

**REPORT No. 22/09<sup>1</sup>**  
PETITION 908-04  
ADMISSIBILITY  
IGMAR ALEXANDER LANDAETA MEJÍAS AND OTHERS  
VENEZUELA  
March 20, 2009

**I. SUMMARY**

1. On September 20, 2004 the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission," "the Commission" or "the IACHR") received a complaint submitted by a nongovernmental organization, the Comisión de Derechos Humanos de Justicia y Paz del Estado Aragua ("Commission on Human Rights for Justice and Peace of the State of Aragua", hereinafter "the petitioners"), representing the alleged victims, the late Igmarr Alexander Landaeta Mejías and his father Ignacio Landaeta Muñoz (hereinafter "the alleged victims") against the Bolivarian Republic of Venezuela (hereinafter "the Venezuelan State," "the State," or "Venezuela"), for the alleged violation of the rights enshrined in articles 4.1 (life), 5 (humane treatment), 7 (personal liberty) and 8 (judicial guarantees) of the American Convention on Human Rights<sup>2</sup> (hereinafter "the Convention," or "the American Convention"), as well as the alleged violation of the rights protected by articles 5.a, 5.b, 5.d, 7, 8, 9, 10, 11 .b and 11.c of the United Nations Basic Principles on the Use of Force and Firearms by Law-Enforcement Officials.

2. The petitioners alleged that the youth Igmarr Landaeta had been arbitrarily deprived of his life on November 17, 1996, in the town of Santiago Mariño, State of Aragua, by two police officers of the *Cuerpo de Seguridad y Orden Público* (Security and Public Order Corps) of that state (hereinafter "CSOPEA"). According to the petitioners, the State failed to conduct an adequate investigation of the events, in that both the police and the Attorney General's office responsible for the investigation acted negligently. As a result, the officers were acquitted and the deeds have gone unpunished. The petitioners drew up a list of the irregularities committed by the authorities in the Attorney General's office and the courts who were responsible for pursuing the investigation. The petitioners also said that their financial situation and alleged irregularities in notification prevented them from filing an appeal against the judgment issued on November 10, 2003, whereby the charges against the officers were dismissed.

3. The State of Venezuela alleged that the death of Igmarr Landaeta occurred during an armed confrontation between himself and the police officers, and that the officers were justified in their action on grounds of "state of necessity" and "fulfillment of duty". With respect to admissibility requirements, the State argued that the petitioners had not exhausted domestic remedies and that they were not entitled to turn to the international body after having failed to file an appeal within domestic jurisdiction.

4. After examining available information in light of the admissibility requirements established in Articles 46 and 47 of the American Convention, the Commission concluded that it is competent to hear the petition and that the petition is admissible in view of the alleged violation of the rights embodied in Articles 4, 5, 8, and 25 of that Convention as they relate to the obligations established in Article 1.1 of the same instrument. The Commission included the possible violation of the right enshrined in Article 25 of the Convention, by virtue of the principle *iura novit curia*. The Commission also concluded that the petition is inadmissible regarding the claim made in relation to Article 7 of the American Convention. Accordingly, the Commission decided to notify the parties, to publish the present Admissibility Report, and to include it in its Annual Report.

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<sup>1</sup> In accordance with Article 17.2 of the Commission's Rules of Procedure, Commissioner Luz Patricia Mejía, a Venezuelan national, did not participate in the discussion or in the decision in this case.

<sup>2</sup> The petition also alleges violation of articles 4, 5, 7 and 8 of the Act Approving the American Convention on Human Rights. The Commission assumes that the petitioners were referring to the provisions of the American Convention on Human Rights.

## **II. PROCEEDINGS BEFORE THE COMMISSION**

5. On September 20, 2004 the Commission received the initial petition submitted by the nongovernmental *Comisión de Derechos Humanos de Justicia y Paz del Estado Aragua*. On December 1, 2004 the Commission transmitted the pertinent portions of the petition to the Venezuelan State requesting a response within two months.

