

Radical Radio *et al.* v. Chirilagua

Background

1. The Federal Republic of Chirilagua is classified economically as an upper middle-income State. Its capital is Cedulópolis. Chirilagua was established as an autonomous State at the beginning of the XIX Century when 18 former Spanish and English colonies gained their independence and formed a federal republic. Since then, Chirilagua has been a stable democracy in which two political parties have traditionally alternated power: the Popular Chirilaguan Party (PCP) and the Party for the Democratic Renewal of Chirilagua (RDC). Historically, the legislative and executive branches have changed over every four years through popular elections. Chirilagua took part in the negotiation of the OAS Charter in 1948, has ratified all of the inter-American human rights treaties, and is a party to the main UN human rights treaties.

2. In 2006, Atilio Escalante Norris became president of the republic. President Escalante is a member of one of the country's wealthiest families. It is estimated that his family alone owns 25% of the arable land in Chirilagua, which corresponds to nearly all of the rural land in the State of Gorgia. The President was elected with the support of 60% of the population, the PCP and several members of the business community, including the Fresa Alliance, owner of the television channel with the largest national audience and more than 50 radio stations located in several cities throughout the country.

3. According to opinion polls released by the communications media with the broadest coverage, President Escalante's government has an 80% approval rating. Nevertheless, the opposition believes that many of his measures have been controversial, especially those concerning tax exemptions on foreign capital, the reinvestment of income from the sale of copper (the country's main export product), and some constitutional reforms and legislative initiatives promoted by the Government. The opposition maintains that these measures are meant to keep Escalante and his party in power indefinitely.

The facts regarding the "Facebookazo" and the "Democracy Ballot"

4. The climate of political tension has become accentuated in recent years in Chirilagua due to the fact that the President's followers have promoted a constitutional amendment to enable Escalante Norris to serve a second term of four additional years. To that end, the PCP proposed that the 2008 general elections for Federal Representatives include a popular referendum called "the Democracy Ballot." The proposal was for those in favor of President Escalante remaining in office to place an additional ballot in the ballot box, the results of which would be counted by the Electoral Tribunal of Chirilagua. However, the results were non-binding, as the Constitution, even though it provides for this consultative mechanism, does not recognize it as a valid procedure for constitutional reform.

5. The leaders of the RDC and several sectors of the public openly opposed the adoption of the Democracy Ballot, as they believed it could lead to *de facto* measures to validate this inquiry into public opinion, violate the constitutional system and pave the way for a second term of

office for Escalante. Two months prior to the elections, a group of students organized a national and international protest march against the Democracy Ballot initiative through a group assembled on the social networking site Facebook. The group quickly gained a following and its message began to spread through other social networking sites such as Twitter and MySpace, as well as on different radio stations, including “Radical Radio” in the city of Cedulópolis and “Radio Su-Versión” in the city of Cambacrópolis, the capital of the State of Gorgia. The main television networks, including the pro-government television station and the station belonging to the Fresa Alliance, reported very little information on the march, and when they did, they referred to it as some “criminal disturbances that aim to prevent popular participation and to destabilize the democratic institutions that have been so difficult to build.”

6. The march, popularly known as The “*Facebookazo*,” was scheduled to be held a week before the elections for Federal Representatives. The organizers’ idea was for other marches to be held simultaneously in different cities around the country, and for gatherings to be held among Chirilaguans living abroad. The purpose of the march was to raise public awareness, in order to “defend the democracy threatened by plebiscites that violate political rights and adversely affect the democratic structure of the State.”

7. Several members of the federal government, including President Escalante himself, stated that the march was inappropriate because it was very close to the elections and conveyed the message that Chirilagua was not a democratic State. He stated that the students were in fact troublemakers, that they were afraid of democratic participation and that what they wanted was to generate an atmosphere of anxiety that would hinder the full development of the electoral process. Days before the *Facebookazo*, in one of his “Community Meetings” transmitted via the pro-government television channel, the President gave the order to the Federal Police, “in the interest of protecting democracy, to prevent any demonstration of violence or social disturbance that endangers the peaceful realization of the democratic contest.”

8. On March 3, 2008, the *Facebookazo* took place in several cities around the country. At several of the marches there were confrontations between protestors and followers of the pro-government party, as well as confrontations between protestors and members of the Federal Police. The most dramatic situation arose in San Pedro de los Aguados, a small city located 50 kilometers from the city of Cambacrópolis. As a result of the disturbances there, six people died and 15 more were injured.

