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REPORT No. 9/15
PETITION 2609-02
REPORT ON ADMISSIBILITY

CHACÍN RICHARDT FAMILY MEMBERS
VENEZUELA

Approved by the Commission on January 29, 2015

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ADMISSIBILITY REPORT
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VENEZUELA
JANUARY 29, 2015

I. SUMMARY

1. On August 13 and 21, 2002, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received two petitions lodged by Blanca Felicia Richardt de Chacín (hereinafter “the petitioner”) on her own behalf and on behalf of her husband, Juan Eleazar Chacín, and of her children, Carlos Gabriel, Miguel Ángel, Juan Eleazar and Gladis Chacín Richardt (hereinafter, also “the alleged victims”). In the petitions, it is claimed that the Bolivarian Republic of Venezuela (hereinafter “Venezuela” or “the State”) is responsible for the arbitrary deprivation of the personal liberty of her sons Miguel Ángel and Carlos Gabriel and the deprivation of the lives of her two sons Juan Eleazar and Miguel Ángel, failure to provide for fair trial rights and judicial protection in domestic court proceedings and the existence of a supposed plot to harass her family, which allegedly led to the death of her oldest son, an attack on her grandson, an attack on her husband, her son Juan’s accident and the planting of a substance on her sons Carlos Gabriel and Miguel Ángel in order to get them charged with illegal possession, among other things. The petitions contend that the State is responsible for violations of the right to life, humane treatment and security, personal liberty, judicial protection and to a fair trial, as provided under Articles 4, 5, 7, 8 and 25 of the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”), in connection with Article 1.1.

2. The State alleges, in response, that the petitioner failed to exhaust domestic remedies and that the alleged violations do not constitute a colorable claim.

3. Inasmuch as both petitions cite similar factual grounds, the IACHR shall conduct a joint analysis thereof. After examining the positions of the parties under the admissibility requirements set forth under Articles 46 and 47 of the Convention, the IACHR concludes that it is competent to hear the claims, which it finds admissible as to the alleged violation of Article 4, 5, 7, 8, 17, 21 and 25, in conjunction with Article 1.1 of the Convention. Accordingly, the Commission directs the parties to be served a copy of the report and orders the publication thereof and for it to be included in the Commission’s Annual Report to the OAS General Assembly.

II. PROCEEDINGS BEFORE THE COMMISSION

4. On August 13, 2002, the IACHR received petition 2609-02 and on December 16, 2004, it was forwarded to the State. The State submitted observations on February 25 and September 21, 2005. Likewise, the petitioner submitted observations or additional information on July 6 and November 16, 2005, November 20, 2006 and April 2, 2008. The communications were forwarded to each party for their response. On October 27, 2007 and January 12, 2009, the IACHR requested information.

5. On August 21, 2002, the IACHR received petition 2886-02 and on December 20, 2004, it was forwarded to the State. The State submitted observations on March 8 and July 14, 2005, and on February 27, 2008. Likewise, the petitioner submitted observations or additional information on May 31, and September 8, 2005, November 20, 2006, April 2 and June 19, 2008 and March 17 and April 27, 2010. All communications were forwarded to each party. On October 26, 2007 and January 12, 2009, the IACHR requested information from the State.

6. On October 8, 2013, the IACHR notified the parties of the decision to join the petitions into a single case file, as provided for under Article 29.5 and 29.6 of the Commission’s Rules of Procedure and, thus, both petitions were registered under the number P-2609-02. On February 10, 2014, the petitioner submitted a communication agreeing to the joining of the two petitions.

III. POSITIONS OF THE PARTIES

A. Petitioner's Position

7. The petitioner alleges that criminal Attorneys Miguel Ángel and Carlos Gabriel Chacín Richardt, the latter, National Executive Director of the Fifth Republic Movement (MVR) Professional and Technical Front, were wrongly prosecuted for illegal drug trafficking. She contends that the brothers were arrested on March 15, 2000 and that on March 16, 2000, Control Court 8 of Caracas ordered their release on the grounds that, after undergoing analysis, the substance seized from them turned out to not be drugs. The petitioner further notes that said decision was appealed by a Government Prosecutor, who was not originally assigned to the case, and that said appeal was granted arbitrarily. Consequently, on July 6, 2000, the decision of March 16, 2000 was overturned and custody orders were issued for brothers Miguel Ángel and Carlos Gabriel. In response, the petitioner filed a motion for *habeas corpus* relief on February 4, 2002, which was denied on May 15, 2002.