6. On February 2, 2005 the State wrote to the Commission requesting an extension for presenting its observations on the petition. On February 9, 2005 the Commission sent a communication to the State informing it that the time limit had been extended for one month.

7. On March 9, 2005 the Commission received the State's response to the initial petition. On March 31, 2005 the State's response was sent to the petitioners, giving them one month to submit any observations.

8. On April 28, 2005 the Commission received a request from the petitioners for an additional month to submit their observations. On April 29, 2005 the Commission granted that extension.

9. On May 26, 2005 the Commission received the petitioners' observations on the State's response. On June 1, 2005 the Commission transmitted to the State the relevant portions of the petitioners' letter, with one month of time to present its observations.

10. On July 18, 2005 the State requested an extension for presenting its observations on the petitioners' letter. On August 10, 2005 the Commission granted the State an additional month to submit its observations.

11. On August 11, 2005 the Commission received a report from the petitioners indicating that the Center for Justice and International Law (CEJIL) was constituting itself as co-petitioner in the case. On October 4, 2005 the Commission reported this to the State, giving it one month to submit its observations.

12. On September 16, 2005 the Commission received the State's observations. On October 4, 2005 it transmitted these observations to the petitioners, giving them one month to submit their observations.

13. On June 26, 2006 the Commissioner informed the State that petition no. 425 of 2006 had been added to the present one. On January 30, 2007 the Commission informed the parties that, in light of the specific circumstances of each case, it had decided to separate them again for purposes of analyzing their compliance with the admissibility requirements.

14. On July 12, 2007 the Commission received additional information from the petitioners. On August 13, 2007 the Commission sent that information to the State, and asked it to present its observations within one month. At the time this report was approved, the State had not submitted its observations.

15. On October 17, 2007 the Commission received a note from the petitioner, asking for the procedural state of the petition. On December 10, 2007 the Commission sent a response indicating that the petition was in admissibility stage.

## **III. POSITION OF THE PARTIES**

### **A. The petitioners**

16. According to the petitioners, on November 17, 1996 at 3:30 p.m. Mr. Igmair Alexander Landaeta Mejías was walking along Las Flores Street in the Sarman de Guere neighborhood of the town of Santiago Mariño, State of Aragua, when police officers of the Police Command 9 of

the Security and Public Order Corps of the State of Aragua, headquartered in the city of Turmero, identified as Gerardo Alcides Castillo Freites and Andrés José Castillo García, got out of their van without identifying themselves and "with gun in hand and a threatening attitude" told the alleged victim that he was under arrest because "otherwise he would be killed for accounts pending before the courts".

17. The petitioners maintain that Mr. Igmarr Alexander Landaeta Mejías decided to run away, and that the police officers shot him in the back and subsequently, as he lay on the pavement, Officer Gerardo Alcides Castillo Freites kicked him over and shot him in the face. The two officers then transported the victim to the Ambulatorio II hospital of the city of Turmero, where he was recorded as showing no vital signs.

18. Subsequent to this date, the then Technical Corps of the Judicial Police (now the Scientific, Penal and Criminal Investigations Corps) of the zone opened an investigation, in which it performed fraudulent tests such as an analysis of gunpowder traces on both hands of the deceased victim, which produced a positive result. The petitioners argue that this test was tainted because it was performed by the same officers who took Mr. Landaeta to the medical center, and that they would have had the opportunity to place a weapon in his hand and fire it so that the investigation would find gunpowder on his hands.

