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REPORT No. 48/22
PETITION 2273-15
REPORT ON ADMISSIBILITY

MARÍA DEL CARMEN ARISTEGUI FLORES
MEXICO

Approved electronically by the Commission on July 11, 2022.

Cite as: IACHR, Report No. 48/22. Petition 2273-15. Admissibility.
María del Carmen Aristegui Flores. Mexico. July 11, 2022.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Quijano, Cortina y de la Torre Attorneys-at-Law and the Center for Justice and International Law (CEJIL) ¹
Alleged victim:	María del Carmen Aristegui Flores
Respondent State:	México ²
Rights invoked:	Articles 5 (humane treatment), 8 (fair trial), 13 (freedom of thought and expression) and 25 (judicial protection) in relation to Articles 1.1 (obligation to respect rights) and 2 (duty to adopt provisions of domestic law) of the American Convention on Human Rights ³

II. PROCEEDINGS BEFORE THE IACHR⁴

Filing of the petition:	September 30, 2015
Additional information received at the stage of initial review:	April 20, 2016
Notification of the petition to the State:	July 24, 2017
State's first response:	November 29, 2017
Additional observations by the petitioner:	January 18, 2018 and September 20, 2021
Additional observations by the State:	October 11, 2018

III. COMPETENCE

Competence <i>Ratione personae</i>:	Yes
Competence <i>Ratione loci</i>:	Yes
Competence <i>Ratione temporis</i>:	Yes
Competence <i>Ratione materiae</i>:	Yes, American Convention (deposit of the instrument of ratification made on March 24, 1981)

IV. DUPLICATION OF PROCEDURES AND INTERNATIONAL RES JUDICATA, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

Duplication of procedures and International res judicata:	No
Rights declared admissible:	Articles 5 (humane treatment), 8 (fair trial), 13 (freedom of thought and expression) and 25 (judicial protection) in relation to Articles 1.1 (obligation to respect rights) and 2 (duty to adopt provisions of domestic law) of the American Convention.
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, in the terms of Section VI
Timeliness of the petition:	Yes, in the terms of Section VI

¹ By a communication dated July 28, 2017, the IACHR was informed of the incorporation of the Center for Justice and International Law as a petitioning party in the present case.

² Pursuant to Article 17.2.a of the Commission's Rules of Procedure, Commissioner Joel Hernández García, a Mexican national, participated neither in the discussion nor in the decision of the present matter.

³ Hereinafter "the American Convention".

⁴ The observations of each party were duly transmitted to the other party.

V. FACTS ALLEGED

1. The petition refers to the alleged denial of justice and lack of judicial protection to the detriment of María del Carmen Aristegui Flores, a Mexican journalist. According to the petitioners, journalist Aristegui and 19 of her collaborators were arbitrarily dismissed by MVS Radio on April 9, 2015; in order to guarantee their permanence on the air, she filed an indirect amparo complaint claiming violation of her rights to freedom of expression and information. They hold that in the processing of the indirect amparo proceeding, due process of law was not observed, and the timely and effective protection of her right to freedom of expression and the right to information of hundreds of thousands of radio listeners was not guaranteed. The petition also states that the journalist has been the victim of espionage and judicial harassment as a result of her publications on matters of public interest.

2. The petitioners state that María del Carmen Aristegui Flores is a journalist recognized in Mexican society for her investigative work and her reports on corruption, abuse of power, and serious human rights violations, as well as for her work in defense of freedom of expression and the right to the truth. At the time of the facts, the alleged victim was directing the radio program "Primera Emisión" every day, which was the most listened newscast in the time slot from 6am to 10am in the FM frequency.

3. The petitioners report that on March 10, 2015, a media alliance comprised of eight media entities and civil organizations decided to launch via website an initiative called *Mexicoleaks*, a platform whose main objective was to combat and expose corruption and human rights violations. They hold that, in accordance with this launch, the journalist announced on her radio program that she and her investigative team would be part of the initiative. On the same day, the company issued a statement indicating that it was unaffiliating itself from *Mexicoleaks* and accusing Ms. Aristegui's team of abuse of trust and misuse of the brand. The following day, the alleged victim stated on her radio program that *Mexicoleaks* was an initiative that as journalists they considered of utmost importance for citizens to share information of public interest in a safe manner. The petitioners also report that on March 12, the company fired two collaborators of the Aristegui/MVS investigative unit - the coordinator of this unit and a journalist - and announced that it would take the appropriate measures to prevent the improper use of its human, technological and material resources. In view of this situation, the journalist publicly rejected the dismissals and stated that the reinstatement of the two workers was an unrenounceable condition for her to continue providing her professional services.

