

OEA/Ser.L/V/II.156  
Doc. 17  
27 October 2015  
Original: Spanish

**REPORT No. 65/15**  
**PETITION P-1511-09**  
REPORT ON ADMISSIBILITY

HOLLMAN MORRIS AND FAMILY  
COLOMBIA

Approved by the Commission at its session No. 2051 held on October 27, 2015  
156<sup>th</sup> Regular Period of Session.

**Cite as:** IACHR, Report No. 65/15, Petition 1511-09. Admissibility. Hollman Morris and family.  
Colombia. October 27, 2015.



**REPORT No. 65/15**  
**PETITION 1511-09**  
ADMISSIBILITY  
HOLLMAN MORRIS AND FAMILY  
COLOMBIA  
27 OCTOBER, 2015

**I. SUMMARY**

1. On November 24, 2009, the Inter-American Commission on Human Rights (hereinafter “the Commission” or the “IACHR”) received a petition from the Jose Alvear Restrepo Lawyers' Collective [*Corporación Colectivo de Abogados “José Alvear Restrepo”*] (hereinafter “the petitioner”), alleging the international responsibility of the Republic of Colombia (hereinafter “the State” or “Colombia”) for the violation of Articles 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial), 11 (right to privacy), 13 (freedom of thought and expression), 14 (right of reply), 17 (rights of the family), 19 (rights of the child), 22 (freedom of movement and residence) and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter the “American Convention” or the “Convention”), in relation to Articles 1.1 and 2 thereof, to the detriment of journalist Hollman Morris, his wife Patricia Casas, and his children Felipe and Daniela Morris and his brother Juan Pablo Morris.

2. According to the petitioner, between the years 2004-2009 journalist Hollman Morris and his family were victims of threats, harassment, illegal surveillance and public stigmatization from different agents of the Colombian State, in particular agents of the Administrative Security Department - DAS. The petitioner indicated that, different agents of the Colombian State, in particular agents from the Administrative Security Department [*Departamento Administrativo de Seguridad*] (DAS) took part in the threats, harassment, unlawful surveillance, and public stigmatization of Hollman Morris and his family. The petitioner stated that these acts have gone unpunished in an environment plagued by human rights violations against journalists and media workers and restrictions to freedom of expression in Colombia, as well as the persecution of human rights defenders. The petitioner stated that the Colombian State has failed to conduct a serious investigation within a reasonable period of time to identify the direct perpetrators and masterminds and to establish the truth surrounding the human rights violations committed against Hollman Morris and his family.

3. For its part, the State maintained that steps are diligently being taken in the domestic legal system with respect to the facts alleged in the petition, and therefore the exception contained in Article 46.2.c of the Convention does not apply. The State indicated that criminal investigations have been opened for purposes of establishing the facts surrounding the alleged improper acts of former DAS employees, as well as the threats reportedly received by the victims. The State indicated that some of these investigations have resulted in decisions on the merits that have been subject to appeals. The State further indicated that disciplinary investigations have been opened and that a proceeding designed to provide direct reparations to the victims of possible violations is underway in an administrative disputes court.

4. After examining the positions of the parties in light of the admissibility requirements established in Articles 46 and 47 of the Convention, and without prejudging the merits of the case, the IACHR decided to declare the petition admissible with respect to the alleged violation of Articles 5, 7, 8, 11, 13, 17, 22, and 25 of the American Convention, in connection with the general obligations enshrined in Articles 1.1 and 2 thereof. The Commission also decided to declare the petition inadmissible with respect to the alleged violation of Article 14 of the American Convention. Finally, the Commission decided to publish this report and include it in its Annual Report to the General Assembly of the Organization of American States.

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

5. The petition was received by the IACHR on November 24, 2009. On May 16, 2013 the petition was opened for processing by the IACHR. The pertinent parts of the case file were forwarded to the State, which was asked to submit its reply within two months. On April 28, 2014 the State presented its reply, which was forwarded to the petitioner on May 1, 2014, with a one month deadline to respond. The petitioner submitted additional observations on June 3, 2014, and on June 1, 2014, they were forwarded to the State. After being granted an extension, the State submitted its observations on September 24, 2014, which were forwarded to the petition on October 2, 2014.

