

REPORT N° 27/99
CASE 11.697
RAMÓN MAURICIO GARCÍA-PRIETO GIRALT
EL SALVADOR
March 9, 1999

I. SUMMARY

1. On 22 October 1996, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a communication from the Center for Justice and International Law (CEJIL) (hereinafter "the petitioners") reporting the arbitrary execution of Mr. Ramón Mauricio García-Prieto Giralt (hereinafter also referred to as "the victim") in the city of San Salvador on 10 June 1994. According to the petitioners, the crime was committed by three armed men suspected of having ties to the Salvadorian armed forces. The complaint also described threats and intimidation suffered by the victim's parents, wife, and lawyers.

2. The petitioners allege that, with this incident, the Republic of El Salvador (hereinafter "El Salvador," "the Salvadorian State," or "the State") has violated the following rights enshrined in the American Convention on Human Rights (hereinafter "the Convention"): the right to life (Article 4), the right to humane treatment (Article 5), the right to personal liberty and security (Article 7(1), the right to judicial protection (Article 25), and the right to a fair trial (Article 8), all in conjunction with Article 1(1) of the same instrument, which establishes the obligation of ensuring and respecting the rights enshrined therein. As regards admissibility, the petitioners claim their complaint is admissible under the exceptions provided for in Article 46 of the Convention, in that the judicial remedies have been neither effective nor adequate in protecting the violated rights and in that there have been delays in the investigation.

3. The State alleges, *inter alia*, that the murder of Ramón Mauricio García-Prieto was the work of common criminals, that the alleged incidents are in no way related, and that they are not connected to Ramón Mauricio's killing. The State has made no objection asserting the nonexhaustion of domestic remedies; instead, it maintains that the procedural steps required by law were followed, that one of the guilty was sentenced to 30 years in prison, and that another of the suspects was recently arrested and placed in preventive custody. As regards the precautionary measures requested by the Commission, it claims to have complied with them.

4. In this report, the Commission resolves to declare the petition admissible pursuant to the terms of Article 46 of the Convention.

II. PROCEEDINGS BEFORE THE COMMISSION

5. On 22 October 1996, the Commission received the corresponding complaint; in this, in addition to describing the incidents believed to constitute violations of the Convention, the petitioners requested, *inter alia*, the adoption of precautionary measures. On 7 November of that year, the complaint was transmitted to the State and the State was asked to provide information relating to the petitioners' allegations. The State replied on 5 March 1997. On 29 May 1997,¹ the petitioners submitted their comments on the State's reply and repeated their request for precautionary measures made along with the complaint.

6. On 17 June 1997, in accordance with Article 29 of its Regulations, the Commission asked the Salvadorian State to adopt the precautionary measures necessary to protect the life, liberty, and person of Messrs. Mauricio García-Prieto Hillerman, Gloria Giralt de García-Prieto, and Carmen de García-Prieto, and of the lawyers and witnesses related to the investigation and trial of Ramón Mauricio García-Prieto Giralt's murderers.

7. On 4 September 1997, the State reported on the precautionary measures adopted in response to the Commission's request.²

¹ See page 359.

² See page 480

8. On 7 October 1997, during its 97th session, the Commission received the parties at a hearing and recommended that they meet to agree on the kind of precautionary measures to be granted to the petitioners by the State.

9. On 14 January 1998, the State submitted a document signed by officers of the National Civil Police (PNC) and Mr. Ramón Mauricio García Prieto-Giralt's family in connection with the precautionary measures recommended by the Commission.