9. The climate of political polarization and tension was evident during the entire week. The main television channels presented the events as a product of the incitement of class hatred and the instigation of violence by the small communications media in the places in which the most serious acts of violence had occurred. The message conveyed by the most important media (those affiliated with the Fresa Alliance and the government media) was that the country was at risk of being taken over by terrorist vandals and therefore the entire population should go to the polls to ensure the continuity of the democratic government. Other radio stations, including Radio Su-Versión and Radical Radio, denounced the events as an attack on the people and on democracy, the product of a “totalitarian government that would not allow the peaceful expression, and which restricted public opinion and mobilization.”

10. On March 10, 2008, the parliamentary elections were held, and the inclusion of the Democracy Ballot was permitted. The government coalition won a broad victory, but only 30% of eligible voters turned out to vote. Disturbances arose again in several areas of the country. Again, the most violent events took place in San Pedro de los Aguados, where three people died as a result of confrontations between pro-government and opposition groups.

The involvement of Radio Su-Versión and Radical Radio in the events

-- *Radical Radio (formerly Radio Cadena Básica)*

11. Radio Cadena Básica began frequency modulation transmission in April of 1965. The radio station was founded in Cedulópolis by Byron Dayle and María Luisa Peroni, two local entrepreneurs considered the pioneers of radio broadcasting in Chirilagua. In fact, Mrs. Peroni was one of the first women in the region to be the director of a communications medium. In 2000, María Luisa Peroni died as the result of an illness, and her daughter, Melanie Pereira Peroni, succeeded her in her roles as shareholder and director of the station. Ever since she became director, Melanie Pereira has intended for Radical Radio to be a radio station that promotes opinion and is at the forefront of new forms of communication. The issues addressed on the station's programs are generally linked through its web site on the Internet to forums, blogs, opinion polls and other forms of interaction with the audience.

12. In June of 2001, Melanie Pereira went to the Federal Telecommunications Regulatory Commission (COFERETEL) to request approval to change the station's name to *Radical Radio* and for her to be recognized as the new holder of the concession given the death of her mother, to whom the concession had been granted, pursuant to the provisions in force (Article 92 of the Telecommunications Act¹ or Law 56 of 1976).

13. COFERETEL sent an official communication granting approval for the name change, but it advised her that there was an inconsistency in the records with regard to the names of the radio station's legal representative and the holder of the concession. In August of 2001, Melanie Pereira contacted COFERETEL to request that the alleged inconsistencies be explained, and that she be informed of the procedures necessary to resolve them and to get everything updated. The COFERETEL never responded to her letter. Nevertheless, in the years that followed, Ms. Pereira received other communications from the COFERETEL addressed to her name, she paid the radio station's taxes in her capacity as director, and she publicly assumed the role of spokesperson for this communications medium.

14. The station's editorial line is considered critical of the government. Its investigative journalism unit is very well-known because it has brought to light several cases of corruption concerning the reinvestment of income derived from copper exports. This same unit undertook a

¹ That article provides that: "The concession of the use of the electromagnetic spectrum is a unilateral administrative act whereby the State grants or renews, for a limited time, to a legal entity, a concession for the use and exploitation of a specific portion of the electromagnetic spectrum, provided that the requirements established under the Act have been met. The rights to the use and exploitation of the electromagnetic spectrum derived from a concession may not be transferred or assigned. However, the licensee may apply to the Federal Telecommunications Regulatory Commission (COFERETEL) for the substitution of ownership of the concession by the person specified for such purpose, provided that the conditions and principles established under the Act are met."

study of the television channels' (private and government) coverage of the 2008 parliamentary elections and found a serious imbalance in the coverage of the different candidates. While candidates belonging to parties of the governing coalition were reported on for an average of 20 minutes during prime time, candidates from opposition parties were covered for approximately 2 minutes. From that point on, the network began a series of programs called the *Voice of the Invisible*, to which several opposition candidates were invited to discuss their platforms.

15. Radical Radio's time slot with the largest audience is a variety program that combines news and political humor. The program is hosted by commentator, journalist and impersonator William Garra. The most controversial figure on the program (impersonation done by Garra) is "Fatilio Estafante," a caricature of the president, who is constantly ridiculed on the program and called a "feudal master, a good-for-nothing, callous, voracious and corrupt man." Some sectors of the public have accused the program of promoting class hatred and social conflict over land disputes. The radio station has responded to this criticism with the argument that this figure is fictional and that any resemblance to reality is pure coincidence.