### **- PRECAUTIONARY MEASURES**

6. On June 2, 2000, the Commission granted precautionary measures MC 132-00 on behalf of journalists Jineth Bedoya, Jorge Cardona Alzate, and Hollman Morris, in view of the alleged kidnapping, torture, and rape of journalist Jineth Bedoya Lima on May 25, 2000. Specifically, the State was asked to take steps to protect the life and personal safety of those journalists. On June 29, 2005, the Commission decided to separate Hollman Morris from those measures and grant new measures on his and his family's behalf, under MC 01-00, which are currently in effect.

## **III. POSITIONS OF THE PARTIES**

### **A. Position of the petitioner**

7. The petitioner stated that Hollman Morris has worked as a journalist for over 10 years, and his career has focused on monitoring the armed conflict, its consequences for the civilian population and the search for a political and negotiated solution of the armed conflict. The petitioner said that "it's possible to describe Hollman Morris as an independent and critical journalist, with an extensive experience in human rights issues and conflict, not only in Colombia but in Latin America." In July 2003, Hollman Morris was selected by the Andean Programme for Democracy and Human Rights of the European Union – Country Colombia and a group of social organizations for a national television program to promote democracy and human rights, now widely recognized as "Contravía," that gives voice to the victims of the conflict, minorities, human rights defenders and civil servants working for peace.

8. The petitioner stated that "the continuing criticisms through the 'Contravía' program generated discomfort and distress not only in the perpetrators of serious human rights violations and breaches of humanitarian law, but also in the dominant political and economic classes who have supported them". The petitioner claimed that this triggered a series of threats and harassment against Hollman Morris and his family, public insults by high-ranking government officials, "to the point of making him target of surveillance of the Administrative Department of Security (DAS)".

9. The petitioner alleged, that in effect, because of his journalistic work during the years 2004-2009, Hollman Morris was subjected to threats, harassment, surveillance and public stigmatization from different agents of the Colombian State. According to the petition, these acts were aimed at "neutralizing" the exercise of the profession of the journalist and that the effects of these actions affected his family, specifically his wife Patricia Casas and children Daniela and Felipe. It explained that his immediate family was adversely affected by the surveillance of their private life by the Administrative Security Department (DAS), as well as by the instability created by the threats directed at Hollman Morris and Patricia Casas. The adverse effects on the alleged victims, according to the petitioner, were such that they caused the journalist and his wife to be temporarily separated from their children on several occasions. The petitioner stated that these acts have gone unpunished in an environment plagued by human rights violations against journalists and media workers and restrictions to freedom of expression in Colombia, as well as the persecution of human rights defenders.

10. The petitioner stated that during the months of April and May, 2004, Patricia Casas received numerous telephone threats "by unknown people, who managed to psychologically destabilize her." The petitioner indicated that on August 1, 2004 Morris and a colleague were arbitrarily detained by members of the Colombian Navy and the National Army in the vicinity of the Putumayo River while working in their capacities as journalists. According to the petitioner, the warrantless detention lasted approximately eight hours, and their journalistic material was confiscated.

11. The petitioner stated that on May 16, 2005, a funeral wreath was delivered to Hollman Morris's residence with lettering that read, "Condolences to the Morris family." The note that came with the floral arrangement expressed the sender's sympathy for the journalist's death. According to the petitioner, this incident took place following complaints expressed on Morris's television program '*Contravía*' about the negotiation process between the national government and paramilitary groups and about the participation of Colombian military forces in the massacre of San José de Apartadó, in Antioquia. Following this incident, Hollman Morris and his wife left Colombia for a month, leaving their children Daniela, 4 years old, and Felipe, 1 year old, in the care of other relatives.

12. On August 2, 2005, after leaving the recording of the program '*Contravía*', in Bogotá, Hollman Morris was followed for hours by four individuals—two of them armed—who, according to the petitioner "were active duty members of the DAS."

13. The petitioner stated that on March 9, 2006, Hollman Morris received a video in which he and other people were named as members of the "international bloc of the FARC," and labeled as military targets. The petitioner further indicated that the then-Director General of the DAS, Andrés Peñate, told Morris "that one of the threats [...] which consisted of a defamatory video [...] was made at DAS facilities." Additionally, the petitioner stated that between May 14 and 16, 2006, when Hollman Morris was planning a trip to Europe at the invitation of the French Minister of Foreign Affairs, the security detail of the French Embassy was alerted about unknown persons who identified themselves as police officers and who on four occasions—identifying themselves on the last occasion as members of the Specialized Anti-kidnapping Unit [*Grupo de Acción Unificada por la Libertad Personal*] (GAULA)—made inquiries at the airport about the journalist's trip. This situation forced the journalist to leave Colombia once again, for a period of two months.