19. The petitioners argue that the Technical Corps of the Judicial Police committed the following irregularities: it did not reconstruct the events; it took no steps to have the accused officers identified by witnesses; it failed to conduct a gunpowder test on the two officers; it did not perform a ballistics comparison of the weapons carried by the police; the scene was measured off using information provided by the officers themselves; it did not investigate the origin of the vehicle in which they were traveling; it did not request a certified copy of the journal kept by the Turmero police headquarters to determine whether the officers were on duty at the time of the events; it requested no information from the General Command of the Police of Aragua on the duties assigned to the officers, their record of conduct and their criminal records; it did not ask for the police record of a witness who, because of "debts outstanding with the justice system," may have been pressured by the officers to declare that the alleged victim had assaulted him with a firearm; it did not question the owner of the truck in which Mr. Landaeta allegedly hid in his flight; it failed to investigate the origin of the weapon that the victim was allegedly carrying; it conducted no ballistics comparison of the bullet found near Mr. Landaeta's body; no photographs were taken of the wall struck by the police bullets; no record was kept of the place where a reddish-brown substance was found nor was a blood test performed there; and there was no ballistics examination of the weapons carried by the officers.

20. With respect to the actions of the judiciary, the petitioners reported that, once the investigations were concluded, the records were turned over to the Ninth Public Prosecution Office of the Judicial District of the State of Aragua, which on November 27, 1996 sent the case on to the corresponding court and asked it to initiate a "*nudo hecho*" information procedure (intended to demonstrate the link between the alleged offense and a public official) against Gerardo Alcides Castillo Freites and Andrés José Castillo García. That court returned the case to the same prosecution office on January 16, 1997, which again brought it to the attention of the court on February 24, 1997, accompanied by charges against those police officers for the crime of premeditated murder and improper use of firearms.

21. With regard to this issue, the petitioners argued that the representative of the Attorney General's office incurred in with grave remiss in failing to consider the offenses of abuse of authority, simulation of a punishable act, and "taking justice into his own hands", as defined in articles 204, 240 and 271 of the then-valid Penal Code.

22. According to the petitioners, the Sixth Criminal Judge, on October 1, 1997 confirmed a previous decision of the municipal judge of San Mariño and Libertador, terminating the summary inquiry. On October 10, 1997 the case was sent for consultation to the Third Superior Criminal Judge of the same district, who on October 11, 1997 revoked the previous decision and ordered

the arrest of the persons investigated, on the grounds that the requirements of article 182 of the then-valid Code of Criminal Indictment were fulfilled.

23. Following that decision, the case was considered by the Second Court of the Transitory Procedural Regime of the same district, which on October 13, 2000 issued a ruling absolving Mr. Andrés José Castillo García, but convicting Mr. Gerardo Alcides Castillo Freites and sentencing him to 12 years in prison for the premeditated murder of the victim, while quashing the charges relating to the improper use of firearms.

24. As mentioned, this decision was appealed by the convicted officer's attorney, and the Court of Appeals of the Criminal Court Circuit of the State of Aragua upheld the conviction on April 25, 2002. That decision was appealed, and in a ruling of November 29, 2002 the Criminal Appeals Chamber of the Supreme Court of Justice annulled the judgment of second instance, returning the case "to the State in which the Court of Appeals resolves the appeal".

25. On July 28, 2003, the petitioners report, the Court of Appeals of the Criminal Court Circuit of the State of Aragua was constituted to conduct a public hearing on the appeal. The Attorney General's office was not represented at that hearing. Following the hearing, on November 10, 2003, the court upheld the appeal and dismissed the charge of premeditated murder against Mr. Gerardo Alcides Castillo Freites.

26. That ruling was left to stand as the final one, as the Attorney General's office not only failed to uphold the rights of the victim's relatives but abstained from filing an appeal, while the victim's family, who had neither the legal knowledge nor the money needed to hire a private lawyer, likewise filed no appeal. The petitioners declare that they learned of the final decision on December 22, 2003, on which date the Court of Appeals sent the file to the central archives of the Criminal Court Circuit of the State of Aragua, on the grounds that neither the Attorney General's office nor the victim's relatives had appealed the ruling.

27. The petitioners argue that persons of low social status have no access to effective justice, and that the entire system is vitiated by the lack of independence and impartiality reflected in the influence of certain political and economic groups that, through patterns of cronyism, enjoy impunity in the face of violations of the human rights of the poor, particularly when these involve acts committed by police officers, who enjoy the protection of both the investigative and the judicial bodies.