4. On March 13, the company publicly disclosed on its website a document called "Guidelines Applicable to the Relationship Between MVS News and the Hosts of its News Broadcasts". According to the petitioner, these new guidelines were unilaterally and compulsorily imposed on journalist Aristegui and she refused to adhere to them, as they would impose prior censorship, by obliging her, among other things, "[to] abide by the majority vote of the new Editorial Committee, to which all matters of informative relevance must be submitted for approval prior to broadcasting".

5. On March 15, a note was left on the door of journalist Aristegui's private residence in which MVS Radio notified her of the early termination of the Provision of Services Framework Agreement due to alleged non-compliance⁵. According to the petitioner, this document did not include a clear and detailed description of the facts that allegedly constituted the breach of contract, and the procedure designated in the contract for early termination was not followed. In addition, on March 16, the journalist allegedly attempted to enter MVS News, but was prevented from doing so.

6. The petitioners specify that on April 9, 2015, Ms. Aristegui filed an indirect amparo action against the concessionaire MVS Radio before the District Court for Administrative Matters in the Federal District. The journalist claimed the violation of her right to freedom of expression and the right to information of hundreds of thousands of radio listeners, since a prior censorship mechanism was unilaterally and arbitrarily

⁵ According to the petitioner, the document claimed breach of clause 8 of the contract, referring to the journalist's obligations to provide services exclusively, to maintain at all times the confidentiality of the contents of the contract, and to care for, preserve and maintain in good condition the goods that MVS supplies to the journalist to perform his or her work. Likewise, the breach of the tenth and eleventh clauses a and b, for the improper use of Stereorey's intellectual and industrial property and for giving incorrect or false statements related to Stereorey or its personnel.

imposed on her, as set forth in the "Guidelines Applicable to the Relationship Between MVS News and the Hosts of its Informative Broadcasts". In addition, she contested the decision to terminate the contract and the impediment to enter the premises of MVS Radio. Petitioner informed that the lawsuit was filed in the Eighth District Court on Administrative Matters in the Federal District and was opened for processing on April 13, 2015, ordering to reserve the analysis on whether MVS can be considered as a responsible authority for purposes of the amparo trial to the issuance of the final judgment, based on defined jurisprudence. Petitioners hold that the Eighth Judge opened the corresponding incident and ordered the provisional suspension of the challenged act.

7. Upon these decisions, MVS Radio filed two complaints, one against the provisional suspension ordered, and the other against the resolution of April 13, 2015 by means of which the amparo lawsuit was admitted for processing. According to the casefile, the latter remedy was heard by the Fifth Collegiate Court in Administrative Matters of the First Circuit, which on July 14, 2015 declared it well-founded, establishing that the amparo lawsuit filed by the alleged victim should be dismissed, since there was a manifest and unquestionable cause of inadmissibility since the early termination notice could not be considered as an act of authority for purposes of the amparo.

8. The petitioners indicates that by dismissing the amparo remedy and without any reasoning whatsoever, the Fifth Court omitted the opportunity to analyze how the direct actions of a major radio concessionaire violated the right provided for in Article 13 of the American Convention. They alleged that the Fifth Court inexplicably changed its legal criteria by determining that it was not possible to apply the criteria and thesis issued by that same Court (2nd./J. 54/2012) according to which the initial order of processing was not the appropriate procedural moment to analyze whether a private party is an authority under the terms of the Amparo Law. The petitioners argue that this analysis of the responsible authority should have been conducted at a substantive stage and not at the stage of admissibility of the complaint, since the parties must be assured due process of law that allows them to offer and present evidence, as well as to make allegations in this regard. In this sense, they argue that resolving a substantive issue in an initial appeal whose sole purpose is to formally decide on the admission of the amparo complaint and to terminate the trial, is the same as denying the issuance of a final judgment and preventing the prosecution of acts contrary to human rights. Therefore, in the petitioners' view, the court knowingly issued a decision on the merits that was blatantly illegal and notoriously unjust, and that does not admit of any appeal.