8. She also asserts that, in the early morning hours of May 15, 2001, Juan Eleazar Chacín Richardt (attorney, Chief Commissioner of the Volcán Network of the Intelligence Directorate of the Venezuelan Army and a shooting instructor), was murdered in the city of Caracas. The petitioner further claims that when members of the Crime Scene Search unit of the Judicial Police (hereinafter "PTJ" from the Spanish language initials) arrived on the scene, they found Yulitza Alejandra (or Alexandra) Mejías, wife of the alleged victim, with his blood-covered clothes and shoes. The petitioner contends that a firearm was found in the automobile in which the victim was located and that the incident was reported by the PTJ as an alleged suicide. The petitioner claims that state officials have tainted the evidence in order to obstruct the investigations. She further alleges, for example, that the weapon that was found in the vehicle was fired by the police authorities without any authorization to do so and without any expert ballistic tests being conducted on it; the automobile, inside of which the body of her son was found, was cleaned up without any crime scene search experts collecting any evidence; the alleged victim's wife was not made available to the Office of the Public Prosecutor and, instead of returning the victim's belongings, on the contrary, the vehicle was sold by a police officer.

9. The petitioner also notes that in December 2002, Government Attorney 33 of the Ministry of Public Prosecution of the Caracas Metropolitan Area (hereinafter "Prosecutor's Office 33") filed a motion with the 9th Court to close the case against Miguel Ángel and Carlos Gabriel Chacín and she claims the case was closed on December 23, 2002. She further contends that, subsequently, a witness testified that he had been forced by the prosecuting attorney and the PTJ to sign a statement under threat of harassment. She also notes that, with this new evidence, in early 2003, the Chacín brothers filed a motion to dismiss the case.

10. Additionally, on April 8, 2003, Miguel Ángel Chacín filed a complaint with the 9th Court of Control of Caracas (hereinafter "the 9th Court") against twelve police officers, who had tampered with the scene of the crime in order to make it look like a suicide.¹ She contends that when the State agents were summoned to appear before the 9th Court, they voiced their disagreement with the complaint and stated that they were going to exact revenge against the Chacín family. This prompted the family to request police protection, which was not granted in a timely manner.²

¹ She also alleges that he filed a motion for the return of personal belongings and of the car and claimed that these things were not returned by the authorities. She notes that these belongings include a pistol and magazines, a shotgun with attachments, 6 rifles and hand guns and eleven weapon holders, that the alleged victim was carrying because he had given a shooting instruction class at the firing range on the day of his death. Petitioner's submission of September 8, 2005.

² She alleges that the police protection was not granted until one month after August 18, 2003, when Miguel Ángel Chacín's death occurred. Annex to petitioner's submission of March 17, 2010. Additionally, the petitioner claims that she filed a private criminal complaint against Yulitza Alejandra Mejías, Yuly Coromoto Mejías and others for the alleged homicide of her son. She claims that in said proceeding, Prosecutor 44 was removed from the case because he allowed "the flagrancy of the offense of homicide be lost," provided support to the plaintiff and intimidated the witness while she gave her statement, thus weakening the information being provided.

11. The petitioner claims that on August 18, 2003, Miguel Ángel Chacín was at a gas station, when two motorcyclists fired at him without saying a word. She notes that her son died on August 20, 2003 from the gunshot wounds and from medical malpractice at the clinic where he was treated. She contends that the police officers involved in the case of Juan Eleazar were responsible for the murder of her son Miguel Ángel, because Miguel Ángel had filed the complaint against them.

12. She also asserts that in 2004, Prosecutor 33 announced that the testimony of the “fabricated witness” in the drug trafficking case against her sons warranted examination and that the case had been reopened. She notes that on May 31, 2005, Carlos Gabriel Chacín filed a second motion with the 9th Court to dismiss the case and to expunge his police record. She indicates that in June 2005 a motion to expedite proceedings was filed and that as of March 2007, the motion to dismiss had still not been ruled upon.

13. The petitioner claims that in addition to other motions filed with the Office of the Prosecutor, a complaint regarding the failure to investigate the death of Miguel Ángel Chacín was brought before the Office of Fundamental Rights. She alleges that the investigations had not yielded any results, even though the family had provided all possible evidence, proof and hypothesis (through a private investigator retained by it) in order for the Office of the Prosecutor to be able to open a serious and reliable investigation.