28. Finally, the petitioners argue that the death of Igmarr Alexander Landaeta Mejías has gone unpunished because of the omissions of the Technical Corps of the Judicial Police, the Attorney General's Office, the Judiciary, and the Public Defender's Office, which failed to investigate the facts promptly and transparently.

## **B. The State**

29. The State indicates that the police journal for November 18, 1996 records that officers of the Technical Corps of the Judicial Police, Mariño section, "exchanged shots with a citizen known as Landaeta."

30. It confirmed the information provided by the petitioners on the course of criminal proceedings, culminating in the judgment of November 10, 2003 of the Accidental Chamber of the Court of Appeals, upholding the appeal of the conviction against one of the accused, and dismissing the charge of premeditated murder against that person.

31. The State argued that there were no grounds for resort to international bodies to enforce rights when no violation of those rights had been claimed during the corresponding proceedings. The international system, the State argued, cannot take upon itself "the function of administering impartial and adequate justice", which is an attribute of the State in the exercise of its sovereignty. In the case at hand, the plaintiffs were legally entitled to the assistance of an

attorney, and the final decision cannot be impugned on the grounds of a possible appeal that was never filed within the legal time limits.

32. With respect to the petitioners' allegation that it was impossible to file an appeal for financial reasons and the failure of the Attorney General's office to afford proper representation for the relatives of the victim, the State maintains that the Attorney General's office has various facilities for helping victims, including the Public Defender's Office and the College of Lawyers of the State of Aragua, and that these services are free.

33. According to the State, the petitioners' arguments that justice was denied because of the plaintiff's economic and social condition are too vague, because they do not make direct reference to the proceedings against the police officers accused of murdering the victim.

34. With respect to the right to life, the State noted that article 65.1 of the Penal Code excuses from liability a person who acts in fulfillment of a duty or the exercise of a right, authority, office or position, as occurred in this case. It pointed to the declaration of two citizens who testified that the victim exchanged gunfire with police.

35. The State argued further that, to be exonerated, an act must not only represent the legitimate exercise of authority, but must also have been committed in legitimate defense and as the only means of subduing the armed attacker to prevent further resistance and aggression against the police. The State argues that those elements apply to the case at hand, and that it was therefore appropriate to exempt the officers of responsibility and dismiss the charges against them.<sup>3</sup> The State maintains that the police officers acted in the exercise of their duty and in a "state of necessity" to repel an attack, which means that they cannot be punished for their conduct and consequently neither the Venezuelan State nor the Attorney General's office bears any responsibility, since the dismissal of charges resulted from circumstances related to the status of the accused as police officers.

36. With respect to the alleged violation of judicial guarantees, the State maintains that at all times the courts listened to the petitioners' complaints, revoking the decisions they deemed unfair and acting of their own accord to correct improper legal proceedings. The State added that in the course of the case the police kept records of every action taken in the initial investigation, such as visual inspections, the taking of testimony from witnesses, medical and forensic examinations, and ballistic tests.

37. The State maintains that the petitioners have "lost sight of the actual events, which involved an exchange of gunfire between the police squad and the victim, during which the bullets could have lodged in any part of the body and from any direction."

38. Finally, the State insisted that because the victim's father took it upon himself to make the accusations in the process, this meant that he subrogated to himself the attributes of the Attorney General's office and therefore had the duty to exercise all the prerogatives available to him by law during the proceedings: otherwise, he must be deemed to have acquiesced in the shortcomings he alleges.

#### **IV. ANALYSIS OF ADMISSIBILITY**

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

39. The petitioners are entitled by article 44 of the American Convention to present petitions on behalf of the alleged victims. For its part, Venezuela has been a state party to the American

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<sup>3</sup> The State noted that, pursuant to article 314, 315 and 316 of the then-valid Code of Criminal Indictment, the dismissal could only be ordered by the judge hearing the case, and had the force of a judgment.