10. On 14 January 1998, the petitioners submitted additional information on developments in the case and on the precautionary measures adopted after the Commission made its request; they also expressed their dissatisfaction with those measures.³

11. On 2 February 1998, the State reported that it had captured and placed in preventive custody the second physical perpetrator of the crime, Julio Ismael Díaz Ortiz, who had been recognized by Ramón Mauricio's widow at an identity parade.⁴

12. On 26 June 1998, the Government sent its final comments on the petitioners' observations. It once again reported the preventive arrest of Julio Ismael Díaz Ortiz and also reported that the security and protection plan for the García-Prieto family had been put into place on 6 February 1998.⁵

13. On 6 October 1998, a further hearing was held during the Commission's 100th regular session; the parties once again submitted their different points of view on the case. The State invoked the effectiveness of the domestic remedies and of the precautionary measures adopted, while the petitioners claimed that those remedies and measures had been ineffective. During the session, the Commission asked the Salvadorian State to submit information on the measures adopted and, at the same time, asked the petitioners to provide information on their effectiveness.

14. On 19 October 1998, the State submitted the information requested and, among the different documents enclosed, sent the protection plan adopted for protecting the García-Prieto family and their lawyers. The State reported that nine officers of the National Police and three extra officers from the VIP Protection Division had been assigned to provide protection and that their activities were being coordinated by a PNC officer. It also submitted copies of court documents related to Julio Ismael Ortiz Díaz's arrest.

III. POSITIONS OF THE PARTIES

A. The petitioners

15. The petitioners allege, *inter alia*, that on 10 June 1994, Mr. Ramón Mauricio García-Prieto Giralt, the son of Mr. Mauricio García-Prieto Hillerman, was murdered in the city of San Salvador. At the time, the victim was with his wife and was carrying his five-month-old son. The slaying was carried out by a group of unidentified individuals who were wearing some items of military-style clothing and had their faces covered.

16. The petitioners allege that the murder of Ramón Mauricio García-Prieto Giralt was carried out by individuals with ties to the armed forces. One of the killers, José Raúl Argueta Rivas, identified by the victim's wife at an identity parade, served as an informer for the Salvadorian armed forces. Mr. Argueta Rivas, who was sentenced to a 30-year prison term on 22 July 1996, stated at trial that Sgt. Carlos Romero Alfaro (alias "Zaldaña") was the person responsible for the killing. To date, however, Romero Alfaro has not been indicted in this case.

17. The petitioners enclosed a Resolution dated 23 July 1996 from the Office of the Attorney for the Defense of Human Rights--the Salvadorian ombudsman, attached to the Department of Public Prosecutions--ruling that the motive for the crime was clearly murder, not theft, and

³ See page 562

⁴ See pages 572.

⁵ See page 586.

that the murderers made up a small strike team that behaved very "professionally" in carrying out crimes of this kind.

18. The ombudsman's office also ruled that the right to personal security of Carmen Estrada (García-Prieto's widow), Gloria Giralt de García-Prieto, and Mauricio García-Prieto Hillerman had been violated, and it noted the careless way in which the police and judicial authorities had proceeded in their investigations.

19. The resolution also stated that the constant surveillance and trailing suffered by the family and the possible involvement of members of the National Civil Police in those violations would indicate that responsibility for the murder went further than a small, isolated "strike team" and, consequently, that the group that carried out the crime must be connected to a "larger illegal armed structure, with major financial, operational, and logistics capabilities, and that at no time has such a structure been investigated by the appropriate police or judicial authorities, which points to an alarming level of impunity."

20. In addition, the ombudsman's resolution said that the threats and harassments endured by the family were in part due to their persistence in seeking justice and respect for the guarantees of due legal process in the investigations. It also spoke of the possible involvement of members of the armed forces and listed the unjustified delays, irregularities, and procrastination in the judicial decisions handed down by the competent bodies.

21. According to the Office of the Attorney for the Defense of Human Rights, the State's judicial apparatus acted negligently in investigating the incident and trying the perpetrators of the crime, in that in spite of the volume of complaints and information that the victim's family brought before the competent agencies, they had not managed to clear up the events in full. In spite of the fact that the victim's relatives and one of the perpetrators of the crime attested that Mr. Carlos Romero Alfaro (alias "Zaldaña"), a former officer of the National Police, had participated in the crime, the State had begun no investigation in that regard.