14. Likewise, the petitioner asserts that on March 8, 2006, the body of Juan Eleazar Chacín Richardt was exhumed and that Prosecutor 22 performed tests thereon as part of the investigation, as had been ordered back in May 2003.³ Additionally, she claims that the exhumation of the body proved that he had been “shot at a distance, head-on and upward,” which was inconsistent with the finding of the autopsy (shot at point blank – alleged suicide). She notes that the investigation was closed by the lead prosecutor eight years after it had been opened. As a result of the closing of the case, in January 2010, his father filed a motion to review the decision to close the investigation and complained that obstacles had hampered the investigation and inquiries had remained unanswered. He also charged that agents of the State informed him that Coronel Eduardo Pinio Roldán, former Chief of the Department of Searches and Processing of the Intelligence Division of the Army, and boss of Juan Eleazar Chacín, had killed his two sons (Juan and Miguel Ángel⁴) and that he had given instructions to kill him (the father). Additionally, he denounced that the Commissioner of Military Intelligence, Luis Toro Garcés, ordered that a “peripheral cranial intervention” be performed on the body of his son, so that the investigation would point to a suicide. On April 9, 2010, the 12th Trial Court of Control in Chambers reopened the investigation and referred it to the Office of Prosecutor 22. In 2014, the petitioner contended that the case had still not been brought before the appropriate criminal courts.

15. The petitioner alleges a violation of due process rights and claims that the Ministry of Public Criminal Prosecution displayed an attitude of rejection, mistreatment and threats. Among the different violations alleged by her, she asserts that the evidence of the Prosecutor’s Office lacks objectivity; inquiries were not conducted, nor was evidence requested to clarify the circumstances of the deaths; there are contradictions and exhibits are missing from the case file and there has been delay and prosecuting attorneys have failed to obey court orders.

16. She alleges that there is a plot in progress to harass the Chacín family, because the father and her son, Juan Eleazar Chacín Richardt were the founders of “PODER” political party and since their line of thinking contrasted starkly with that of President of the Republic, Hugo Chávez Frías, they had been the targets of abuse. She contends that there is an assault under way on the family’s integrity, safety, lives and property. She claims that in July 2006, she brought a complaint before Prosecuting Attorney 22 that she personally received information about this plot and witnesses were called who heard a message from Coronel

³ Tests, such as luminol on the vehicle, though it had been sold on the order of Control Judge 12. The petitioner notes that in this investigation, the police officer who transferred the vehicle was named (this officer also presumably removed and planted evidence to attempt to make it look like a suicide); the statements were taken from the police officers involved in finding the body, those who took part in the removal of the body, finding inconsistencies in their statements. Petitioner’s submission of September 7, 2004.

⁴ see *infra* par. 19

Luis Pino Roldán to Juan Eleazar Chacín (senior): “Tell commander Chacín that just as I killed his son Juan, I also killed his son Miguel Ángel and now I am going after him, because he will be the next dead man;”⁵ consequently, a request to open an investigation of him was made. Additionally, she notes that she fears for the lives of the rest of her family, because she contends that the State has covered up for those responsible for the crimes, delayed the investigations and prevented her from having input into and access to the investigations.

B. State’s Position

17. The State argues that domestic remedies have not been exhausted and that the alleged facts do not tend to establish any violation of the Convention, inasmuch as, through the Office of the Public Prosecutor, the State opened the appropriate investigation into the death of Miguel Ángel Chacín, as provided by law, and that all of the necessary steps to the investigation are being conducted in order to clarify the facts.

18. It claims that the facts alleged in petition 2609-02 are connected to two different criminal proceedings. The first one pertains to the investigation against citizens Elio Nuzzo, Miguel Ángel and Carlos Gabriel Chacín Richardt, which was closed by the prosecutor’s office on December 23, 2002, so that the effect of the precautionary measures against the above-cited defendants could be ordered to cease immediately, without prejudice to reopening the investigation, should new evidence appear.

19. The State contends that on June 19, 2003, the victims’ attorneys filed a motion with the 9th Court to review the above-mentioned decision to close the investigation and dismissal of the case without prejudice. It notes that on January 20, 2004, the Attorney General of the Republic dismissed the case and that because the Ministry of Public Prosecution was not competent to dismiss the case, on February 11, 2005, Prosecuting Attorney 33 ordered it to be reopened. However, because it came to the attention of this prosecuting attorney that Miguel Ángel Chacín was deceased, she filed a motion to dismiss the case on February 11, 2005, which was granted by the 9th Court on August 24, 2005.

