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REPORT No. 31/15

CASE 10.522

REPORT ON ADMISSIBILITY

JUAN FERNÁNDO PORRAS MARTÍNEZ
COLOMBIA

Approved by the Commission at its 2035 session held on July 22, 2015 at its 155th Period of Session.

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REPORT No. 31/15
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ADMISSIBILITY REPORT
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I. SUMMARY

1. On March 2, 1990, the Inter-American Commission on Human Rights (hereinafter, “the Commission” or “the IACHR”) received information via a note dated February 14 of that year, sent by the *Corporación Colectivo de Abogados*, and subsequently, by the *Comité de Solidaridad con los Presos Políticos* (hereinafter, “the petitioners”),¹ regarding the alleged responsibility of the Republic of Colombia (hereinafter, “the State” or “Colombia”) for the forced disappearance and torture of Juan Fernando Porras Martínez (hereinafter, “the alleged victim”), which purportedly occurred on February 5, 1990 in the Department of Santander. The petitioners allege that the State is responsible for the violation of articles 3, 4, 5, 7, 8, and 25 of the American Convention on Human Rights (hereinafter, “the Convention” or “the American Convention”), as well as certain provisions of the Inter-American Convention on Forced Disappearance of Persons and the Inter-American Convention to Prevent and Punish Torture.

2. The State contends that the IACHR should declare this petition inadmissible given that the facts presented therein do not constitute violations of human rights enshrined in the American Convention and other international conventions specified by the petitioners, inasmuch as such facts alleged have not been substantiated. Even though the State first contended that domestic remedies had been duly exhausted, it subsequently alleged that their exhaustion was still pending, and that, were the IACHR to admit the petition, it would be acting as a fourth instance.

3. Having analyzed the positions of the parties and fulfillment of the requirements provided for under articles 46 and 47 of the American Convention, the Commission decided to declare the petition admissible for purposes of reviewing the alleged violation of articles 3, 4, 5, 7, 8, and 25 of the American Convention in connection with article 1.1 thereof. Furthermore, the Commission considers that the possible application of article 1.b of the Inter-American Convention on Forced Disappearance of Persons and article 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture should be analyzed in the merits stage of the proceedings. Finally, the IACHR decided to notify the parties of the report and order its publication in its Annual Report to the General Assembly of the Organization of American States (OAS).

II. PROCEEDINGS BEFORE THE COMMISSION

4. On March 2, 1990, the IACHR received information from the petitioners regarding the alleged victim’s forced disappearance and assigned it case number 10.522. On March 5, 1990, the IACHR requested information from the State, in addition to requesting further information from the petitioners. On September 17, 1990, the Commission reiterated to the State its request for information, which was received by the Commission on September 20, 1990. Subsequently, the IACHR forwarded each one of the observations sent by both parties, according them statutory deadlines to submit additional observations, as well as extensions, when these were requested.

5. The IACHR received additional observations from the petitioners on December 3, 1990, March 18, 1994, July 13, 2009, and September 25, 2014.

¹ On December 14, 1990, the IACHR was informed that the *Corporación Colectivo de Abogados* had agreed that henceforth the *Comité de Solidaridad con los Presos Políticos* would be representing the alleged victim.

6. The IACHR also received additional observations from the Colombian State on October 12, 1990, January 17, 1991, September 24, 1991, May 23, 1997, October 8, 2001, September 18, 2002, June 10, 2009, May 7, 2014, and April 24, 2015.

III. THE POSITIONS OF THE PARTIES

A. The position of the petitioners

7. The petitioners have alleged that the facts in this case do not represent an isolated incident; rather, that they are part of a series of crimes committed by members of Colombia's armed forces. They allege that the practice of forced disappearances had been part of "national security" policy since the 1970s and was systematically adopted by the State as a mechanism of repression against insurgents and political opposition groups. Furthermore, they claim that according to the report, "Colombia Nunca Más" ["Colombia Never Again"], towards the end of the 1980s and beginning of the 1990s there was a marked increase in the budget allocated to establish "mobile brigades," which acted in tandem with paramilitary groups. According to the petitioners, mobile brigades were counter-insurgency units that were established in the wake of the failed peace negotiations with insurgent groups and used strategies to sow both physical and psychological terror. These military units' concept of "the enemy" was extremely broad, including not only insurgents, but also community and political leaders.

