciudadano" and the Association for Civil Rights (Argentinean organizations); and Chilean legislative representatives (*Diputados*) Baldo Prokurica Prokurica, Osvaldo Palma Flores, Guido Girardi Lavín and Leopoldo Sánchez Grunert (hereinafter "the petitioners") submitted a petition to the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR"). The complaint alleges violation by the State of Chile of Articles 13 (Freedom of Thought and Expression), 25 (the Right to Judicial Protection), and 23 (Right to Participate in Government) in relation to the overall obligations enshrined in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the Inter-American Convention on Human Rights (hereinafter "the Convention") to the detriment of Marcel Claude Reyes, Sebastián Cox Urrejola, and Arturo Longton Guerrero (hereinafter "the victims").

2. The petitioners allege that the State of Chile violated the right to freedom of expression and free access to state-held information, when the Chilean Committee on Foreign Investment omitted to release information about a deforestation project the petitioners wanted to evaluate. Also, the domestic courts' refusal to admit the subsequent case against the State allegedly constitutes a violation of the right to judicial protection.

3. The State of Chile argues that the actions of the Committee on Foreign Investment complied with the requirements of Article 13.1 and the response of the courts was thus proper. The State also argues that the petitioners failed to exhaust the remedies available in Chile before their recourse to the Inter-American Commission.

4. After reviewing the positions of the parties in the light of the admissibility requirements set out in the Convention, the Commission decided to declare the case admissible as it relates to the alleged violations of Articles 13 and 25 in relation to the general obligations enshrined in Articles 1 and 2 of the American Convention.

II. PROCESSING BY THE COMMISSION

5. The petition was received by the Commission on January 19, 1999. On February 15, the petitioners requested confirmation of the receipt of their petition and information about its status. On February 24, 1999, the Commission opened the case as case Nº 12.108, and sent the pertinent portions of the petition to the State, granting it 90 days to submit its observations.

6. On May 25, 1999, the State requested a 60-day extension, to enable it to obtain the data necessary to comply with the Commission's request.

7. On June 1, 1999 the petitioners requested information about the status of the case. The Commission replied on June 11, informing the petitioners that the petition had been sent to the State, and that they would be notified upon receipt of a reply. On June 14, the petitioners inquired whether the State had requested an extension.

[1] Commissioner José Zalaquett, of Chilean nationality, did not take part in the discussion and voting on the present report, pursuant to Article 17(2)(a) of the Rules of Procedure of the Commission.

8. On July 19, 1999, the State requested a 30-day extension, which was granted by the Commission in a letter sent on July 21.

9. On August 13, 1999, the State submitted its reply, arguing that the petition should be deemed inadmissible. The Commission acknowledged receipt on August 19. On the same date, the Commission sent the pertinent portions of the State's reply to the petitioners, granting them 30 days to submit observations.

10. On September 1, 1999, the Commission informed all parties that it would hold a hearing in the course of the 104th period of sessions. The hearing took place on October 4, 1999. During the hearing, Dr. Juan Pablo Olmedo and Dr. Ciro Colombara appeared on behalf of the petitioners. Dr. Alejandro Salinas appeared on behalf of the State of Chile. Both parties presented considerations on the merits of the case.

11. On February 4, 2000, the State submitted a copy of its response to the questionnaire on *Habeas Data* and Access to Information in the power of the State. This questionnaire had been issued to all OAS member States by the Office of the Special Rapporteur for Freedom of Expression, to gather information for its 2001 Annual Report. The Commission acknowledged receipt on February 22. On the same date, the Commission sent the pertinent portions of the State's submission to the petitioners, granting them 30 days to reply.

12. On February 22, 2000, petitioners submitted observations on the State submission that had been received on February 4. On March 6, the Commission acknowledged receipt and sent the pertinent portions of the petitioners' submission to the State, granting them 30 days to submit observations.

13. On June 21, 2000, the Commission received the State's reply to the petitioners' submission of February 22. The Commission acknowledged receipt on July 11. On the same date, the Commission sent the pertinent portions of the State's submission to the petitioners, granting them 30 days to submit observations.

14. On August 14, 2000, the petitioners requested a hearing with the Commission in its 108th period of sessions, but the Commission replied on September 15 that this would not be possible due to the large number of hearings scheduled during that session.