22. According to the complainants, Ramón Mauricio's murder was the culmination of a series of threats that had begun in 1988 as a result of a land-ownership dispute. In the aftermath of Ramón Mauricio García-Prieto Giralt's killing, the intimidation of the García-Prieto Giralt family and other individuals involved in investigating and trying the case has continued, endangering their right to freedom, security, and personal integrity. The acts of intimidation (being trailed, surveillance, and visits by armed men to family properties in San Miguel) intensified after the conviction of Mr. Raúl Argueta Rivas for the murder of Ramón Mauricio García-Prieto Giralt.

23. With regard to admissibility, the petitioners claim that they do not need to exhaust the remedies offered by domestic law because the rule requiring their exhaustion allows for exceptions, in that those remedies' existence is merely formal when judicial recourse is neither effective nor adequate for protecting violated rights. In this regard, they refer to several irregularities in the proceedings which, they state, have hindered the clarification of the incident and have delayed the investigation.

B. THE STATE

The State has alleged, *inter alia*, that:

24. The murder of Ramón Mauricio García-Prieto was the work of common criminals, that the alleged incidents are in no way related, and that they are not connected to Ramón Mauricio's killing.⁶

25. The injured parties never reported the threats to the competent authorities, and the petitioners provided no eye-witness evidence other than their own, nor any other kind of evidence.

⁶ See page 360.

26. The García-Prieto Hillerman family had every legal opportunity necessary to present the Salvadorian justice system with their claims regarding violated rights and did not do so.

27. The procedural steps required by law have been followed. The criminal committal hearings began on 10 June 1994 and, on 15 March 1995, the Fifth Criminal Judge ordered the proceedings raised to the plenary level. An ordinary appeal was filed against this decision, and the Second Criminal Chamber of the First Section of the Center heard this appeal and resolved to uphold the first judge's decision.

28. The case was submitted to the jury on 22 July 1996; as a result, the accused Pedro Antonio Sánchez Guerrero was acquitted while José Raúl Argueta Rivas was convicted to serve a 30-year prison term as one of the physical perpetrators of the crime. He is currently serving his sentence. Later, on 24 January 1998, the State captured Julio Ismael Ortiz Díaz, who was identified by Mrs. Carmen Elena Estrada de García-Prieto as the second individual involved in her husband's killing. The Third Criminal Judge upheld his preventive custody and the classification of the crime as murder.⁷

29. Public resources have been invested in the protection and safety of the García-Prieto family and others. The Commission asked the State to implement precautionary measures in favor of those individuals in June 1997 and, since that time, several meetings have been held to execute a security plan, which was later put into effect. It was launched on 6 February 1998 and an evaluation of it was carried out *el pasado mes del mismo año*.

30. In light of the foregoing, the State has asked for the case to be filed. The State has made no objection asserting that the remedies of domestic law had not been exhausted.

IV. ANALYSIS

A. Competence

31. The Commission has *prima facie* competence to examine the admissibility of the petition in that: (1) the petition alleges that a state party, specifically El Salvador, violated rights protected by the American Convention (competence *ratione materiae*), (2) the incident alleged in the petition occurred when the obligation of respecting and ensuring the rights enshrined in the Convention was already in force for the Salvadorian State (competence *ratione temporis*),⁸ and (3) the Commission is empowered to act in connection with these petitions and other communications in accordance with the authority invested in it by Articles 44 to 51 of the Convention.

B. Requirements for Admission of the Petition

1. Exhaustion of Domestic Legal Remedies

32. Article 46.1 of the American Convention on Human Rights states that for a petition or communication submitted under Articles 44⁹ or 45 to be admitted, the following condition must have been met:

- a. that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law.

33. The petitioners allege that in their case, they need not comply with this requirement because the judicial remedies have not been effective or adequate for protecting the violated rights. In this regard, they refer to a series of irregularities in the investigation and the trial which, in their opinion, have kept the incident from being cleared up and have delayed the investigation: to wit, the incident occurred on 10 June 1994 and, as of the time the complaint

⁷ See page 591.

