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## **REPORT ON ACTIONS ADOPTED BY THE IACHR SINCE AUGUST 2016 TO STRENGTHEN ITS PETITION AND CASE SYSTEM AND REDUCE PROCEDURAL BACKLOG**

Over the past two years, the Inter-American Human Rights Commission has moved to prioritize changes in its case system, with a view to gradually adopting a more timely and effective response mechanism. The IACHR summarizes such measures here, in an account that includes their current implementation stage and the short- and medium-term prospects. Cross-sectionally, it is important to note that the IACHR has taken measures by procedural stage: it started with the review stage and is currently focusing on the admissibility and merits stages. However, as detailed below, some actions do have a general scope and affect all procedural stages.

This report is structured by procedural stage. The IACHR is currently focusing on reducing procedural backlog in the admissibility and merits stages, so this document starts with those and then moves on to the review stage (when the petition is under study) and to friendly settlements. Finally, the report discusses measures that involve two or more procedural stages. For each stage, the document mentions the actions that have already been taken and those that are currently being implemented. All actions were gradually approved in plenary sessions of the IACHR.

All the actions described below—along with the general measures that are also detailed in this document—have delivered important results, although the challenge of procedural backlog persists.

### **1. ADMISSIBILITY - Specific measures for the admissibility stage**

This portfolio currently holds 1,644 petitions.

As a result of the various actions that are detailed below, the IACHR issued in 2017 a total of 120 reports on admissibility (114 admissibility reports and 6 inadmissibility reports), the highest annual figure for such reports in the Commission's history. Compared to the previous year, there was a 167% increase. The IACHR also surpassed by 95% its annual average for the past 10 years and by 45% its previous annual record, set in 2010. Further, with the measures adopted by the IACHR, the admissibility stage portfolio, which held 1,816 petitions in May 2017, is currently down to 1,644, which entails a reduction of almost 10% in a single year.

#### **1.1 ADMISSIBILITY - Changing the format for reports on admissibility**

In the second half of 2016, the Commission decided to implement a significant change in admissibility and inadmissibility reports, to simplify the presentation of relevant elements.

Current admissibility and inadmissibility reports are shorter, barring exceptions; there is no longer a need to repeat certain information, and initial sections regarding procedure and competence issues have been encapsulated into a form. The Commission has also set a maximum length for such reports, four pages, allowing exceptions when necessary.

This move has made the writing, revision, translation and approval of such reports quicker, impacting productivity without hampering the rigor of the analysis of admissibility criteria.

#### **1.2 ADMISSIBILITY - Resolution 1/16**

On October 2016, the IACHR published Resolution 1/16, with which the Commission moved to implement Article 36.3 of the Rules of Procedure—that is, to issue a joint admissibility and merits report—in the following cases: i) petitions filed up to and including 2006; ii) petitions where the State in question has not filed a response during the admissibility stage; iii) petitions where the State in question has stated that it does

not object to admissibility; iv) petitions linked to a precautionary measure that is in force; v) petitions about the application of the death penalty; and vi) petitions that are by their very nature liable to summary decisions based on the application of Commission or Court precedent in identical cases.

Resolution 1/16 is, for such cases, the “reasoned resolution” the Rules require to apply Article 36.3. This measure has allowed a significant number of cases in the admissibility stage to be moved to the merits stage with no need to prepare, translate or consult two separate reports, provided that they meet the requirements spelled out in the resolution.

In 2017, the Processing Unit (see explanation for its creation below) continued the work that the Admissibility Section had started, and Resolution 1/16 has already been applied to 360 petitions. For the remainder of 2018, application of this resolution is expected to decrease significantly, since not many pending petitions meet its requirements.

### **1.3 ADMISSIBILITY - Measures that are in the process of being implemented or are pending implementation**

- Systematic application of general exhaustion and admissibility criteria: Such a measure seeks to ensure the consistent application of the admissibility criteria and to keep standardizing reports with paragraph templates for different scenarios that are available in a systematic format. The IACHR is currently consolidating a draft.
- Continued insistence, as far as possible, on the specialization—by portfolio—of lawyers in this section.
- In October 2016, a funding request proposal to address procedural backlog in the admissibility stage was put to the European Commission. That proposal asked for a contribution of 1 million euros over three years. Those funds would be used to hire a group of 6 lawyers for the Admissibility Section, which would significantly increase the production of admissibility and inadmissibility reports. The most recent information the IACHR has received from this donor is that those funds may become available in the second half of 2018.

