

OEA/Ser.L/V/II.  
Doc. 128  
17 June 2019  
Original: Spanish

**REPORT No. 119/19**  
**PETITION 526-08**  
REPORT ON INADMISSIBILITY

CRISTIAN ROBERTO AVELLA ET AL.  
ARGENTINA

Approved electronically by the Commission on June 17, 2019.

**Cite as** IACHR, Report No. 119/19. Petition 526-08. Inadmissibility. Cristian Roberto Avella et al. Argentina. June 17, 2019.

**I. INFORMATION ABOUT THE PETITION**

<b>Petitioner:</b>	Carlos A. Cony Fernández Madero <sup>1</sup>
<b>Alleged victim:</b>	Cristian Roberto Avella et al. <sup>2</sup>
<b>Respondent State:</b>	Argentina
<b>Rights invoked:</b>	Articles 8 (fair trial), 9 (freedom from ex post facto laws), 21 (property), 25 (judicial protection) of the American Convention on Human Rights <sup>3</sup> pursuant to Article 1.1 (obligation to respect rights) of the same instrument

**II. PROCEEDINGS BEFORE THE IACHR<sup>4</sup>**

<b>Filing of the petition:</b>	P-526-08: May 2, 2008
	P-1004-08: August 25, 2008
	P-1005-08: August 26, 2008
	P-1042-08: September 8, 2008
	P-1059-08: September 12, 2008
	P-1244-08: October 22, 2008
	P-1300-08: November 6, 2008
<b>Additional information received at the stage of initial review:</b>	P-526-08: January 21, May 15, June 17 and 24, September 8, December 30, 2009; February 28, March 26, June 2, and November 26, 2010; January 13, 2011; January 18, 2012; January 18, 2013; January 2, 2014
	P-1004-08: September 2 and 3 and August 26, 2008
	P-1005-08: September 2 and 3, 2008
	P-1042-08: September 9, 16, and 23, 2008
	P-1059-08: September 23 and 29, 2008
	P-1300-08: December 5, 2008
<b>Notification of the petition to the State:</b>	P-526-08: April 11, 2014
<b>State's first response:</b>	P-526-08: September 16, 2015
<b>Additional observations from the petitioner:</b>	P-526-08: November 9, December 9 and 18, 2015; May 23, June 8 and 17, August 6 and 22, November 30, 2016; May 8, July 5, December 20, 2017, and March 19 and 23, 2018
<b>Additional observations from the State:</b>	P-526-08: July 22 and September 16, 2015; April 26, 2016; April 11, and October 23, 27, and 31, 2017

**III. COMPETENCE**

<b>Competence <i>Ratione personae</i>:</b>	Yes, in all petitions
<b>Competence <i>Ratione loci</i>:</b>	Yes, in all petitions
<b>Competence <i>Ratione temporis</i>:</b>	Yes, in all petitions
<b>Competence <i>Ratione materiae</i>:</b>	Yes, American Convention (instrument of ratification deposited on September 5, 1984)

<sup>1</sup> The petition was filed by Roxana Lucia Maria Ranni and Carlos A. Cony Fernández Madero; however, Roxana Lucia Maria Ranni withdrew from representation via communication received on December 20, 2017.

<sup>2</sup> The seven petitions examined in this report were filed on behalf of 88 alleged victims, who reported that the Argentine State had infringed on their right to property and violated their procedural guarantees. The 88 alleged victims identified in Annex I.

<sup>3</sup> Hereinafter, the "Convention" or the "American Convention".

<sup>4</sup> Petitions P-1004-08, P-1005-08, P-1042-08, P-1059-08, P-1244-08, P-1300-08 were joined to petition P-526-08 before a notification was sent to the State. The observations submitted by each party were duly transmitted to the opposing party.

**IV. DUPLICATION OF PROCEDURES AND INTERNATIONAL *RES JUDICATA*, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION**

Duplication of procedures and International <i>res judicata</i> :	No
Rights declared admissible	Articles 8 (fair trial), 21 (property), 25 (judicial protection) and 26 (economic, social and cultural rights) of the American Convention on Human Rights, in accordance with Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects) of the same instrument
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, under the terms of Section VI
Timeliness of the petition:	Yes, under the terms of Section VI

**V. ALLEGED FACTS**

1. The alleged victims are tax prosecutors of the Federal Administration of Public Revenue (hereinafter, AFIP), which they represent in tax, fees, social security, fines, interest and other charges collection cases. They receive an income that consists of a basic monthly rate, plus professional fees paid by the convicted as court fees for cases in which they were involved. These fees, protected by Law 21.839, are deposited in a bank account named “Legal Officials Fees”, managed by the Argentine State via the AFIP. The petitioners state that if the fees assessed are less than 5,000 pesos, the amount is allocated to the tax prosecutor. However, following the enactment of internal Directive 290/02 on June 21, 2002 – retroactively applied to the month of December of 2001 – if the fees assessed are more than the sum mentioned, the surplus shall be distributed among all tax prosecutors and the professional and non-professional staff of AFIP on a pro rata basis. They state that, previously, said sums were distributed among them.