15. On September 5, 2000, the Commission received the petitioners' response to the State's June 20 submission. On September 26, the Commission acknowledged receipt and transmitted the pertinent sections to the State, granting them 30 days to submit observations.

16. On September 11, 2000, the petitioners submitted various documents in support of their arguments.

17. On October 30, 2000, the State requested an extension of 60 days to submit its answer to the petitioners' September 5 submission. The Commission replied on November 3, granting an extension of 30 days. The Commission informed the petitioners of this extension on the same day.

18. On December 27, 2000, the petitioners requested a hearing during the 110th period of sessions, but the Commission replied on February 2, 2001, that this would not be possible due to the large number of audiences scheduled during that session.

19. On January 29, 2001, the State submitted its observations on the petitioners' September 5 submission. On February 5, the Commission acknowledged receipt and transmitted the pertinent sections to the petitioners, granting them 30 days to submit observations.

20. On August 2, 2001, the petitioners submitted a response to the State's January 29 submission. On August 14, the Commission acknowledged receipt and transmitted the pertinent sections to the State, granting it one month to submit its observations.

21. On September 18, 2001, the Commission received a request for an extension from the State. The Commission replied on September 24 that the State should take whatever measures necessary to reply to the August 14 request as soon as possible.

22. On November 14, 2001, the petitioners inquired about the status of the case.

23. On January 16, 2002, the State submitted its reply to the observations of the petitioners from August 2, 2001. On January 28, 2002, the Commission acknowledged receipt and transmitted the pertinent sections to the petitioners.

24. By a communication received on August 6, 2002, the petitioners declined to reply to the State's most recent reply because they had previously responded to all of the State's arguments. On August 8, 2002, the petitioner contacted the Office of the Special Rapporteur for Freedom of Expression, noting that the original petition had been submitted on December 17, 1998, and that Commission had not declared the admissibility of the case.

III. POSITIONS OF THE PARTIES

A. Position of the petitioners

25. Marcel Claude Reyes and Sebastián Cox Urrejola are representatives of a non-governmental organization called Fundación Terram, and Arturo Longton Guerrero is a legislative representative (Diputado de la República).

26. On May 6, 1998, Fundación Terram requested information from the Chilean Committee on Foreign Investment, which had approved a deforestation project known as "Río Cóndor," to be carried out by the company "Trillium Ltda. "Fundación Terram wished to evaluate the commercial factors and also the environmental impact of this activity. This would allow it to pursue its mission of promoting the capacity of civil society to respond to public decisions about investments related to the use of natural resources.

27. The Vice President of the Committee on Foreign Investment met with the petitioners on May 19, 1998 and later sent a fax to the president of Fundación Terram, Marcel Claude Reyes. The State claims that certain substantive information was delivered during these communications, while petitioners claim that the meeting was of a procedural nature and lacked substantive content. However, all parties agree that the government never answered certain questions that had been posed by petitioners (later asserting that the information should be considered confidential). The following requests for information are those that did not receive any response:

> - Precedents that the Committee on Foreign Investment was aware of, in Chile and abroad, to assure the seriousness and legitimacy of the investors, and the agreements of said Committee in which they took those precedents as sufficient.
>
> - Information that is under the power of the Committee and/or has been demanded from other public or private entities which refers to the control of the obligations that come with titles to foreign investment or the companies in which they participate, and whether the Committee has taken note of any infraction or crime.

-Information about whether the Executive Vice-President of this Committee has exercised the authority granted by Article 15a of the D.L. 600, by requesting, from all of the Services or businesses from the public and private sector, the reports and precedents required for the completion of the goals of the Committee. In the event that he did, put this information at the disposition of this Foundation.

28. The petitioners sent letters reiterating their request to the Committee on June 3 and July 2. On July 27, 1998, the three victims presented a *recurso de protección* (an ordinary Constitutional remedy to address State violations of certain human rights) before the Santiago Appeals Court. The petitioners claimed that the State had violated the victims' right to freedom of expression and access to state-held information guaranteed by Article 19, Nº 12 of the Chilean Constitution, in relation to Article 5, Nº 2 of the Chilean Constitution; Article 13.1 of the American Convention; and Article 19.2 of the International Covenant on Civil and Political Rights. On July 29, the Court declared this action inadmissible due to a lack of foundation (*manifiesta falta de fundamento*).

