

November 10, 2022

**RE: Tammy Noergaard and daughters
P-838-21
United States**


Dear petitioners:

I am pleased to write to you on behalf of the Inter-American Commission on Human Rights regarding the petition cited above, which this Executive Secretariat received on May 21, 2021.

I hereby inform you that the Commission has forwarded the relevant parts of your petition to the government of the United States in a note today and has given a period of three months, which may be extended if necessary to a maximum of four months from the date of transmission of this letter, for the State to submit its observations, pursuant to Article 30(3) of the IACHR Rules of Procedure. The IACHR also noted that it would not be possible to grant requests for extensions that exceed the period mentioned above, under Article 30(3) of the IACHR Rules of Procedure. Attached you will find an informational brochure with relevant information about petitions in the admissibility stage.

The Commission also informs that, based on the provisions of Article 40(1) of its Rules of Procedure, at any stage of the examination of a petition or case, on its own initiative or at the request of the parties, the IACHR shall place itself at the disposal of the petitioners and the State to reach a friendly settlement on the basis of respect for the human rights recognized in the American Convention, the American Declaration, or other applicable instruments. For more information on the friendly settlement procedure, the Commission recommends consulting its "Handbook: Friendly Settlement Mechanism in the Petition and Case System," which is available at the following link: http://www.oas.org/en/iachr/friendly_settlements/docs/handbook-fs-en.pdf.

Sincerely,

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11/9/2022-GG-3332906

Relevant information about petitions in the admissibility stage before the Inter-American Commission on Human Rights

1. What does it mean for my petition to be in the admissibility stage?

It means that the petition has been sent to the State for its observations. It is at the point where the petition is sent to the State that the admissibility stage really begins. During this stage, the Commission may request more information to determine the admissibility of the matter. After this exchange of information, the Commission adopts the decision to declare the petition admissible or inadmissible, based on an analysis of whether it has met the requirements established in the Rules of Procedure¹ and the Statute of the Commission² and, if applicable, in the American Convention on Human Rights (hereinafter, “the Convention”).³ In the admissibility stage, the IACHR analyzes: a) whether it has jurisdiction to hear the matter⁴; b) whether domestic remedies have been exhausted or whether exceptions to the exhaustion requirement apply⁵; c) the time period in which the petition was presented⁶; d) whether international procedures have been duplicated⁷; and e) the characterization of a possible violation of one or more of the rights established in international treaties within the inter-American system over which the Commission has jurisdiction.⁸ This stage ends with the adoption by the IACHR of an admissibility or inadmissibility report. The admissibility stage may also be considered closed if the parties are notified that the IACHR has decided to archive the petition, pursuant to Article 42 of its Rules of Procedure. (See questions 18 and 19.)

2. How much time does the admissibility stage last?

The IACHR cannot specify how long this stage will last, as various elements of each specific case can affect the processing of a petition.

Nevertheless, the Inter-American Commission on Human Rights is aware of the procedural delays at the admissibility stage and has been adopting a series of measures designed to reduce wait times and process cases more efficiently and dynamically.

3. What happens to my petition when it enters the admissibility stage?

The petition is sent to the State in question for a period of three months, which may be extended if necessary to a maximum of four months, so that the State can provide a response, pursuant to Article 30(3) of the Rules of Procedure of the IACHR.

Once the State’s response is received, it is forwarded to the petitioners for information purposes only, in other words, with no deadline and no request for observations. At this point, the petition is considered procedurally ready for the preparation of a report in which a decision is adopted on the petition’s admissibility. This means that the IACHR may decide on whether the petition is admissible based on the information available in the file. The Executive Secretariat schedules the preparation of reports chronologically. In exceptional cases, the members of the Commission may ask the Executive Secretariat to prioritize the examination of a petition’s admissibility.

If the State fails to present its response within the required time period, the Commission will send the State another request. If there is no response from the State six months after the new request, the Commission may defer its analysis of admissibility and thereby join the admissibility and merits stages, in accordance with Resolution 1/16. (See question 21.)

The Commission recommends that you keep a copy of the petition file with all the documents that are sent and received. At any time, the Commission may request information from the parties, so it is important to keep your contact information up to date.

¹ Rules of Procedure of the Inter-American Commission on Human Rights, available at: <http://www.oas.org/en/iachr/mandate/Basics/RulesIACHR2013.pdf>.

² Statute of the Inter-American Commission on Human Rights, available at: <http://www.oas.org/en/iachr/mandate/Basics/statuteiachr.asp>.

