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Title/Style of Cause:	Elba Clotilde Perrone and Juan Jose Preckel v. Argentina
Doc. Type:	Decision
Decided by:	Chairman: Professor Robert K. Goldman; First Vice-Chairman: Dr. Helio Bicudo; Second-Vice Chairman: Dean Claudio Grossman; Members: Prof. Carlos Ayala Corao, Dr. Jean Joseph Exume, Dr. Alvaro Tirado Mejia.
Dated:	4 May 1999
Citation:	Perrone v. Argentina, Case 11.738, Inter-Am. C.H.R., Report No. 67/98, OEA/Ser.L/V/II.106, doc. 6 rev. (1999)
Represented by:	APPLICANT: the Permanent Assembly for Human Rights
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I. SUMMARY

1. On December 23, 1996, and January 13, 1997, the Permanent Assembly for Human Rights (Asamblea Permanente por los Derechos Humanos; hereinafter "the petitioner") submitted a petition to the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") alleging that during the period of time that Elba Clotilde Perrone and Juan José Preckel were illegally detained and exiled under orders from the de facto government that held power between 1976 and 1983, they failed to receive their earnings from the General Tax Directorate. The claims and suits they presented in order to obtain payment were arbitrarily rejected by the Argentine authorities.

2. The petitioner claimed that by doing so, the Argentine Republic violated the right to a fair trial (Article 8), to property (Article 21), and to equality before the law (Article 24), together with the obligation of respecting the rights and of adopting domestic legal provisions (Articles 1 and 2) contained in the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), together with the rights to work and fair remuneration (Article XIV), to the recognition of juridical personality and civil rights (Article XVII), to a fair trial (Article XVIII), and to property (Article XXIII) enshrined in the American Declaration of the Rights and Duties of Man (hereinafter "the Declaration" or "the American Declaration"), with respect to Ms. Perrone and Mr. Preckel.

3. In examining this case, the Commission concluded that it has competence in the matter and that in accordance with Articles 46 and 47 of the American Convention, the petitioner's allegations regarding Articles 8, 21, and 3 of the Convention, which protect the same rights as

Articles XVII, XVIII, and XXIII of the Declaration, are admissible. With respect to the aforesaid violations, the Commission will refer solely to the provisions of the Convention and not to those of the Declaration; this is because once the American Convention came into force for the Argentine State, it–and not the Declaration–became the Commission's main source of applicable law, provided that petitions refer to alleged violations of rights that were substantially identical in both instruments and do not describe a situation of continuous violation. In addition, the Commission ruled that the petitioner's allegations regarding Articles 24 and 25 of the Convention were also admissible.

4. The right to work and fair remuneration (Article XIV) is set forth in the Declaration but not in the Convention; however, the Commission believes that this circumstance does not preclude its competence in the matter since, under Article 29(d) of the Convention, "no provision of this Convention shall be interpreted as [. . .] 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." Hence, the Commission ruled that the petitioner's accusations regarding the alleged violation of this provision enshrined in the Declaration were also admissible.

II. PROCESSING BY THE COMMISSION

5. On December 9 and 13, 1996, respectively, the Commission received complaints alleging that the rights of Ms. Perrone and Mr. Preckel had been violated; since they dealt with similar matters, the two files were accumulated, and they were sent to the State on April 23, 1997. On July 25 and September 4, 1997, the State requested two successive extensions, which were granted on July 31 and September 15, 1997, respectively. On October 31, 1997, the State submitted its comments; these were sent to the petitioner on November 6, 1997. The petitioner replied on January 6, 1998, and this response was transmitted to the State on February 10, 1998.

6. On February 26, 1998, during its 98th regular session, the Commission held a hearing for the parties to examine the admissibility of the case. The petitioner's note arising from that meeting was sent to the State on March 6, 1998. On March 10, 1998, the Commission wrote to the parties, making itself available in order to reach a friendly settlement. On March 13, 1998, the State submitted its comments and, on April 13, 1998, it requested additional time before it could present its decision on the Commission's proposal for friendly settlement negotiations. This extension was granted on May 26. On June 17, 1998, the petitioner submitted its comments, which were forwarded to the State on July 14, 1998, together with an additional copy of the May 26 note. On July 22, 1998, the State submitted its comments and, on July 24, 1998, it repeated the position it had held in previous communications, maintaining that this case was inadmissible and declining the friendly settlement procedure.