14. The petitioner indicated that on June 27, 2006, then-President Uribe Vélez stated in a public interview that correspondents from a foreign news network—referring, according to the petitioners, to Hollman Morris as the sole representative of an international media outlet—had arrived in advance and knew about the attack that would be carried out against the military bases located in Puerto Asís, Putumayo by the FARC, which had taken place three days earlier. The evening of the 27<sup>th</sup>, the Press Office of the Presidency of the Republic said that the then-president's statements were based on erroneous information about the date in which the reporters arrived in the area. According to the petitioners, the President never retracted these statements and in public opinion there was the impression that the journalist Hollman Morris had alliances with guerrilla organizations, rated as "terrorists". The petitioner stated that during CIDH's 123 Period of Sessions a follow up meeting of the precautionary measures in favor of Hollman Morris and his family was conducted, in which it was requested as "main protective measure" that the President published a retraction "on the same terms and conditions in which he made the statements of June 27." The petitioner indicated that "about this situation the Colombian government gave no response." They also pointed out that in this case rectifications were requested on other occasions and that "the same [rectifications] has never occurred."

15. The petitioner claimed that on September 26, 2007, Hollman Morris received an email in which a paramilitary group called "Frente Patriótico" told him that he had won a lottery prize consisting of a coffin with the epitaph: "for a guerilla fighter and unpatriotic snitch." The following day, he received another email from the same group that contained a photograph of him marked with an "X" and the accompanying text "4, 3, 2, almost." Following these threats, Morris and his wife left Colombia for a short period of time. According to the petitioner, during the time they were outside Colombia, the DAS decided "unilaterally" to exchange the armored vehicle assigned to his security detail for a "regular vehicle," in spite of the fact that Morris's children were reportedly transported in it during their parents' absence.

16. According to the petitioner, on February 1, 2009, Morris was making a documentary for the international chain *History Channel* on the FARC guerrillas. The presence of the journalist in the area coincided with the unilateral release of four people kidnapped by the FARC; consequently the journalist recorded images and conducted interviews on these facts. On the return trip, Hollman Morris, his cameraman, and another journalist were detained in the municipality of Florencia at a military checkpoint where their identity was investigated. Later, a military patrol followed them to the municipality of Unión Peneya, where the journalist and his colleagues were detained for approximately 7 hours. According to the petitioner, the National Army and the Central Judicial and Intelligence Police Department (DIJIN) attempted to confiscate Morris's work material.

17. On February 3, 2009, following Morris's coverage of the story, the Office of the Vice President of the Republic issued a statement indicating that Hollman Morris had used his status as a journalist "to defend violence." In addition, that same night, then-President Uribe Vélez stated that Hollman Morris—as well as Mr. Jorge Enrique Botero—"shielded [themselves] with their status as journalists in order to be permissive accomplices to terrorism [...], friends of terrorism who act as journalists are one thing, and journalists are another." The president added that Morris, "took advantage [...] of his status as a journalist, [...] and threw a terrorist party at an alternative site to the one where the soldier and police officers were freed." Later, Morris received several death threats via email. One of them stated: "you fucking terrorist FARC-supporting dog, you should be dead for supporting a group of criminals (...) you're going to pay for this, you son-of-a-bitch."

18. The petitioner further stated that on February 3, 2009, several individuals showed up at the premises of "Morris Producciones," initially claiming to be judicial police officers and later members of the "GAULA ELITE." These individuals stated that they had come to drop off "a letter for Hollman Morris to appear for an interview diligence" and formalize a diligence held in Florencia, Caquetá. On February 4, 2009, other individuals went to "Morris Producciones" with some documents supposedly from the National Police, addressed to Hollman Morris and his brother Juan Pablo. Those individuals stated that Juan Pablo "had to receive the communication in order to go and be questioned." Within the next several days, there was a third visit to reiterate the matter.