29. On July 31, 1998, the petitioners presented a *recurso de reposición*, which is an ordinary action under the Civil Procedure Code, to obtain the reversal or modification of a tribunal's decision. On August 6, the Court declared that it would not grant the requested reposition (*la Corte "no dio lugar a la reposición solicitada"*).

30. On July 31, 1998, the petitioners also presented a *recurso de queja* before the Supreme Court. This is an extraordinary remedy to correct grave abuses committed via jurisdictional resolutions, and it was declared inadmissible on August 18.

1. Arguments regarding the characterization of a violation

31. Petitioners argue that Article 13 of the American Convention on Human Rights includes the right to seek information, which imposes a positive obligation on States to ensure access to information, and particularly state-held information. To support this interpretation, petitioners refer to the "Recommendation on Access to Government Files and Documents"[2] published by the Inter-American Commission on Human Rights in 1998 as well as subsequent publications by the Office of the Special Rapporteur for Freedom of Expression.[3] They claim that the decision of the Santiago Appeals Court to declare the victims' *recurso de protección* inadmissible was a violation of the right to access to information protected by the American Convention. In addition, petitioners argue that the decision also characterizes a failure of the domestic judicial system to protect a fundamental right and thus a violation of Article 25 of the American Convention.

32. In submissions to the IACHR, the State argued that the information in question should be considered confidential or classified, but the petitioners refute this assertion. The petitioners cite the 1999 Annual Report of the Office of the Special Rapporteur for Freedom of Expression which states that requests for state-held information should only be denied when three conditions are met: the information must relate to a legitimate aim listed in the law; disclosure must threaten to cause substantial harm to that aim; and the harm to the aim must be greater than the public interest in having the information.[4] The petitioners note that the government of Chile has not made an express legal authorization to classify such material, and the confidentiality was never justified in terms of the exceptions set forth in the American Convention.

33. Also, petitioners maintain that deforestation of a native forest can affect the enjoyment of other fundamental human rights. Thus, the legitimacy and seriousness of investors constitutes a

[2] IACHR, Annual Report 1998. Chapter 7, para. 20.

[3] See, e.g., IACHR, Annual Report 1999. Volume III. Report of the Office of the Special Rapporteur for Freedom of Expression, OEA/Ser.L/V/II.106, page 25.

[4] "The Public's Right to Know. Principles on Freedom of Information Legislation." Article XIX. IAHCR, Annual Report 1999, Volume III, Report of the Office of the Special Rapporteur for Freedom of Expression, OEA/Ser.L/V/II.106.

legitimate public interest that justifies direct citizen participation in its management. Petitioners note that the right to participate in government is recognized in Article 23 of the American Convention.

2. Arguments regarding exhaustion of domestic remedies

34. The petitioners claim that the definition of domestic remedies extends only to judicial remedies, and does not include the legislative and administrative remedies outlined by the State. The jurisprudence of the Inter-American Court has interpreted Article 46 Nº 1 of the American Convention of Human Rights as follows: "The rule of prior exhaustion of domestic remedies under the international law of human rights has certain implications that are present in the Convention. Under the Convention, States Parties have an obligation to provide effective **judicial remedies** to victims of human rights violations" (emphasis added).[5]

35. However, the petitioners further argue that even given the broadest possible understanding of "domestic remedies," they cannot be held responsible for failing to utilize the measures suggested by the State: the legislative *recurso de fiscalización* or the administrative *recurso de reposición*.

36. The legislative measure of *recurso de fiscalización* is only open to representatives in the Chilean *Cámara de Diputados*. Petitioners consider that the fact that one of the victims was a representative does not make him responsible for seeking the remedy. Petitioners argue that they all appear before the Inter-American System as human beings, and their other activities do not impose further obligations with respect to exhaustion of domestic remedies.

