

**AMNESTY  
INTERNATIONAL**



**Advisory Opinion Request to the Inter-American Court of Human Rights by the Government of  
the Republic of Panama of 28 April 2014**

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**Written Observations by Amnesty International submitted pursuant  
to Article 73(3) of the Rules of Procedure of the Inter-American  
Court of Human Rights**

**30 March 2015**

## I. APPLICATION IN BRIEF

1. Amnesty International Ltd., (hereafter AI) begs leave to submit these written observations in the Request for an Advisory Opinion submitted by the State of Panama on April 28, 2014.
2. AI makes this request and submissions in response to the request by this Honourable Inter-American Court of Human Rights (hereafter the Court) - made pursuant to Article 73(3) of the rules of procedure - for interested parties to submit their written observations.
3. The State of Panama requested an Advisory Opinion on the interpretation and scope of Article 1(2) of the American Convention on Human Rights (Convention), which defines a person as meaning “every human being.”<sup>1</sup> It requested this Honourable Court to advise, *inter alia*, on the scope and the protection under the Convention of:
  - 3.1. “natural persons through legal entities or ‘legally recognized non-governmental entities’, both for the exhaustion of domestic proceedings and for the lodging of complaints before the Inter-American Commission on Human Rights concerning the violation of human rights;”<sup>2</sup> and
  - 3.2. “the rights of legal entities or ‘legally-recognized nongovernmental entities’, as such, given that they are instruments used by natural persons to achieve their legitimate purposes.”<sup>3</sup>
4. AI will restrict its observations to the twin issues of whether:
  - 4.1. legal entities have actionable rights under the Convention; and consequently whether
  - 4.2. the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights have *ratione personae* jurisdiction to adjudicate over claims lodged by legal entities under the Convention.

## II. Submissions in brief

5. AI submits that the following consistent and correct principles emerge from the Convention and the jurisprudence of the Commission and the Court and urges the

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<sup>1</sup> Article 1 of the Inter-American Convention on Human Rights stipulates that:

“1. The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

2. For purposes of this Convention, “person” means every human being.

<sup>2</sup> Request for an Advisory Opinion by the Government of Panama, dated 28 April 2015, page 1.

<sup>3</sup> *Ibid.*

Court to affirm the same in its Advisory Opinion in the matter presented by the State of Panama.

- 5.1. Legal entities *per se* do not enjoy rights under, and are precluded from lodging a claim alleging a breach of a provision of, the Convention. The rights that are protected by, and actionable under, the Convention are those possessed by human beings/natural persons.
- 5.2. The Court and the Commission lack *ratione personae* jurisdiction over claims lodged by a legal entity alleging a violation by a State Party of one or more provisions of the Convention.
- 5.3. Natural person associated with legal entities, in particular as members, may enjoy and benefit from the protective framework of the Inter-American system, including rights, which are actionable under the Convention.
- 5.4. For the purpose of exhausting domestic remedies, claims before domestic legal systems must be pursued and exhausted by or on behalf of the individual natural person or group of persons whose human rights have allegedly been violated, with a clear indication of the human rights concerned.
- 5.5. Legal entities have standing, as stipulated in Article 44 of the Convention, to petition the Commission and/or the Court, but only if the cause of action is premised on the alleged violation of the rights of a natural person.

### **III. INTEREST IN THIS WRITTEN SUBMISSION**

6. AI is a worldwide human rights movement of more than 7 million members, supporters and activists working in almost every country in the world. It works independently and impartially to promote respect for human rights. It monitors domestic law and practices in countries throughout the world for compliance with international human rights law and international humanitarian law and standards, and it works to prevent and end grave abuses of human rights and to demand justice for those whose rights have been violated.
7. As part of AI's mission to promote respect for human rights, the organization has a particular interest in the correct interpretation and application of international human rights instruments, including the advancement of rules international law relevant to the effective protection of human rights.
8. Attached to these submissions as Annex I is a *select* list of cases that AI has intervened in before the Inter-American Court of Human Rights, the European Court of Human Rights, the African Commission for Human and Peoples' Rights, and several other domestic jurisdictions.