³ American Convention on Human Rights, available at: http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm.

⁴ Articles 44 and 46(1)(d) of the Convention and Articles 23 and 27 of the Rules of Procedure.

⁵ Articles 46(1)(a) and 46(2) of the Convention and Article 31 of the Rules of Procedure.

⁶ Article 46(1)(b) of the Convention and Article 32 of the Rules of Procedure.

⁷ Article 46(1)(c) of the Convention and Article 33 of the Rules of Procedure.

⁸ Article 47(b) of the Convention and Articles 23, 27, and 34(a) of the Rules of Procedure.

4. [How much time does the Commission take to send information from one party to the other?](#)

Given the large number of communications the IACHR receives every day and the resulting workload involved in the digitization and administrative handling of large numbers of documents, it is not possible to establish the time it will take the Commission to send the information provided by the opposing party. The IACHR thus asks the parties for their understanding with respect to potential delays in the transmission of documents.

5. [Can I submit additional information related to my petition? How do I do that?](#)

Yes, you can present additional information related to your petition; this will be added to the file and sent to the opposing party for information purposes only, in other words, with no deadline and no request for additional observations. The presentation of additional information is optional.

There are four ways to send information to the IACHR. To avoid duplication and streamline the processing of your petition, we ask that you choose only one way to send information:

1. If you have access to a computer, we recommend and prefer that you use the IACHR Portal,⁹ which was created to facilitate parties' access to relevant information regarding their petition. Among other features, the Portal issues an acknowledgment of receipt, generates an immediate confirmation that your communication and documents have been received, and allows you to check on the status of your petition. The Portal accepts multiple files at the same time, not to exceed 40MB each.
2. If you have access to a computer and prefer sending information via e-mail, you should direct your communications to CIDHDenuncias@oas.org. If you are attaching documents, all of them together should not exceed a total of 15MB. In addition, to ensure that the communications are processed correctly, it is the petitioners' responsibility to identify the petition number and clearly indicate the reason for your communication in the body of the message. Unlike the Portal, this option does not generate an automatic acknowledgment, so you will have to wait until the Executive Secretariat acknowledges receipt, in accordance with the demand and the capacity for response at any given time.
3. If you decide to send your information by mail, we recommend that you send it in a digital format (USB, CD, DVD, flash drive, memory card, etc.) to facilitate processing. **Avoid sending information in hard copy. However, if it is not possible to send it digitally, the documents should not be bound or laminated in any way.**

Any documents sent via the postal service should be addressed to:

**Inter-American Commission on Human Rights
1889 F Street, N.W.
Washington, D.C. 20006
United States**

4. By fax, to the following number: +1 (202) 458-3650.

6. [How can I track my petition?](#)

The quickest way to find out about the status of your petition is by signing in to the Individual Petition System Portal, at <http://www.oas.org/en/iachr/portal/>. To do that, you must create an account by following the instructions in our User Manual for Petitioners.

Otherwise, you may submit your request through the means referred to in question No. 5 (see above). The speed of response will depend on the demand and the Executive Secretariat's capacity to respond at any given time.

7. [What documents should I send to the IACHR during the admissibility stage?](#)

⁹ Individual Petition System Portal, available at: <http://www.oas.org/en/iachr/portal/>. On the Portal site, you can find more details about how to register and send information or observations to the IACHR through the Portal, as well as how to check on the procedural status of your petition.

In principle, your original complaint and, if applicable, the supporting documents, will be enough for the IACHR to do the analysis mentioned under question No. 1 (see above). If the petitioners deem it necessary, they may send any additional information they consider important to supplement that analysis, for example, updates on the procedural status of the case pending at the domestic level. If the petitioners believe they must respond to a point mentioned by the State in its response, they may also do that.

The Commission may request any information it deems relevant, which is why it is important to keep your contact information up to date.

We recommend that you keep a copy of the petition file with all the documents that are sent and received.

8. In what format should I send the documentation?

To streamline the administrative handling and processing of your case, we prefer that you send any petitions or attachments, in a digital format, through the IACHR Portal. Alternatively, these may be sent by the means referred to in question No. 5 (see above).