37. The administrative measure of *recurso de reposición* is established in Article 9 of Chilean Law Nº 18.575, which says: "Administrative acts may be challenged through the means established by law. A *reposición* may be filed **before the same entity that carried out the challenged act** and when necessary, it may be appealed before the corresponding higher authority, without prejudice to other procedures that may exist." ("*Los actos administrativos serán impugnables mediante los recursos que establezca la ley. Se podrá siempre interponer el de reposición* ***ante el mismo órgano*** *del que hubiere emanado el* ***acto respectivo*** *y, cuando proceda, el recurso jerárquico, ante el superior correspondiente, sin perjuicio de las acciones jurisdiccionales a que haya lugar"*) (emphasis added). First, the petitioners argue that in this case, there was no administrative resolution at all, since the State never refused to respond or justified its omission. Thus, a remedy that requires an "administrative act" was a juridical impossibility. The petitioners also note that Chilean courts do not themselves require the *recurso de reposición administrativa* as a prerequisite to exercise judicial actions or to make final decisions in the courts of law. Finally, petitioners explain that this remedy requires only a request in writing that is presented in respectful terms, and the letters sent on June 3 and July 2, 1998 were themselves presented in formal and respectful terms, thus fulfilling the only requirements for the *recurso de reposición administrativa*.

B. Position of the State

1. Arguments regarding the characterization of a violation

38. The State argues that the Vice-President of the Committee on Foreign Investment complied with his obligations under Article 13 by providing some of the information requested by petitioners. The three requests that were not granted should be seen as confidential, according to the State, because they are related to characteristics of the Committee itself and its manner of exercising its private functions. The State also considers that the requests indicate a suspicion of negligence on the part of the Committee. It argues that any attempt at oversight (*fiscalización*) of government functions should be performed by the *Cámara de Diputados*, which is empowered to perform a *recurso de fiscalización* under the Chilean Constitution.

[5] IACtHR, Velásquez Rodríguez Case, Judgment of July 29, 1998, para. 62.

39. In the State's view, the requested information must be considered confidential because "reservation of information in this type of company constitutes a cornerstone of constitutional economic guarantees and Chilean foreign investment policy." ("*la debida reserva en este tipo de empresas constituye una de las piezas angulares en materia de garantías constitucionales económicas y de la política chilena de inversión extranjera*.") The State argues that the release of said information would constitute arbitrary discrimination against the investors. Finally, the State considers that as a private organization without express legal faculties, Fundación Terram has no right to confidential information.

40. The State also notes that because the judicial remedies pursued by petitioners were declared inadmissible, the Committee on Foreign Investment was never made aware of them.

41. With respect to the petitioners' argument about the violation of the Right to Participate in Government protected in Article 23 of the American Convention, the State notes that this article protects the right to "take part in the conduct of public affairs, directly **or** through freely chosen representatives"(emphasis added).

2. Arguments regarding exhaustion of domestic remedies

42. The State argues that the definition of "remedies" is broad enough to include remedies that are legislative or administrative in addition to judicial. Thus, the State argues that the victims should have attempted to utilize the *recurso de fiscalización*. This is a legislative remedy whereby any representative in Chile's *Cámara de Diputados* may request background information from the government ("*solicitar antecedentes al gobierno*"), with a vote of one third of the members present in the *Cámara*. The government maintains that this measure was possible in this case because one of the petitioners is a representative in the *Cámara de Diputados*. The State also lists statements by the petitioners that appeared in the press, reporting that they were planning to request the initiation of a *recurso de fiscalización* before seeking a remedy in the courts.

43. The State also claims that there were administrative remedies open to the petitioners. Specifically, the State argues that the *recurso de reposición administrativa* established by Article 9 of Chilean Law Nº 18.575 was never utilized.

IV. ANALYSIS OF THE ISSUE OF ADMISSIBILITY

A. Competence of the Commission

44. The petitioners have *locus standi* to submit petitions to the IACHR, in accordance with Article 44 of the Convention. The petitions identify as purported victims individual persons, whose rights under the Convention Chile is committed to respect and ensure. The Commission notes that Chile is a State party to the American Convention, having ratified it on August 21, 1990. The Commission therefore has competence *ratione personae* to study the petition. The Commission has competence *ratione loci* to take cognizance of this petition since it alleges violations of rights guaranteed by the American Convention that purportedly occurred in the territory of a State party.

45. The Commission has competence *ratione temporis*, since the events alleged in the petition took place at a time when the duty to respect and ensure the rights enshrined in the Convention was in force for the State.

46. Finally, the Commission has competence *ratione materiae*, since the petition alleges violations of human rights protected by the American Convention.