## IV. THE CONVENTION ONLY PROTECTS THE RIGHTS OF HUMAN BEINGS

### 9. Definition of person excludes legal entities

- 9.1. AI submits that the Convention excludes legal entities from the persons who benefit from the rights and freedoms enshrined in it. Consequently, legal entities neither enjoy the rights and freedoms contained in, nor possess actionable rights under, the Convention.
- 9.2. Article 1(2) of the Convention defines the persons whose rights and freedoms are protected stipulating that: “For purposes of this Convention, ‘person’ means every human being.”
- 9.3. AI submits that:
  - 9.3.1. Article 1(2) is not ambiguous and admits of no other meaning other than that the Convention extends protection to human beings *and not* to legal entities;
  - 9.3.2. Both the Commission and the Court have consistently interpreted and applied Article 1(2) to exclude from the protection of the Convention, rights claimed by legal entities;
  - 9.3.3. There is no provision in the Convention that expressly or implicitly creates an exception to the definition of person provided in Article 1(2).
  - 9.3.4. No States Party or other person has advanced in these or other proceedings any reason(s), which would require or oblige this honourable Court to revisit, let alone ascribe a different meaning to the word “person” as stipulated in the Convention.
- 9.4. Assuming, without conceding that the meaning of Article 1 and the persons protected under the Convention is disputed, what emerges when the word “person” is read *noscitur a sociis*, and in the context of the Article as a whole is that the rights protected under the Convention are those possessed and enjoyed by natural persons – and not legal entities.
  - 9.4.1. Article 1(1) stipulates that: “The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.” [*Emphasis added*]
  - 9.4.2. It is irrefutable that only human beings - and not legal entities – are susceptible to discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition and that it was human beings that the Convention seeks to protect. Legal entities neither possess nor enjoy such characteristics.

- 9.5. The preamble to the Convention also lends support and confirms that the rights that are protected are only those of natural persons. The preamble states in parts that:
- 9.5.1. The signatory States reaffirm their intention to consolidate “a system of personal liberty and social justice based on respect for the essential rights of man”;
- 9.5.2. “... the essential rights of man [...] are based upon attributes of the human personality”; and
- 9.5.3. “the ideal of free men enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his economic, social, and cultural rights, as well as his civil and political rights.”
- 9.6. Further, the *travaux préparatoires* to the Convention both clarifies and confirms the indisputable position that Article 1(2) was intended to exclude from the protection of the Convention rights enjoyed by legal entities.<sup>4</sup> Incidentally, Article 1(1) and 1(2) were unanimously approved as they currently stand.
- 9.7. Further, both the Court and the Commission have consistently and correctly interpreted Article 1, noting for example, in the case of *Artavia Murillo and others vs. Costa Rica*, that: “during the preparatory work [of the Convention] the words ‘person’ and ‘human being’ were used without the intention of making a distinction between the two terms. Article 1(2) of the Convention specifies that the two terms must be understood as synonyms.”<sup>5</sup>
- 9.8. Based on the foregoing, AI submits that the Court should reaffirm the principle and rule that the Convention applies to, and protects the rights only of, natural persons and not legal entities.

**10. The Court and the Commission lack *ratione personae* jurisdiction in complaints lodged by legal entities alleging violations of Convention rights of, and possessed by, the legal entities**

- 10.1. AI submits that in its advisory opinion, this Honourable Court should affirm its established jurisprudence and declare that:
- 10.1.1. claims by legal entities, which allege violations of the legal entities’ Convention rights are not actionable before the Court or the Commission;

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<sup>4</sup> See “Acts and Documents from the Inter-American Specialized Conference on Human Rights”, 7-22 November 1969, p. 157.

<sup>5</sup> IACtHR. Case of Artavia Murillo et al (“In vitro fertilization”) vs. Costa Rica. Inter-American Court of Human Rights. Series C, No. 257 (28 November 2012), para. 219.