2. The petitioners allege that by changing the distribution method of the fees, Directive 290/02 violates Article 17.75(22), of the Argentine Constitution and their rights to property, guaranteed by the American Convention. They state that it converted the fees into awards and incentives, and that it stipulates that before its distribution, the employer’s contribution, vacation bonus, and the supplementary annual income must be deducted from the fees, thus changing its legal nature. They allege that this provision has the effect of imposing charges on tax prosecutors that, according to the petitioners, should not be imposed on them. They claim unlawful and arbitrary deduction of fees to which they are entitled, thus altering their right to property and their right to a fair wage. Also, they allege that this revenue is administered at the discretion of the tax collection agency, which would further constitute a violation of the right to property. The petitioners also allege that the State has violated their rights to due process, freedom from ex post facto laws and the right to judicial protection, as a result of the enactment of Directive 290/02.

3. The petitioners filed complaints before the national courts, with the intention to have the Directives 290/02 and 145/01,<sup>5</sup> as well as any other regulation resulting from those and issued by AFIP, ruled unconstitutional and null. Except in regard to petition P-1059-08,<sup>6</sup> the petitioners allege that they received final judgment from the Supreme Court, declaring the law constitutional, thus exhausting domestic remedies. They state that these rulings were rendered, by analogy, on the grounds and conclusions of the previous ruling in the case *Dadón, Victor Carlos y otro c/Administración Federal de Ingresos Públicos AFIP s/ acción de amparo* (hereinafter, “Dadón”). In *Dadón*, the Supreme Court granted the extraordinary appeal to AFIP based on the grounds and conclusions of the Public Prosecutor’s opinion, “to which the Court adhered to for the sake of brevity”. The petitioners question the proceedings and the reasoning adopted by the Supreme Court regarding the property of the fees. They allege that the grounds and conclusions of this decision, based

<sup>5</sup> Whereby the regime of exclusivity of the fees paid to tax prosecutors was eliminated and which stipulated a 30% deduction of the fees that they generate to be distributed to other officials, attorneys or not, applied retroactively to August of 1997.

on the opinion of the Attorney General's Office, violate Articles 8, 9, 21 and 25 of the American Convention. Also, they allege that provisions were invoked that exceeded the Court's own jurisdiction, thus violating Article 8 of the Convention. Finally, they claim that the de facto appeal or complaint motion submitted by the National Treasury, resulting in the declaration of constitutionality, was substantiated without any involvement of the complainants, thus violating the right to reply and the right of defense.

4. The petitioners also mention subsequent legal actions taken by the State that was allegedly retaliation for the submission of petitions to the IACHR, to provide context. They claim that they received demands from the State, whereby it alleges their obligation of reimbursing the amounts received while previously granted precautionary measures were in force, as a result of an amparo action filed by the petitioners, when applicable. They allege that they were forced to sign payment agreements under pressure applied by the State. Additionally, they indicate that, in 2014, the State enacted Directives 327/14 and 324/14, whereby the automatic tax debt collection system and contract terms were modified, removing the "tax prosecutor" category, thus violating national laws and their right to property. They state that Mr. Luis Alejandro Korinfeld filed an amparo action and requested a precautionary measure against said laws, which were rejected, respectively, in November of 2014 and on September 30, 2014.

5. In turn, the State claims a lack of evidentiary facts that would constitute violations of rights guaranteed by the Convention and that, therefore, Article 47.b is applicable. They sustain that the petitioners merely object to the factual and legal assessments issued by domestic judicial bodies, without reasonably proving in what manner these assessments would have violated the rights protected by the Convention. They allege that the fees held by the State are not the property of the alleged victims and that the job compensation of the professionals lies in the salary that was mutually agreed upon, in accordance with the standards stipulated and accepted in the contract and labor convention. They indicate that the AFIP has the authority to configure the manner in which funds are distributed.