19. In this context, according to the petitioner, "it was reported in the media that the Prosecutor General of the Nation, Mario Iguarán Arana, had decided to open a preliminary investigation against Hollman Morris, because of the situation presented around the unilateral release by the FARC." According to the petition, on March 4, 2009, in an article of the magazine *Cambio*, had been indicated that the Unit 11 [of the Public Prosecutor's Office] would investigate him because of a criminal complaint that agents held by the FARC brought against him, "they accused him of conducting an interview under pressure with them hours before them being release[d]." According to the petitioner, due to this, and because of the "government expressions [,] there was the feeling that Hollman Morris was being investigated." The petitioner indicated that raised "a number of rights of petition" to the Public Prosecutor's Office "to know whether it has been conducted - or had been conducted - investigation and/or criminal proceedings against Hollman Morris." The petitioner informed that the Public Prosecutor's Office reported in February and March 2009 that no investigations or inquiries were conducted against Hollman Morris, nor had been given order to the judicial police to interview him or advance any judicial diligence. According to the assessment of the evidence collected during the investigation, he found that the behavior of Hollman Morris "did not violate the criminal law, since he was fulfilling his journalistic work" and therefore "determined the file of the proceedings in his favor and to continue the investigation against members of the FARC."

20. With respect to the surveillance by State agents, the petitioner stated that the DAS was the intelligence agency of the Colombian State, which reported directly to the Office of the President of the Republic, and that the Special Intelligence Group 3 (hereinafter "G-3") was created at the time of the events alleged in this petition. The petitioner stated that the G-3 was created with the following objectives: a) to bring select individuals to court, "that is, to conduct unlawful intelligence work with the aim of bringing legal actions against them"; b) "to restrict and neutralize human rights promotion and defense work, through tactics of sabotage and obstruction"; and c) "conduct acts of psychological warfare with the objective of sowing fear, intimidation, and helplessness."

21. Specifically, the petitioner stated that the G-3 launched an intelligence operation called “Puerto Asís,” which sought to “intimidate,” “neutralize,” and “presumably block funding sources for [Morris’s] program and identify confidential journalism sources.” This operation was used to gather information on Morris, including information about his private life. His national and international travel was monitored, and his communications were intercepted, especially his email and that of his company “Morris Producciones.” The petitioner also asserted that the security detail provided to Hollman Morris for protection in view of the precautionary measures granted by the IACHR was used to periodically gather information about his various personal, work, and family activities—such as habitual schedules, the places he frequented, and his routine activities—and turn it over to the DAS.

22. In conclusion, they asked the IACHR to declare the international responsibility of the Colombian State for the violation of Articles 5, 7, 8, 11, 13, 14, 17, 19, 22, and 25 of the American Convention in conjunction with Articles 1.1 and 2 of said treaty.

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

23. In a communication dated April 25, 2014, the State asked the Commission to declare the petition inadmissible for failure to exhaust the adequate and effective domestic remedies to redress the violations alleged. According to the State, proceedings concerning the facts stated in the petition are underway at the domestic level, namely: (i) investigations being conducted by the criminal courts; (ii) disciplinary investigations led by the Office of the Inspector General of Colombia; and; (iii) proceedings for the judicial review of administrative acts before the Administrative Court of Cundinamarca.

24. The State indicated that the Office of the Prosecutor General had initiated and pursued the appropriate criminal investigations with the objective of establishing the facts at the domestic level.

25. On the one hand, the State indicated that in 2009 the Office of the Public Prosecutor has consolidated three cases that are at the preliminary investigation phase, in which Hollman Morris is named as victim for the threats he has been subject. The petitioner alleged that, following a complaint lodged on February 6, 2009, the Public Prosecutor’s Office conducted a study on the cases brought forward and that were related to the threats of Mr. Morris; because of this study preliminary inquiries were reopened and joined to the complaint filed in 2009. The State indicated that a special agency from the Office of the Public Prosecutor has been assigned to this investigation and the Legal Representative 219 has requested that proceedings be initiated. The State also informed that a fourth investigation opened in 2013, followed by the crime of threats to the detriment of Morris, which is also in the inquiry stage.

26. On the other hand, the State further asserted that the Office of the Prosecutor General conducted investigations to establish the facts surrounding the involvement of former DAS members in alleged incidents of persecution against Hollman Morris. According to the State, one of them is Case No. 12495-11 against six former DAS employees. The Superior Court of Bogotá convicted all six defendants on appeal, and their extraordinary appeal to the Supreme Court is currently pending. Hollman Morris and his family were named as victims in that case. It also referred to Case No. 13099-11 against two former DAS employees who entered into a plea agreement that resulted in a final conviction. According to the State, in both cases the former state agents were prosecuted for the offenses of aggravated criminal conspiracy, abuse of authority through arbitrary or unfair acts, unlawful violation of communications, and the unlawful use of transmitter or receiver equipment. In addition, the State cited Case No. 12839-11 against various former DAS employees, which is pending judgment at this time.