- 10.1.2. both the Commission and the Court lack *ratione personae* jurisdiction in petitions lodged by legal entities alleging violations of the legal entities' rights, under the Convention; and
- 10.1.3. there is no reason: (a) as a matter of principle; or (b) that has emerged in the jurisprudence of this Court or the Commission; or (c) that has been advanced by any States Party; that justifies the departure by this Court from its established jurisprudence on the question of legal entities' Convention rights.
- 10.2. This Honourable Court has, in cases in which legal persons/entities have alleged violations of their Convention rights, consistently and correctly rejected such claims on the basis that legal persons "have not been recognized as holders of the rights established in the American Convention."<sup>6</sup>
- 10.3. In pronouncements and jurisprudence that is consistent with that of this Honourable Court, the Commission has repeatedly affirmed that: "the system for the protection of human rights in this hemisphere is limited to the protection of natural persons and does not include juridical persons."<sup>7</sup> As a result, the Commission has consistently declared inadmissible petitions alleging a violation of rights of a legal entity.<sup>8</sup>

## **V. ARE RIGHTS THAT ARE EXERCISED THROUGH A LEGAL ENTITY EXCLUDED FROM PROTECTION UNDER THE CONVENTION?**

11. This Honourable Court and the Commission have in various cases made rulings in which they opined about the rights exercised and enjoyed through legal entities.
12. In the recent Admissibility Decision in the case of *William Gómez Vargas*, the Commission noted that: "the mere fact that a right is exercised through a legal person does not necessarily exclude it from the protection under the Convention."<sup>9</sup> It also stated that:
- 12.1. "in general, the rights and obligations attributed to companies become rights and obligations for the individuals who comprise them or who act in their name or representation."<sup>10</sup>

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<sup>6</sup> Case of Artavia Murillo et al ("In vitro fertilization"), *op. cit.* para. 219 and footnote.

<sup>7</sup> IACHR, Report N° 10/91, Banco de Lima (Peru), 22 February 1991, Considerando 1. *See also*, IACHR, Report N° 47/97, Tabacalera Boquerón, S.A. (Paraguay), 16 October 1997, para. 24.

<sup>8</sup> *Cfr.* Banco de Lima, 22 February 1991; Tabacalera Boquerón, S.A. *See also* IACHR, Report N° 39/99, Mevopal, S.A. (Argentina), 11 March 1999; IACHR, Report 106/99, Bendeck-Cohdinsa (Honduras), 27 September 1999; IACHR, Report N° 103/99, Bernard Merens and family (Argentina), 27 September 1999; IACHR, Report N° 67/01, Tomás Enrique Carvallo Quintana (Argentina), 14 June 2001 ; and IACHR, Report N° 92/03, Elías Santana and others (Venezuela), 23 October 2003.

<sup>9</sup> IACHR, Report N° 72/11, William Gomez Vargas (Costa Rica), 31 March 2011, para. 32

<sup>10</sup> William Gomez Vargas, *op. cit.* para. 32

13. In the case of *Cantos vs. Argentina*, this Honorable Court held that:
- 13.1. "... although the figure of legal entities has not been expressly recognized by the American Convention, as it is in Protocol No. 1 to the European Convention on Human Rights, this does not mean that, in specific circumstances, an individual may not resort to the inter-American system for the protection of human rights to enforce his fundamental rights, even when they are encompassed in a legal figure or fiction created by the same system of law."<sup>11</sup>
14. AI submits that these and similar statements:
- 14.1. *do not*, in fact, contradict the express and clear provisions of the Convention, in particular Article 1(2); and
- 14.2. should be read and applied in a manner that is consistent with the accepted general principle that the Convention protects rights of, and enables the lodging of petitions by, natural persons and not legal entities.
15. In addition, the jurisprudence that emerges from the opinions of the Court and the Commission on this issue, albeit limited, is that:
- 15.1. If a States Party interferes with a legal entity in which a natural person-claimant has a shareholding interest, such a person may as a consequence, subject to the nature of the legal entity and the stipulations of the domestic legal framework under which a legal entity/corporate entity is incorporated, be able to assert an actionable claim alleging a violation of one or more Convention rights; and
- 15.2. the determination of a natural person-shareholder's actionable Convention rights encompassed in a legal entity, has to be determined on a case-by-case basis, owing in part, to the diverse nature of legal entities utilized in different jurisdictions and the legal nature and character of the alleged interference with a Convention right.
16. AI submits that, consistent with its own jurisprudence and that of the International Court of Justice (ICJ), when determining whether: (a) a claimant has a cause of action; and (b) the Court and/or Commission has *ratione personae* jurisdiction, the question that should be asked in all cases involving legal entities is whether the right allegedly interfered with is a right belonging in fact and law to a shareholder or to the legal entity in question.
17. AI submits that the jurisprudence of the Commission and this Honourable Court has in principle been consistent and urges the Court to reaffirm the principles that