⁸ El Salvador ratified the American Convention on Human Rights on 23 June 1978.

⁹ Article 44 of the American Convention reads as follows: "Any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Commission containing denunciations or complaints of violation of this Convention by a State Party."

was filed (22 October 1996), the only result had been the conviction of one of the suspects. Moreover, none of the persons guilty of intimidating the victim's parents and wife and their lawyers had been identified.

34. The irregularities they refer to include the following: (1) the Court of the Justice of the Peace took charge of the case immediately but did little to cast light on the incident; (2) the Prosecutor's Office was also negligent throughout the entire investigation process; (3) a bullet found in the car that took Ramón Mauricio García-Prieto Giralt to hospital was handed over to the police by a neighbor, but no official record of it exists and the bullet has disappeared; (4) on 25 July 1994, the Department for the Investigation of Organized Crime (DICO) was told by the court that a bullet had been extracted from the victim's body and was at that time in the forensic laboratory; however, no further mention is made of it in the case documents; (5) no report was requested to determine the type and caliber of the weapon used; (6) on every occasion when Mr. García-Prieto Sr. went to the DICO to find out about his son's death, Sgt. Romero Alfaro, alias "Zaldaña," attended to him, voluntarily, and not the officer assigned to the investigation, and he was invariably given inaccurate information; (7) when Argueta Rivas was arrested, cards used by the Salvadorian armed forces were confiscated from him; these cards then disappeared from the court for a period of time before reappearing, but it is impossible to determine whether they are the same ones that were confiscated from the accused.

35. In turn, the Salvadorian State has made no objection asserting the nonexhaustion of domestic remedies,¹⁰ nor has it specified the remedies still available to the petitioner. Instead, it maintains that the procedural steps required by law have been effectively followed, and lists those steps. It also reports that one of the guilty is serving a 30-year prison sentence for the murder of Ramón Mauricio García Prieto-Giralt under a ruling handed down by the Fifth Criminal Court of San Salvador¹¹ and that another, Julio Ismael Díaz Ortiz, was recently arrested and is in preventive custody. The State does not deny that the third alleged participant in the crime, Sgt. Carlos Romero Alfaro (alias "Zaldaña") has not yet been indicted, but it reports that he is under investigation.

36. The Commission holds that an objection asserting the nonexhaustion of domestic remedies can be waived either expressly or by implication¹² and that it must be expressly brought¹³ at an early stage in the proceedings. Otherwise, the Commission may deem it to be implicitly waived.¹⁴

37. As has been said above, the State has made no such objection in the case at hand. The Commission therefore concludes that the State has implicitly waived the objection and deems the requirement set forth in Article 46(1)(a) to have been met.

38. In any event, the Commission believes that mention should be made of the petitioners' arguments regarding the ineffectiveness of the domestic remedies and the delays in the investigation which, in their opinion, should release them from compliance with the rule requiring the exhaustion of said remedies. At this stage in the proceedings, when the admissibility of the petition is the issue, the Commission only addresses summarily the question of the effectiveness of the domestic remedies and the delays in the investigation, since it will be analyzed in greater depth in connection with Articles 8 and 25 of the Convention and their observance when the Commission rules on the merits of the case.

10 See Inter-American Court of Human Rights, Velásquez Rodríguez Case, Preliminary Objections, Judgment of 26 June 1987, paragraph 88.

11 See page 690.

12 Inter-Am.Ct.H.R., Velásquez Rodríguez Case, Preliminary Objections, op. cit., paragraph 10.

13 Inter-Am.Ct.H.R., Castillo Páez Case, Preliminary Objections, Judgment of 30 January 1996, Series C, No. 24, paragraph 41.