Convention since August 9, 1977, on which date it deposited its instrument of ratification. Consequently, the Commission has jurisdiction *ratione personae* to examine the petition.

40. As well, the Commission has jurisdiction *ratione loci* to hear the petition, because it alleges violations of rights protected in the American Convention, committed within the jurisdiction of the Venezuelan state. The Commission has jurisdiction *ratione temporis* to examine the complaint, because the obligation to respect and guarantee the rights protected by the American Convention was already in force for the State at the time of the alleged events.

41. Finally, the Commission has jurisdiction *ratione materiae* to hear the case because the petition alleges violations of human rights protected by the American Convention.

## **B. Other admissibility requirements**

### **1. Exhaustion of domestic remedies and time allowed for presentation of the petition**

42. Article 46.1.a of the American Convention provides that, for a petition submitted to the Inter-American Commission in accordance with Article 44 of the Convention to be admitted, remedies under domestic law must have been pursued and exhausted in accordance with generally recognized principles of international law. The purpose of this requirement is to enable the national authorities to know of an alleged violation of a protected right and, where appropriate, to have the opportunity to solve it before the case is heard by an international body.

43. The requirement of prior exhaustion applies when adequate and effective remedies to deal with the alleged violation are in fact available in the national system. Accordingly, Article 46.2 specifies that the requirement shall not be applicable when the domestic legislation does not afford due process of law for the protection of the right in question; or if the alleged victim has been denied access to the remedies under domestic law; or if there has been unwarranted delay in rendering a final judgment under the aforementioned remedies. As stipulated in Article 31 of the Rules of Procedure of the Commission, when the petitioner invokes one of these exceptions, it shall be up to the State concerned to demonstrate that the remedies under domestic law have not been exhausted, unless that is clearly evident from the record.

44. The Venezuelan State submitted in good time the argument that domestic remedies had not been exhausted. According to the State's arguments, the relatives of the deceased Igmarr Alexander Landaeta did not file an appeal for annulment of the acquittal pronounced on November 10, 2003 by the Court of Appeals of the Judicial District of the State of Aragua, thereby permitting it to be a final judgment with the status of "res judicata." For their part, the petitioners argued that the investigation and criminal proceedings regarding the death of Igmarr Alexander were characterized by irregularities and a lack of due diligence in the gathering of evidence, which, in their view, were vital for throwing light on what happened. The petitioners listed the tests and checks that were not carried out.

45. To analyze compliance with the requirement to exhaust domestic remedies, the Commission must determine what was the appropriate remedy to exhaust under the circumstances, meaning the remedy best suited to resolving the legal infringement. In cases of alleged arbitrary denial of the right to life, the appropriate remedy is investigation and the criminal proceedings undertaken and pursued ex officio by the State in order to identify and punish those responsible.

46. As regulated under Venezuelan law, the purpose of the special appeal remedy mentioned by the State in its argument that domestic remedies were not exhausted is to challenge violations of the law by judges for failure to apply the law, applying it incorrectly, or for erroneous interpretation. Indeed, Article 460 of the Organic Code of Criminal Procedure establishes that:

An appeal for annulment may be based on violation of the law, failure to apply the law, incorrect application, or erroneous interpretation.

When the allegedly violated legal precept is a procedural defect, the appeal shall only be admissible if the interested party asked at the appropriate time for it to be corrected, except as regards infringements of constitutional guarantees or those occurring after debate has ended.

47. Regarding this appeal, the Commission has previously maintained that, although in some cases special appeals may be the right recourse for dealing with human rights violations, generally speaking the only remedies that need to be exhausted are those that, within the legal system, are suitable for providing the protection needed to remedy the infringement of a specific legal right. In principle, the remedies referred to are regular, not special.<sup>4</sup> Furthermore, the Commission has pointed out that, when the petitioners argue that there have been irregularities throughout the different stages of the proceedings, in principle they do not have to exhaust an extraordinary remedy, since such remedies are not designed to correct alleged irregularities during the investigation or indictment phase of criminal proceedings.<sup>5</sup>