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<sup>11</sup> Case of *Cantos vs. Argentina*. Preliminary Objections, Inter-American Court of Human Rights. Series C, No. 85 (7 September 2001), para. 29.

have crystalized.

- 17.1. In the 2001 case of *Cantos vs. Argentina*, this Honourable Court correctly held that the rights of shareholders may fall under the scope of the Court's competence, but the rights of a company as such would not.<sup>12</sup> This principle was reiterated in the subsequent case of *Perozo et al. vs. Venezuela*.<sup>13</sup>
- 17.2. In another 2001 case of *Ivcher Bronstein vs. Peru*, this Honourable Court cited with approval the dictum in the ICJ Barcelona Traction case, noting that: "The International Court of Justice has made a distinction between the rights of a company's shareholders from those of the company itself, indicating that domestic legislation grants shareholders specific direct rights, such as receiving the agreed dividends, attending and voting at general meetings and receiving part of the assets of the company when selling their shares."<sup>14</sup>
18. In its *ratio decidendi* in the *Barcelona Traction* case, the ICJ had noted that: "...an act directed against and infringing only the company's rights does not involve responsibility towards the shareholders, even if their interests are affected." It also noted that: "a wrong done to the company frequently causes prejudice to its shareholders" and clarified that "damage affecting both the company and shareholder will not mean that both are entitled to claim compensation: whenever a shareholder's interests are harmed by an act done to the company, it is to the latter that he must look to institute appropriate action; for although two separate entities may have suffered from the same wrong, it is only one entity whose rights have been infringed."<sup>15</sup>
19. The ICJ has since reaffirmed the Barcelona Traction principle, most notably in the case of *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, holding that: "...international law has repeatedly acknowledged the principle of domestic law that a company has a legal personality distinct from that of its shareholders. This remains true even in the case of a SPRL which may become unipersonal... Therefore, the rights and assets of a company must be distinguished from the rights and assets of an associé [shareholder]."<sup>16</sup>
20. It is notable that the Commission has also consistently followed the same jurisprudence as this Honorable Court on this question.

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<sup>12</sup> Case of *Cantos vs. Argentina*, *op. cit.* para. 29.

<sup>13</sup> See IACtHR. Case of *Perozo et al. vs. Venezuela*. Inter-American Court of Human Rights. Series C N° 195 (28 January 2009), paras. 400 to 403.

<sup>14</sup> IACtHR. Case of *Ivcher Bronstein vs. Peru*. Inter-American Court of Human Rights. Series C, No. 74 (6 February 2001), para 127.

<sup>15</sup> *Barcelona Traction, Light and Power Company, Limited*, Judgment, p. 35, para. 44. *Cfr.* *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, Merits, Judgment, I.C.J. Reports 2010, para. 156.

<sup>16</sup> *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, *op. cit.* para 155