14 Inter-Am.Ct.H.R., Velásquez Rodríguez Case, Preliminary Objections, op. cit., paragraph 88.

39. In this regard it should be noted that when domestic legal remedies are not available either in law or in fact, the provision requiring their exhaustion is waived.¹⁵ Article 46(2) of the Convention specifies that this exception applies if the legislation of the State in question does not offer due legal process for protecting the rights allegedly violated, if access to domestic legal remedies by the party alleging the violation has been hindered in any way, or if there has been an unwarranted delay in rendering a judgment on those domestic remedies.

40. In the case at hand, in order to provide an appropriate recourse for remedying the alleged human rights violations--the murder of Ramón Mauricio García Prieto-Giralt and the threats and intimidation suffered by the victim's parents and wife and their lawyers--it fell to the State, particularly in its capacity as the instigator of punitive action, to begin proceedings aimed at identifying, trying, and punishing all the parties responsible for committing those crimes and to diligently pursue all the procedural stages until their conclusion.

41. The undisputed facts indicate, however, that more than four years have passed since the incident¹⁶ and that a sentence has been handed down against only one of the physical perpetrators, Mr. José Raúl Argueta Rivas. On 24 January 1998 Mr. Julio Ismael Ortiz Díaz was placed in preventive custody, but his trial is still at the preparatory and evidence-gathering stage.¹⁷ Furthermore, the third suspected killer--Sgt. Carlos Romero Alfaro, alias "Zaldaña"--has still not been indicted.¹⁸

42. The Commission would like to note, as the Inter-American Court of Human Rights has pointed out, that the rule of prior exhaustion of domestic remedies allows the State to resolve problems in accordance with its domestic laws before being confronted with an international proceeding. This is particularly true in international human rights law, because the latter "reinforces or complements" domestic jurisdiction (American Convention, Preamble).¹⁹

43. This rule, according to the Court, has implications that are provided for in the Convention. One of these is the obligation assumed by states parties to provide the victims of human rights violations with effective domestic legal remedies (Article 25 of the Convention) and another is that those remedies must be substantiated in accordance with the rules of due legal process (Article 8(1) of the Convention). All of this is in keeping with the scope of Article 1(1) of the Convention, which establishes the State's obligation of ensuring, with respect to all individuals subject to its jurisdiction, the free and full exercise of the rights enshrined in the American Convention on Human Rights.²⁰

44. Now, "the international protection of human rights," referred to in Article 46(1) of the Convention, "is founded on the need to protect the victim from the arbitrary exercise of governmental authority."²¹ The exceptions provided for in Article 46(2) of the Convention are intended to guarantee international action when the remedies of domestic law and the domestic justice system are not effective in guaranteeing respect for victims' human rights.

¹⁵ See Advisory Opinion OC-11/90 of 10 August 1990, Exceptions to the Exhaustion of Domestic Remedies (Arts. 46(1), 46(2)(a) and 46(2)(b) of the American Convention on Human Rights), Ser. A, No. 11, paragraph 17.

¹⁶ The incident occurred on June 10, 1994.

¹⁷ As stated in a note from the Prosecutor's Office to the Head of the Organized Crime Investigation Department, the arrest of Julio Ismael Ortiz Díaz was based on a statement by Mrs. Carmen Elena Estrada de García-Prieto who, at an identity parade, identified Julio Ismael Ortiz Díaz as the second participant in her husband's murder. This note also refers to the statement of witness Héctor Armando Estrada, who claimed that the convict Argueta Rivas told him that an individual called René Díaz Ortiz, who according to information provided by the Prosecutor's Office also went by the name of Julio Ismael Díaz Ortiz, had participated in the attack (page 690). The Criminal Judge upheld the classification of the crime as murder.

¹⁸ According to the petitioners, as far back as October 1994 Argueta Rivas had, while under detention at the Santa Ana Penal Center, informed the victim's father-in-law that the other participants had been "Zaldaña" and René Díaz Ortiz. The petitioners also report that on 22 July 1996, during the public hearing held to determine the legal situation of the accused, Mr. Argueta Rivas again referred to "Carlos Romero Alfaro, aka 'Zaldaña,' a former national civil police officer and member of the Criminal Investigation Division (DIC)" as having participated in the incident (page 76). In spite of this, Zaldaña has not yet been indicted for the murder.