7. The State sent its comments on August 20, 1998; they were forwarded to the petitioner on August 27, 1998, replied to by the petitioner on October 27, 1998, and resent to the State on November 19, 1998. The State submitted its comments on January 19, 1999. On March 1, 1999, the Commission granted the parties a hearing at its 102nd regular session.

III. POSITIONS OF THE PARTIES

A. The petitioner's position

8. For the purposes of this report, the aim of which is to examine the petition's admissibility, the petitioner's allegations can be summarized as follows:

9. The Permanent Assembly for Human Rights (the petitioner) stated that Elba Clotilde Perrone and Juan José Preckel worked at the General Tax Directorate, at that time an agency of the Treasury Secretariat, attached to the executive branch's Ministry of the Economy, until they were illegally arrested in the city of Mar del Plata, Buenos Aires province, on July 6, 1976. In 1977 they were placed in the custody of the national executive without having faced trial and after suffering torture and other degrading treatment. During this period, which was characterized by a breakdown in the national legal system brought on by the de facto government that was in power, Ms. Perrone and Mr. Preckel were secretly kept under arrest at different military facilities.

10. In Ms. Perrone's case, this situation lasted until October 16, 1982–six years, three months, and ten days. She was then released, albeit under surveillance, and on July 25, 1983, she was unconditionally released from the national executive's custody. Through negotiations conducted by the German embassy and Amnesty International, Mr. Preckel obtained a passport that enabled him to leave the country, which he did on September 7, 1979. His exile lasted until December 1984, when he returned to Argentina through the efforts of the aforesaid institutions and the Intergovernmental Committee for European Migrations. While they were in the illegal situation that kept them from working, they were absent from their jobs; consequently, the administrative proceedings described in Article 36 of Decree 1798/80 were initiated. These proceedings were ultimately closed on October 6, 1983, with the restoration of the democratic regime, after it had been decided that they were not guilty of the charges. The distress the complainants suffered as a result of all these circumstances, which is not covered by their claims, was redressed under the terms of Law 24.043.

11. After they had returned to their jobs, Ms. Perrone filed an administrative claim in April 1983, demanding her right to receive earnings for the aforesaid period; Mr. Preckel joined the suit in July 1985. The Technical and Legal Affairs Directorate of the General Tax Directorate and the General Directorate of Legal Affairs of the Ministry of the Economy declared these claims admissible. The Office of the National Treasury Attorney ruled that they be thrown out: this was because, although they might have been admissible under the text of Collective Labor Agreement Nº 46/75 and the statute approved by Decree Law 6666/57 since there was no specific provision indicating the contrary, Circular Nº 5 of 1977 from the General Secretary of the President's Office restricted payment to situations in which it was authorized by such a specific provision. This opinion formed the basis for the decision of the Minister of the Economy, who dismissed the claims in Resolution Nº 75 of March 19, 1987 (Ms. Perrone), and Resolution Nº 1217 of December 17, 1987 (Mr. Preckel); these resolutions concluded the administrative proceedings. In the petitioner's opinion, under the above-mentioned circular, "payment of indemnification based on the updated earnings that the agent should have received" could have been considered admissible, in light of the peculiar nature of this situation and because no negligence or blame could be attached to the agents.

12. The victims filed suit with the courts in June 1988. Ms. Perrone's suit sought payment of the earnings not received between July 6, 1976, and October 19, 1982, of the days off that she accrued but which she neither enjoyed nor had credited to her, and recognition of her seniority for reasons related to social security and other purposes. Mr. Preckel claimed payment of earnings not received between July 6, 1976, and February 4, 1985, his share in the Incentive Fund, the days off that he accrued but which he neither enjoyed nor had credited to him, and recognition of his seniority for reasons related to social security and other purposes. The suits were based on Article 14.c of Decree 3413 of 1979, which justified the payment of earnings when agents of the General Tax Directorate were absent from work on account of weather conditions and proven instances of force majeure.

13. The petitioner holds that the judge introduced a completely spurious issue into the case and did not give a ruling on the factual and legal issues put forward in the claim. The petitioner claimed that in both cases, the first-instance judge stated that a suit against the State for the damages arising from the illegal arrests, prolonged detention, and forced exile suffered by the victims might have prospered; however, the judge also noted that he could not resolve that action, since that would have implied an undue application of the principle of jura novit curia [the court knows the laws]. He went on to say that the events that led to their absence from work were eminently political in nature, and so therefore the General Tax Directorate could not be held responsible for them.