6. Further, the State alleges that petitions P-526-08, P-1004-08, P-1005-08, P-1042-08, P-1244-08, and P-1300-08 merely contest the current system that decides extraordinary remedies and complaints before the Supreme Court. The State sustains that the Supreme Court has applied a thorough examination, concluding that the provisions challenged by the petitioners have adequate legal grounds. The petitioners have been duly heard and have had access to domestic legal remedies to defend their alleged right to property. In this regard, the State alleges that the Commission cannot contest court decisions issued within the framework of these petitions without risk of contradicting the doctrine of fourth instance.

## **VI. ANALYSIS OF EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION**

7. The petitioners allege that they exhausted domestic remedies, pursuant to Article 46.1(a), with the Supreme Court's rulings, handed down on the following dates: November 6, 2007,<sup>7</sup> December 9, 2009,<sup>8</sup> February 26, 2008,<sup>9</sup> February 26, 2008,<sup>10</sup> March 4, 2008,<sup>11</sup> June 10, 2008,<sup>12</sup> and May 6, 2008.<sup>13</sup>

<sup>7</sup> Petition 526-08, letter dated May 2, 2008: The petitioners indicate that they filed a judicial complaint and received a decision in their favor on December 2, 2005, in the case *De Vedia Martin y otro c/AFIP s/Diferencias salariales*, which was confirmed by the National Chamber of Labor Appeals of the Federal Capital on May 29, 2006. However, on November 6, 2007, the Supreme Court declared the AFIP's complaint admissible, overturned the decisions of the first instance tribunal and of the Chamber of Appeals, adhering to the grounds and conclusions handed down in the "Dadon" case.

<sup>8</sup> Petition 526-08: On June 2, 2010, a document adding two alleged victims to petition P-526-08 was received. The petitioners state that they were granted a precautionary measure on August 9, 2002, which was confirmed on April 24, 2003. On February 16, 2005, the Federal Court denied the complaint filed by the petitioners regarding the merits. On November 13, 2007, this decision was overturned and Directives 290/02 and 145/01 of the AFIP were ruled null for exceeding the statutory habilitation. However, on December 9, 2009, in the case *Marc, Carlos Enrique y otros c/AFIP s/Ordinario - Acción meramente declarativa de inconstitucionalidad y nulidad*, the Supreme Court granted the extraordinary appeal filed by the AFIP, by analogy with the "Dadon" case.

<sup>9</sup> Petition 1004-08: The petitioners allege that, on October 31, 2005, the courts issued a judgment against them. They indicate, however, that on February 13, 2006, the Third Chamber of Appeals ruled in their favor, overturning the ruling of first instance. However, on February 26, 2008, the Supreme Court of Justice substantiated the complaint filed by the AFIP, in the case *Aguirre Ramón Adolfo y* [continúa...]

8. Further, regarding petition P-526-08, the petitioners indicate that, regarding one group of petitioners, a ruling was handed down by the National Chamber of Labor Appeals on June 15, 2011, whereby their special appeal was not granted, exhausting domestic remedies.<sup>14</sup> Regarding another group, there is an unwarranted delay that justifies the application of the exceptions stipulated in Article 46.2(a) and 46.2(b) of the Convention.<sup>15</sup> Regarding petition P-1059-08,<sup>16</sup> the petitioners allege that seven years have elapsed without receiving a decision on the merits and, therefore, the exceptions in Articles 46.2(a) and 46.2(b) of the Convention are applicable.

9. In turn, the State alleges that the petitioners did not exhaust domestic remedies and the untimeliness of the petition's processing, since the IACHR transmitted it to the State almost six years after having received it. The State alleges that, regarding petitions P-526-08,<sup>17</sup> P-1004-08, P-1042-08, P-1244-08, and P-1300-08, it cannot be confirmed that the alleged victims participated in the appeals that supposedly exhausted domestic remedies. Further, regarding petition P-526-08,<sup>18</sup> the State claims that the decision handed down on June 16, 2011, mentioned by the petitioners, as well as the decision of the Supreme Court denying the extraordinary appeal against that of May 8, 2012, corresponded to the precautionary measure requested by the petitioners and did not resolve the underlying issue. Therefore, domestic remedies were not exhausted.

10. Regarding petitions P-1059-08 and P-526-08,<sup>19</sup> the State alleges that it is not possible to confirm the alleged delay in the resolution of the case, neither by the petitioner's claims nor by the

[... continuación]

*otros c/AFIP*, and rejected the alleged victims' claims, adhering to the grounds and conclusions of the Attorney's general opinion, which referred to the "Dadón" case.

