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1. On October 6, 1995, Carlos Alberto García Saccone (hereinafter "the petitioner"), in his capacity as duly authorized representative for 350 Argentine citizens, submitted a complaint to the Inter-American Commission on Human Rights (hereinafter "the Commission") alleging that the Republic of Argentina (hereinafter "the State" or "Argentina") had violated articles 11 and 16 of the American Declaration of the Rights and Duties of Man (hereinafter "the American Declaration") and article 9 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (hereinafter "Protocol of San Salvador"), and leaving open the possibility of the Commission finding other violations of fundamental rights recognized by the relevant international instruments.

I. REPORTED FACTS

2. According to the complaint, Resolution 285 of August 10, 1965, issued by the Board of Directors of Yacimientos Petrolíferos Fiscales (hereinafter "YPF"), at that time a state-owned company, authorized the President of that company to conclude an agreement with the authorized representatives and unions on establishing a compensatory retirement fund called YPF Compensatory Retirement Fund [Fondo Compensador para Jubilados de YPF] (hereinafter "the Compensatory Fund").

3. By Resolution 494 of December 21, 1965, the Board of Directors authorized the President of YPF to proceed to carry out the relevant agreements, in order to put the Compensatory Fund into operation, taking into account that its legal constitution was conditional upon the final approval of the Nation's Executive Branch. By the same token, it authorized the President to make the corresponding deductions from the workers, as of January 1, 1966, to be paid into the above Fund. Finally, it provided for the return of any contributions made to the Fund in the event that the legal establishment of the Compensatory Fund should fail to come to fruition due to legal or administrative reasons beyond the control of the parties involved.

4. The above mentioned Fund was created subject to the condition that the Government authorize its operation. This condition was never fulfilled, but the deductions began to be taken as of January 1, 1966.

5. On October 10, 1978, through Decree No. 44, the Board of Directors of YPF agreed to withdraw its request for authorization of the Fund from the National Executive Branch, and provided for its liquidation; deciding, in general terms, to discontinue the benefit which had been given to retirees since its inception, offering those affected a sum equal to ten times the amount of the benefit, in exchange for relinquishing those benefits, and ordering that the funds be kept as reserves in anticipation of potential applications for the return of contributions made to the fund.

6. The petitioner, in his capacity as official representative of a number of contributors to the fund, became a party to the suit brought on November 9, 1981 before the federal judge of La Plata against YPF by other interested parties demanding an accounting. This suit concluded with a judgement in favor of the interests of the petitioner, ordering YPF to return the funds to those who had contributed to it. This decision was appealed, presenting the argument, among others, that the suit, being labor-related, had exceeded the statute of limitations. On the 17th of May, 1994, the Second Federal Court of Appeals of La Plata, ruling that, in effect, the nature of the action fell into the category of labor rather than that of social security, applied the statute of limitations established by article 256 of the Employment Law of Argentina[FN1], and overturned the judgement of the trial court.[FN2]

[FN1] Article 256 of the Contract Labor Law states:

There is a statute of limitations of two years on claims related to debts deriving from individual work relationships and, in general, from collective agreements, rulings which have the effect of collective agreements and legal or regulatory Labor Law provisions.

This rule serves as a public order, and the time period can not be modified by individual or collective agreements.

[FN2] To substantiate his decision, the ruling judge stated:

The claims of the plaintiffs --in particular, the one that prevailed, but not only that one-- can not, in my opinion, be considered either social security issues nor civil issues, but rather labor issues.

Their basis and origin derived from a contract or agreement between unions with formal representation for the workers and the company which was their employer, and it concerns a fund formed with money deducted from workers' pay and intended to benefit them.

(....)

If, to these considerations, is added the position of responsibility held by the parties that initiated the plan for the deductions which were lost, and the particular circumstance that they bore the burden of responsibility for the workers' pay, no decisive factors are noted which would justify considering the matter being argued as being of a civil nature.

7. The petitioner submitted a motion seeking clarification, which was denied on May 31, 1994 on the grounds that it was submitted too late. Subsequently, the petitioner submitted an appeal to the Court of Appeals of La Plata, which was also rejected, on August 23, 1994. The

petitioner then lodged a complaint appeal to the National Supreme Court, which in turn was denied on March 14, 1995.