## **2. MERITS - Specific measures for the merits stage**

This portfolio currently holds 881 cases.

In 2017, for example, the IACHR adopted 35 merits reports, more than double the number it adopted the previous year, with a 119% increase. The figure also surpassed, by 84%, the average annual number of merits reports adopted over the previous 10 years.

### **2.1 MERITS - Change in the format and methodology of merits reports, to streamline proposal drafts**

In 2017, the Commission consolidated a new merits report format with an average of 20-25 pages (allowing exceptions where necessary), compared to an average of 50-60 pages in the past. This led to: i) a consolidation of certain sections (such as the summary and the proceedings); and ii) a reduction of the Position of the Parties section to its absolute minimum, restricting it to 1-2 pages for each party. Further, in August 2017, the Commission decided that the maximum length of reports should be 20 pages (allowing exceptions where necessary), a determination that is gradually being implemented.

Important changes have also been made to the methodology involved in presenting proven facts, significantly simplifying the presentation of uncontroversial evidence and restricting the need to provide detailed proof to controversial issues. Currently, it is only necessary to put forward the relevant context and domestic normative framework required for analysis. This is an issue that needs to be further debated with the Inter-American Court.

Finally, regarding legal analysis, new report drafts include the normative sources and jurisprudence necessary to ground case analysis, especially for recurring topics. The Commission only continues to engage in more detailed legal analysis of the sources in cases that address new issues.

## **2.2 MERITS - Measures that are in the process of being implemented or are pending implementation**

### **2.2.1 Pilot scheme for automatic decision-making regarding due process in criminal proceedings and in administrative sanctions**

In April 2017, in the context of the approval of the Action Plan, two recurring themes were identified in the Merits portfolio. As a pilot scheme, staff has been assigned to those themes, so they may work exclusively on those to increase production. The themes are due process in criminal proceedings and due process in administrative sanctions.

## **3. REVIEW - Specific measures for the initial review**

Approximately 2,700 petitions are received per year.

No innovative measures have been implemented in the past two years. The last one—the creation of a special group made up of Executive Secretariat staff (the Procedural Backlog Group, known as GAP by its Spanish acronym)—was implemented in 2014, to address chronic backlog in this stage.

With that initiative, the Commission managed to overcome procedural delays in the initial review stage and made decisions on all petitions filed until 2014. The Registry Section currently focuses on undertaking the initial review of petitions within one calendar year of their submission. The IACHR is still administratively making decisions to initiate proceedings both for GAP and for the Registry, and there are approximately 1,100 petitions pending.

### **3.1 REGISTRY - Measures that are in the process of being implemented or are pending implementation**

In line with the Strategic Plan and based on the Special Program for Procedural Backlog's Action Plan adopted in April 2017, the following measures are currently being implemented or will be implemented soon:

- Taking measures to optimize and standardize the information received through the portal of the IACHR's Individual Petition System, which will address the lack of information necessary to decide on whether or not to process a petition and reduce the number of requests for information.
- Applying technological measures to improve and automate the Registry Section's handling of petitions. For example, sending out automated acknowledgments of receipt and enforcing deadlines to automatically drop petitions.

## **4. FRIENDLY SETTLEMENT - Specific measures for the friendly settlement stage**

The Friendly Settlement Section's portfolio holds 119 cases that are in the negotiation stage; 137 cases in the monitoring stage, following published friendly settlement agreements; and 80 expressions of interest or intent to resort to the friendly settlement procedure by one or both parties.

The Commission has considered promoting the friendly settlement mechanism as an alternative pathway to address procedural backlog in the petition and case system. All that has been achieved by holding more work meetings, with the support of Commissioners in negotiations open in the various countries, to reach a record 57 work meetings and five working visits in 2017. Further, the Commission published a practical guide aimed

at facilitating negotiations and agreements and publicized the mechanism through training and promotion efforts.

In January 2017, the IACHR adopted a memorandum on friendly settlement proposals in which it highlighted the need to brace that mechanism through constant contact with the parties, monitor it more closely through letters to request information, strengthen follow-up activities on the ground to increase knowledge of that mechanism, and holding work meetings on matters related to that portfolio. It also established a policy of issuing press releases to announce the approval of friendly settlement reports and the end of monitoring efforts in cases of full compliance with a friendly settlement agreement.