<sup>10</sup> Petition P-1005-08: The petitioners allege that they filed their complaint before the Courts that would have ruled against them on February 26, 2008, in the case *Matteri José María y otro c/ AFIP Disp. 290/02 s/ Proceso de conocimiento*. They allege that, on February 13, 2006, the Third Division of the Appellate National Chamber of Labor of the Federal Capital ruled in their favor, in the case *Aguirre Ramón Adolfo y otros c/Administración Federal de Ingresos Públicos AFIP s/Diferencias de salarios*. However, the Supreme Court declared the challenged provision constitutional, by analogy with the "Dadón" case, via judgment issued on February 26, 2008.

<sup>11</sup> Petition 1042-08: The petitioners indicate that on August 30, 2005, the courts granted the amparo action they filed in *Trosch Genova María Esther y otros c/AFIP s/Acción de Amparo*. On November 30, 2005, the Appellate National Chamber of Labor confirmed the decision as appealed. However, the Supreme Court declared the challenged provision constitutional via judgment issued on March 4, 2008.

<sup>12</sup> Petition 1244-08: The petitioners state that the Courts decreed the Resolution AFIP 290/02 absolutely and irrevocably null via judgment handed down on May 31, 2004, in the case *Fontana Rosa Angelica y otros c/AFIP - DGI -DISP.290/02 s/ Amparo Ley 16.986*. The AFIP filed an appeal and the Court of Claims (*Cámara Federal en lo Contencioso Administrativo*) overturned the first instance ruling. However, the Supreme Court declared the law constitutional via judgement given on June 10, 2008.

<sup>13</sup> Petition 1300-08: The petitioners indicate that the Court of First Instance ruled in their favor on June 27, 2003, declaring the Directive 290/02 unconstitutional, in the case *Murgier, María Estela y otros c/AFIP s/ Amparo*. The ruling was appealed by the AFIP and on March 19, 2004, the Appellate National Chamber confirmed the ruling as appealed. However, the Supreme Court declared the law constitutional via decision issued on May 6, 2008.

<sup>14</sup> As for the document received on January 18, 2012, adding 19 alleged victims to petition P-526-08, the petitioners state that they were granted a precautionary measure on November 8, 2002, in the case *Colantonio Juan Carlos y otros c/AFIP - Disp. 290/02 s/Empleo público*, in which they endeavored to have the Directives 290/02 and 145/01 be declared unconstitutional and null. They state that on May 19, 2003, the precautionary measure was extended to a new group of tax prosecutors. However, on April 26, 2011, the Appellate National Chamber of Labor revoked the measure that suspended the effects of Directive 290/02, on the grounds of the "Dadón" case. The petitioners indicate that they filed an extraordinary appeal, which was denied on June 15, 2011. They were notified of the decision on June 27, 2011.

<sup>15</sup> In a correspondence dated March 26, 2010, that added 13 alleged victims to petition P-526-08, the petitioners state that on March 21, 2007, the Federal Court No. 1 of the city of Córdoba ruled in their favor, in the case *Cavallieri, Gabriela Verónica y otros c/AFIP s/Acción declarativa de inconstitucionalidad*. However, on June 25, 2009, an appeal was granted. The petitioners filed an inapplicability appeal and an extraordinary appeal against this decision, that, to this day, supposedly still has not been resolved, exceeding the maximum deadline established by law.

<sup>16</sup> The petitioners allege that they pursued an action in unconstitutionality and nullity of a series of articles contained in the AFIP resolution 145/01, on June 13, 2011, regarding which a precautionary measure was granted, on September 7, 2001, and confirmed on February 11, 2001, in the case *Robles, Luis Eduardo c/AFIP DGI Disp. 145/01 s/Dirección General Impositiva*. They indicate that afterwards, they extended their complaint against Directive 290/02, requesting an extension of the precautionary measure, which was granted on February 24, 2003 and confirmed on September 19, 2003. Nevertheless, the petitioners allege that seven years have elapsed without receiving a decision on the merits and, therefore, the exceptions in article 46.2(a) and 46.2(b) of the American Convention are applicable.

<sup>17</sup> Specifically, concerning the alleged victims included in correspondence dated May 2, 2008.

<sup>18</sup> Specifically, concerning the alleged victims included in correspondence dated January 18, 2012.