16. Radical Radio was the first mass medium in Chirilagua that echoed the *Facebookazo* initiative. The station's Facebook page joined the group and had a daily countdown to the march in its status update. In its radio broadcasts it dedicated several opinion programs to comment on and promote the initiative, and it also used advertising space to promote participation in it.

17. On one of those programs, a few days prior to the march, the issue of the day focused on the groups from the social networking site Facebook that made reference to President Escalante. Those groups were different in nature from the protest march group, and their content was generally aggressive and critical of the President.² Different listeners called in to the station to show their support of the groups' content on the air and made angry attacks on the president and his policies. The program ended with an invitation to take part in the protest march on March 3rd. As a form of symbolic protest, the commentator invited the protestors to take bags full of dirt with them to throw handfuls of it in the public square, carrying signs such as "here is the land you need, now give us back our rights."

18. On March 3, 2008, Radical Radio dedicated its programming of the day to coverage of the *Facebookazo*. William Garra was reporting on the events of the march and informed listeners that members of the Federal Police had been sent to block the *Facebookazo* in San Pedro and that the landowners had hired people from outside the community to stage marches that were supposedly in support of the Government. In his broadcast, Garra asked the participants to not allow the march to be disrupted. He maintained that the citizens had rights that were not being respected, and he encouraged the people "to defend their rights at all costs against the authoritarian advance of the landowning oligarchy."

² The most radical groups that were referred to included, among others, the following: "I bet I can find a million people who hate the bourgeois Atilio Escalante Norris," "We who hate, repudiate and detest Atilio Escalante Norris," "Political death to Atilio Escalante Norris," "I too want Atilio Escalante Norris and all of the landowners who have exploited us to die," "People who want to fuck up little master Atilio Escalante Norris," "the march is a bomb directed at Atilio Escalante Norris," "What percentage of Chirilaguans would kick Atilio Escalante Norris if they ran into him?" "How can we stick it to the callous fat cat Atilio Escalante Norris?"

19. On March 10, 2008, Radical Radio covered the elections and reported that it had information that electoral fraud could be committed in several cities. In particular, it stated that it had information from confidential sources indicating that in response to the events of the previous week, the government of Gorgia planned to perpetrate a monumental fraud in the elections “in order to keep the president in power, and with him, the historical inequities and the long years of abuse and exclusion.” The Radio again asked the country’s citizens, and especially the citizens of the State of Gorgia, not to let themselves be intimidated and to protect their constitutional rights.

-- *Radio Su-Versión*

20. The Association of Landless Communities of San Pedro de los Aguados (ACOSINTI) is a social organization of communities from the municipalities of Cambacrópolis and San Pedro de los Aguados. The purpose of their organization is, among other things, to keep the community regularly informed of State policies, programs and services, as well as the activities that affect their welfare and development. To better accomplish its objectives, the association made the decision to set up a community radio station. Accordingly, they took part in the only two invitations to bid issued by the COFERETEL following the enactment of the radio broadcasting law of 1976, article 70 of which recognizes community radio broadcasting and establishes that community radio shall have the right to a proportional percentage of the radio frequencies. This provision is a development of Article 27 of the Constitution, whereby, “The right to freedom of thought and expression is guaranteed fully, in the terms of Article 13 of the American Convention on Human Rights. All persons are free to establish mass communications media. The State shall administer the radio frequency taking into account criteria of equity and bearing in mind the principle of equal opportunity and media pluralism.”

21. In the two invitations to bid issued since then, a total of 11 community sound broadcasting licenses have been awarded in different municipalities around the country, and 450 commercial radio broadcasting licenses have been granted or renewed. On neither of those occasions was the ACOSINTI’s proposal approved. No license to operate in San Pedro was awarded or renewed.

22. The Association has been waiting since then for the radio Commission to issue new calls for community radio bids, which has not happened. Between 1976 and 1995 the ACOSINTI filed 14 formal petitions before the authorities requesting information on the issuance of invitations to bid. None of them was answered by the government. In March of 1995, the ACOSINTI filed a constitutional remedy against the Community Sound Broadcasting Service, alleging the violation of its right to information. The First Circuit Court of Gorgia ruled in its favor, ordering the radio broadcasting service to respond in depth to the requests made. The service responded several days later, stating that “the Commission has the discretion to determine the time, place and conditions under which it shall issue public invitations to bid on the public service concession of community sound broadcasting. This legal authority is fully legitimate, appropriate and reasonable, as it arises from the particular characteristics of the electromagnetic spectrum and the technical requirements of allocating frequencies, as well as the principle of opportunity that must govern its management.” In view of this response, the ACOSINTI filed a motion for contempt

before the First Court for failure to comply with the court order. The motion was denied several days later.