8. The petitioners offered information on the context and specific situation in the San Vicente de Chucurí region regarding the violence, paramilitary groups' presence, and the army's actions since 1982. They provided information that explained how, as of the 1990s, the paramilitary groups positioning and army counterinsurgency operations had intensified considerably in the Municipality of San Vicente de Chucurí. In particular, they underscored that the abovementioned report, "Colombia Nunca Más," provides an accounting of the Fifth Brigade's activities in that municipality and specified that this was the context in which the facts in this case unfolded.

9. Indeed, in the petitioner's initial submission of March 2, 1990, they informed the Commission that Juan Fernando Porras Martínez had disappeared on February 5, 1990, at 6:45 pm, in the city of Bucaramanga, when conducting personal business on avenue 33 and street 51. In that submission, they reported that his family had looked for him in hospitals, the morgue, law enforcement agencies, and jails, but to no avail. They further reported that the alleged victim had been a student at the Industrial University of Santander's School of Medicine and had been a political prisoner, which is why they feared for his life. The petitioners added that on February 12, 1990, the insurgent organization "Unión Camilista Ejército de Liberación Nacional (UCELN)"—to which the alleged victim belonged—had issued a communiqué in which it stated that on the day Juan Fernando Porras Martínez allegedly disappeared he had been detained by the Army's Fifth Brigade and that the statement by the alleged victim's partner had corroborated this information. The petitioners asserted that State agents had detained and disappeared the alleged victim, employing the *modus operandi* according to which the detention is not formally recorded, precisely for purposes of not leaving a trace of the victim and ensuring that the perpetrators go unpunished.

10. According to the petitioners, on February 23, 1990, a priest and residents from the San Vicente de Chucurí area found the alleged victim's lifeless body, which showed clear signs of torture. They allege that Juan Fernando Porras Martínez was murdered within five days of his detention/disappearance and his body's discovery was reported by several local media outlets. In this regard, the petitioners provided witness evidence from individuals who saw the remains and identified them as the alleged victim. They further allege that although the forensic postmortem fingerprinting report was negative, the allegations of torture included burning the victim's fingers.

11. Furthermore, they indicated that as part of the investigation conducted by the Office of Special Investigations of the Prosecutor General's Office, there was evidence gathered, such as statements and recordings, which corroborated the petitioners' allegations. Specifically, they stated that there is a recording of a radiotelephone call from the Colombian army, with its respective transcription, in which the order was given to "detain, disappear, and assassinate members of the UCELN, as well as license plate numbers that

identify vehicles in which the victim was taken. However, this evidence has been removed from the Prosecutor's Office.

12. Additionally, the petitioners contend that they had no access to the body of evidence that had been gathered during the aforementioned investigation conducted by the Office of Special Investigations of the Prosecutors Office, as this is in the State's possession and their requests for information had been denied. Indeed, in 2007, they formally requested copies from the Prosecutor's Office of the disciplinary proceedings that took place regarding the alleged victim's purported disappearance. The response they had received on March 2 of that year stated that "pursuant to Deletion Record No. 001, said proceedings were purged and deleted."

13. Finally, in September 2014, the petitioners reported that in the framework of the criminal proceedings initiated in 1990, the National Unit of Specialized Prosecutors' Offices on Forced Disappearance and Displacement had, in an official letter dated July 14, 2014, responded to a request for information filed in domestic court by the petitioners in March of that year. The Unit reported that the criminal investigation was at a "preliminary stage of finding out who the perpetrators were" and that tests were being conducted. Furthermore, they were informed that the last of the tests had been ordered on May 21, 2014, "but thus far the perpetrators of the disappearance had not been found." In this regard the petitioners stated that "they knew nothing about the tests referred to in the recent response from the Prosecutor's Office".