<sup>19</sup> Specifically, concerning the alleged victims included in correspondence dated March 26, 2010.

documentation provided. Therefore, the exceptions stipulated in Articles 46.2(a) and 46.2(b) of the Convention are not applicable. Regarding petitions P-1005-08, the State alleges that it cannot be determined that the alleged victims participated in the appeals that supposedly exhausted domestic remedies. Further, the State alleges that it was the petitioners' procedural actions which caused the inability to resolve the merits of the case, since they filed a merely declarative appeal instead of an action directly challenging the legislation and missed the deadline to file an appeal against the ruling from June 28, 2007, whereby the challenge to the disposition was rejected definitively. Finally, the State holds that the petitions P-526-08<sup>20</sup> and P-1300-08 were not filed within the deadline stipulated in the Convention, and therefore are inadmissible.

11. Regarding petitions P-526-08,<sup>21</sup> P-1004-08, P-1042-08, and P-1300-08, the Commission notes that the alleged victims received final decisions from the Supreme Court on November 6, 2007, February 26, 2008, March 4, 2008, and May 6, 2008, respectively. The Commission observes, based on the information provided by the petitioners, that the alleged victims participated in the referred appeals. As a result, the Commission concludes that domestic remedies have been exhausted, pursuant to Articles 46.1(a) of the Convention and 31.1 of the IACHR Rules of Procedure. The Commission observes that the IACHR received the petitions on May 2, 2008, August 25, 2008, September 8, 2008, and November 6, 2008, respectively. The Commission additionally notes that, in regards to petition P-1042-08, the documents submitted indicate that the final judgement was notified on March 18, 2008. Consequently, the petitions meet the requirement established in Article 46.1(b) of the Convention.

12. As for petition P-1005-08, the Commission notes that it is not conclusive from the information provided that domestic remedies were exhausted, since it does not appear that the alleged victims were a party in the Aguirre case, whereby said criteria would allegedly have been met. The Commission observes that, according to the information provided by the State, on February 26, 2008, the expiration of the special remedy filed by the petitioner was ordered *ex officio*, by which they would challenge the denial of the administrative remedies files, and, indirectly, the constitutionality of the provisions. In the petition in question, the Commission cannot consider that the petitioner has duly fulfilled the requirement of exhausting domestic remedies if said remedies have been dismissed on procedural grounds that, *prima facie*, appear reasonable and not arbitrary. Moreover, the Commission notes that the other remedies filed by the petitioners, and referenced by the State, do not constitute appropriate means in order to exhaust domestic remedies. Therefore, the Commission concludes that the requirement pursuant to Article 46.1(a) of the Convention has not been met.

13. Regarding petition P-1244-08, the Commission notes that the information provided by the petitioners confirms the participation in the proceedings resulting in the Supreme Court's judgement on June 10, 2008 whereby the domestic remedies were exhausted, of the following petitioners: Jorge Luis Pino, Ana Maria Veiro, Omar Gustavo Paladino, Rodolfo Diego Veljanovich, Hectora Padavoni Sanchez, Nelida Susana Schneider, Lidia Susana Villafaña, Miriam Graciela Herrman, Brunella Virginia Mercedes Fernandez, and Mirtha Elizabeth Calderon. Therefore, the Commission concludes that the latter fulfilled the requirements pursuant to Article 46.1(a) of the Convention. Additionally, the Commission notes that the petition was filed before the IACHR on October 22, 2008, thus fulfilling the requirement pursuant to Article 46.1(b) of the Convention. Therefore, the case file does not indicate the participation of the following individuals: Susana Beatriz, Silvia Elisa Pozzi, Carla Piccaluga, Pablo Esteban Czornenki, Ignacio Angel Gomez Garay, Pablo Javier Marey, Hugo Maria Botta, and Alicia Susana Massicot. Consequently, the requirement of exhausting domestic remedies cannot be deemed fulfilled by the Commission.

14. As concerns the alleged victims Marisa Ester Giordano de Camiletti and Silvia Carmen Ainsa, included in the petition P-526-08,<sup>22</sup> the Commission notes that both participated in the case that culminated in the Supreme Court's ruling on December 9, 2009, thus exhausting domestic remedies, as required by

<sup>20</sup> Specifically, concerning the alleged victims included in correspondence dated June 2, 2010.

<sup>21</sup> Specifically, concerning the alleged victims included in correspondence dated May 2, 2008.

<sup>22</sup> Included via written communication dated June 2, 2010.