9. In view of the foregoing, the petitioners argue that they have exhausted domestic remedies with the resolution of July 14, 2015, which dismissed the indirect amparo action filed by the alleged victim, and which was notified to her on August 3, 2015. They observe that despite the fact that various legal proceedings have been initiated based on the situation in which Ms. Aristegui finds herself, she, by means of the filing of the indirect amparo appeal-, exhausted the suitable legal remedy to request the protection of her right to freedom of expression against the actions performed by MVS Radio, inasmuch as MVS Radio acted in the capacity of authority, based on the concession it has from the federal government to use the radio spectrum. In this sense, they hold that the indirect amparo was the only remedy capable of repairing the damage caused to the journalist.

10. On the other hand, regarding the ordinary commercial lawsuit filed by MVS Radio to, inter alia, seek the early termination of the framework contract for the provision of services, the petitioners argue that this was not a suitable remedy, as it was not intended to protect the journalist's freedom of expression and thereby safeguard a fundamental right against the company MVS Radio. They affirm that, even if the same was not suitable, it was exhausted with the resolution of November 28, 2017 issued by the First Unitary Court in Civil and Administrative Matters of the First Circuit. In said resolution, the Court confirmed the first instance decision that acquitted the alleged victim of the claims of MVS Radio; and resolved to declare the natural termination of the framework contract for the provision of services on the grounds that it had expired. In view of the second instance decision, both parties filed direct amparo remedies, which were rejected on June 21, 2018 by the Seventh Collegiate Court in Civil Matters of the First Circuit. Said Court held that MVS had not accredited the cause of breach that it attributed to Ms. Aristegui in order to proceed with the termination of the Framework Agreement and that the journalist had not incurred in an alleged violation of MVS's intellectual property rights, for which reason the second instance ruling remained final. The petitioners contend that said

resolution did not declare a violation of Ms. Aristegui's freedom of expression nor does it provide for reparation for such violation of her rights. The petitioners informed that on January 23, 2019, MVS News requested that the appeal for review it had filed against the decision of the Collegiate Court be dismissed. Therefore, the Court deemed it unnecessary to analyze the concepts of violation, the considerations of the challenged judgment and the grievances, leaving the judgment firm.

11. Likewise, the petitioners report that on March 31, 2015, Ms. Aristegui, her investigative team and other journalists dismissed from MVS filed a complaint before the National Human Rights Commission against the acts and omissions of the Ministry of the Interior (SEGOB) and the Federal Telecommunications Institute, claiming that the aforementioned editorial guidelines substantially violated the rights of editorial freedom, freedom of expression of the journalist and her collaborators, and the right to information of the Mexican people. The National Human Rights Commission reportedly accepted the complaint and held that it would process it.

12. As additional information, the petitioner indicates that MVS News had already arbitrarily terminated a contract with Ms. Aristegui in February 2011 for an alleged violation of the code of ethics, after the journalist covered a congressman's public accusations about the alleged alcoholism of the then president, stating that the presidency should respond to such accusations. The petitioner argues that this case must be understood in the context of political disputes over the governance of radio broadcasting in Mexico; and that the terminations of journalist Aristegui's contracts are part of a conflict between MVS, the Mexican government and other private actors regarding the granting or renewal of concessions. The petitioner claims that there are strong indications that the government's demands to MVS to control Carmen Aristegui's editorial line served as a bargaining tool in these negotiations regarding the future viability of the company.

13. On the other hand, the petitioner narrates that on November 9, 2014, the report "The White House" was made public, which referred to a house that had been built by a company belonging to a commercial group close to the president, and had been recognized by the then first lady as her home. The report questioned the closeness of the then president to the commercial group, taking into account the bids awarded to said company during the period in which he was governor of the State of Mexico. According to the petitioner, the owner of MVS allegedly asked Ms. Aristegui not to broadcast the report on his radio program. As a result, the journalist and her investigative team gave the information to several media outlets, which then broadcast the report. As a result of the publication, the journalist was allegedly the target of censorship and harassment. The alleged victim claimed that this report was the origin of the restrictions on freedom of expression.

14. The petitioners claim that journalist Carmen Aristegui was spied on by means of the "Pegasus" *malware*. According to them, this software, manufactured by an Israeli company and sold exclusively to governments, infiltrates smartphones and other devices to monitor any detail of a person's daily life through his or her cell phone, and can even use the microphone and camera of the phones for surveillance. They hold that, to date, they do not have exact answers about the circumstances of the purchase of this software in Mexico, nor all the people who have been targeted by it. And that there is also no information on which Mexican government agencies would have responsibility for the purchase and use of the software. The petition states that between January 2015 and July 2016 the journalist would have been the victim of at least 21 infection attempts, through text messages urging her to click on a link, while other members of her team would have registered at least 7 attempts. Her 16-year-old son also reportedly received text messages with malicious links. The petitioner cites a report suggesting that there is a correlation between Ms. Aristegui's journalistic work and these *malware* infection attempts.