23. In June of 1996, the ACOSINTI voted at its general assembly to adopt “political measures for the satisfaction of their rights,” which consisted of the purchase of repeater equipment and the initiation of radio transmissions that would benefit its community. On that same date, it was decided that Francis Hoffman would be appointed to be in charge of the communications projects. Beginning in August of 1996, the community radio station Radio Su-Versión began radio transmissions with content that was strictly social and community-related. Many inhabitants of San Pedro came to know and appreciate the social work provided by this radio station, and its reception began to become stronger. In 2000, Radio Su-Versión was the only radio station that operated locally in San Pedro. From that point forward it began to run social campaigns, supported by different local governments, on the issues of crime prevention, access to social services, literacy and political and organizational education. The following year, given its good relationship with the Municipal President of San Pedro, the radio facilities were transferred to a municipal building where Radio Su-Versión had access to some city-owned equipment.

24. Since 2002, the radio station has sought to do more pieces on current political events, and therefore entered into a cooperation agreement with Radical Radio. This is the only place in the country where a commercial radio station works jointly with a community broadcasting station. As a result of this agreement, Radio Su-Versión retransmits some Radical Radio programs, and the two stations broadcast jointly during special events.

25. The population of San Pedro de los Aguados learned of the *Facebookazo* through these media. A group of workers from the “Without Access to Land” group within the ACOSINTI decided to participate in the *Facebookazo* in San Pedro. On the day of the protest march, groups of government sympathizers planned parallel gatherings and marches to show their support for the president. In order to prevent disturbances or confrontations, the Municipal President of San Pedro de los Aguados arranged for all of the city’s police units to accompany the marches. Several detachments of the Federal Police were also sent by the central government to the city to protect the pro-government demonstrators from the “criminal disturbances that intend to destabilize the government and hinder popular participation.”

26. Information on the government’s opinions and on the government marches, retransmitted by Radio Su-Versión, inflamed the *Facebookazo* participants. They believed that the marches in support of the president, escorted by the Federal Police, would take the Central Square first and keep them from gathering. To prevent this, they tried to take a shortcut down a street that was not authorized for the protest march, and where the pro-government march would also pass through. Members of the San Pedro de los Aguados Police tried to prevent the two marches from coming together. Dozens of protesters from the *Facebookazo* rushed toward the police with sticks and rocks. In the midst of the confusion, five civilians were killed (three participants in the *Facebookazo* and two participants in the pro-government march); one police officer was killed and 5 officers were injured.

27. On the Sunday of the elections, Radio Su-Versión again linked up with Radical Radio. Hours after the voting began, a group of approximately 25 youths attempted to take by force several ballot boxes located on the main square of San Pedro de los Aguados, with the intention of setting them on fire. Several local residents realized what was happening and attacked the youths. A fight then broke out between the two groups, and three of the youths died as a result.

Measures taken by the Government in response to the Facebookazo

28. On March 4, the day following the *Facebookazo*, the Federal Government blamed the events on the organizers of the protest march and the community broadcasting media for having incited violence and national destabilization. The Government promised to take measures to prevent situations like this from ever repeating themselves in the future, and to punish those responsible to the full extent of the law.

29. On March 5, 2008, the Federal Telecommunications Regulatory Commission (COFERETEL), a body that reports directly to the Ministry of the Interior, initiated a review of radio and television concessions. The Commission stated in a press release that this review was a preliminary measure to shape a policy to guarantee media pluralism and equal opportunity of access to the electromagnetic spectrum. To this end, the COFERETEL requested that information and requirements be updated for all radio and television stations holding concessions granted by the State. On April 6, 2008, the COFERETEL ordered the cancellation of the concessions granted to 40 radio stations [21 in amplitude modulation (AM) and 19 in frequency modulation (FM)] that it found to be noncompliant with the operating requirements provided for in the Telecommunications Act. On the same date, those stations were ordered to cease communications immediately. None of these stations was part of the Fresa Alliance.