Articles 46.1(a) and 46.1(b) Additionally, in regards to other alleged victims,<sup>23</sup> the information provided by the parties indicate that the interlocutory decision handed down by the National Chamber of Labor Appeals on June 15, 2011, did not decide on the merits of the case, but merely on the precautionary measures requested by the petitioners. Therefore, the Commission concludes that the petitioners did not exhaust domestic remedies as stipulated in Article 46.1(a) of the Convention.

15. In regard to petition P-1059-08, the Commission notes that the petitioners allege that they did not exhaust domestic remedies due to denial and delay in the domestic judicial system, since the domestic proceedings continued for longer than seven years without decision on the merits of the case being issued. The Commission notes that the State indicates that it is not possible to confirm neither the alleged delay of the case's resolution nor any motives that could have caused it. The Commission finds that the exception stipulated in Article 46.2(c) of the Convention and Article 31.2(c) of its Rules of Procedure applies. Regarding the submission deadline, the Commission notes that the petitioners allege that, on February 24, 2003, the precautionary measure issued on September 7, 2001 was prolonged until September 19, 2003, and that the petition was submitted on September 12, 2008. As a result, the Commission notes that the petition was submitted in a timely fashion and satisfies the requirement pursuant to Article 32.2 of the Rules of Procedure of the IACHR.

16. As for petition P-526-08,<sup>24</sup> the Commission notes that the petitioners allege that the inapplicability remedy and extraordinary appeal that they filed on August 18, 2009 has yet to be resolved. Therefore, the Commission considers that the exception stipulated in Article 46.2(c) of the Convention and Article 31.2(c) of the Rules of Procedure applies, as well as the timely submission requirement pursuant to Article 32(2) of the Rules of Procedure is met.

17. Finally, the Commission takes into account the State's complaint concerning the untimely submission of the petition. The IACHR notes that neither the Convention nor the Rules of Procedure of the Commission establish a deadline for forwarding a petition to a State after it is received, and that the deadlines established in the Rules of Procedure and in the Convention for other stages of the process are not applicable by analogy<sup>25</sup>.

## VII. ANALYSIS OF COLORABLE CLAIM

18. In view of the elements of fact and law set forth by the parties and the nature of the matter brought before it, the Commission finds that, if proven, should the alleged acts regarding the lack of substantiation in the judgment of the Supreme Court and the excess of jurisdiction on its behalf, denying of participation in all stages of the legal proceedings, its impact on the compensation method and their contractual relationship, could establish possible violations of Article 8 (fair trial), 21 (property), 25 (judicial protection), 26 (progressive development) of the American Convention on Human Rights, in relation to Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects). With respect to the petitioner's claim regarding the alleged violation of Article 9 (freedom from ex post facto laws) of the American Convention, the Commission determines that the petitioners have not submitted claims or evidence to *prima facie* prove such violation.

19. Lastly, as for the State's claim about the establishment of a court of fourth instance, the Commission observes that, in declaring this petition admissible, it does not seek to overstep the authority of domestic courts. In the merits stage, the Commission will analyze whether the domestic proceedings conformed to the guarantees of due process and judicial protection in accordance with the rights protected by the American Convention.

<sup>23</sup> Specifically, concerning the alleged victims included in correspondence dated January 18, 2012.

<sup>24</sup> Specifically, concerning the alleged victims included in correspondence dated March 26, 2010.

<sup>25</sup> See, for example, IACHR, Report No. 56/16. Petition 666-03. Admissibility, Luis Alberto Leiva. Argentina. December 6, 2016, para. 29, and Inter-American Court of Human Rights, Case of *Mémoli v. Argentina*. Preliminary objections, merits, reparations and costs. Decision from August 22, 2013. Series C, No. 295, paras. 30-33.

## VIII. DECISION

1. To find the instant petition pursuant to Articles 8, 21, 25, and 26 of the American Convention on Human Rights, as stipulated in its Articles 1.1 and 2, to the detriment of 28 alleged victims of petition 526-08;<sup>26</sup> 10 alleged victims of petition P-1244-08<sup>27</sup> and the alleged victims of petitions P-1004-08, P-1042-08, P-1059-08, and P-1300-08;<sup>28</sup>

2. To find the instant petition inadmissible in relation to Article 9 of the American Convention; and regarding eight alleged victims of petition P-1244-08;<sup>29</sup> 19 alleged victims from petition P-526-08<sup>30</sup> and the alleged victims of petition P-1005-08; and

3. To notify the parties of this decision; to continue with the analysis on the merits; and to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 17<sup>th</sup> day of the month of June, 2019. (Signed): Esmeralda E. Arosemena Bernal de Troitiño, President; Joel Hernández García, First Vice President; Antonia Urrejola, Second Vice President; Margarette May Macaulay, Francisco José Eguiguren Praeli, Luis Ernesto Vargas Silva and Flávia Piovesan, Commissioners.