8. The petitioner maintains that the ruling on the statute of limitations by the Federal Court of Appeals of La Plata violated domestic Argentine law which prohibits the judge from making an official ruling on the statute of limitations, as provided in article 3964 of the Civil Code of Argentina.[FN3] The petitioner further maintains that the rule for the statute of limitations applied by the Federal Court of Appeals of La Plata was incorrect. The complainant maintains that given that the Compensatory Fund was of a social security nature and not labor-related, the applicable standard was article 4023 of the Civil Code[FN4] relating to joint obligations and not the statute of limitations of Article 256, already described, relative to labor-related obligations.

[FN3] Article 3964. The judge can not officially supply the statute of limitations.

[FN4] Article 4023. Any personal suit for demand of a callable debt has a statute of ten years, except in the case of special circumstances.

II. PROCEEDINGS BEFORE THE COMMISSION

9. The petition was transmitted to the State on December 18, 1995, which responded on April 30, 1996, setting out the reasons for requesting that the Commission declare the claim inadmissible.

10. In the first place, it maintained that the Republic of Argentina has not ratified the Protocol of San Salvador. Regarding the official ruling on the statute of limitations against the interests of those represented by the petitioner, the State claims that the objection to the ruling on the statute of limitations was contested by the defendant (YPF) with respect to all actions, including suits brought by the petitioner and which, at the petitioner's request, became part of the suit initiated for the same purpose by another attorney, for which reason it is not true that the Court of Appeals issued an official ruling.

11. On April 9, 1996, the petitioner proceeded to broaden their claim. In its broadened form, reference was made to the rulings by the Fourth Federal Trial Court of La Plata regarding professional fees imposed on the petitioner's representatives at the request of YPF's representatives. The petitioner further maintains that this judgment harms the property rights of the principals, given that the payment of expenses and court costs must be paid by them. The petitioner requested, furthermore, that precautionary measures be issued by the Commission in order to prevent these fees from being paid. On April 11 of the same year, the Commission sent a communication to the petitioner in which it informed him that such measures were not justified. It should be pointed out that the petitioner did not provide to the Commission any proof indicating that domestic remedies have been exhausted in regard to the broadening of the claim.

12. The State's response was submitted to the petitioner on May 17, 1996. In response to the State's observations, the petitioner alleged additional violations of rights provided for in Articles

21, 24 and 29 of the American Convention (hereinafter "the American Convention") and broadened his arguments as follows:

- i. The reported facts constitute essentially a violation of personal property rights, consisting in the misappropriation by YPF of contributions paid into the Compensatory Fund.
- ii. Both civil and political rights as well as economic, social and cultural rights are indissoluble elements which form the basis for the recognition of human dignity, in accordance with the Preamble to the "Protocol of San Salvador".
- iii. The juridical nature of the business involved is social security-related, not labor-related.

13. On September 3, 1996, the petitioner's observations were submitted to the State, which in turn responded on October 24, 1996, reiterating its request that the Commission find the petition inadmissible.

14. Further, the Commission received, on October 3, 13 and 16, 1996, respectively, communications from the petitioner stating that he was being hounded and harassed in the courts by virtue of rulings which were made against his clients' interests, relating to the charging of professional fees.

15. On November 5, 1996, the Commission transmitted to the claimant the observations made by the State. The petitioner responded on December 5, 1996, reaffirming the submitted claim.

16. Subsequently, the Commission transmitted to the State of Argentina, on December 19, 1996, the above mentioned response of the petitioner. The State responded on the 8th of January, 1997, asserting that it was not contesting the "dogmatic statements" made by the petitioner.

17. On June 5, 1997, the petitioner requested the Commission once again, to issue precautionary measures because of the ruling regarding charges for fees against representatives of the petitioner (supra 6). The Commission responded to this on July 7, 1997, informing the petitioner that such measures were not appropriate, given that they were not provided for in the requirements specified in Article 29 of the Commission's Regulations.

III. ADMISSIBILITY

18. The request meets the formal requirements of admissibility provided for in Article 46 of the American Convention and Article 32 of its Regulations.[FN5]

- a. The petitioner has exhausted the remedies within the domestic jurisdiction.
- b. The claim was submitted within the time period established by Article 46(b) of the Convention and Article 38 of the Commission's Regulations.
- c. To the Commission's knowledge, the matters which are the subject of the claim are not pending in any other international proceeding.