B. The State

14. In its observations regarding admissibility of this case, the State explained that there were two main domestic proceedings for discovering the alleged victim's whereabouts and punishing those responsible for his purported disappearance—one administrative, the other criminal.

15. With regard to the administrative proceedings (on occasions referred to by the State as "disciplinary") the State reported that such proceedings were initially led up by the Judicial Police of the Office of Special Investigations of the Prosecutor General's Office. The Judicial Police had opened preliminary inquiry No. 0327/90 in order to investigate the alleged victim's purported disappearance in the city of Bucaramanga. According to the State, as of October 11, 1990, three commissions or working groups charged with investigating his whereabouts and alleged disappearance had been sent. Concomitantly, a commission of officials from the Office of Special Investigations had gone to the Municipality of San Vicente de Chucurí in February 1990 to identify a corpse found in the outskirts of that town. According to the State, the corresponding tests determined "without a doubt" that it was not Juan Fernando Porras Martínez's body.

16. Additionally, the State reported on December 22, 1993, that the Prosecutor General's Office had, for reasons of jurisdiction, referred the proceedings to the Santander Departmental Prosecutor's Office, which had, in turn, provided on February 16, 1994, that the case fell under the jurisdiction of the Bucaramanga Metropolitan Prosecutor's Office (known at that time as the "Bucaramanga Provincial Prosecutor's Office"). The latter opened disciplinary investigation No. 138-00991, which was assigned "to a Visiting Attorney" [sic] as of March 4, 1994. As a further investigative measure, a "judicial inspection" of the parking lot of the National Army's Fifth Brigade was conducted in order to verify the license plates of the automobiles that were there and compare them to the vehicles that purportedly were involved in the investigation [sic]. The State affirmed that "subsequent to a thorough investigation, the Examining Attorney informed the Office that it had been impossible to determine administrative disciplinary responsibility," which led to the investigation being closed on January 31, 1995. The State pointed out that this "means that no evidence was found to show State agents' responsibility for the facts denounced before the Honorable Commission."

17. The State also reported that with regard to criminal proceedings, on February 21, 1990, the Bucaramanga Assistant Prosecutor's Office for the Defense of Human Rights "certified copies" to the Court of Criminal Inquiry so the corresponding criminal investigation could be initiated. Thereafter, the Section Director for Criminal Inquiry filed a criminal complaint regarding the alleged victim's disappearance. The State further reported that on May 8, 1990, "the investigation's suspension" was ordered "inasmuch as it had

not been possible to identify the perpetrators of these acts.” On May 15 of that year, the case was referred to the Bucaramanga Preliminary Inquiries Unit. According to the State, this Unit took some additional steps, such as taking witness statements from the alleged victim’s relatives. Finally, on March 27, 1992, two years after the investigation was opened, and without having identified the perpetrators, the Fifth Court for Criminal Inquiry decided to close the investigation.

18. The State added that the petitioners had not shown that the alleged victim had been deprived of his liberty at all, or that there had been a practice of forced disappearances in Colombia at that time which was tolerated or promoted by the State. In that sense, the State concluded that despite the diligent investigation conducted, there was no evidence proving that the alleged victim had been deprived of his liberty or that State agents, or individuals acting with the acquiescence or support of the State, had participated in Juan Fernando Porras Martínez’s disappearance. To the contrary, the State held that this dearth of evidence would seem to indicate that this is a case of “voluntary disappearance.”

19. Furthermore, the State reported on March 15, 2007, that the Prosecutor’s Office considered that “there were no legal grounds (new evidence) that justified the reopening of the investigation.” However, in the last observations sent to the IACHR, the State pointed out that the criminal investigation was reopened in 2009 and that, as part of that case, investigative steps were being taken to shed light on the facts of this case.