B. Exhaustion of domestic remedies

47. Article 46(1)(a) of the American Convention states:

> 1. Admission by the Commission of a petition or communication lodged in accordance with Articles 44 or 45 shall be subject to the following requirements:
>
> a. that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law[.]

47. The Commission and the Court have repeatedly insisted on their "reinforcing and complementary"[6] status within the inter-American system of protection of human rights.[7] This status is reflected in Article 46(1)(a) of the Convention, which permits States parties to decide cases within their own legal framework, before there is need for recourse to an international proceeding.

48. In the instant case, the petitioners allege that to find a remedy for the purported violations of constitutional rights they have taken adequate action before the courts of domestic jurisdiction provided by Chilean law. They assert, nevertheless, that these actions have not been sufficient to ensure the rights purportedly violated by the State.

49. The petitioners allege that domestic remedies were exhausted by the Supreme Court's August 18, 1998 decision to declare their *recurso de queja* inadmissible. The State argues that there were legislative and administrative remedies available to the petitioners.

50. The Commission notes that the State claiming non-exhaustion has an obligation to prove that domestic remedies remain to be exhausted and that such remedies are adequate and effective.[8] "Adequate domestic remedies are those which are suitable to address an infringement of a legal right."[9] "Effectiveness" refers to the capability of particular remedy to produce the result for which it was designed.[10]

51. With respect to the legislative remedy proposed by the State, the Commission finds that a legislative remedy can never be an effective remedy because it is not available to all persons, nor are there guarantees that it will be impartially applied, a requirement for "effectiveness." With respect to the administrative remedy argued by the State, the Commission finds that it is not an adequate or effective remedy in this case. The administrative norm referred to does not specifically protect the right to access to information and does not set forth any guidelines for the protection of this right. Moreover, the petitioners have previously essentially complied with the terms of the statute, having written a letter to the agency in question, and were denied access to the information requested. Given these facts, the Commission concludes that the administrative *recurso de reposición* does not constitute an adequate and effective remedy and that the petitioners need not exhaust it.

52. Consequently, without prejudice to the merits of the case, the Commission considers that the requirements of Article 46(1)(a) of the Convention have been met.

C. Deadline for submission of the petition to the IACHR

53. Article 46(1)(b) of the American Convention stipulates that admission of a petition requires "that the petition or communication is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment".

54. The instant petition was lodged with the IACHR on January 19, 1999, five months after the Supreme Court's decision rejecting the *recurso de queja* filed by the petitioner on July 31, 1998.

---

[6] American Convention on Human Rights, Preamble, para. 2.

[7] See eg, IACt.HR, Velasquez Rodriguez Case (Honduras), Series C Nº 4, Judgment of July 29, 1988, para. 61; IACHR, Resolution Nº 15/89, Case 10.208 (Dominican Republic), April 14, 1989, Conclusions, para. 5.

[8] See IACt.HR, Velasquez Rodriguez Case, supra, paras. 59 & 63.

[9] Id. at 64.

[10] Id. at 66.

Therefore, the petition meets the requirements with regard to timeliness established in Article 46(1)(b)of the Convention.

D. Duplication of proceedings

55. Article 46(1)(c) of the Convention provides that admissibility of a petition by the Commission requires that the subject of the petition or communication is not pending in another international proceeding for settlement. Article 47(d) of the Convention also stipulates that the Commission shall declare inadmissible any petition that is substantially the same as one previously studied by the Commission or by another international organization.

56. From the statements of the parties and the documents in the file, it does not appear that the petition is pending in any other international proceeding or forum, or that it is substantially the same as any previously studied by the Commission or by another international organization. The Commission therefore considers that in the instant case the requirements for admissibility in Articles 46(1)(c) and 47(d) of the Convention have been met.

E. Nature of the facts alleged

57. For purposes of admissibility, the IACHR has to determine whether the facts stated in the petition tend to establish a violation of rights set forth in the American Convention, as required under Article 47(b), or whether the petition must be dismissed as "manifestly groundless" or "obviously out of order" under Article 47(c).