---

<sup>26</sup> Limited to: the 12 alleged victims included in the letter dated May 2, 2008, 14 alleged victims included in the letter dated March 26, 2010 and two victims included in letter dated June 2, 2010. See Annex II.

<sup>27</sup> Limited to the alleged victims Jorge Luis Pino, Ana Maria Veiro, Omar Gustavo Paladino, Rodolfo Diego Veljanovich, Hectora Padavoni Sanchez, Nelida Susana Schneider, Lidia Susana Villafaña, Miriam Graciela Herrman, Brunella Virginia Mercedes Fernandez, and Mirtha Elizabeth Calderon, listed in the petition.

<sup>28</sup> The 59 alleged victims whose petitions are admissible are identified in Annex II.

<sup>29</sup> Regarding the alleged victims Susana Beatriz, Silvia Elisa Pozzi, Carla Piccaluga, Pablo Esteban Czornenki, Ignacio Angel Gomez Garay, Pablo Javier Marey, Hugo Maria Botta, and Alicia Susana Massicot, listed in the petition.

<sup>30</sup> Regarding the victims referenced in the letter from January 18, 2012: Juan Carlos Colantonio, Mónica Graciela Antonia Fernandez Acevedo, Silvia Beatriz Urti, Maria Ines Assad, Patricia Andrea Manterola, Maria Julieta Angélica Poccioni, Osvaldo Enrique Liberti, Nancy Gladys Santillan, Enzo Aldo Grillo, Carlos Guillermo Scherer Keen, Virginia Elena Roel, Eduardo Omar Gallo, Inés Carmen Nigro, Marcela Inés Mosquera, Miguel Eduardo Hitce, Carlos Jorge Atucha, José Antonio Lucena, Osvaldo Rivero vero, and Susana Silvia Gimenez, listed in the petition.



**LIST OF ALLEGED VICTIMS INCLUDED IN THIS PETITION  
ANNEX I**

**P-526-08**

*May 2, 2008*

1. Cristian Roberto Avella
2. Martin de Vedia
3. Carlos Alberto Pico
4. Juan Jose Iturralde
5. Fernando Julian Pera
6. Javier Francisco Pincione
7. Jorge Daniel Parrondo
8. Monica Scalise
9. Adriana Rita Enriqueta Do Campo
10. Beatriz Eugenia Pirotti
11. Ramon Octaviano Fernandez
12. Jose Antonio Gonzalez Fierri

*March 26, 2010*

13. Alejandro Jose Manzanares
14. Juan Armando Hilal
15. Minuzzi De La Colina
16. Nicolasa Maria De Los Angeles
17. Fernando Enrique Ocampo
18. Augustin Lascano Garzon
19. Gabriela Veronica Cavallieri
20. Raul Fragueiro
21. Mario Alberto Acuña
22. Esley Ana Maria
23. Gianola Raul Alberto
24. Bustos Norma Beatriz
25. Garayzabal Carlos Alberto
26. Ordoñez Alfredo Horacio

*June 2, 2010*

27. Marisa Ester Giordano de Camiletti
28. Silvia Carmen Ainsa

*January 18, 2012*

29. Juan Carlos Colantonio
30. Mónica Graciela Antonia Fernandez Acevedo
31. Silvia Beatriz Urti
32. Maria Ines Assad
33. Patricia Andrea Manterola
34. Maria Julieta Angélica Poccioni
35. Osvaldo Enrique Liberti
36. Nancy Gladys Santillan
37. Enzo Aldo Grillo
38. Carlos Guillermo Scherer Keen
39. Virginia Elena Roel
40. Eduardo Omar Gallo
41. Inés Carmen Nigro
42. Marcela Inés Mosquera

- 43. Miguel Eduardo Hitce
- 44. Carlos Jorge Atucha
- 45. José Antonio Lucena
- 46. Osvaldo Rivero
- 47. Susana Silvia Gimenez