27. The State pointed to the prosecution of former DAS Director Jorge Aurelio Noguera Cortes, in which Hollman Morris and his family are named as victims. According to the State, in this case the Colombian Supreme Court ruled that the statute of limitations had expired with respect to the offenses of unlawful violation of communications and the unlawful use of transmitter or receiver equipment, as well as for the offense of abuse of authority through arbitrary or unfair acts with respect to acts committed in Colombia. The former DAS director is reportedly being tried for the offenses of aggravated criminal conspiracy and abuse of authority through arbitrary or unfair acts committed abroad.

28. The State also mentioned the existence of the case against former DAS Director María del Pilar Hurtado, in which Hollman Morris is not named as a victim. In addition, the State noted that the former president of Colombia, Álvaro Uribe Vélez, is being investigated by the Accusations Commission of the Congress of the Republic, for the alleged unlawful interception of communications. The investigation of this matter is reportedly at the preliminary stage.

29. With respect to the cases being handled by the Office of the Inspector General of Colombia, the State indicated that there are two disciplinary investigations. The first, No. 2246536-06, is an investigation related to the possible commission of disciplinary infractions by members of the National Army for the distribution of a video that names Hollman Morris as a guerrilla collaborator. That investigation was shelved because the evidence did not support the participation of those government authorities. The second investigation, No. 1255-129647-05, was opened against DAS personnel for the alleged harassment of several journalists, including Morris.

30. With respect to the administrative disputes courts, the State referred to a reparations case that is still active at the domestic level before the Administrative Court of Cundinamarca. According to the State, in this case of direct reparation, will be examined the potential responsibility of the “Nation—Office of the President of the Republic—Ministry of National Defense—National Army—DAS in the alleged unlawful violation of communications by the DAS and the events that took place in Putumayo in 2004,” where Hollman Morris was allegedly detained arbitrarily by members of the National Army.

31. The State indicated that it has implemented and monitored the precautionary measures ordered by the Inter-American Commission (MC-132-00 and MC-01-00) on behalf of the alleged victims, and that other protection measures have also been established on their behalf at the domestic level within the framework of the Ministry of the Interior’s Program for the Protection of Journalists.

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

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

32. Under Article 44 of the American Convention and Article 23 of the Rules of Procedure of the IACHR, the petitioner has *locus standi* to file petitions before the Inter-American Commission. With respect to the State, Colombia is a party to the American Convention, and therefore is internationally accountable for violations of that instrument. The alleged victims are individuals with respect to whom the State agreed to guarantee the rights enshrined in the American Convention. Accordingly, the Commission has jurisdiction *ratione personae* to examine the petition.

33. The IACHR has jurisdiction *ratione materiae* because the petition concerns alleged violations of human rights protected by the American Convention. In addition, the Commission notes that Colombia has been a State Party to the Convention since July 31, 1973, on which date it deposited its instrument of ratification. Therefore, the Commission has jurisdiction *ratione temporis* to examine the petition.

34. Finally, the Inter-American Commission has jurisdiction *ratione loci* to examine the petition because it alleges the violation of rights protected in the American Convention that reportedly took place in Colombia.

##### **B. Requirements for the Admissibility of the Petition**

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

35. Article 46.1.a of the American Convention provides that for a petition alleging a violation of the Convention to be admissible under Article 44 of the Convention, the petitioner must first have pursued and exhausted domestic remedies, in keeping with generally recognized principles of international law. Article 46.2 of the Convention provides that the rule on the exhaustion of domestic remedies does not apply

when: a) the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

36. The State maintained that the domestic remedies have not been exhausted, given that the competent criminal, disciplinary, and administrative authorities are acting with due diligence to shed light on the facts alleged. It pointed to the existence of criminal investigations conducted by the Office of the Prosecutor General which, in some cases, have resulted in the conviction of several DAS agents, and are currently pending appeals.

37. For its part, the petitioner emphasized that the State has not concluded any investigation designed to establish responsibility for the harassment against Hollman Morris and his family, and that there is an unwarranted delay in the investigations and prosecutions in this case, therefore the exception contained in Article 46.2(c) of the Convention is applicable. The petitioner indicated that investigations related with the illegal conduct of officers and DAS agents are undergoing for the crime of conspiracy and other misdemeanors. They stressed, however, that the liability of all those responsible, including the masterminds, has not been established. The petitioner argued that in the case of the investigations against DAS staff for the unlawful surveillance of Morris, it is necessary to determine responsibilities for officials with higher authority.