20. With regard to the second criminal proceeding, the State argues that it was brought on the grounds of a complaint filed on August 19, 2003 by Carlos Gabriel Chacín, before the Sub-Police Station of Santa Monica of the CICPC [the technical criminal investigation police corps] for the death of his brother Miguel Ángel and that the Office of Prosecuting Attorney 72 opened the investigation. The State claims that an on-site inspection of the scene of the crime and of the body of the victim, interviews of witnesses, expert ballistics examination and requests to several telephone companies for telephone records were ordered.⁶ It asserts that said investigation is in the preliminary stages. It argues that the delays are a result of the complexity of the case and the failure to exhaust domestic remedies.

21. With regard to the death of Juan Eleazar Chacín, the State alleges that the investigation, was opened ex officio, as recorded in the police log of May 15, 2001, which reads “[...]discovery of the lifeless body of citizen Juan Eleazar Chacín, who was wounded by bullet shot, inside of a motor vehicle” and was sent to the Office of Prosecutor 44 of the Ministry of Public Prosecution of Caracas.

22. The State claims that on July 30, 2001, Juan Eleazar Chacín, father of the victim, filed a private criminal suit against Yulitza Alejandra Mejías and Yuly Coromoto Mejías, with the 21st Trial Court of Control in Chambers for Criminal Matters of Caracas. It asserts that on October 9, 2002, the petitioner filed a motion for advance collection of evidence and expert liminol testing on the vehicle involved in the case, which was first denied and later granted under a second motion. It contends that the statements of Yulitza Alejandra

⁵ Annex to petitioner’s submission of November 20, 2006.

⁶ The State claims that on February 11, 2005, Prosecutor’s Office 17 was assigned the case and that on February 14, 2005, requests were made to the Chief of the Office of Vital Statistics of the Parrish El Recreo to forward a copy of the Death Certificate, and to the administrator of the cemetery del Este to forward the record of burial of Miguel Ángel Chacín.

Mejías, Yuly Coromoto Mejías and three other witnesses were taken, and several expert witness reports were issued.⁷

23. The State claims that on March 11, 2003, the Court agreed to dismiss the case against Yulitza Alejandra Mejías and Yuly Coromoto Mejías, on the grounds that she was deceased, at the request of the Office of the Prosecutor, and the decision was appealed before the Court of Appeals (inasmuch as she had not been indicted but had only provided a statement as a witness). It notes that on April 15, 2003, the Court of Appeals vacated *ex officio* the entire proceeding as of the first complaint filed in 2001.

24. It contends that on April 14, 2003, the 9th Court allowed the charges brought by Juan Eleazar Chacín (senior) against several officers of the CICPC, an officer of the Metropolitan Police and the pathologist to go forward and ordered the exhumation of the body, which took place on May 8, 2003. The State notes that on September 4, 2003, the 21st Trial Court of Control in Chambers for Criminal Matters requested to be recused, which was denied by the Court of Appeals. It claims that on December 17, 2003, the ruling was issued on grounds of lack of subject matter before the court to decide on with regard to the motion for advance collection of evidence filed by the petitioner. It notes that the Office of Prosecutor 24 subsequently did collect some evidence.⁸

25. The State asserts that on September 1, 2004, in the expert's report, the Directorate of Scientific Technical Services recommended that the crimes be reconstructed *in loco* using the vehicle involved. It notes that on November 25, 2004, the petitioners filed a motion for recusal of Prosecutor. The State claims that on January 25, 2005, the Office of the Prosecutor requested to be removed from the case, and this was the last step taken in the investigation of the case.

26. It notes that the Venezuelan judicial system, as provided for in the Constitution, ensures prompt access to justice through a swift, oral and public proceeding. The State claims that criminal actions are brought by the State through the Ministry of Public Criminal Prosecution and that domestic laws provide for victims to become private parties to criminal proceedings, either against the State or the private individual, for violations of their rights.

27. The State argues that in order to constitute a violation of the right to life, the victimizer must be engaged in performance of law enforcement or military duties or on State business, and that such a circumstance is not on record in the case file. It alleges that the petitioner's argument has been improperly formulated in invoking Article 4 of the American Convention and, instead, she should have denounced alleged violations of due process rights.