**P-1004-08**

- 48. Luis Alejandro Korinfield
- 49. Ana Maria Espinosa De Porto
- 50. Daniel Gonzalez Bethencourt
- 51. Maria Fabiana Quinteros
- 52. Maria Cristina Barbaro
- 53. Alejandro Roberto Couso
- 54. Javier Osvaldo Mascotena
- 55. Maria Isabel Muguerza

**P-1005-08**

- 56. Jose Maria Matteri
- 57. Isidoro Subizar

**P-1042-08**

- 58. Genoveva Maria Esther Trosch
- 59. Laura Victoria Cattena
- 60. Hugo Ricardo Medici
- 61. Jose Lorenzo Bussi Cristian
- 62. Jose Luis Magno
- 63. Jose Santiago Mordini
- 64. Carlos Alberto Weli

**P-1059-08**

- 65. Eduardo luis Robles

**P-1244-08**

- 66. Jorge Luis Pino
- 67. Susana Beatriz Garcia
- 68. Ana Maria Veiro
- 69. Silvia Elisa Pozzi
- 70. Carla Piccaluga
- 71. Pablo Esteban Czornenki
- 72. Omar Gustavo Paladino
- 73. Rodolfo Diego Veljanovich
- 74. Ignacio Angel Gomez Garay
- 75. Hectorsa Padovani Sanchez
- 76. Nelida Susana Schneider
- 77. Pablo Javier Marey
- 78. Lidia Susana Villafañe
- 79. Miriam Graciela Herrmann
- 80. Brunella Virginia Mercedes Fernandez
- 81. Mirtha Elizabeth Calderon
- 82. Hugo Maria Botta

83. Alicia Susana Massicot

**P-1300-08**

84. Maria Estela Murgier

85. Alejandro Oscar Giangreco

86. Paula Eugenia Espoz Espoz

87. Vicente Dionizio

88. Ricardo Ruben Uncos

**LIST OF THE ALLEGED VICTIMS WHICH PETITION IS ADMISSIBLE  
ANNEX II**

**P-526-08**

*May 2, 2008*

1. Cristian Roberto Avella
2. Martin de Vedia
3. Carlos Alberto Pico
4. Juan Jose Iturralde
5. Fernando Julian Pera
6. Javier Francisco Pincione
7. Jorge Daniel Parrondo
8. Monica Scalise
9. Adriana Rita Enriqueta Do Campo
10. Beatriz Eugenia Pirotti
11. Ramon Octaviano Fernandez
12. Jose Antonio Gonzalez Fierri

*March 26, 2010*

13. Alejandro Jose Manzanares
14. Juan Armando Hilal
15. Minuzzi De La Colina
16. Nicolasa Maria De Los Angeles
17. Fernando Enrique Ocampo
18. Augustin Lascano Garzon
19. Gabriela Veronica Cavallieri
20. Raul Fragueiro
21. Mario Alberto Acuña
22. Esley Ana Maria
23. Gianola Raul Alberto
24. Bustos Norma Beatriz
25. Garayzabal Carlos Alberto
26. Ordoñez Alfredo Horacio

*June 2, 2010*

27. Marisa Ester Giordano de Camiletti
28. Silvia Carmen Ainsa

**P-1004-08**

29. Luis Alejandro Korinfield
30. Ana Maria Espinosa De Porto
31. Daniel Gonzalez Bethencourt
32. Maria Fabiana Quinteros
33. Maria Cristina Barbaro
34. Alejandro Roberto Couso
35. Javier Osvaldo Mascotena
36. Maria Isabel Mugerza

**P-1042-08**

37. Genoveva Maria Esther Trosch
38. Laura Victoria Cattena

- 39. Hugo Ricardo Medici
- 40. Jose Lorenzo Bussi Cristian
- 41. Jose Luis Magno
- 42. Jose Santiago Mordini
- 43. Carlos Alberto Weli

**P-1059-08**

- 44. Eduardo Luis Robles

**P-1244-08**

- 45. Jorge Luis Pino
- 46. Ana Maria Veiro
- 47. Omar Gustavo Paladino
- 48. Rodolfo Diego Veljanovich
- 49. Hectors Padovani Sanchez
- 50. Nelida Susana Schneider
- 51. Lidia Susana Villafañe
- 52. Miriam Graciela Herrmann
- 53. Brunella Virginia Mercedes Fernandez
- 54. Mirtha Elizabeth Calderon

**P-1300-08**

- 55. Maria Estela Murgier
- 56. Alejandro Oscar Giangreco
- 57. Paula Eugenia Espoz Espoz
- 58. Vicente Dionizio
- 59. Ricardo Ruben Uncos