[FN5] The Commission declines to consider the additional request related to fees, given that the claimant did not demonstrate having exhausted remedies within the domestic jurisdiction.

19. In accordance with Article 47(b) of the American Convention, the Commission can declare a petition inadmissible when it does not state facts tending to establish a violation of rights guaranteed in the Convention.

20. The Commission must establish whether the facts previously described could constitute a violation of the human rights protected by Articles 21, 24 and 29 of the Convention, cited by the petitioner.

IV. ANALYSIS

21. Before proceeding to analyze whether petitioner's claims satisfy the requirements of Article 47(b) of the Convention, the Commission wishes to point out that it does not, in principle, have the power to make findings on how a State's domestic courts interpret and apply juridical rules.

22. In a democratic society governed by the rule of law, such functions should be within the authority of the competent organs. What the Commission must verify, in a specific case, is whether a court ruling violates any of the rights protected by the American Convention, not whether it is contrary to the domestic legal system of a State Party.

23. In the area of international human rights law, it is relevant to determine whether a judicial decision is in violation of the international obligations assumed by the party State. As the Inter-American Court on Human Rights affirmed, referring to the consideration of domestic laws in relation to their compatibility with international treaties,

This the Commission can and should do upon examining communications and petitions submitted to it concerning violations of human rights and freedoms protected by the Convention.[FN6]

[FN6] Inter-American Court on Human Rights, Advisory Opinion OC-13/93 of July 16, 1993 "Certain Powers of the Inter-American Commission on Human Rights" (Articles 41, 42, 46, 47, 50 and 51 of the American Convention on Human Rights), par. 30.

A. The right to property (Article 21)

24. Article 21 of the American Convention states:

1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.

2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.

3. Usury and any other form of exploitation of man by man shall be prohibited by law.

25. In this particular case, the Commission must establish whether the decision handed down by the Federal Court of Appeals of La Plata could involve a violation of Article 21 of the American Convention. It is necessary to determine, first, whether the contributions made by the YPF workers to the Compensatory Fund are property within the meaning of Article 21.

26. From the Commission's reading of the case file, it becomes apparent that it was anticipated that repayment of the contributions made both by YPF and by the workers would be returned should the fund be liquidated. Taking this into account, it is clear that the sums of money involved, paid monthly by the employees of YPF and by the company, were part of the patrimony of each of the respective contributors, in proportion to the amount contributed.

27. Further, it should be specified that the complaint was made on behalf of 350 workers. While the complaint is a response to the fact that YPF, having liquidated the Compensatory Fund, did not repay to the workers the sums they were owed based on their contributions to the Fund, the Commission views the matter as one of evaluating whether, in effect, the property rights of the individuals were violated by the State of Argentina. The Commission assumes, then, that the Convention is applicable in accordance with the parameters of Article 1(2), according to which "for the purposes of this Convention, 'person' means any human being."

28. In accordance with a previous decision of the Commission,

...in the inter-American system, the right to property is a personal right. The Commission is empowered to vindicate the rights of an individual whose property is confiscated, but is not empowered with jurisdiction over the rights of juridical beings, such as corporations or as in this case, banking institutions.[FN7]

[FN7] Annual Report of the Inter-American Commission on Human Rights, 1990-1991, OAS/Ser.L/V/II.79. rev.1, Doc. 12, February 22, 1991, Original: Spanish, Report No. 10/91, Case 10.169, Peru, p. 425.

29. In the same decision, the Commission declared inadmissible a petition submitted by shareholders of the Bank of Lima in which, by virtue of an official announcement of expropriation of all shares of Peruvian banks which at that time belonged to private individuals, it was claimed that the Peruvian State had violated Article 21, among others, of the Convention.[FN8]

[FN8] Idem.

30. The primary reason which led the Commission to reach the determination referred to, was that, taking into account that the petitioners had claimed that the State of Peru had taken actions affecting the rights of the Bank of Lima, individual property rights were not at issue.

31. In this particular case, the Commission finds that what are in question are individual rights. In effect, it is a complaint in which violation of the American Convention and of the American Declaration is being alleged for the failure to repay to individuals the sums they had contributed. Also, the Commission cannot apply to this case the reasoning used in the previously mentioned case against Peru, which also involved a Compensatory Fund, because the Fund in question in the instant case did not satisfy all of the requisites for its legal operation, given that the Government never authorized its existence. This means that it does not involve actions which affected a corporate entity, but rather individuals.