15. These acts of espionage were denounced by Ms. Aristegui, along with eight human rights defenders, journalists and activists, before the Special Prosecutor's Office for Attention to Crimes Committed against Freedom of Expression (FEADLE) on June 19, 2017. The complaint offered evidence, requested a series of proceedings to be conducted, and requested that a prohibition on intimidating or harassing the victims be established as a protection measure. The petitioners hold that not only were the protection measures not adopted, but also that the journalist was placed by the Attorney General's Office in a position of great vulnerability by publicly protesting, as a result of new findings published in July 2021, that Ms. Aristegui was a whistleblower and "fundamental witness" in the investigation. They also hold that, despite the fact that more

than four years have elapsed since the complaint, the investigation of the facts has not made substantial progress and that there are reasons to doubt the objectivity and impartiality of the authorities in charge of the investigation.

16. Likewise, the petitioner narrates that Ms. Aristegui was sued for moral damages by the owner of MVS in 2015, after she mentioned him in the prologue she wrote in the book " Peña Nieto's White House", which was published by two journalists of her investigative team, and which expands on the aforementioned report. On October 28, 2016, the Fifty-seventh Civil Court for Mexico City decided that the journalist had exceeded her right to freedom of expression, which was confirmed on July 14, 2017 by the First Civil Chamber of the Superior Court of Justice of Mexico City. Against these rulings, the journalist filed a direct amparo remedy before the federal courts of Mexico, which was rejected by the Seventh Collegiate Court in Civil Matters of the First Circuit on June 21, 2018. The alleged victim filed an action for review against this decision before the Supreme Court of Justice of the Nation, which on February 20, 2019 revoked the contested judgment and ordered to grant the amparo, stating that Ms. Aristegui's expressions in the prologue corresponded to a legitimate exercise of her right to freedom of expression. Finally, on September 12, 2019, the Seventh Collegiate Court in Civil Matters of the First Circuit granted the amparo.

17. The petition also reports on the break-in and robbery of the offices of Aristegui Noticias that occurred on November 13, 2016. According to the petition, five people allegedly forced the locks, searched the drawers, caused material damage and stole a computer with journalistic material of transcendental importance, which resulted in the loss of different inputs of ongoing investigations into cases of corruption by public officials. In response to the complaint, the Territorial Coordination AO-3 of the Mexico City Attorney General's Office initiated an investigation. According to the petitioners, despite the fact that a witness claimed to have heard those who entered saying that "they came for information," the authorities initially did not consider the journalistic work of the victims in the construction of the lines of investigation. Finally, on December 7, 2016, after the investigation file was leaked to the press, the file was sent to the Specialized Agency for Attention to Crimes Committed Against Journalists. The petitioner states that the investigation was conducted with multiple irregularities, since not all the procedures indicated in the applicable protocols were followed, the background of the aggression against the journalist was not considered, and it was not possible to count the videos recorded by security cameras of neighboring buildings due to an alleged lack of diligence in obtaining them. It also holds that information from the investigation file was leaked, which led to the initiation of a new investigation on February 4, 2017, for the crime of disclosure of secrets by reason of employment, position or profession. The petitioner reports that on October 23, 2017, this investigation was archived, as it was concluded that it was not possible to determine which public servants had participated.

18. They communicate that to date, only one person of the five persons involved has been sentenced for the robbery in the offices, but the identification and location of the other 4 persons is still pending. For this situation, a complaint was filed before the Human Rights Commission of Mexico City, which issued Recommendation 19/2019 dated December 4, 2019, which declared the violation of the rights to freedom of the press, due process, access to justice and right to truth to the detriment of Carmen Aristegui and other persons, and recommended a series of reparation measures, such as continuing the investigation, taking into consideration the journalistic activity of the victims. Although on January 10, 2020, the Mexico City Attorney General's Office accepted the terms of the recommendation and committed to make its best efforts for its attention and compliance, the petitioners inform that to date none of the recommendations have been declared met or considered as satisfied by the victims.

19. On its part, the Mexican State declare that the petition is inadmissible since there are no human rights violations to the detriment of the alleged victim, and due to the impossibility for the IACHR to act as a fourth instance. It also emphasizes that the appropriate mechanisms to address the alleged victim's claims were not exhausted at the time the petition was filed before the IACHR, nor at the time it was notified to the State, and therefore the ground of inadmissibility for failure to exhaust domestic remedies is present. Thus, it requests that the IACHR definitively archive the present case.