- 20.1. In the case of *Banco de Lima*, the Commission drew, correctly, a clear distinction between the property rights of a legal entity (in this case, a commercial bank) and the individual property rights of the shareholders, asserting that its jurisdiction could only be established regarding the latter. Since the shareholders alleged violations to the rights of the bank, the Commission concluded the case was “not within the jurisdiction of the Inter-American Commission of Human Rights.”<sup>17</sup>
- 20.2. In the case of *Tabacalera Boquerón*, the Commission held that “Tabacalera Boquerón S.A., as a legal entity, was not a ‘victim’ of a human rights violation in the Inter-American system, since such bodies are not protected by the Convention.”<sup>18</sup>
- 20.3. In the recent 2011 case of *William Gomez Vargas*, the Commission indicated that there might be situations in which certain State conduct which appears to have impacted on a legal entity may, on further scrutiny, be found to have infringed on the rights of individuals.
- 20.3.1. With reference to these scenarios, the Commission observed that: “If that were the case, and the other requirements for admissibility of the petition were met, the Commission could not reject the case under the pretext that the violation, *prima facie*, affected the legal person.”<sup>19</sup>
- 20.3.2. The Commission nevertheless maintained its long-held view that the State acts complained of must still have had a “material or substantial effect on the human rights of the natural persons related to, associated with, or in any way connected to the legal person”<sup>20</sup>
- 20.3.3. In this case, the Commission reinforced the core principle that what must be at stake, and what can therefore be brought to the attention of the Commission, are only violations of the human rights of human beings. This is consistent with both the letter and intention of Article 1(2) of the Convention, as well as the vast jurisprudence of both the Court and the Commission in this regard.

## VI. EXHAUSTION OF DOMESTIC REMEDIES

21. AI submits that in its Advisory Opinion, this Honourable Court should reaffirm the principle that for purposes of Article 46.1(a) of the Convention (rule on the exhaustion of domestic remedies), the claims before the domestic Courts of a States Party should clearly identify and allege a violation of the human rights of a natural person.

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<sup>17</sup> *Banco de Lima*, *op. cit.* considerando 3.

<sup>18</sup> *Tabacalera Boquerón, S.A.*, *op. cit.* para. 25.

<sup>19</sup> *William Gomez Vargas*, *op. cit.* para. 33.

<sup>20</sup> *William Gomez Vargas*, *op. cit.* para. 33.

22. It is notable that both the Commission and this Honourable Court have consistently and in AI's submission correctly, applied this principle.
- 22.1. Consequent to applying this principle, the Commission has declared inadmissible petitions brought by individuals when the domestic proceedings were exhausted by a legal entity.<sup>21</sup>
23. In assessing whether the petitioners had exhausted domestic remedies in the case of *Tabacalera Boquerón*, the Commission found that: "during domestic judicial proceedings, the shareholders were never mentioned as victims of any violation, there were never any initiatives to protect their rights; therefore [...] what is at issue is not the individual property rights of shareholders, but the commercial rights and "assets" of Tabacalera Boquerón S.A., which are not protected by the jurisdiction of the Inter-American Commission on Human Rights."<sup>22</sup>
- 23.1. The Commission correctly pointed out that in the case: "all the legal actions undertaken with the aim of exhausting domestic remedies were carried out by the legal entity Tabacalera Boquerón S.A." and that according to the documentary evidence submitted by the petitioners there were "no indications that any legal actions were taken in the Paraguayan courts on behalf of the shareholders." Consequent to this finding of fact, the Commission concluded that internal domestic remedies had not been exhausted on the shareholders' behalf.<sup>23</sup>
24. In the subsequent case of *Mevopal*, the Commission held that: "Mevopal, S.A. has neither alleged nor proven that either its shareholders or any other physical person were victims of violations of human rights. Neither has it alleged that any physical or natural person exhausted the domestic remedies, came before the national authorities as an injured party or indicated any impediment to their doing so."<sup>24</sup>
25. The Commission reiterated this principle, again correctly, in the case of *Bernard Merens*. It held: "The Commission has constantly and invariably established in its jurisprudence the inadmissibility of petitions filed by business entities or cases in which the domestic remedies were exhausted by such entities and not by the persons appearing as petitioners before the Commission."<sup>25</sup>
26. The Commission made an important point in this case by distinguishing, as the Court subsequently did in the case of *Cantos vs. Argentina*, between the legal framework under the American Convention and that of the European Convention

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<sup>21</sup> Tabacalera Boquerón, S.A., *op. cit.*; Bernard Merens and family, *op. cit.*; Bendeck-Cohdinsa, *op. cit.*; Tomás Enrique Carvallo Quintana, *op. cit.*; Elías Santana and others, *op. cit.*; William Gomez Vargas, *op. cit.*

<sup>22</sup> Tabacalera Boquerón, S.A., *op. cit.* para. 27.

<sup>23</sup> Tabacalera Boquerón, S.A., *op. cit.* para. 36.