38. In view of the foregoing, the Commission must first identify the domestic remedies that must be exhausted in this petition, in light of the jurisprudence of the Inter-American System. The Commission observes that this petition refers to events related to: (i) the alleged threats to and harassment of journalist Hollman Morris and his family, in the context of an alleged stigmatizing speech from high-ranking government officials against him; (ii) the alleged unlawful surveillance of Morris by Group G-3 and the DAS; and (iii) as a consequence of all of the above, the departure of Morris and his wife from the country on various occasions.

39. The Commission finds that the facts alleged by the petitioner constitute criminal offenses under the domestic law that the government must investigate and prosecute on its own initiative,<sup>1</sup> which in such cases is the suitable way to establish the facts, prosecute the perpetrators, and impose the appropriate criminal penalties, as well as to facilitate other means of financial reparation.

40. In relation to these events, the Commission observes that a number of criminal investigations have been opened for the offense of threats in which Hollman Morris is named as a victim. According to the information available, as of the date of issue of this report, the investigations remain at the investigation stage. The Commission also observes the existence of various criminal cases against former DAS members for the offenses of aggravated criminal conspiracy, abuse of authority through arbitrary or unfair acts, unlawful violation of communications, and the unlawful use of transmitter or receiver equipment.

41. The Commission observes that, as a general rule, a criminal investigation must be conducted promptly in order to protect the interests of the victims, preserve the evidence, and even safeguard the rights of all persons considered suspects in the investigation. As the Commission and the Inter-American Court have held since their initial cases, although every criminal investigation must meet several legal requirements, the rule on the prior exhaustion of domestic remedies must not cause the international proceedings to assist the victims to be halted or delayed to the point of uselessness. This rule is reinforced by the obligation of the States to combat violence against journalists with due diligence.

42. With respect to the cases before the administrative disputes courts, the Commission has held repeatedly that that forum is not a suitable remedy for purposes of examining the admissibility of a claim like

---

<sup>1</sup> IACHR. Report No. 56/13, Petition 80-02, *Herminio Deras García et al.* 2013 Annual Report of the IACHR, para. 34; Report No. 38/13, Petition 65-04, *Jorge Adolfo Freyter Romero et al.*, 2013 Annual Report of the IACHR, para. 32.



the one now before the Commission. Administrative dispute proceedings are a mechanism for the oversight of the administrative activity of the State and only make it possible to obtain compensation for damages caused by an act or omission of State agents. Consequently, it is not the suitable remedy for purposes of analyzing the admissibility of this case.

43. Weighing the above considerations, the Commission concludes that, for purposes of admissibility, there are several circumstances that, as a whole, allow for the application in this case of the exception contained in Article 46.2.(c) of the Convention, to wit: (i) the criminal investigations into the threats are reportedly at the preliminary stage despite being reopened in 2009 and (ii) the investigations regarding all those responsible for the surveillance of Hollman Morris by DAS, including the masterminds, has not concluded.

## **2. Timeliness of the petition**

44. Article 46.1.b of the Convention establishes that, in order for the petition to be declared admissible by the Commission, it must be filed within six months of the date on which the alleged victims were served notice of the final decision of the State. In this analysis, the IACHR has determined that the exceptions to the exhaustion of domestic remedies under Article 46.2.(c) of the American Convention are applicable. Article 32 of the Rules of Procedure of the Commission establishes that in cases where those exceptions are applicable, the petition must be filed within a reasonable period of time, as determined by the Commission. To this end, the Commission must consider the date on which the alleged violation of rights took place and the circumstances of each case.

45. The petition was received on November 24, 2009 and asserts several violations of the alleged victim's rights, beginning with threats in 2000; the alleged threats to and harassment of journalist Hollman Morris and his family, in the context of stigmatizing speech from high-ranking government officials against him; the alleged arbitrary detention of Hollman Morris on two occasions; the alleged unlawful surveillance of Morris by Group G-3 and the DAS; as a consequence of all of the above, the departure of Morris and his wife from the country on various occasions; and the alleged absence of justice that allegedly extends to this day. Therefore, given the context and the characteristics of this petition, the Commission finds that it was filed within a reasonable period of time and that the admissibility requirement concerning the timeliness of the petition has been met.