32. The Commission in its Report 39/96, declared inadmissible a petition submitted by Santiago Marzioni maintaining that the concept of property "cannot be extended to include a potential award, or to the mere possibility of obtaining a favorable decision in litigation that involves monetary awards"[FN9]. The Commission considers that, unlike that case, the instant case involves more than simply a legal monetary claim. As already noted in paragraph 2 supra, the YPF Board of Directors, in authorizing the President to put the compensatory fund into operation, anticipated a return of the contributions made to the fund in the event that the Compensatory Fund did not become legally established for legal or administrative reasons beyond the control of the parties involved. In addition, according to the documents which the Commission possesses and, in particular, a communication sent on September 27, 1978 by the Director in charge of administration to the Board of Directors of YPF, it was anticipated that the moment the Compensatory Fund was liquidated, the company could be subject to claims for the return of received contributions. In effect, that Director was proposing the issuance of a Resolution in the following terms:

[FN9] Annual Report of the Inter-American Commission on Human Rights, 1996, OAS/Ser/L/V/II.93, Doc. 24, October 15, 1996, Original: Spanish, Report No. 39/96, Argentina, par. 29.

That it be stipulated that funds credited to account no. 2184 --Compensatory Retirement Fund-- be held in reserve to respond to potential submissions seeking the return of previous contributions to the fund.

33. Under the assumption, then, that article 21 of the Convention is applicable in this particular case, the Commission shall proceed to analyze whether there is a violation of this provision.

34. In this respect, as has already been stated, it is relevant to determine whether the decision of the Federal Appeals Court of La Plata to apply the statute of limitations to the suit by those whom the petitioner represented, was a violation of property rights recognized by the American

Convention. It should be pointed out that YPF is a corporation which was privatized by Statute 24.145 of 1992; thus, the Commission is not competent to analyze if said company's failure to return the sums contributed constitutes a possible violation of personal property rights, given that the organs of the inter-American human rights system do not, in principle, have the power to examine the actions of non-state actors.

35. First, the petitioner refers to the application of the official statute of limitations by the Court of Appeals. In this respect, the Commission does not consider that it can regard this fact as violating the international obligations which the State of Argentina is obligated to observe in its capacity as a party to the Convention. In the particular case, the petitioner questions a judge's interpretation of a rule of domestic law. It is not for this monitoring body to review the correctness of the judge's interpretation when no direct violation of the Convention can be inferred from it.

36. Second, the petitioner refers to an error committed by the Court of Appeals judge in applying the rule governing the statute of limitations for the suit brought by petitioner's representatives along with other YPF workers. In accordance with what was stated, given that the process of accounting involved a fund meant for the company's pensioners, the nature of the suit is social security-related and not labor-related. This, in the judgement of the petitioner, meant that the applicable statute of limitations was the one corresponding to ordinary civil suits (article 4023 of the Civil Code) and not the one which could be argued to apply in labor-related suits, which was precisely the one the Court of Appeals judge applied in ruling on the statute of limitations.

37. The petitioner argues that the Court of Appeals in mistakenly applying the statute for labor issues to a suit of a civil nature violated the property rights of the principals, as it prevented their reimbursement of the monies owed them. The petitioner, nevertheless, and as will be seen further on, did not present any evidence whatsoever that may tend to demonstrate that the Federal Court of Appeals of La Plata erred in such a way as to constitute clear arbitrariness and, therefore, a potential direct violation of the property rights protected by the Convention. While it is clear to the Commission that the contributions paid by the workers could potentially have been returned to them in the event of the liquidation of the Compensatory Fund, it is no less clear that in a legal claim, the courts could determine to hear the case according to the interpretation of rules already established for that purpose. If the interpretation does not violate any of the rights protected by the American Convention, the Commission lacks the ability to review it.

B. Right to equal protection of the law (Article 24)

38. Article 24 of the American Convention establishes the general principle according to which all persons are equal before the law and are entitled to its protection without discrimination. In support of the alleged violation in the complaint, the petitioner refers to an idea expressed by the Labor Attorney General, codified in a decision by the same Appeals Court judge, in a proceeding *Vitale, Vicente J. and others, vs. Electric Services of Greater Buenos Aires, S.A.*, according to which a pension fund would have "a particular solidarity" ("*una solidaridad peculiar*"). The petitioner does not explain what "particular solidarity" refers to, nor does the petitioner provide more details on the final result of the verdict.