IV. LEGAL ANALYSIS

A. Competence

20. Petitioners are authorized under article 44 of the American Convention to submit petitions to the Commission. The alleged victim is a natural person with respect to whom the State committed to respecting and ensuring the rights enshrined in the American Convention, the Inter-American Convention on Forced Disappearance of Persons, and the Inter-American Convention to Prevent and Punish Torture. With regard to the State, the Commission notes that Colombia has been a State party to the American Convention since July 31, 1973, the Inter-American Convention to Prevent and Punish Torture since December 2, 1998, and the Inter-American Convention on Forced Disappearance of Persons since April 12, 2005, the dates when, respectively, it deposited its instruments of ratification. Therefore, the Commission is competent *ratione personae* to review the petition.

21. Furthermore, the Commission is competent *ratione temporis* inasmuch as the obligation to respect and ensure the rights protected under the American Convention was in force for the State on the date on which the facts alleged in the petition occurred. The IACHR notes that the Inter-American Convention to Prevent and Punish Torture entered into force for Colombia on December 2, 1998, and the Inter-American Convention on Forced Disappearance of Persons, on April 1, 2005. Therefore, the IACHR is competent *ratione temporis* to analyze the facts of the case under these legal instruments only as of the respective dates.

22. The Commission is competent *ratione loci* to hear the petition inasmuch as it alleges violation of rights protected under the American Convention that purportedly took place under the jurisdiction of Colombia, a State party to that instrument.

23. Finally, the Commission is competent *ratione materiae*, because the petition reports potential violation of human rights protected under the American Convention, as well as—within the time restrictions set forth in this section—the Inter-American Convention on Forced Disappearance of Persons and the Inter-American Convention to Prevent and Punish Torture.

B. Admissibility requirements

1. Exhaustion of domestic remedies

24. Article 46.1.a of the Convention provides that to determine admissibility of a petition or submission presented to the IACHR, it is necessary for domestic remedies to have been filed and exhausted, in keeping with generally recognized principles of international law.

25. To begin with, therefore, it must be clarified which domestic remedies need to be exhausted in the instant case for the petition to be admitted. The Commission notes that the subject of this petition refers to Juan Fernando Porras Martínez's alleged forced disappearance, torture, and murder, as well as the investigation of such alleged facts. The precedents established by the Commission provide that, when a publicly actionable offense is alleged to have been committed, the State has the obligation to institute criminal proceedings and pursue them to their conclusion, and that those proceedings are the suitable means to clarify the facts, to try those responsible, and to establish appropriate criminal penalties, in addition to enabling other forms of financial reparation.² Therefore, given that the facts alleged by the petitioners are crimes prosecutable *ex officio*, the domestic proceeding to be exhausted in this case is a criminal investigation to be led and conducted by the State itself.

26. The Commission notes that throughout the processing of the case, the State offered an array of arguments regarding the requirement for prior exhaustion of domestic remedies, which are listed below.

27. Firstly, the State specified that when authorities became aware of what had allegedly happened to Juan Fernando Porras Martínez—15 days after the facts occurred—they “immediately” filed a report of his disappearance. As part of the steps taken in relation to said report, investigators purportedly made some inquiries and gathered evidence, but always came up with nothing. Furthermore, the State contended that it had examined and conducted forensic testing on a corpse found in the Department of Santander, but had concluded it was not the alleged victim. The State then indicated that given all the foregoing evidence, and in keeping with the domestic provisions of law in force at that time, on March 27, 1992, Bucaramanga's Fifth Court of Criminal Inquiry ruled that it declined to continue its preliminary investigation and ordered the case to be archived.