30. Radical Radio was one of the stations whose concession was cancelled. The COFERETEL asserted that the reason for the cancellation was noncompliance with the provisions of Article 92 of the Telecommunications Act. In addition, the COFERETEL ordered the immediate cessation of all known illegal radio stations in the country and the confiscation of their equipment. In a press release, the Commission stated that it would take pertinent criminal action for the misuse of the radio spectrum. Pursuant to that decision, on April 19, 2008, COFERETEL authorities seized Radio Su-Versión's equipment in a surprise operation.

31. On June 25, 2008, the Office of the Public Prosecutor filed criminal complaints against more than 30 individuals, based on information provided by the COFERETEL. As part of these proceedings, Byron Dayle, Melanie Pereira Peroni and Francis Hoffman were alleged to have committed the offense of "theft of State property," under the charge of unlawfully appropriating and benefiting from the nation's radio spectrum. This offense is punishable by a term of imprisonment from 2 to 6 years.

32. On June 30, 2008, the Office of the Public Prosecutor filed criminal complaints against Melanie Pereira, Byron Dayle and Francis Hoffman for allegedly having committed the offenses

of “instigation to commit a crime”³ and “defamation.”⁴ The Prosecutor based the charges on recordings from the radio program that discussed the creation of approximately 50 groups on Facebook that promoted hatred against President Escalante and incited violence against him, as well as on recordings in which people were asked through the station to participate in the *Facebookazo* and those programs that transmitted the events of March 3 and March 10, 2008.

33. On July 2, 2008, the Office of the Public Prosecutor filed a criminal complaint against William Garra alleging the offenses of instigation to commit a crime, defamation and the murder of two civilians and a police officer on March 3, 2008.

Legal actions filed by the radio stations and the outcome of the criminal cases

34. On April 10, 2008, in his capacity as the legal representative of Radical Radio, Byron Dayle filed a lawsuit before the judge of competent jurisdiction requesting that the administrative decision ordering the cancellation of the concession granted to the station be declared null and void. On August 15, 2008, the case was admitted by the Administrative Tribunal, which served notice on the COFERETEL. The COFERETEL filed a timely answer to the complaint and requested discovery. The administrative litigation has been at the evidentiary stage since January 15, 2009.

35. On April 30, 2008, Byron Dayle and Melanie Pereira filed a petition for constitutional remedy before the Second Circuit Court of Cedulópolis, alleging that the cancellation of the concession granted to the Radical Radio station violated their right to due process and their freedom of expression, opinion and free enterprise. They further alleged that it violated the Chirilaguan people’s right to information and democratic participation. In their pleading they asserted that the constitutional remedy as a provisional mechanism was justified insofar as the suspension of their broadcasts had suppressed democratic speech; it could be proven that the opposition candidates did not have the opportunity to express their ideas in the presidential race.⁵ On May 15, 2008, the Second Circuit Court denied the constitutional remedy petition based on the argument that the license was cancelled in accordance with the law and that the Court did not observe any clear violation of due process. The plaintiffs appealed the decision. On June 2, 2008, the First Court of Appeals of Cedulópolis affirmed the decision on the same grounds set forth by the lower court. This is the last instance in Chirilagua for constitutional remedy cases.

³ This offense is defined in the Criminal Code with the following language: “Any person who publicly incites another person or persons to commit a specific crime or type of crimes shall be subject to a term of imprisonment from three (3) months to three (3) years.”

⁴ The offense of defamation is defined in the Criminal Code as follows: “Any person who, communicating with several people, together or separately, attributes to any individual an act considered capable of exposing that individual to public hatred or contempt, or offensive to his honor or reputation, shall be punished by a term of imprisonment from three to eighteen months. If the offense is committed in a public document or with writings [or] drawings disclosed or exhibited to the public, or by other means of publicity, the sentence shall be from six to twenty-four months in prison.”

⁵ According to the constitutional case law of Chirilagua, the constitutional remedy is proper as a provisional measure in cases of this nature due to the fact that an action for the review of administrative acts can take up to approximately five years. The case law requires that in such cases the constitutional remedy be asserted on behalf of the communications medium through its legal representative.

36. On May 5, 2008, in his capacity as legal representative of Radio Su-Versión, Francis Hoffman filed a constitutional remedy petition against the COFERETEL. He alleged that the shut-down of the station and the seizure of its equipment violated the rights of expression and information, property, and administrative due process, due to the frustrations of the legitimate expectations of the legal entity ACOSINTI as well as of its affiliates individually. On May 26, 2008, the court of first instance hearing the case issued a judgment denying the constitutional remedy. It held that the administration's conduct had been consistent with the procedures provided in the Telecommunications Act. On May 30, 2008, the plaintiff filed an appeal before the Gorgia Court of Appeals, which affirmed the judgment on the same grounds on June 15, 2008.