28. Lastly, the State claims that investigations are fully under way and that due process rights and access to all remedies provided for under domestic law have been afforded. Based on the foregoing, it alleges that the petitions brought against the State are inadmissible.

⁷ The State cites the following expert witness reports: legal recognition of ownership of the vehicle involved in the crime, luminol test and other hematological and chemical tests of the clothing of Juan Eleazar Chacín Richardt and Yuli Mejías; technical tests on the fire arms found inside the vehicle; ballistic trajectory test, handwriting test on the victim's address book, gunshot residue analysis (GSR) on the victim and on Yuli Mejías; visual inspection of the crime scene; removal of body and autopsy of the victim, forensic medical examination of Yuli Mejías, who subsequently died; trichological analysis [hair and scalp] in the vehicle, consisting of several pilose appendices collected by the sweeping method. State's submission received on March 8, 2005.

⁸ The State cites the following evidence gathering efforts: expert examination of psychological profile of the victim in order to discard the theory of suicide; compelling the appearance of the CICPC officer (who took the vehicle away) in order to provide a statement as a defendant for the alleged commission of the crime of cover-up of criminal acts, and an order was issued to notify the petitioners, among others. State's submission received on March 8, 2005.

IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

A. Competence

29. The petitioners are entitled, in principle, under Article 44 of the American Convention to lodge petitions before the Commission. The petition identifies as the alleged victims individuals for whom the Venezuelan State undertook to respect and ensure the rights enshrined in the Convention. As for the State, the Commission notes that Venezuela has been a State Party to the American Convention as of August 9, 1977, when it deposited the respective instrument of ratification, up until September 10, 2013, the date that the Venezuelan State's denunciation of the Convention came into effect. Therefore, the IACHR is competent *ratione personae* to examine the petition.

30. The Commission is also competent *ratione loci* to entertain the petition, inasmuch as violations of rights protected in the American Convention are alleged therein to have taken place within the territory of Venezuela, a State Party to this instrument. The Commission is competent *ratione temporis* because the obligation to respect and ensure the rights protected in the American Convention was already in effect on the State when the facts alleged in the petition took place. Lastly, the Commission is competent *ratione materiae*, being that the petition alleges potential human rights violations protected under the American Convention.

B. Admissibility Requirements

1. Exhaustion of Domestic Remedies

31. Article 46.1.a of the American Convention provides that in order for a petition lodged before the Commission to be admissible under Article 44 of the Convention, domestic remedies must be pursued and exhausted in accordance with generally accepted principles of international law. The purpose of this requirement is to allow domestic courts to first hear any cases of alleged violations of a protected right and, when appropriate, have the opportunity to settle the matter before it is heard in an international body.

32. First, it must be clarified what domestic remedies are required to be exhausted in the instant petition. The Commission and the Inter-American Court have held that only remedies adequate to cure the violations alleged need be exhausted. Adequate remedies means those which:

Are suitable to address an infringement of a legal right. A number of remedies exist in the legal system of every country but not all are applicable in every circumstance. If a remedy is not adequate in a specific case, it obviously need not be exhausted. A norm is meant to have an effect and should not be interpreted in such a way as to negate its effect or lead to a result that is manifestly absurd or unreasonable.⁹

33. The Commission notes that because the instant claim involves alleged responsibility of State agents for the deaths of Juan Eleazar and Miguel Ángel Chacín Richardt, the suitable remedy to clarify the facts is a criminal investigation in the ordinary courts in order to establish whether a crime has been committed and who is responsible for it.¹⁰

34. Following the death of Juan Eleazar Chacín, an investigation was opened *ex officio* on May 15, 2001. On April 8, 2003, Juan Eleazar Chacín (senior) brought a complaint against several officers of the CICPC. An appeal was also filed for failure to collect evidence, which led to an order being issued to collect evidence that was executed three years later. Additionally, a private criminal complaint was brought against

⁹ IA Court of HR, *Case of Velásquez Rodríguez v. Honduras*. Judgment July 29, 1988, Series C No. 4, para. 63. *Cfr.* IACHR. Report N° 57/00 *Case of La Granja, Ituango v. Colombia*, October 2, 2000.

¹⁰ IACHR, Report No. 8/11, *Anibal Aguas Acosta*, March 22, 2011, para. 30.

Yulitza Alejandra Mejías, Yuly Coromoto Mejías and others, for being allegedly responsible for the homicide, and the case was dismissed and later nullified. The investigation was closed in 2009; a motion to review the decision to close the investigation was filed and in April 2010, the investigation was reopened, and is still pending conclusion. The State has not provided any information regarding the results of the investigation.