48. As noted above, the petitioners argued that there had been a series of irregularities and omissions during the investigative phase of criminal proceedings. In particular, the petitioners submitted arguments aimed at discrediting the investigations conducted by the respective authorities, which, they claimed, were not designed to elicit comprehensive insight into what had happened, taking all possible factors into consideration. For instance, the Commission notes that there were no inquiries into a possible connection between the death of Igmár Alexander Landaeta and that of his brother Eduardo José,<sup>6</sup> murdered a few weeks later, allegedly by police officers of the State of Aragua, like Igmár. Accordingly, the Commission considers that the appeal remedy was not the appropriate remedy for addressing the irregularities alleged by the petitioners.

49. The Commission notes, furthermore, that the facts of the case are presented as part of a pattern of extrajudicial executions committed, using a particular *modus operandi*, by members of Venezuelan regional police forces, and specially in the State of Aragua. That context has been identified and recognized by the Commission<sup>7</sup> and by Venezuelan State authorities, such as the Ombudsman's Office<sup>8</sup> and the Office of the Public Prosecutor of the Republic.<sup>9</sup>

50. A characteristic of this pattern – in most cases – is impunity due to unwillingness to prosecute and punish perpetrators. In fact, in its annual reports, the Commission has expressed concern at statistics that would appear to point to the absence of an effective response to this phenomenon by the Office of the Attorney General and the Judiciary.<sup>10</sup>

51. The Commission notes that, in the instant case, the Public Prosecutor's Office failed to appeal the acquittal judgment, even though it was legally entitled to do so.

52. The Commission considers that the State was obliged to conduct an ex officio investigation with all the legal means at its disposal in this case, not just because it was an allegedly criminal action but because it may also have been an extrajudicial execution in a familiar context of reiterated actions of that nature in circumstances very similar to those described in the petition. The Commission also considers that the duty to carry out a diligent investigation and punish those responsible for these facts is not restricted to just one stage in the proceedings. That obligation applies throughout the proceedings, including the appeals phase. The Commission is

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<sup>4</sup> IACHR, Report No. 51/03, petition 11.819, Admissibility, Christian Daniel Domínguez Domenichetti, Argentina, October 24, 2003, paragraph 45.

<sup>5</sup> IACHR, Report No. 51/03, petition 11.819, Admissibility, Christian Daniel Domínguez Domenichetti, Argentina, October 24, 2003, paragraph 45.

<sup>6</sup> Case 12.606 – Eduardo José Landaeta Mejías -- is currently being processed by the Commission, at the merits stage.

<sup>7</sup> IACHR, Venezuela 2003. Paragraphs 321-343.

<sup>8</sup> Report. *Ajusticiamientos y Desapariciones Forzadas*. Anuario 2001 de la Defensoría del Pueblo de Venezuela [*Executions and Forced Disappearances*, 2001 Yearbook of the Ombudsman's Office. <http://www.defensoria.gob.ve/lista.asp?sec=14040800002>].

<sup>9</sup> Speech by the Prosecutor General of the Republic at the presentation of the Annual Activities Report for 2005. April 25, 2006.

<sup>10</sup> IACHR, Annual Report to the General Assembly corresponding to 2006. Chapter IV, para. 169.

also of the opinion that the rule whereby domestic proceedings, like those in this case, should not have to depend on the initiative of the victims' relatives, also applies at this stage.<sup>11</sup>

53. In light of the above, the Commission concludes that the investigation and criminal proceedings did not amount to an appropriate mechanism for analyzing the exhaustion of domestic remedies requirement and that therefore the exception set forth in Article 46.2.a of the American Convention shall apply.

## **2. Time allowed for presentation of the petition**

54. Article 46.1.b. of the Convention establishes that a petition may be admitted if it is lodged within a period of six months from the date on which the interested party was notified of the final judgment that exhausted domestic jurisdiction. This rule shall not apply when the Commission finds that one or more of the exceptions to the exhaustion of domestic remedies set forth in Article 46.3 of the Convention are applicable. In such cases, the Commission must determine whether the petition was presented within a reasonable period of time, in accordance with Article 32 of its Rules of Procedure.