To ensure that your communications or supporting documents can be uploaded to the Portal, these should not exceed 40MB each; or if you prefer to send them via e-mail (CIDHDenuncias@oas.org), the total size of all the annexes must not exceed 15MB. Documents sent digitally should be in one of the following formats, as other types are not compatible with our system: .avi, .bmp, .doc, .docx, .eml, .flv, .gif, .ht, .jpeg, .jpg, .mov, .mp3, .mp4, .pdf, .png, .ppt, .pptx, .rtf, .txt, .wav, .wma, .wmv, .xls, or .xlsx.

If the documents are too large to send via the Portal or by e-mail, we suggest that you scan them and store them on a magnetic device of your choice (USB, CD, DVD, flash drive, memory card, etc.) and send them to the IACHR by postal service to the address indicated in question No. 5 (see above). If you are unable to send the documentation in electronic form, you may send it in print form to this same address. To streamline processing, the documents should not be bound or laminated in any way.

9. Should I send original documents or certified copies?

No. Original documents should not be sent under any circumstances, as the Commission does not return documents that have been sent in as part of a petition. Moreover, it is not necessary for photocopies to be certified, notarized, or legally authenticated; the document must simply be complete and legible.

10. How do I send information if my complaint is associated with a request for precautionary measures?

If your matter is associated with a precautionary measure – whatever the status of that measure may be – and your intent is to send information related exclusively to your petition, you should send the information specifying the number of the petition and stating that the documentation in question is related solely to the petition. If your intent is to send information related to both the petition and the precautionary measure, you should send the information specifying the numbers of each, and state that the documentation relates to both the petition and the precautionary measure. Otherwise, if your communication is related solely to a precautionary measure, it should specify that and refer only to the number assigned to the precautionary measure.

11. Who may send and receive information related to my petition?

Only individuals registered as petitioners or alleged victims may send statements and documents and/or receive information about your petition. For its decision on admissibility, the IACHR will consider only the information provided by the parties, not by third parties who are not associated with the petition.

12. May I assign a petitioner or substitute one who has already been registered?

Yes. Any designation, substitution, inclusion, and/or withdrawal of a petitioner must be reported to the IACHR in writing. It is also important to maintain the petitioners' contact information up to date and, if applicable, to inform the IACHR about any change in representation, given that to maintain the confidentiality of the information provided, the IACHR is unable to share information about the status of petitions with individuals who are not accredited in our systems.

13. May I withdraw my petition?

Yes. It is possible to withdraw your petition at any stage of the proceedings. To do so, simply send a written statement expressing your intention along those lines. The express withdrawal of a petition results in its being archived.

14. In its letter, the IACHR has placed itself at the parties' disposal to reach a friendly settlement in the matter. What does that mean?

The friendly settlement procedure is a mechanism for dialogue facilitated by the Commission which aims to have the State in question and the alleged victims and/or petitioners reach an agreement, outside the realm of litigation, that would allow for a resolution of the alleged human rights violation. Under Article 40 of our Rules of Procedure, at any time in the proceedings the IACHR may place itself at the disposal of the parties to reach a friendly settlement of the matter on the basis of respect for human rights.

Moreover, any of the parties may request the good offices of the IACHR to facilitate a negotiation process for a friendly settlement agreement at any time during the processing of the petition, from the moment of notification to the State until before the Commission issues a report on the merits of the case. To do so, either of the parties may send a written statement to the IACHR expressing interest in engaging in dialogue with the other party with the intention of reaching a friendly settlement of the matter. The friendly settlement procedure depends on the will of the parties, and therefore both parties must agree to begin and continue with the process.

Once both parties have formally expressed their willingness to make use of the friendly settlement mechanism, the Commission facilitates negotiations through the application of alternative methods of conflict resolution and through means such as working meetings, videoconferences, and exchanges of formal and informal written documents. The friendly settlement procedure suspends litigation proceedings, so the Commission will not move forward with a decision on admissibility or on the merits as long as the parties decide to remain in the negotiation process.

In the event that the friendly settlement procedure has begun and one of the parties believes that there is no willingness by the other party or no substantial progress in the negotiations, or that the matter does not lend itself to such a resolution, the party may request that the procedure be closed and may continue to litigate the case at the procedural stage the matter was in before the negotiation process began.

It is also worth noting that the friendly settlement process is not a mandatory stage in the processing of a petition, and users of the individual petition and case system may decide not to avail themselves of this mechanism.

For more information on the procedure, the Commission recommends that you consult the "Handbook: Friendly Settlement Mechanism in the Petition and Case System," which is available at the following link: http://www.oas.org/en/iachr/friendly_settlements/docs/handbook-fs-en.pdf.