14. Appeals against this decision made by Preckel and Perrone had two different outcomes. In Mr. Preckel's case, the appeals chamber upheld the first-instance judgment because "payment of wages for services not rendered is inadmissible" and because the rules quoted by the claimants were applicable to leaves of absences and reasons other than those involved in the case. It also concluded that it was not incumbent upon the General Tax Directorate, an autonomous state body, to bear the burden of redressing the harm caused by any possible illegal actions by the executive branch. In the proceedings initiated by Ms. Perrone, the appeals chamber overturned the first-instance judgement and admitted the substance of the claim.

15. Mr. Preckel filed an extraordinary appeal against these decisions and, in Ms. Perrone's case, so did her opponent. The petitioner notes that the Supreme Court of Justice of the Nation, in a ruling dated May 21, 1995, and without analyzing the claims, threw out Mr. Preckel's appeal and ruled that the remedy filed by the counterpart in Ms. Perrone's case was admissible.

16. The petitioner reports that Ms. Perrone and Mr. Preckel have been indemnified, on an equal and general basis, in accordance with Law 24.043. They maintain that this represents only partial indemnification, in that it covers only the violations of the rights of personal freedom, life, and humane treatment, without making any distinction regarding particular circumstances (education, occupation, etc.), and excludes indemnification for the employment relationship existing with the General Tax Directorate. To obtain the indemnification payment, Ms. Perrone previously withdrew the suit for damages she had begun against the state, which did not cover the lost earnings from her employment. However, she never withdrew the administrative actions, which are the substance of this petition before the Commission. As for Mr. Preckel, he never filed suit for damages but did collect the indemnification in accordance with the law.

17. The petitioner alleges that by illegally arresting them and encouraging their exile, the State prevented the victims from providing the services for which they were contracted. It also introduced "legislation" preventing them from receiving the earnings they would have been entitled to during the time when the illegal situation kept them from working. The petitioner also claims that the right of equality before the law was breached in that those agents of the public administration who continued to work, and those who did not on account of force majeure, continued to receive their salaries. Being a "detainee" must be considered an instance of force majeure and, consequently, must be covered by the terms of Article 14.c of Decree 3413 of 1979.

18. The petitioner believes that the right to private property was violated, which is closely related to the guarantee of equality before the law and the right of fair remuneration for work. In this regard, it holds that the right of property covers all the credits, expectations, and assets in general that in any way make up a person's patrimony. In particular, wages and the corresponding right to receive them are, on account of both their nature and their purpose, an expression of the right of property and, that being so, the State is obliged to protect them.

19. The petitioner also claims that the right to a justice and fair trial was violated in that, first, the judge did not rule on the legal and factual allegations put forward in the suit and, second, he introduced a completely spurious issue into the case, saying that the events that led to their absence from work were eminently political in nature and the result of actions by the executive branch and that therefore the General Tax Directorate could not be held responsible for them. With this, the judge introduced a defense that had not been used by the defendant at trial; this was therefore an arbitrary action in that the affected party was unable to discuss its admissibility, thus undermining the right of defense as guaranteed by the Constitution.

B. The State's position

20. The State maintains that this claim is based on the payment obligations of the General Tax Directorate as the employer and that the administrative proceedings initiated, pursuant to Article 39 of Decree 1798/80, ruled that earnings are not to be paid when the suspension arises from actions unrelated to work, except for the time following release and prior to a return to work being authorized. Consequently, judicial decisions under that jurisdiction, in accordance with current law and jurisprudence, have maintained that "no payment shall apply when no corresponding service has been rendered." In addition, the State maintains that Ms. Perrone and Mr. Preckel are entitled to request, without application of any statute of limitations, recognition of their periods of inactivity for the purposes of their retirement alone, even though they shall not be paid their salaries because no corresponding services were rendered.

21. As regards the exhaustion of domestic remedies, the State notes that Mr. Preckel and Ms. Perrone began and concluded a domestic claim, through contentious-administrative channels, against the State as employer, but that they have not exhausted domestic remedies in the sense of Article 46(1).a of the Convention because those remedies were not appropriate. The suit they filed in June 1988 should have addressed the State's noncontractual liability for damages arising from their arrest and subsequent removal from their jobs and, in such a case, could have covered the claims set forth herein. If such was the intent, the State holds, then the course chosen was not the correct one. The State claims that the job-related legal action was initiated in June 1988,

before Law 24.043 established the State's compensation policy, under which both of them received redress that excluded all other indemnification. Moreover, when they went before the courts in 1988, they were uncertain about the existence of an administrative channel for redress, since the corresponding procedure began with Decree 70/91, which was published in the Official Bulletin on January 16, 1991.