58. The standard by which to assess these extremes is different from the one needed to decide the merits of a petition. The IACHR must do a *prima facie* evaluation, not to establish the existence of a violation but rather to examine whether the petition states facts that tend to establish a potential or apparent violation of a right guaranteed by the Convention. That examination is a summary analysis that does not imply any prejudgment or advance opinion on the merits of the petition. By establishing two clearly separate phases -one for admissibility and the other for the merits- the Commission's own Rules of Procedure reflect the distinction between the evaluation the Commission must make to declare a petition admissible, and the evaluation required to establish a violation.

59. With regard to the rights protected under Article 13, petitioners allege that the Committee on Foreign Investment failed to provide an adequate response to a legitimate request for access to state-held information, withholding information that was wrongly deemed "confidential." The State claims that it has complied with its obligation to provide access to state-held information by answering some of the petitioners' requests and that the remaining requests were not answered because the State legitimately considered the information to be confidential in nature. Article 13 includes the right to "seek, receive and impart information." In this case, the Commission must determine to what extent the right to "seek and receive" information imposes a positive obligation on the government to provide information to members of the public. While this is a question that must be resolved in the merits phase of the case, the Commission considers that the arguments made by both parties show that the petition is not "manifestly groundless," nor is it "obviously out of order." The Commission considers that, *prima facie*, the petitioners have met the tests stipulated in Article 47(b) and (c) with respect to Article 13.

60. The petitioners allege a violation of Article 25 of the Convention based on the fact that the Santiago Appeals Court declared their *recurso de protección* inadmissible for lack of foundation. Under Article 25 of the American Convention, the Chilean State has the obligation to provide an effective judicial remedy against violations of the fundamental rights contained in the Convention. The Inter-American Court of Human Rights refers to this Article when it finds: "Those principles refer not only to the formal existence of such remedies, but also to their adequacy and effectiveness."[11] The petitioners' allegation

[11] Inter-American Commission on Human Rights. Report Nº 63/01, Case 11.710, Carlos Manuel Prada González y Evelio Antonio Bolaño Castro, April 6, 2001, para. 37; Inter-Am. Ct. H.R., Bámaca Velásquez Case, Judgment of November 25, 2000 para. 191.

that the dismissal of the *recurso de protección* for lack of foundation amounts to a failure to provide an effective judicial remedy for the denial of a fundamental right protected by the Convention, namely the right to access to public information, calls for an examination on the merits.

61. With respect to the alleged violation of Article 23, the petitioners argue that the information requested, regarding the approval by the Chilean Committee on Foreign Investment of a deforestation project to be carried out by a private corporation, related to activities of such fundamental public interest as to require direct citizen participation in their oversight. Article 23 refers to the right to participate in government either directly, or through freely elected representatives. Therefore, in order to find a violation, the Commission would have to find not only that citizens were unable to participate directly in government, but also that, in the alternative, they were unable to elect their representatives freely. While access to public information about the conduct of individuals who run for public office may impede the ability of citizens to elect representatives in a manner that can truly be considered "free," the Commission finds that in the instant case, the petitioners have not made a *prima facie* showing that they have been impeded from freely electing their representatives. As a result, the Commission considers that the facts alleged do not tend to characterize a violation of Article 23.

62. Therefore, without prejudice to the merits of the case, the Commission considers that the requirements of Article 47(b) and (c) of the American Convention have been met with respect to Articles 13 and 25 of the Convention in relation to the general obligations enshrined in Articles 1 and 2.

IV. CONCLUSIONS

63. The Commission considers that it has competence to take cognizance of this petition and that it is admissible as regards the requirements for admissibility contained in Articles 46 and 47 of the American Convention on Human Rights, and as regards the alleged violations of Articles 13 and 25 of the American Convention in relation to the general obligations enshrined in Articles 1 and 2.

64. On the basis of the aforementioned arguments as to facts and law, and without prejudice to the merits of the case,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare the instant case admissible as regards the presumed violations of rights protected by Articles 13 and 25 of the American Convention in relation to the general obligations enshrined in Articles 1 and 2;
2. To declare inadmissible the claim under Article 23;

3. To notify the parties of this decision;

4. To continue with the examination of the case; and

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

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., on the 10th day of the month of October in the year 2003.

Clare Kamau Roberts
First Vice Chairman

Susana Villaran de la Puente
Second Vice Chairman

Robert K. Goldman
Commissioner

Julio Prado Vallejo
Commissioner

Let it be placed on record and let notice be given as agreed.

Santiago A. Canton
Executive Secretary