20. With respect to the first argument, the State considers that the resolution of complaint 139/2015 does not indicate any violation of Ms. Aristegui's human rights, since both the amparo proceeding and the complaint were heard by the authorities, who resolved them in strict accordance with the law, without any violation of the petitioner's human rights arising therefrom. It adds that the fact that the petitioner filed a remedy that was not the appropriate one to address her claims and, therefore, her complaint was dismissed, does not constitute a violation of her human rights. It also holds that contrary to the petitioners' assertion; the Fifth Court based its decision not to apply the jurisprudence invoked by the petitioners.

21. According to the State, despite the fact that MVS Radio is a concessionaire of the Mexican State, the acts complained of by the petitioner are not comparable to acts of an authority, and therefore the amparo action filed by the alleged victim was not the appropriate remedy to address her claims. It argues that the appropriate remedy to resolve Mrs. Aristegui's claims was the ordinary commercial proceeding. According to the State, this proceeding was conducted in full compliance with the law, in the sense of accepting the exceptions presented by the alleged victim and acquitting her of MVS Radio's claims. In this regard, the State reiterates the information provided by the petitioners with regard to the processing of the ordinary commercial proceeding, and adds that on June 21, 2018, the amparo suits filed by the parties were denied, so that the second instance judgment became enforceable that same day.

22. Finally, the Mexican State observes that the petitioners filed the petition to the IACHR in 2015, before the commercial trial had been completed, since the judgment derived from said proceedings became final until June 21, 2018. It also notes that when it was notified of the initiation of the present petition in 2017, the petitioners had not yet filed the appeal or the direct amparo remedy.

VI. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS

23. The petitioners argue that the indirect amparo was the only remedy capable of repairing the harm caused to the journalist; that is, to overrule the acts of MSV Radio, the concessionary company, which "by declaring in advance the termination of [Ms. Aristegui's] contract, had incurred in acts of authority from which human rights violations could be inferred. They declare that, in Mexico, the appropriate remedy to contest the restriction of freedom of expression is the amparo trial, since it is the remedy designed to guarantee the protection of fundamental rights against acts or omissions on the part of authorities or -as in this case- private individuals, provided that it is proven that acts equivalent to those of an authority have been performed, that such acts affect rights and that they are determined by a general rule. Petitioners claim that, since this amparo was dismissed without having reached the substantive stage for the discussion of the arguments on the merits, the appropriate remedy to ensure the rights mentioned in this petition would have been exhausted.

24. On the other hand, with respect to the ordinary commercial trial, they argue that this was not a suitable remedy and should not be exhausted, since its purpose is to resolve disputes of a contractual nature and it is not suitable to declare a violation of freedom of expression or to fully remedy it. They also argue that the State's allegation that the amparo trial is not the appropriate remedy and that the ordinary commercial trial is, in itself, a substantive argument, since it assumes that there is no violation of Carmen Aristegui's rights, but rather that it is a private contract dispute. However, they hold that, even if the appeal was not suitable, it was exhausted with the November 28, 2017 decision issued by the First Unitary Court in Civil and Administrative Matters of the First Circuit, which confirms the first instance decision which acquitted the alleged victim of the claims of MVS Radio and resolved to declare the natural termination of the framework contract for the provision of services in considering that it had expired.

25. The petitioners also argument that the criminal complaints have not been effective in this case. Regarding the espionage against Ms. Aristegui, they hold that, although on June 19, 2017, a complaint was filed with the Special Prosecutor's Office for Attention to Crimes Committed against Freedom of Expression, more than four years have elapsed without any substantial progress or any results of said investigation. Similarly, in regard to the break-in and robbery at the Aristegui Noticias facilities, only one of the five people involved has been sentenced for the robbery at the offices, but the identification and location of the other 4 people is still pending.

26. The Mexican State, on its part, claims that the petitioners did not exhaust the appropriate domestic remedies at the time of filing the present petition before the IACHR, nor at the time of its notification to the State. In this sense, it holds that the indirect amparo would not be the ideal remedy through which the alleged victim "could have remedied her claims", this being the ordinary commercial trial, whose second instance judgment became enforceable on June 21, 2018, when the amparo suits filed by the parties were denied.