22. The State maintains that the suits they filed were clearly grounded on their relationship of dependence with an autonomous body, and that those suits could not be considered actions for damages by virtue of a generous application of the principle of jura novit curia [the court knows the laws] because that would have implied ignoring the letter thereof. The State concludes that the object of the suit and the identification of the responsible area of government–the General Tax Directorate–do not allow the object of the suit in question to be turned into a damages suit.

23. The State notes that the General Tax Directorate is completely unconnected to the causes behind the arrests, which were ordered by the Interior Ministry; consequently, there is no legal possibility of it assuming responsibility for decisions adopted by another agency. As regards the processing of the domestic legal action, there are rules that clearly indicate what bodies are responsible for representing the State at trial in different situations. Hence, remedies for reaching a judicial ruling on the question of their earnings did exist, but they were neither invoked nor exhausted.

24. The State believes that the indemnification granted has satisfied the claims of Ms. Perrone and Mr. Preckel, in obtaining the benefit set forth in Law 24.043 for individuals who, during the state of siege, were placed in the national executive's custody, regardless of whether or not they began proceedings for damages, and provided that they had received no indemnification under a judicial ruling in connection with the actions covered by said law.

25. Article 9 of Law 24.043 stipulates that "payment of the benefit implies relinquishment of all right to indemnification for damages arising from deprivation of freedom, arrest, being kept under executive custody, death, or physical injury and shall exclude all other benefits or indemnifications for the same cause." It cannot be argued that this was a special situation, since all the individuals who have received indemnification were prevented from working or practicing their trade, industry, or profession and, consequently, from receiving payment by the same cause: their arrest. The State's reparations policy for the causes addressed herein can be found in the friendly settlement reached in case Nº 10.288 and other cases in the Commission's archive and is reflected in Decree Nº 70/91; Law 24.043 subsequently extended the scope of the beneficiaries. In report Nº 1/93 the Commission expressed its recognition of the Argentine State's having made compensation payments that were accepted by the petitioners and based on respect for human rights.

26. The State understands that the Commission considers that the benefits granted by Law 24.043 constitute redress in the sense used in the inter-American human rights system and are a substitute for damages. Consequently, all claims related to the facts that make up the juridical substance of the provision are subsumed by receipt of that benefit, which comprises in totum [totally] the payment of all amounts that could arise therefrom. Since Perrone and Preckel invoked the provisions of the State's reparations policy, the State has covered the responsibility

due to it for the petitioners' arrest, and therefore this petition does not deal with facts that represent a violation of protected rights.

IV. ANALYSIS OF ADMISSIBILITY

27. The Commission's rulings on the admissibility of the cases brought before it are intended not only to invest its decisions with juridical certainty and clarity, but also to focus the parties' attention on the key issues those cases entail.[FN1]

[FN1] See, inter alia, Inter-American Commission on Human Rights, Annual Report 1998, Report Nº 49/97, Case 11.520, Tomás Porfirio Rondín et al., "Aguas Blancas" (Mexico), OEA/Ser/L/V/II.98, February 18, 1998, paragraph 50, p. 8.

A. The Commission's competence ratione personae, ratione temporis, and ratione materiae

28. The Commission has active and passive ratione personae competence (i.e., competence vis-à-vis the persons involved) to hear this case in that, first, the petitioner alleges that a state party thereto--specifically, Argentina[FN2]--violated provisions of the Convention and the Declaration, affecting Ms. Perrone and Mr. Preckel, the presumed victims of said violations.

[FN2] Argentina deposited its instrument ratifying the Convention at the General Secretariat of the Organization of American States on September 5, 1984.

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29. Secondly, as regards ratione temporis competence (i.e., in terms of when the incidents occurred), the Commission notes that the petitioner expressly excludes from the substance of the petition the deprivation of freedom and the cruel and inhuman treatments that began during the 1970s, since they were covered by the benefits that the alleged victims received under Law 24.043. Neither does the petition cover the General Tax Directorate's 1983 decision that ruled that Perrone and Preckel were not liable in the administrative proceedings.