If you would like information on the type and scope of reparation measures that can be obtained through friendly settlements, we recommend that you consult the report "Impact of the Friendly Settlement Procedure," available here: http://www.oas.org/en/iachr/friendly_settlements/docs/Report-Friendly-Settlement.pdf.

Finally, to learn about the progress made regarding friendly settlements, we recommend that you visit the following website: http://www.oas.org/en/iachr/friendly_settlements/default.asp.

15. Do I need to travel to IACHR headquarters to follow up on my petition?

The IACHR Executive Secretariat does not recommend that the petitioners or the alleged victims commit financial resources to travel to Washington, D.C. Since this is a predominantly written procedure, it is not considered necessary to go to the Commission's headquarters to follow up on your petition. Exceptionally, meetings may be granted by appointment with users of the individual petition and case system. Given that such meetings do not consider substantive arguments but rather deal with strictly procedural matters, any submission of documentation and consultations about the status of the petition can be done by the means mentioned earlier, under question No. 5 (see above).

16. Do I need to hire a lawyer to follow up on my petition, or pay a fee to the IACHR?

No. The Commission does not require someone to be represented by a lawyer for the presentation and processing of petitions. Neither does the IACHR require payment of any fee, charge, or rate; **our services are free of charge.**

17. [What is the role of the IACHR Executive Secretariat during the processing of petitions in the admissibility stage?](#)

The Executive Secretariat of the IACHR does not act in representation of either of the parties; rather, it provides legal advice to the Commission and ensures that the petition is processed in accordance with the Rules of Procedure, the Statute of the Commission, and if applicable, the American Convention.

18. [I received a letter about a possible archiving. What does that mean?](#)

When the Executive Secretariat identifies inactivity on the part of the petitioners, the Commission may ask them for information about whether the grounds for the petition they filed still exist or whether they are still interested in continuing with the processing of the petition. If no response is received within one month from the notification date, the Commission could archive the file under Article 42 of its Rules of Procedure. That is why it is important for petitioners to keep their contact information up to date.

19. [When does the admissibility stage end?](#)

The admissibility stage ends when:

- A report is adopted in which the IACHR determines that the petition is admissible, in which case the petition moves on to the merits stage; or
- A report is adopted in which the IACHR determines that the petition is inadmissible, and therefore the matter is considered completed. If the petition is declared inadmissible, it is closed. This decision is not subject to appeal and brings the process to a conclusion.

In its report, the IACHR does not determine whether a State is responsible for human rights violations; nor does it determine measures of reparation. That analysis is part of the procedure on the merits and is carried out only with respect to petitions declared admissible.

The admissibility stage can also come to a close when the IACHR notifies the parties that it has decided to archive the petition, pursuant to Article 42 of its Rules of Procedure.

20. [What happens once my petition is declared admissible?](#)

Once a petition is declared admissible, the Commission will notify the parties and send them the admissibility report. The petition is given a case number and moves on to the merits stage. The petitioners will have a four-month period, which may be extended for a maximum of two additional months, to submit their observations on the merits.

21. [When does Resolution 1/16 apply?](#)

As a measure designed to reduce its procedural backlog, on October 18, 2016, the IACHR adopted Resolution 1/16, in which it decided to implement Article 36(3) of its Rules of Procedure under the following circumstances:

- Petitions that have been pending before the Commission for an extended period; these are understood to mean petitions received through 2006 in which the period established under Article 30(3) of the Rules of Procedure has expired.
- Petitions for which no response has been forthcoming from the State in question during the admissibility stage.
- Petitions for which the State in question has indicated that it has no objection to admissibility.
- Petitions associated with an existing precautionary measure.
- Petitions having to do with the use of the death penalty.
- Petitions that by their very nature lend themselves to summary decisions based on the application of a precedent of the Inter-American Commission and/or Court in identical cases.

If a petition falls under one of these scenarios, it moves on to the merits stage, and treatment of admissibility is deferred until the decision on the merits. In that case, the Executive Secretariat will inform the parties that Article 36(3) of the IACHR Rules of Procedure applies and will ask the petitioners to submit additional observations on the merits within the regulatory time frame of four months. Once the Commission has received these observations, it will forward them to the State in question and ask the State to present its additional observations on the merits within the same regulatory time frame of four months, with the possibility of an extension for a maximum of two additional months.

More information on Resolution 1/16 is available at: <http://www.oas.org/en/iachr/decisions/pdf/Resolution-1-16-en.pdf>.