28. According to the State, such a procedural decision “is a decision that has the force of *res judicata*, without actually becoming *res judicata*” (sic), which is why the decision would put an end to the inquiry only “temporarily”. Indeed, although the decision was final, it could be reversed of legal authorities' own motion or upon request of the plaintiff or complainant, provided that new evidence was found so as to nullify the grounds based on which it was issued. Along these same lines, the State reported that on March 15, 2007, the Prosecutor's Office decided that “there were no legal grounds (new evidence) that justified reopening the investigation.”³ Based thereon, in its observations sent on June 10, 2009, the State requested that the IACHR:

Declare, pursuant to article 46(1)(a) of the American Convention, that until such time as the Fifth Court of Criminal Inquiry's decision to abstain [*resolución inhibitoria*] is overturned by a competent body, internal remedies are considered to have been exhausted with regard to the events that befell Mr. Juan Fernando Porras on February 5, 1990.⁴

² IACHR, Report No. 99/14, Petition 446-09. Admissibility. Luis Alberto Rojas Marín. Peru. November 6, 2014, para. 44; IACHR, Report No. 48/14, Petition 11.641. Admissibility. Pedro Julio Movilla Galarcio. Colombia. July 21, 2014, para. 31; IACHR, Report No. 21/14. Petition 525-07. Admissibility. Baptiste Willer and Frédo Guirant. Haiti. April 4, 2014, para. 20; IACHR, Report No. 38/13; Petition 65-04, Admissibility, Jorge Adolfo Freyter Romero et al., Colombia, July 11, 2013, para. 32; IACHR, Report No. 144/10, Petition 1579-07, Admissibility, Residents of the Village of Chichupac and Hamlet of Xeabaj of the Municipality of Rabinal, Guatemala, November 1, 2010, para. 50.

³ Ministry of Foreign Relations, Note DDH.GOI No. 26.352/1375, June 8, 2009, received by the Executive Secretariat of the IACHR, June 10, 2009, p. 4.

⁴ Ministry of Foreign Relations, Note DDH.GOI No. 26.352/1375, June 8, 2009, received by the Executive Secretariat of the IACHR, June 10, 2009, p. 18.

29. In its observations sent on May 7, 2014,⁵ the State reiterated this argument, affirming that there was no information in the relevant parts of the additional observations petitioners had sent that questioned the legal arguments it had laid out in its prior submission.⁶

30. Nevertheless, in observations sent to the IACHR on April 24, 2015, the State changed its stance, asserting that in 2009 it had “reactivated” the criminal investigation. It also listed some steps that had taken place as part of the “reactivated” criminal investigation, pointing out that “it showed investigative work characterized by due diligence.” Therefore, the State concluded “it is obvious that the appropriate and effective remedy has yet to be exhausted” and, thus, resorting to international justice was unfounded.⁷

31. The State added that the petitioners’ had shown a “lack of interest” in resorting to the domestic bodies established by law, since they had not brought a civil action as part of the ordinary criminal proceedings for the alleged violation of their clients’ rights.

32. The State further added that the petitioners had not filed proceedings in administrative court to declare the State’s responsibility. In that regard, it specified that, among the remedies the Colombian legal system offers, any person who believes he or she has suffered harm as a result of the State’s action or omission, may demand redress in administrative court. Thus, the State explained, “in those cases in which the State’s responsibility is proven, the administrative court judge orders comprehensive redress for the harm caused.”⁸ In light of this, the State alleges that the petitioners’ claims for damages may not be a matter for review by the IACHR, inasmuch as they do not fulfill the requirement for prior exhaustion of internal remedies.⁹

33. Additionally, the State contended that the administrative investigation had been diligently conducted, “which is why the formula of the fourth instance is applicable in that regard.” Indeed, despite all the inquiries undertaken, the investigation had not yielded any results that could establish direct ties to State agents “since the requirements to open a formal investigation against a specific person were not met.”

34. In order to determine whether this petition complies with the requirement for prior exhaustion of domestic remedies, the Commission will refer to each one of the arguments presented by the State, as set forth below.