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

46. The case file does not contain any information to indicate that the subject of the petition is pending in another international proceeding, or that it duplicates a petition previously decided by the IACHR or another international body. Hence, the requirements set forth in Articles 46.1.c and 47.d of the Convention have been met.

## **4. Colorable claim**

47. The Inter-American Commission must decide whether the alleged facts amount to a violation of the rights enshrined in the American Convention pursuant to the requirements of Article 47.b, or whether the petition is "manifestly groundless" or "obviously out of order," as described in Article 47.c. At this stage of the proceedings, the Commission must perform a *prima facie* evaluation, not to establish the alleged violations of the American Convention, but to examine whether the petition alleges acts that could potentially constitute violations of the rights guaranteed in the American Convention. This determination does not entail the prejudgment of the merits of the case.<sup>2</sup>

48. Neither the American Convention nor the IACHR's Rules of Procedure require petitioners to identify the specific rights alleged to have been violated by the State in the matter submitted to the

---

<sup>2</sup> See, IACHR, Report No. 21/04, Petition 12.190, Admissibility, José Luís Tapia González et al., Chile, February 24, 2004, paras. 33 & 52.

Commission, although they may do so if they wish. It falls to the Commission, on the basis of the system's jurisprudence, to determine in its reports on admissibility which provisions of the pertinent inter-American instruments are applicable, and the violation thereof may be established if the facts alleged are demonstrated with sufficient evidence.

49. As stated previously, the instant case asserts several violations of the rights of the alleged victim, that include the alleged harassment and threats to journalist Hollman Morris and his family in the context of stigmatizing speech from high-ranking government authorities against the journalist; the alleged arbitrary detention of Hollman Morris on two occasions; the alleged unlawful surveillance of Morris by Group G-3 and the DAS; the resulting departure of Morris and his wife from the country on several occasions; and the alleged failure of the administration of justice that purportedly continues to this day. According to the petitioner, all of this gives rise, by act or omission, to State responsibility.

50. The petitioner alleged the international responsibility of the State for the threats, harassment, surveillance, public disparagement, and stigmatization suffered by the victims. It alleged the international responsibility of the State for the violation of Articles 5, 7, 8, 11, 13, 14, 17, 19, 22, and 25, in relation to Articles 1.1 and 2 of the Convention, to the detriment of Hollman Morris and his family.

51. In view of the legal and factual elements presented by the parties and the nature of the matter brought before it, the Commission finds that, if proven, the petitioner's allegations of State responsibility for the alleged facts set forth in the petition could potentially constitute a violation of the rights enshrined in Articles 5, 7, 8, 11, 13, 17, 19, 22, and 25 of the Convention to the detriment of Hollman Morris and his family. The Commission will examine at the merits stage the possible violation of these provisions in light of the general obligation enshrined in Article 1.1 of the Convention, as well as the obligation to take domestic law measures according to Article 2 of the Convention.

52. On the other hand, it concludes the claims regarding the alleged violation of Article 14 (right of reply) of the American Convention is inadmissible, since no evidence to establish a *prima facie* infringement can be deduced from the facts presented.

53. In conclusion, the IACHR finds that this petition is neither "manifestly groundless" nor "obviously out of order," and therefore declares that the petitioner has met *prima facie* the requirements established in Article 47.b. of the American Convention with respect to potential violations of Articles 5, 7, 8, 11, 13, 17, 19, 22, and 25 of the American Convention, in relation to the general obligations enshrined in Articles 1.1 and 2 thereof, as stated above.

## **V. CONCLUSION**

54. The Inter-American Commission concludes that it is competent to examine 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 legal and factual considerations, and without prejudging the merits of the case,

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

#### **DECIDES:**

1. To find this petition admissible with respect to the rights protected in Articles 5, 7, 8, 11, 13, 17, 19, 22, and 25 of the American Convention, in connection with Articles 1.1 and 2 thereof.
2. The Commission also decided to declare the petition inadmissible with respect to the alleged violation of Article 14 of the American Convention.
3. To provide notice of this decision to the parties, continue with the analysis of the merits of the case; and

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

Done and signed in the city of Washington, D.C., on the 27<sup>th</sup> day of the month of October, 2015. (Signed):  
Rose-Marie Belle Antoine, President; James L. Cavallaro, First Vice President; Felipe González, Rosa María Ortiz,  
Tracy Robinson and Paulo Vannuchi, Commissioners.