<sup>24</sup> Mevopal, S.A., *op. cit.* para. 19.

<sup>25</sup> Bernard Merens and family, *op. cit.* para. 15.

on Human Rights. Unlike the regime under the Convention, the Commission explained, “the European system has not adopted the human personality restriction, and thus petitions submitted by corporations are frequent.”<sup>26</sup>

## VII. DIFFERENCE BETWEEN VICTIM AND PETITIONER IN ACCORDANCE TO ARTICLES 1(2) AND 44 OF THE CONVENTION

27. AI submits that the Commission has also distinguished, again correctly, Articles 1(2) and 44 of the Convention, i.e. the difference between a “victim” and a “petitioner” and urges this Honourable Court in its Advisory Opinion to reaffirm this principle.
28. Article 44 of the Convention provides that: “Any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Commission containing denunciations or complaints of violation of this Convention by a State Party.”
29. This means that not only human beings, but also legal entities can act as petitioners and therefore bring claims before the Inter-American System. This is distinct from the notion of victim and the capacity to become victim under the Convention.
30. The Commission made this point clear in the case of *Mevopal* and in a number of subsequent cases, noting that “the notions of petitioner and victim are different in the inter-American system for the protection of human rights”<sup>27</sup> and that “private juridical persons” may be assimilated to the notion of “non-governmental entity legally recognized” adopted in Article 44 of the Convention.<sup>28</sup>
31. As a consequence of the above, the Commission found that it had competence to analyse a petition submitted by the corporation *Mevopal, S.A.*<sup>29</sup> However, as noted above, the Commission then declared the petition inadmissible on the basis that the legal entity *Mevopal*, acting as petitioner, was also claiming to be the victim of the alleged human rights violations.<sup>30</sup>
32. This same principle was reiterated in the case of *Bendeck-Cohdinsa*, where the Commission further clarified that a distinction had to be made “between its jurisdiction over persons who lodge petitions or reports (petitioners) and its jurisdiction over persons who are presented as the alleged victims.”<sup>31</sup>
33. The Commission then stated that: “Article 26 of the Commission’s Regulations, which corresponds to Article 44 of the Convention, establishes that the petitioner

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<sup>26</sup> Bernard Merens and family, *op. cit.* para. 16 and footnote.

<sup>27</sup> *Mevopal, S.A.*, *op. cit.* para. 13. *See also*, *Bendeck-Cohdinsa*, *op. cit.* para. 15.

<sup>28</sup> *Mevopal, S.A.*, *op. cit.* para. 12.

<sup>29</sup> *Mevopal, S.A.*, *op. cit.* para. 12.

<sup>30</sup> *Mevopal, S.A.*, *op. cit.* paras. 18, 21 and 22.

<sup>31</sup> *Bendeck-Cohdinsa*, *op. cit.* para. 15.

may present a petition to the Commission ‘on one’s own behalf’ (in such cases not distinguishing between the petitioner and the victim) or ‘on behalf of third persons’ (as a third party vis-à-vis the victim, and without requiring any type of personal relationship with that person).”<sup>32</sup>

34. As in the case of *Mevopal*, the Commission first declared itself competent to hear the complaint brought by Mr. Bendeck, acting as both petitioner and alleged victim, but it subsequently declared the complaint inadmissible on the basis that the alleged violations had actually affected the legal entity he represented.<sup>33</sup>

## VIII. OBSERVATIONS AND SUBMISSIONS

35. Based on the foregoing AI submits and urges this Honourable Court in its Advisory Opinion to reaffirm the following established principles, that:

35.1. Only human beings benefit from and possess actionable rights under the Convention;

35.2. Legal entities per se do not benefit from or possess actionable rights under the Convention;

35.3. The human rights of members/shareholders in a company may - depending on the claims made, the domestic legal framework under which the company is incorporated and the rights claimed to have been violated - fall under the protective scope of the Convention: the rights of the company as such do not.

35.4. For the purpose of exhausting domestic remedies, claims before domestic legal systems must be pursued and exhausted by or on behalf of the natural person(s) whose human rights have allegedly been violated, with a clear indication of the human rights concerned.