Further, the IACHR broadened the availability of the friendly settlement process to include the review stage. Beyond such efforts, the Friendly Settlement Section launched over the past two years a registry of expressions of intent to resort to this mechanism, submitted by the parties. A total of 152 expressions of intent were received over the past two years (42 in 2016, 97 in 2017 and 12 by March 14, 2018). Of those 152 expressions of intent to seek a friendly settlement, 27 came from States and 115 came from petitioners. In eight cases, both parties expressed such an intent and the procedure was formally launched. Further, of those 152 expressions of intent, 34 were accepted by the other party, 30 were rejected, 80 were still awaiting a response and eight were made jointly by both parties. The Commission launched the use of videoconferences facilitated by the Friendly Settlement Section—with one or both parties—before IACHR work meetings, to informally explore areas for potential agreement.

#### **4.1 FRIENDLY SETTLEMENT - Measures that are in the process of being implemented or are pending implementation**

The following are some of the actions that the IACHR agreed in its Strategic Plan 2017-2021 and in the memorandum on friendly settlement proposals the Commission adopted in January 2017, which either are currently being implemented or will be implemented soon:

- Consolidating the practice of working visits to promote work meetings about friendly settlements and compliance with published friendly settlement agreements.
- Reinforcing the practice of facilitating the friendly settlement process through country rapporteurs, by holding more work meetings.
- Continuing to hold workshops and talks with system users about this mechanism, the hurdles it faces and best practices from countries that are already using the friendly settlement procedure and from countries that do not regularly use it.
- Continuing to provide training and specialist skills to the Friendly Settlement Section and to IACHR staff active in mediation, negotiation and alternative conflict resolution efforts.

### **5. General measures that are applicable to two or more procedural stages**

#### **5.1 Applying consolidation and *per curiam***

##### ***5.1.1 Consolidation***

The Commission has decided to use consolidation more frequently, as long as there is evidence to support the application of Article 29.5 of the Rules of Procedure. In that context, the Commission has been consolidating petitions (in the admissibility stage) and cases (in the merits stage) that have the same normative, institutional or factual context, present similarities between the alleged facts or involve the same people.

This allows the Commission to jointly assess groups of cases that meet the necessary requirements, which helps to gradually reduce procedural backlog.

##### ***5.1.2 Per curiam***

The Commission has decided to identify the options of solving certain cases with reference to prior decisions made by system bodies about identical situations, so it is no longer necessary to carry out a full analysis of the merits that features the same content. This type of decision demands a clear precedent and a factual make-up that leads to the conclusion that the facts are similar to those in the prior case that is going to be used as grounds for the decision.

Portfolios hold petitions related to situations that are substantially identical to others the Commission and/or the Court have already addressed, so using this kind of simplified report—where analysis is limited to citing a previous decision by one or both bodies of the Inter-American system—also helps to overcome procedural backlog.

## **5.2 Creation of an Assistant Executive Secretariat that deals exclusively with precautionary measures, friendly settlements, petitions and cases**

The IACHR's new structure includes an Assistant Executive Secretariat for the Case, Petition and Precautionary Measure System that prioritizes the petition and case system, friendly settlements and precautionary measures. The main innovations in this area are: strengthening the Precautionary Measure Section and integrating it into the case system team; creating a Processing Unit, in line with Program 1 of the Strategic Plan, the Special Program to Reduce Procedural Backlog; strengthening the Friendly Settlement Section with full-time coordination staff, in line with Program 2. The fact that one of the IACHR's two Assistant Executive Secretariats is devoted exclusively to this issue shows how important the case system and reducing procedural backlog are for the Strategic Plan.

Further, in line with the Strategic Plan, efforts to monitor IACHR recommendations have been strengthened cross-sectionally, throughout the Commission's work. Follow-up is set to be developed through programs and actions that promote a comprehensive implementation of recommendations, in coordination with State authorities.

## **5.3 Creation and launch of the Processing Unit**

In February 2017, the Strategic Plan provided for the creation of a Processing Unit to carry out all of the administrative and procedural work that was at the time done by lawyers in the Registry, Admissibility and Case Sections. Such a unit was indeed launched in September 2017, with the adoption of a new Executive Secretariat structure. In September-October 2017, there was a transition period in which the profiles of all team members were updated on the IACHR system, so they could all carry out their new tasks. The Processing Unit took on the administrative and procedural tasks related to petitions and cases in the review, admissibility and merits stages and processing in friendly settlement procedures.