27. The IACHR has established that the requirement of exhaustion of domestic remedies does not mean that the alleged victims are necessarily forced to exhaust all remedies available to them. Consequently, if the alleged victim raised the issue through one of the valid and adequate alternatives under the domestic legal system and the State had the opportunity to remedy the issue in its jurisdiction, the purpose of the international standard is fulfilled⁶. Likewise, the Inter-American Court has ruled on the suitability of the remedy of amparo to resolve human rights violations⁷.

28. In this case, the IACHR observes that the fundamental object of the petition filed before the IACHR consists of the alleged violation of the right to freedom of expression suffered by Ms. Aristegui in a scenario broadly described in this report, as well as the lack of effective judicial protection to guarantee the exercise of said right. In this sense, the State had the opportunity to rule on the fundamental facts alleged by the alleged victim precisely within the framework of the amparo remedy that she filed, this being a suitable path through which the State could have addressed the situation raised. However, this did not occur, and the judicial authorities opted to reject the indirect amparo action *in limine*. The reasons that led the domestic courts to reject this recourse are assumed and sustained by the Mexican State in the present proceedings before the IACHR, and will be the subject of the analysis conducted by the IACHR at the merits stage of the present case because their assessment would necessarily entail considerations on the merits which go beyond the scope of this report.

29. In this regard, the Inter-American Commission considers that concerning the fundamental purpose of the instant petition, the requirement of exhaustion of domestic remedies was met with the final decision in the amparo proceeding filed by Ms. Aristegui, and therefore the instant petition complies with Article 46.1.a) of the American Convention. Likewise, since this decision was notified to her on August 3, 2015, and the petition was filed with the IACHR on September 30 of that year, it complies with the deadline requirement established in Article 446.1.b) of the American Convention.

30. In accordance with the foregoing considerations, the IACHR considers that the State has not supported the alleged suitability and effectiveness of the ordinary commercial trial, which refers in general to contractual issues between the alleged victim and a commercial company, and not to decide on violations of fundamental rights.

31. Finally, with respect to the State's questioning of the fact that the exhaustion of some remedies directed against other claims presented by the petitioners occurred after the petition was filed, the IACHR reiterates its constant position that "the situation that must be taken into account to establish whether the remedies under domestic jurisdiction have been exhausted is the one which existed when the decision on admissibility was made, since the time of the filing of the complaint and the time of the decision on admissibility are different"⁸.

⁶ IACHR, Report No. 16/18, Petition 884-07. Admissibility. Victoria Piedad Palacios Tejada de Saavedra. Peru. February 24, 2018, para. 12.

⁷ IACHR Court. Case of the Constitutional Court vs. Peru. Merits, Reparations and Costs. Judgment of January 31, 2001. Series C No. 7125. para. 91.

⁸ See, *inter alia*, IACHR. Report 4/15, Admissibility, Petition 582/01, Raúl Rolando Romero Feris, Argentina, January 29, 2015, para. 40.

VII. ANALYSIS OF COLORABLE CLAIM

32. In view of the elements of fact and law presented by the parties and the nature of the matter before it, the Commission considers that the allegations of the petitioner are not manifestly unfounded; and that prima facie they could constitute violations of the rights established in Articles 5 (humane treatment), 8 (fair trial), 13 (freedom of thought and expression), and 25 (judicial protection) of the American Convention, in relation to the general obligation enshrined in its Article 1.1 and 2 to the detriment of Mrs. María del Carmen Aristegui Flores.

33. On the other hand, in regard to the State's allegations concerning the fourth instance formula, the Commission observes that by admitting this petition, it does not intend to supersede the competence of domestic judicial authorities, but will analyze in the merits stage of this petition, whether the domestic judicial proceedings complied with the guarantees of due process and judicial protection in accordance with the rights protected by the Convention⁹.

VIII. DECISION

1. To declare the present petition admissible in regard to Articles 5, 8, 13 and 25 of the American Convention in connection with María del Carmen Aristegui Flores;

2. To notify the parties of this decision; to continue with the analysis on the merits; and to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 11th day of the month of July, 2022. (Signed:) Julissa Mantilla Falcón, President; Stuardo Ralón Orellana, First Vice President; Margarete May Macaulay, Second Vice President; Esmeralda E. Arosemena Bernal de Troitiño, Roberta Clarke, and Carlos Bernal Pulido, Commissioners.

⁹ IACHR, Report No. 77/21. Petition 332-10. Admissibility. Álvaro Castiblanco Delgado, Jhon James Castiblanco Rojas and others. Colombia. March 29, 2021.