55. Given that the petition was lodged on September 20, 2004 and that in domestic criminal proceedings procedural activities continued until November 10, 2003, the Commission considers that the complaint was lodged in a reasonable period of time.

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

56. Article 46.1.c of the Convention establishes that admission of a petition is subject to the requirement that the subject of the petition "is not pending in another international proceeding for settlement" and Article 47.d of the Convention stipulates that the Commission shall not admit a petition that "is substantially the same as one previously studied by the Commission or by another international organization. In the instant case, the Parties have not argued the existence of either of these two grounds for inadmissibility, nor can they be deduced from the procedures.

## **4. Characterization of the facts alleged**

57. For purposes of admissibility, the Commission must decide whether facts are stated that tend to establish a violation, as stipulated in Article 47.b of the American Convention, or whether the petition is "manifestly groundless" or "obviously out of order," according to subparagraph (c) of the same article.

58. The criteria for deciding on these allegations differ from those required to decide on the merits of a complaint. The Committee has to make a *prima facie* evaluation to examine whether the complaint establishes an apparent or potential violation of the right guaranteed by the Convention, not to establish the existence of a violation. Such an examination is a summary analysis that does not imply any prejudice or preliminary opinion on the merits.<sup>12</sup>

59. The Commission considers that the facts alleged in the petition could constitute a violation of the rights enshrined in Articles 4 and 5 of the American Convention, to the detriment of Igmarr Alexander Landaeta Mejías, as well as the rights enshrined in Articles 5, 8, and 25 of the American Convention, to the detriment of his relatives, all in relation to the obligations established in Article 1.1 of the same instrument. The Commission includes the possible violation of the right enshrined in Article 25 of the Convention, by virtue of the principle *iura novit curia*.

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<sup>11</sup> See, in general: IACHR, Report No. 5/02, petition 12.080. Admissibility. Sergio Schiavini, María Teresa Schnack de Schiavini, Argentina, February 27, 2002, paragraph 52.

<sup>12</sup> IACHR, Report No. 21/04, Petition 12.190, Admissibility, José Luis Tapia González *et al.*, Chile, February 24, 2004, para. 33.



60. Further, the Commission considers that the facts set out in the petition do not tend to constitute a violation of the right embodied in Article 7 of the American Convention.

61. Finally, the facts of the present case could be part of a general context of harassment against the Landaeta Mejías family. The Commission is processing the case related to the killing of Eduardo José Landaeta Mejías – Igmarr Alexander’s brother – on December 31st, 1996, under custody of agents of the police of Aragua. Having in mind a possible connection between the killings of the brothers, the Commission considers it necessary to analyze the cases globally in the merits stage and in consequence, decides to accumulate them.

## **V. CONCLUSIONS**

62. Based on the foregoing legal and factual considerations and without prejudicing the merits of the case, the Commission concludes that the case at hand satisfies the admissibility requirements set forth in Articles 46 and 47 of the American Convention and consequently,

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

1. To find the instant case admissible in relation to Articles 4, 5, 8, and 25, in conjunction with Article 1.1 of the American Convention, and to declare it inadmissible in relation to Article 7 of the American Convention.
2. To consider the petition jointly with case 12.606 – Eduardo José Landaeta Mejías.
3. To notify the State and the petitioners of this decision.
4. To begin the analysis of the merits of the case.
5. To publish this decision and include it in its Annual Report to the OAS General Assembly.

Done and signed at the headquarters of the Inter-American Commission on Human Rights in Washington D.C. on the 20<sup>th</sup> day of March of 2009. (Signed): Víctor E. Abramovich, First Vice-president; Felipe González, Second Vice-president; Sir Clare K. Roberts, Paulo Sérgio Pinheiro, Florentin Meléndez and Paolo G. Carozza, Commissioners.