39. The fact that the Labor Attorney General, in an isolated case, referred to a Compensatory Fund as having a "particular solidarity", is not evidence of a violation of the principle of equality. An isolated view expressed by the Labor Attorney General, is not sufficient to constitute violation of article 24 of the Convention. In any case, the Commission notes that the above mentioned official is a representative of the State, who defends its interests in court, and therefore his opinion cannot be compared to a judicial decision.

40. For the sake of illustration, it must be stressed that Article 24 of the Convention establishes a paradigm the opposite of which is unequal treatment. Therefore, in order to determine that a ruling handed down by a court violates article 24 of the Convention, it is necessary to find, at least, that the court ruled in a manner radically different from a previous ruling involving a legal situation with nearly identical factual elements. As stated by E.W. Vierdag,

Unequal treatment can be defined as:

- i. the denial of a right to someone which is accorded to others;
- ii. diminishing the right accorded to some, while fully granting it to others;
- iii. the imposition of a duty on some which is not imposed on others; or
- iv. the imposition of a duty on some which is imposed less strenuously on others.[FN10]

[FN10] The concept of discrimination in International law, Ed. Martinus Nijhoff, The Hague, 1973, p. 44.

41. The same author continues by stating that:

It is clear that each type of unequal treatment requires a comparison and, therefore, a standard for comparison. For this it is necessary to determine who are the "some" and who are the "others" in a particular case, i.e., what categories should be compared to others with regard to their respective legal positions.[FN11]

[FN11] Idem.

42. On this matter, the Inter-American Court on Human Rights has stated the following:

Accordingly, no discrimination exists if the difference in treatment has a legitimate purpose and if it does not lead to situations which are contrary to justice, to reason or to the nature of things. It follows that there would be no discrimination in differences in treatment of individuals by a state when the classifications selected are based on substantial factual differences and there exists a reasonable relationship of proportionality between these differences and the aims of the legal rule under review. These aims may not be unjust or unreasonable, that is, they may not be

arbitrary, capricious, despotic or in conflict with the essential oneness and dignity of humankind.[FN12]

[FN12] Inter-American Court on Human Rights, Advisory Opinion OC-4/84 of January 19, 1984, "Proposed Amendments to the Naturalization Provisions of the Constitution of Costa Rica, par. 57.

43. In this case, it is not possible for the Commission to apply the criteria proposed by the above quoted author and those set forth by the Inter-American Court, given that, as already stated, such reasoning is not supported by the presence of any element that would legally justify it. Thus, the Commission cannot conclude that, in this specific case, the State of Argentina and, in particular, the Federal Court of Appeals of La Plata, ruled in a manner that might raise a colorable claim of violation of Article 24 of the American Convention.

C. Rules of interpretation (Article 29) and the American Declaration

44. The petitioner argues that civil and political rights, as well as economic, social and cultural rights are indissoluble elements which form the basis for a recognition of human dignity, such as is expressed in the Preamble to the Protocol of San Salvador.

45. The Commission and the General Assembly of the Organization of American States have, on numerous occasions, issued findings precisely along these same lines. For example, the Commission has stated that "the General Assembly of the Organization has also repeatedly recognized that the American Declaration is a source of international obligations for the member states of the OAS." [FN13] Additionally, in the previously quoted Advisory Opinion, the Court stated:

It can be considered, then, that the official interpretation by the Member State is that the Declaration contains and defines those essential human rights referred to in the Charter. Thus the Charter of the Organization cannot be interpreted and applied as far as human rights are concerned without relating its norms, consistent with the practice of the organs of the OAS, to the corresponding provisions of the Declaration.[FN14]

[FN13] Inter-American Court on Human Rights, Advisory Opinion OC-10/89 of July 14, 1989, "Interpretation of the American Declaration of the Rights and Duties of Man in the Framework of Article 64 of the American Convention on Human Rights", par. 42.

[FN14] *Idem*, par. 43.

46. The American Declaration states the following:

Article XI. Right to the preservation of health and to well-being.

Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.

Article XVI. Right to social security.