35. Additionally, with regard to the death of Miguel Ángel Chacín, the investigation was opened based on a complaint brought on August 19, 2003. In 2006, a request was made to State agents to open an investigation and this investigation is still in the preliminary phase.

36. The petitioner contends that the authorities have stalled the investigations and that “they have been slow.” The State, in response, argues failure to exhaust domestic remedies, inasmuch as the investigations into the deaths of Juan Eleazar and Miguel Ángel Chacín Richardt are still ongoing and that the delay is a result of the complexity of the case.

37. In this regard, the alleged facts pertaining to the deaths of Juan Eleazar Chacín and Miguel Ángel Chacín are interpreted under domestic law as potential criminal conduct, which is subject to ex officio criminal action, the investigation and prosecution of which must be brought forward by the State itself. Additionally, after more than twelve years having elapsed since the death of Juan Eleazar Chacín and more than eight years, since the death of Miguel Ángel Chacín, the facts that are the subject of the instant petition have still not been ruled on by the authorities. Therefore, the exception to prior exhaustion of domestic remedies set forth under Article 46.2.c as to unwarranted delay is applicable and, consequently, prior exhaustion of domestic remedies is not required for this claim of the petition.

38. With regard to the criminal proceedings against Carlos Gabriel and Miguel Ángel Chacín, they were detained on March 15, 2000 and on March 16, 2000, Control Court 18 of Caracas ordered their release. A *habeas corpus* appeal was filed against the arrest warrants issued in July 2000, and was denied. The investigation was closed on December 23, 2002. In early 2003, a motion was filed to dismiss the case. On February 11, 2005, the case was reopened. On May 31, 2005, another motion was filed to dismiss the case with prejudice, which was indeed dismissed on August 24, 2005, with regard to Miguel Ángel Chacín, as a result of his death. In 2006, Carlos Gabriel Chacín filed for constitutional relief (*amparo*) in order to get the case against him dismissed and to have his criminal record expunged. He obtained no response to the *amparo* request. The Commission notes that said delay is tantamount to unwarranted delay as provided under Article 46.2.c of the American Convention and, therefore, the petitioner is entitled to protection under the exception to the requirement of exhaustion of domestic remedies prior to resorting to the Inter-American system in order to seek relief for this claim of her petition. With regard to the allegations of medical malpractice in connection with the death of Miguel Ángel Chacín, the Commission notes that domestic remedies have not yet been exhausted and, therefore, this requirement has not been met with regard to the aforementioned allegation.

39. Invoking exceptions to the rule of prior exhaustion of domestic remedies provided for in Article 46.2 of the Convention is closely linked to the determination of potential violations of certain rights enshrined therein, such as the fair trial guarantees of access to justice. However, because of its very nature and purpose, it is a legal norm whose content is independent from the substantive rules of the Convention. Therefore, it must be determined in advance and separately from the analysis of the merits of the case whether or not exceptions to the prior exhaustion of domestic remedies requirement are applicable to the case in question, since it relies on a standard of evaluation different from the one used to determine a possible violation of Articles 8 and 25 of the Convention. It is important to clarify that the causes and the effects preventing exhaustion of domestic remedies will be analyzed in the report adopted by the Commission on the merits of the controversy, in order to ascertain whether or not they constitute violations of the Convention.

2. Timeliness of the Petition

40. The Convention establishes that in order for a petition to be admissible, it must be lodged within six months of the date on which the alleged victim was notified of the final decision adopted by domestic courts. Likewise, Article 32 of the Commission's Rules of Procedure establishes that when any of the exceptions to the prior exhaustion of domestic remedies rule is applicable, the petition must be lodged within a reasonable period of time, as determined by the Commission.

41. As has been established by the Commission, the exception to rule of exhaustion of domestic remedies under Article 46.2.c of the American Convention is applicable to this petition. In order to establish whether the petition was lodged within a reasonable period of time, in keeping with Article 32 of the Rules of Procedure of the IACHR, it must consider the date when the alleged violation of rights took place and the particular circumstances of each case.