35.5. Legal entities may have standing, as stipulated in Article 44 of the Convention to petition the Commission and/or the Court, but only if the cause of action is premised on the alleged violation of the rights of a natural person.



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Dr. Tawanda Hondora  
Director – Law and Policy Programme  
Amnesty International

30 March 2015

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Date

<sup>32</sup> Bendeck-Cohdinsa, *op. cit.* para. 15.

<sup>33</sup> Bendeck-Cohdinsa, *op. cit.* paras. 15, 16, 18 and 30.



## ANNEX I

### **Selected national and international cases in which Amnesty International has intervened as a third party or an *amicus curiae***

#### **Court of Justice of the European Union**

N.S. and M.E., cases C-411/10 and C-493/10, judgment 21 December 2011.

#### **European Court of Human Rights**

*Soering v United Kingdom*, Application No. 14038/88.

*Brannigan and McBride v United Kingdom*, Application Nos. 14553/89 and 14554/89.

*Murray v United Kingdom*, Application No. 18731/91.

*McCann and others v United Kingdom*, Application No.18984/91.

*Akdivar and Others v Turkey*, Application No. 21893/93.

*Chahal v United Kingdom*, Application No. 22414/93.

*Kurt v Turkey*, Application No. 24276/94.

*Assenov and Others v Bulgaria*, Application No. 24760/94.

*Tahsin Acar v Turkey*, Application No. 26307/95.

*Aydin v Turkey*, Application No. 28293/95; 29494/95; 30219/96.

*Ramzi v Netherlands*, Application No. 25424/05.

*Jones v United Kingdom; Mitchell and Others v. United Kingdom*, Application Nos. 34356/06 and 40528/06.

*X and others v. Austria*, Application No. 19010/07.

*Janowiec and Others v. Russia*, Application Nos. 55508/07 and 29520/09.

*Z v Poland*, Application No. 46132/08.

*P and S v Poland*, Application No. 57375/08.

*M.S.S. v Belgium and Greece*, Application No. 30696/09.

*Al Nashiri v Poland*, Application No. 28761/11.

*S.A.S. v. France*, Application No. 43835/11.

*Husayn (Abu Zubaydah) v Poland*, Application No. 7511/13.

**ECOWAS Community Court of Justice**

*SERAP v Federal Republic of Nigeria*, ECW/CCJ/JUD/18/12.

**Inter-American Commission on Human Rights**

*Paloma Angélica Escobar Ledezma and others v Mexico*, case 12.551.

**Inter-American Court of Human Rights**

Case of *Velasquez-Rodriguez v Honduras*, Judgment of 29 July 1988.

Case of *Godinez-Cruz v Honduras*, Judgment of 20 January 1989.

Case of *Fairen-Garbi and Solis-Corrales v Honduras*, Judgment of 15 March 1989.

Case of *Ronald Ernesto Raxcacó Reyes v Guatemala*, Judgment of 15 September 2005. Series C No. 133.

Case of *Mendoza et al. v. Argentina*, Judgment of May 14, 2013. Series C No. 260.

**Nigeria Federal High Court**

*David Anyaele and Emmanuel Egbuna v. Charles Ghankay Taylor and Others*, 2004.

**Republic of Korea Constitutional Court**

*Confirmation of Constitutionality of EPS Act article 25(4) and its Enforcement Decree 30(2)*, case number 2007HunMa1083, 2010.

**South Africa Constitutional Court**

*Minister of Home Affairs and Ors v Tsebe and Ors*, [2012] ZACC 16.

**Special Court for Sierra Leone**

*Prosecutor v. Brima et al.*, Case No.SCSL-2004-16-AR73.

**Supreme Court of Canada**

*Ezokola v. Canada (Citizenship and Immigration)*, 2013 SCC 40.

*Canada (Citizenship and Immigration) v. Harkat*, 2014 SCC 37.

*Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44.

**Supreme Court of the United States**

*Rasul v. Bush*, 542 U.S. 466 (2004).

*Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004).

*Roper v. Simmons*, 543 U.S. 551 (2005).

*Samantar v. Yousuf*, 130 S.Ct. 2278 (2010).

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