¹⁹ Inter-Am.Ct.H.R., Velásquez Rodríguez Judgment, 29 July 1988, Series C, No. 4, paragraph 61.

²⁰ *Ibid.*, paragraph 62.

²¹ Inter-Am.Ct.H.R., Godínez Cruz Case, Judgment of 26 June 1987, Series C, No. 3, paragraph 95.

45. Thus, the formal requirement for the nonexistence of domestic remedies to guarantee the principle of due process (Article 46(2)(a) of the Convention) refers not only to a formal absence of domestic legal remedies, but also to instances in which they are not adequate; in addition, denying justice (Article 46(2)(b) of the Convention) and unjustifiably delaying it (Article 46(2)(c) of the Convention) are also related to the effectiveness of those remedies.²²

46. As the Inter-American Court has maintained, generally recognized principles of international law require that domestic remedies formally exist and that they are adequate for protecting the violated legal situation and effective in producing the result for which they were designed.²³ For that reason, their exhaustion is not to be understood as requiring mechanical attempts at formal procedures, but rather as requiring a case-by-case analysis of the reasonable possibility of obtaining a remedy.²⁴

47. Similarly, the right to invoke the nonexhaustion of the domestic remedies as grounds for declaring a petition inadmissible cannot lead "to a halt or delay that would render international action in support of the defenseless victim ineffective."²⁵ In other words, if domestic remedies suffer unwarranted delays in processing,²⁶ it can be deduced that they have lost their effectiveness for producing the result for which they were created, which "renders the victim defenseless."²⁷ It is in such situations that the mechanisms for international protection should be brought into play, including the exceptions provided for in Article 46(2) of the Convention.

48. In light of the foregoing, the Commission concludes that the complaint under analysis is admissible because the State made no objection asserting the nonexhaustion of domestic remedies (Article 46(1)(a) of the Convention). Moreover, the Commission notes that there has been a delay in the criminal proceedings, which relieves the petitioners from the requirement of exhausting said remedies pursuant to the terms of Article 46(2)(c).

2. Submission Period

49. Article 46(1)(b) of the American Convention stipulates that for a petition to be admitted, it must be "lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment."

50. After concluding in the preceding section that there was an unwarranted delay in processing the domestic remedies, the Commission rules that in the case under analysis the six month period granted for lodging a petition does not apply, pursuant to the terms of Article 38(2) of the Commission's Regulations.

51. The stipulation regarding timing applicable to this case appears in Article 38(2) of the Commission's Regulations: "the deadline for presentation of a petition to the Commission shall be within a reasonable period of time . . . from the date on which the alleged violation of rights has occurred."

22 Mónica Pinto, *La Denuncia ante la Comisión Interamericana de Derechos Humanos*, Editores del Puerto, 1993, p. 64.

23 Inter-Am.Ct.H.R., *Velásquez Rodríguez Case*, op. cit., paragraphs 62-66; *Fairén Garbi and Solís Corrales Case*, Preliminary Objections, 15 March 1989, paragraphs 86-90; *Godínez Cruz Case*, Judgment of 20 January 1989, paragraphs 65-69.

24 Inter-Am.Ct.H.R., *Velásquez Rodríguez Judgment*, op. cit., paragraph 72; *Fairén Garbi and Solís Corrales Judgment*, op. cit., paragraph 97; *Godínez Cruz Judgment*, 20 January 1989, Series C, No. 5, paragraph 75.

25 Inter-Am.Ct.H.R., Judgment of 26 June 1987, paragraph 95

26 Delays of this kind have a negative effect on the effectiveness of the domestic remedies in that they lead to a deterioration of the evidence, particularly that of witnesses who, after so many years, either relocate or tend to forget the facts. This definitely undermines the effectiveness of procedures aimed at identifying responsibilities and convicting the guilty.