35. Firstly, this Commission has already ruled in previous cases on the implications of the State changing its position during proceedings before the IACHR on the requirement for prior exhaustion of domestic remedies. The IACHR has consistently held that by virtue of the principle of *estoppel*, the State may not ignore what it has already argued in prior submissions, and thus, cannot first maintain that domestic remedies are exhausted and then assert the contrary. Indeed, such conduct falls under the doctrine of ‘one’s own acts’ [*doctrina de los actos propios*], generally summed up in this Commission’s case law by the Latin expression “*non concedit venire contra factum proprium*.”¹⁰ What is more, the IACHR notes that the State did not report the criminal investigation had been reopened—which took place in 2009—until 2015. Indeed, in

⁵ National Agency for Legal Defense of the State, Case No. 20145010026681-GDI, May 6, 2014, received by the Executive Secretariat of the IACHR on May 7, 2014, para. 8.

⁶ Ministry of Foreign Relations, Note DDH.GOI No. 26.352/1375, June 8, 2009, received by the Executive Secretariat of the IACHR on June 10, 2009.

⁷ National Agency for Legal Defense of the State, Case No. 20155010040291-GDI, April 21, 2015, received by the Executive Secretariat of the IACHR on April 24, 2015, para. 26-33.

⁸ National Agency for Legal Defense of the State, Case No. 20155010040291-GDI, April 21, 2015, received by the Executive Secretariat of the IACHR on April 24, 2015, para. 35.

⁹ National Agency for Legal Defense of the State, Case No. 20155010040291-GDI, April 21, 2015, received by the Executive Secretariat of the IACHR on April 24, 2015, para. 38.

¹⁰ IACHR, Report No. 6/98, Case 10.382, Ernesto Máximo Rodríguez, Argentina, February 21, 1998, para. 39; IACHR, Report No. 39/97, Case 11.233, Martín Javier Roca Casas, Peru, February 19, 1998, para. 57.

its submission of 2014, five years after the investigation had been reopened, it did not reveal this; rather it requested that the Commission, referring to its prior submission, declare domestic remedies to have been exhausted, and deny the petition's admissibility for failing to contain facts that constitute violations of the American Convention.

36. Secondly, with respect to the petitioners' alleged "lack of interest" for failing to bring a civil action as part of the ordinary criminal proceedings, the IACHR reiterates what it has previously set forth in other cases in this regard; namely that, in those procedural systems in which the victims or their family may have standing to bring a civil action as part of the criminal proceedings, the exercise thereof is not mandatory, rather optional, and in no way is a substitute for the State's actions.¹¹ In other words, failure to have used these legal actions that are supplementary or auxiliary to criminal proceedings that the State is responsible for handling does not affect the analysis of whether the requirement for prior exhaustion of domestic remedies has been met.

37. Finally, regarding the argument of the supposed "fourth instance" that would apply to the State's case in domestic administrative proceedings and with regard to the State's argument that "the petitioner's claims for damages cannot be analyzed by the IACHR" given their failure to exhaust a domestic suit for damages, the IACHR reiterates that the adequate remedy to exhaust in this case is the criminal investigation. Any other proceedings that may have gone forward in domestic courts may be subject to the Commission's review to the extent that violations of the American convention took place while they unfolded.

38. Notwithstanding the foregoing, it is noteworthy that to date more than 25 years have gone by since the facts occurred without the competent authorities having been able to determine the alleged victim's whereabouts or those of his remains, or shed light on the respective responsibilities. This situation came about subsequent to the criminal investigation being archived in 1992, with no action undertaken on the part of judicial authorities until 17 years later, when in 2009 the investigation was reopened. In this regard, although the IACHR commends the decision to reopen the domestic investigation, the State has not presented any information to show the existence of significant progress, even though more than 5 years have already elapsed since the reopening of the case. Therefore, the Commission understands that under these circumstances the exception to the rule of prior exhaustion of domestic remedies is merited for the unwarranted delay provided for under article 46.2.c of the American Convention. As a result, the requirement for exhaustion of domestic remedies is not applicable for this petition.