The goal of creating the Processing Unit was to establish conditions so that legal staff in that area—who previously devoted a significant portion of their time to processing tasks—could focus mostly on assessing petitions and writing up report drafts, rather than on administrative or procedural tasks.

Beyond regular processing in connection with petitions and cases, the Processing Unit's main administrative and procedural tasks since its creation include: i) applying Resolution 1/16; ii) applying the IACHR's policy to archive files; iii) holding meetings to review portfolios with States; and iv) notifying the parties that proceedings are being launched.

Regarding iv), notifying the parties that proceedings are being launched, the unit has notified the start of proceedings for 192 petitions since September 2017. However, despite the large number of petitions it notified in 2016 and 2017, notification remains pending for approximately 1,100 decisions to launch proceedings that have already been adopted by the Procedural Backlog Group (GAP) and by the Registry Section.

#### 5.4 Applying the policy to archive a file, making methodological changes and reducing the inactivity period to four years

Article 42 of the Commission's Rules of Procedure says that a petition or case may be archived, after issuing a warning to the petitioning party, when:

(...)

- b) the unjustified procedural inactivity of the petitioner constitutes a serious indication of lack of interest in the processing of [a] petition.

The Commission had established that five years of inactivity by the petitioning party was a serious indication of lack of interest in the regulations. Further, the Commission decided not to issue individual reports on its decisions to archive a file in each case, but rather to publish an annual list of petitions and cases that have been archived because they had been inactive for a certain period of time or because the petitioning party has withdrawn them.

The implementation of this archiving policy not only simplifies such decisions but also allows the Commission to focus its efforts on active petitions and cases where it is clear that the petitioning party is interested in pursuing their claims.

In a press release on procedural backlog issued in October 2016, the IACHR notified the public that the inactivity period would be reduced to **four years**.

The Commission continued to carry out periodic reviews of its admissibility, merits and friendly settlement portfolios, to identify petitions and cases that might be archived. Since its creation, the Processing Unit has consulted the IACHR about archiving 109 petitions and cases.

#### 5.5 Technological development

Technological progress is very important for the Commission, to support the work of many users of its individual petition system and to ensure access to information for both petitioners and States. With the support of its Technology and Systems Unit, the Commission has been able to take important steps to make the individual case system more efficient, effective and receptive for users. The IACHR hired a senior professional programmer to work exclusively on developing such improvements.

The Technology and Systems Unit assessed, designed, developed and implemented various systems that contribute to the Commission's work by electronically gathering information about the inquiries and requests that the IACHR publishes on several issues, so we have a systematic point of entry to receive information and obtain management reports.

Further, work is ongoing to establish the requirements of a project to redesign IACHR systems (DMS and PCMS), a large-scale effort to incorporate improvements and innovations that enable the Executive Secretariat to automatically handle documents and petitions, cases, precautionary measures and Court matters.

The Executive Secretariat asked the Technology and Systems Unit to plan and implement a Comprehensive Digital Restructuring Plan compatible with the IACHR's new organizational structure, in terms of its data and digital storage systems. Following a preliminary diagnosis, a need was established for updates and changes to the Document Management System (DMS), the Petitions and Cases Management System (PCMS), the digital data storage systems (G Drive, I Drive and Public Folder) and institutional email accounts to send information to IACHR users. These update and improvement plans to securely share internal information within the IACHR, in line with its current organizational structure, have been successfully implemented.

The 167th Period of Sessions was the first of its kind with innovations including digitalized documents, to improve the flow of electronic information for the Commission. It also featured portable equipment with all the relevant data concerning hearings and sessions, which previously required large amounts of paper.

With a view to making better use of ICT solutions to increase productivity, reduce manual labor costs and staff time on manual tasks and also to increase the Commission's sustainability and support its work, the Technology and Systems Unit is currently assessing the technical requirements and engaging in technological consultancy to evaluate the potential implementation of a Recommendation Monitoring System (SIMORE, by its Spanish acronym) within the institution. The goal is to be able to integrate work processes at a strategic, tactical and operational level, so anyone approaching the IACHR may use that tool. SIMORE is expected to hold major benefits for the Inter-American Human Rights System's recommendation monitoring process.