37. On July 14, 2008, the Office of the Public Prosecutor formally indicted Melanie Pereira Peroni, Byron Dayle and Francis Hoffman in the First Criminal Court for Federal Offenses for the offense of theft of State property. On November 8, 2008, the First Court convicted Melanie Pereira Peroni and Francis Hoffman of the offense of theft of State property and sentenced them to two years in prison. The charges against Byron Dayle were dismissed in the same judgment. According to the judgment, the prison sentence can be commuted upon payment of a fine equivalent to \$US 200,000.00 to the Federation (the equivalent of 80 times the legal minimum monthly wage for that year in the country). The judgment was appealed by the defendants, and was affirmed in its entirety by the Criminal Court of Appeals on November 25, 2008.

38. On July 20, 2008, the Office of the Public Prosecutor issued an indictment against Melanie Pereira Peroni, Byron Dayle and Francis Hoffman before the judge hearing the case for the offenses of instigation to commit a crime and defamation against the President of the Republic. In a decision handed down on September 15, 2008, the Third Criminal Court for Federal Offenses found Melanie Pereira Peroni and Francis Hoffman guilty of the offenses of instigation to commit a crime and defamation, while it acquitted Byron Dayle of both charges. Ms. Pereira Peroni and Mr. Hoffman were sentenced to six months in prison. This sentence could have been commuted upon payment of a fine equivalent to \$US 15,000.00. Hoffman and Pereira appealed the decision, which was affirmed by the proper Court of Appeals on October 1, 2008.

39. On July 25, 2008, the Office of the Public Prosecutor indicted William Garra for the offenses of instigation to commit a crime, defamation, and murder. On November 23, 2008, the Third Criminal Court for Federal Offenses convicted William Garra and sentenced him to 12 years in prison for his part in the offenses of instigation to commit a crime, defamation, and homicide. A timely appeal of the judgment was filed by the defense attorneys. The Federal Appeals Court affirmed the conviction in a judgment handed down on December 1, 2008.

The case before the Inter-American System

40. On December 2, 2008, the Inter-American Federation of Media for Democracy submitted a petition to the Inter-American Commission on Human Rights (IACHR), alleging the violation of the rights enshrined in Articles 7, 8, 13, 21, 24 and 25, of the American Convention on Human Rights, all in relation to the Article 1.1 obligation to respect and guarantee rights, to the detriment of Radical Radio and Radio Su-Versión, as well as of Melanie Pereira Peroni, Francis Hoffman, William Garra and the people of Chirilagua as a whole.

41. On December 15, 2008, the Commission admitted the petition and notified the State of its pertinent parts, granting it two months for the submission of an answer. In its reply, dated January 15, 2008, Chirilagua asserted that there had been no human rights violations, in that the judicial and administrative proceedings had been conducted in absolute compliance with the provisions of law in force. Second, the State alleged that legal entities did not have standing before the inter-American system, and therefore the petition must be declared inadmissible. Third, the State maintained that there was a case pending before the national courts for the judicial review of administrative acts. Fourth, the State asserted that a new Communications Act had been enacted in which, among other things, the concession of licenses had been regulated in tripartite fashion, ensuring equal space for commercial, institutional and community stations. It further asserted that in January of 2009 an invitation to bid would be issued, and any interested parties could apply for a license.

42. The IACHR decided to prepare a report pursuant to Article 37.3 of its Regulations, whereby it declared the case admissible and found violations of Articles 8, 13 and 15 of the American Convention, all in relation to Article 1.1 of the same instrument, to the detriment of Melanie Pereira Peroni, Byron Dayle, Francis Hoffman and William Garra.

43. The established time period having elapsed, the requirements established in the American Convention and the Regulations of the Commission having been met, and considering that the State of Chirilagua did not take any action to comply with the Commission's recommendations, the case was submitted to the jurisdiction of the Inter-American Court of Human Rights on December 25, 2009, alleging the violation of the same articles set forth in the IACHR's report on the merits.

44. For their part, the representatives of the victims submitted to the Court their brief containing requests, arguments and evidence in which, based on the facts related by the IACHR in its complaint, they reiterated that the Radical Radio and Radio Su-Versión stations must be considered victims in the case before the Court.