2. Deadline for submitting the petition

39. The American Convention stipulates that for a petition to be admissible before the Commission it must be submitted with six months after the date on which the person presumably harmed has been notified of the final decision that puts an end to domestic remedies.

40. In the case under review, the IACHR has established that the exception to the exhaustion of domestic remedies provided for under article 46.2.c of the American Convention applies. In such cases, and in keeping with article 32.2 of its Rules of Procedure, the Commission must decide whether the petition was submitted in a reasonable period of time. Specifically, the original petition that gave rise to this case was received by the IACHR on March 2, 1990, a few days after the facts under review occurred.

41. Given the foregoing considerations, the Commission concludes that this petition is admissible under the terms of article 46.1.b of the American Convention.

¹¹ IACHR, Report No. 52/97, Case 11.218. Merits. Arges Sequeira Mangas, Nicaragua, 1997 Annual Report of the IACHR, para. 97. *Likewise see:* IACHR, Report No. 99/14, Petition 446-09. Admissibility. Luis Alberto Rojas Marín. Peru. November 6, 2014, para. 44; IACHR, Report No. 43/13. Petition 171-06. Admissibility. Y.G.S.A. Ecuador. July 11, 2013, para. 30; IACHR, Report No. 1/11, Admissibility, Saúl Filormo Cañar Pauta. Ecuador. January 4, 2011, para. 30; IACHR, Report No. 2/10. Petition 1011-03. Admissibility. Fredy Marcelo Núñez Naranjo et al. Ecuador. March 15, 2010, para. 31.

3. Duplication of international proceedings and *res judicata*

42. The petition’s file contains no information that could lead one to conclude that this matter is pending under any international settlement proceedings or reproduces a petition already reviewed by the Commission or any other international body. Therefore, the requirements set forth in articles 46.1.c and 47.d of the Convention are considered to have been fulfilled.

4. Characterization of the facts alleged

43. In view of the evidence of fact and law submitted by the parties and the nature of the matter under review by the IACHR, the Commission considers that the petitioners’ arguments, were they to be proven, may show the Colombian State’s international responsibility for violation of articles 3, 4, 5, 7, 8, and 25 of the American Convention, all of them in relation to article 1.1 thereof, to the detriment of Juan Fernando Porras Martínez. Furthermore, they may constitute violations of the rights enshrined in articles 5, 8, and 25 to the detriment of Mr. Porras Martínez’s family. Additionally, given the alleged violations contained in this petition—which includes alleged forced disappearance, acts of torture, and failure of legal authorities to shed light on these facts—the Commission considers that it is fitting during the merits stage to analyze the possible applicability of article 1.b of the Inter-American Convention on Forced Disappearance of Persons, and articles 1 and 8 of the Inter-American Convention to Prevent and Punish Torture, as well as the conditions under which these legal instruments are enforceable in light of the time restrictions set forth in this report.

V. CONCLUSIONS

44. Based on the legal and factual arguments developed, and without prejudging the merits of this matter, the Commission concludes that this case fulfills the requirements for admissibility provided for under articles 46 and 47 of the American Convention, and therefore:

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES TO:

1. Declare this petition admissible for review with regard to articles 3, 4, 5, 7, 8, and 25 of the American Convention in relation to article 1.1 thereof; article 1.b of the Inter-American Convention on Forced Disappearance of Persons; and articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture in the terms set forth in this report.
2. Notify the State and the petitioner of this decision.
3. Begin proceedings regarding the merits of this matter.
4. Publish this decision and include it in its Annual Report to be presented to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 22nd day of the month of July, 2015. (Signed): Rose-Marie Belle Antoine, President; James L. Cavallaro, First Vice President; José de Jesús Orozco Henríquez, Second Vice President; Felipe González, Rosa María Ortiz, Tracy Robinson and Paulo Vannuchi, Commissioners.