42. The petition on behalf of Carlos Gabriel and Miguel Ángel Chacín Richardt was received on August 13, 2002 and the petition on behalf of Juan Eleazar Chacín Richardt was received on August 21, 2002. The facts that are the subject of the claims began to unfold as of March 15, 2000, when two of the alleged victims were detained; and the effects thereof in terms of the alleged failure in the administration of justice have continued up until the present time. Therefore, in view of the context and particular circumstances of the instant petition, as well as the fact that several proceedings are still pending as of the current date of this decision, the Commission finds that the petition was lodged within a reasonable period of time and it must consider the admissibility requirement pertaining to timeliness of the petition as fulfilled.

3. Duplication of Procedures and International *res judicata*

43. For a petition to be admitted, Article 46.1.c of the Convention establishes that "the subject of the petition or communication is not pending in another international proceeding for settlement and Article 47.1.d of the Convention establishes that the Commission shall consider inadmissible any petition or communication if it "is substantially the same as one previously studied by the Commission or by another international organization." There is no evidence in the case file that the subject of the petition is pending in another international proceeding for settlement, nor that it is substantially the same as one previously studied by this or any other international organization." Therefore, the requirements set forth in Articles 46.1.c and 47.1.d of the Convention must be deemed as fulfilled.

4. Colorable Claim

44. Neither the American Convention nor the Rules of Procedure of the Commission requires petitioners to identify the specific rights allegedly violated by the State in matters submitted to the IACHR, even though the petitioners may do so. However, it is the duty of the Commission, in following the system of legal precedents, to determine in its admissibility reports, what provision of relevant Inter-American instruments is applicable and could be concluded to have been violated, should the alleged facts be proven by means of sufficient evidence and legal argument.

45. In light of the elements of fact and law submitted by the parties and the nature of the matter before it, the IACHR finds that the allegations of the petitioner regarding the alleged involvement of State agents in the deaths of Juan Eleazar and Miguel Ángel Chacín Richardt could tend to establish violations of the right to life protected in Article 4 in connection with Article 1.1 of the American Convention to the detriment of both of these individuals; as well as the right to humane treatment enshrined in Article 5 of the same instrument, to the detriment of Juan Eleazar and Miguel Ángel Chacín Richardt.

46. Additionally, the allegations pertaining to the failure to conduct effective investigations into these deaths, the alleged irregularities in said investigations and the alleged threats against the alleged victims could tend to establish potential violations of the right to life, a fair trial and judicial protection, as protected under Articles 5, 8 and 25, in connection with Article 1.1 of the American Convention, to the

detriment of Carlos Gabriel Chacín Richardt, Blanca Felicia Richardt de Cachín and Juan Eleazar Chacín (Senior).

47. Likewise, the allegations regarding the arbitrary detention, illegal deprivation of liberty, delay in the investigation against Carlos Gabriel Chacín Richardt and the failure of the authorities to respond to the petition for constitutional relief via *amparo* for the dismissal of said proceeding could tend to establish *prima facie* potential violations of the fair trial rights and the right to judicial protection, as provided for under Articles 7, 8 and 25, in connection with Article 1.1 of the American Convention to the detriment of Mr. Chacín Richardt.

48. In the instant petition, the Commission notes that the allegations set forth with regard to the failure to return the automobile and the personal belongings of Juan Eleazar Chacín calls for examination of the merits, given that it raises issues connected to the scope of the right to private property as provided for in Article 21 of the American Convention. Similarly, the Commission notes that the allegations concerning the harassment endured by the Chacín Richardt family also requires examination of the merits inasmuch as it raises issues linked to the scope of the right to protection of the family, as established in Article 17 of the American Convention.

V. CONCLUSIONS

49. The Commission concludes that it is competent to examine the claims brought by the petitioner and that the alleged violation of Articles 4, 5, 7, 8, 17, 21 and 25, in connection with Article 1.1 of the American Convention, are admissible, in accordance with the requirements set forth in Articles 46 and 47 of the American Convention.

50. Based on the foregoing arguments of fact and law and without prejudice to the merits of the matter,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To find the instant claims admissible as to Articles 4, 5, 7, 8, 17, 21 and 25, in conjunction with Article 1.1 of the American Convention.
2. To notify the Venezuelan State and the petitioner of this decision.
3. To proceed to the examination of the merits of the matter.
4. To publish this decision and include it in the IACHR Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 29th day of the month of January, 2015. (Signed): Tracy Robinson, President; Felipe González, Second Vice President; José de Jesús Orozco Henríquez, Rosa María Ortiz, Paulo Vannuchi and James L. Cavallaro, Commissioners.