Every person has the right to social security which will protect him from the consequences of unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.

47. Further, the rules of interpretation contained in Article 29 of the Convention establish the following:

No provision of this Convention shall be interpreted as:

- a. permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein;
- b. restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party;
- c. precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; or
- d. excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have.

48. In this regard, the Inter-American Court has also stated:

For the States Parties to the Convention, the specific source of their obligations with respect to the protection of human rights is, in principle, the Convention itself. It must be remembered, however, that, given the provisions of Article 29(d), these States cannot escape the obligations they have as members of the OAS under the Declaration, notwithstanding the fact that the Convention is the governing instrument for the States Parties thereto.[FN15]

[FN15] Idem, par. 46

49. In accordance with what has been stated by the Court in relation to article 29 of the Convention, it must be determined whether the petition raises a colorable claim of violation by the State of any of the provisions of the American Declaration.

50. It is worth pointing out that articles XI and XVI invoked by the petitioner establish, for a Party State, the obligations to protect people's right to health and to social security. In this specific case, the Commission does not find any connection between the rights invoked and the dissolution of the Compensatory Fund. It had its origin in the voluntary agreement between the

company's workers and company, which was at that time state-owned, aimed at improving the income of retired employees. The makeup and operation of that Fund were outside the general Argentine pension system. The economic benefits to the retirees were in addition to those benefits received through the normal pension system. Furthermore, in the Fund's constitution, possible reasons for the Fund's dissolution were anticipated. This implied that the potential rights emanating from the Fund were neither absolute nor acquired. Therefore, the Commission concludes that the petition does not raise a colorable claim of violation of the above cited provisions of the American Declaration.

D. Competence of the Commission

51. As stated previously, the international protection guaranteed by the monitoring bodies of the American Convention is complementary to that provided under the domestic law of the American States, as established in the Preamble to the Convention.[FN16]

[FN16] The second paragraph of the Preamble to the American Convention states: Recognizing that the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality, and that they therefore justify international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states...

52. The Commission has stated on other occasions that:

...the rule of prior exhaustion of domestic remedies is based on the principle that a defendant state must be allowed to provide redress on its own and within the framework of its internal legal system. The effect of this rule is "to assign to the jurisdiction of the Commission an essentially subsidiary role".[FN17]

[FN17] Report 39/96, Op. cit., par. 49.

53. The complementary role of the Commission is the basis of the so-called "fourth instance formula" applied also by the European human rights system. According to this formula, the Commission cannot review decisions handed down by national courts acting within their authority and applying the appropriate legal guarantees, unless it is found that there has been a violation of some right protected by the Convention.

54. The Commission is competent to declare a petition admissible and rule on its merits when it raises a colorable claim that a decision by the domestic courts is in violation of due process, or if it tends to characterize a violation of any of the other rights guaranteed by the American Convention. If the allegation is that the decision was mistaken or even unfair but otherwise is not contrary to international human rights instruments, the request must be rejected according to the formula described above:

The Commission's task is to ensure the observance of the obligations undertaken by the States parties to the Convention, but it cannot serve as an appellate court in order to examine alleged errors of internal law or fact that may have been committed by the domestic courts acting within their jurisdiction.[FN18]

[FN18] *Idem*, par. 51.

55. In the present case, the alleged violations have been studied and from this it is not possible to establish that the courts with domestic jurisdiction have acted at the margin of, or in violation of the rights protected by the Convention or by the American Declaration. The petitioner requests that the Commission determine whether the particular rulings handed down by the Argentine courts and, in particular, the ruling of the Federal Appeals Court of La Plata, were mistaken in the interpretation and subsequent application of certain rules of domestic civil and labor law regarding the statute of limitations. The Commission is not a fourth instance court of appeals, and therefore is not competent to review a decision made by the judicial authorities of Argentina --or any other member state of the OAS-- acting within their competence.

IV. CONCLUSION

56. The Commission concludes that this petition meets the requirements of formal admissibility provided for in article 46 of the American Convention; and that it does not establish a colorable claim of violation of any of the rights protected by the American Convention or by the American Declaration. Accordingly,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

- A. To declare the inadmissibility of the present case, in accordance with article 47(b) of the American Convention.
- B. To transmit the instant report to the parties; to make it public; and include it in its Annual Report to the OAS General Assembly.