27 Inter-Am.Ct.H.R., *Godínez Cruz Case*, op. cit., paragraph 95.

52. Ramón Mauricio García-Prieto was killed on 10 June 1994; the persecution and intimidation of his parents and wife and their lawyers are closely tied to that incident but have in any event continued up until the present. Moreover, irrespective of whether or not the allegation of an unwarranted delay could constitute a violation of the American Convention, the petition was submitted on 22 October 1996, a filing date which the Commission deems to be reasonable in light of the details of this case.

3. Duplication of Proceedings and *Res Judicata*

53. Article 46(1)(c) of the Convention states that one requirement for admissibility is "that the subject of the petition or communication is not pending in another international proceeding for settlement."

54. The Commission understands that the subject of this petition is not pending in any other international settlement proceeding, neither does it reproduce a petition already examined by it or by any other international body. It therefore concludes that the requirement set forth in Article 46(1)(c) has been met.

4. Nature of the Alleged Facts

55. Article 47(b) of the Convention states that the Commission shall declare inadmissible any petition or communication submitted under Articles 44 or 45 that "does not state facts that tend to establish a violation of the rights guaranteed by this Convention."

56. The facts of this case refer to the extrajudicial killing of Mr. Ramón Mauricio García-Prieto Giralt by three individuals who were wearing some items of military clothing and to the threats and harassment endured by his parents, his wife, and their lawyers.

57. With regard to these facts, the petitioners allege that one of Ramón Mauricio's killers, Mr. Argueta Rivas--currently serving a 30-year prison term for carrying out the murder --served as an informer for the Salvadorian armed forces. The petitioners also claim Argueta Rivas named Sgt. Carlos Romero Alfaro (alias "Zaldaña") as having participated in the crime. This named individual, according to information that the State has at no time disputed, has not yet been indicted in the case.

58. The petitioners also allege that the Office of the Attorney for the Defense of Human Rights-- an agency of the State attached to the Department of Public Prosecutions-- ruled, in a resolution dated 23 July 1996, that the right to personal security of Carmen Estrada (García-Prieto's widow), Gloria Giralt de García-Prieto, and Mauricio García-Prieto had been violated and that the police and judicial authorities had been negligent in conducting their investigations.

59. This resolution states that the constant surveillance and trailing suffered by the victim's family could possibly have involved members of the National Civil Police. It also refers to the possible involvement of members of the armed forces, and it offers a summary of the unwarranted delays, irregularities, and procrastination in the judicial decisions handed down by the competent bodies.

60. The Commission believes that, in principle, the facts reported by the petitioners, if true, could constitute a violation of rights enshrined in the American Convention. It therefore holds that the admissibility requirement set forth in Article 47(b) of the Convention has been satisfied.

VI. CONCLUSIONS

61. The Commission concludes that it is competent to hear the case at hand and that said case is admissible under the requirements set forth in Articles 46 and 47 of the American Convention.

62. Based on the factual and legal arguments presented above, and without prejudicing the merits of the case,

**THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
DECIDES:**

1. To declare this complaint admissible in accordance with Articles 46, 47, and 48 of the American Convention on Human Rights.
2. To notify the parties of this decision.
3. To continue with its analysis of the merits of the case.
4. To make itself available to the parties with a view to reaching a friendly settlement based on respect for the rights enshrined in the American Convention, and to invite the parties to express their opinions on that possibility.
5. To publish this decision and include it in its Annual Report to the General Assembly of the OAS.

Given and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., on 9 March 1999. (Signed): Robert K. Goldman, Chairman; Hélio Bicudo, First Vice-Chairman; Claudio Grossman, Second Vice-Chairman; and Commissioners Carlos Ayala Corao, Alvaro Tirado Mejía, and Jean Joseph Exumé.