30. However, the petitioner's complaint does cover the decisions by the Ministry of the Economy that rejected the claims made by the two in 1987. In addition, the petitioner notes that the complaint before the Commission also covers the subsequent judicial rulings of the first-instance court and the national contentious-administrative appeals chamber. The Commission notes that the aforesaid decisions were handed down after the Convention had come into force for Argentina and, consequently, they will be examined as alleged violations of the Convention.

31. Thirdly, as regards ratione materiae competence (i.e., vis-à-vis the substantive issues of the case), the petition alleges violations of the right to a fair trial (Article 8 of the Convention), to property (Article 21), and to equality before the law (Article 24), as well as of the obligation of respecting those rights and of adopting domestic legal provisions (Articles 1 and 2). Similarly, the petitioner claims there were violations of the right to work and fair remuneration (Article

XIV), to the recognition of juridical personality and civil rights (Article XVII), to a fair trial (Article XVIII), and to property (Article XXIII) as set forth in the Declaration. In this regard, the Commission holds that after the Convention had come into force for the Argentine State, it–and not the Declaration–became the Commission's primary source of applicable law,[FN3] provided that petitions refer to alleged violations of rights that are substantially identical in both instruments[FN4] and do not describe a situation of continuous violation.[FN5]

[FN3] As the Inter-American Court of Human Rights has 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." Advisory Opinion OC-10/89 (Interpretation of the American Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights), July 14, 1989, paragraph 46.

[FN4] As the Inter-American Court has stated: "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." Advisory Opinion OC-10/89, July 14, 1989, paragraph 46.

[FN5] The Commission has established that it is competent to examine violations of the Declaration and of the Convention provided that they involve a situation of continuous violation of the rights protected in those instruments; for example, a denial of justice beginning before the State in question ratified the Convention and persisting after said State has expressed its consent and the Treaty has come into force for it. See, for example, Res. 26/88, Case 10.109 Argentina, IACHR Annual Report 1987-1988.

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32. In the case at hand, although there is no situation of continuous violation, there is a similarity of substance between the provisions of the Declaration and those of the Convention invoked by the petitioner. Thus, the rights to a fair trial (Article XVIII), to property (Article XXIII), and to the recognition of juridical personality and civil rights (Article XVII) enshrined in the Declaration are subsumed by the provisions that establish the rights protected by Articles 8, 21, and 3 of the Convention. Hence, in connection with those violations of the Declaration, the Commission will refer solely to the provisions of the Convention.

33. However, the right to work and fair remuneration (Article XIV) enshrined in the Declaration is not protected by the Convention. The Commission believes that this situation does not preclude its ratione materiae competence since, under Article (29)(d) of the Convention, "no provision of this Convention shall be interpreted as [. . .] 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." Consequently, the Commission will examine this violation of the Declaration.

B. Additional requirements for the admissibility of the petition

a. Exhaustion of domestic remedies

34. The Commission repeats that the rule covering the filing and exhaustion of domestic remedies set forth in Article 46(1).a of the Convention requires that individuals who wish to

lodge a complaint or petition with the Commission against a State must previously make use of the remedies offered by that country's legal system. The principle of subsidiarity in the protection offered by the Convention requires that the substance of all petitions first be heard by domestic agencies. In the case at hand, neither the State nor the petitioner question the fact that Ms. Perrone and Mr. Preckel invoked and exhausted the administrative channels–both internally to the administration and under contentious-administrative jurisdiction–which culminated, after the available remedies had been exhausted, with the ruling handed down by the Supreme Court of Justice of the Nation.

35. However, the State claims that this remedy was not appropriate; it therefore holds that Ms. Perrone and Mr. Preckel neither filed nor exhausted the available domestic remedies, in contravention of the terms of Article 46(1)(a) of the Convention. The Commission notes that Article 46(1)(a) mentions "generally recognized principles of international law," which do not only refer to the formal existence of such remedies, but also to their being applicable and effective. As the Inter-American Court has stated: "adequate domestic remedies are those which are suitable to address an infringement of a legal right. A number of remedies exist in the legal system of every country, but not all are applicable in every circumstance."[FN6] The Commission believes that in this case it is incumbent upon the State to prove what remedies are available. In this regard, the Inter-American Court of Human Rights has ruled that "the State claiming non-exhaustion has an obligation to prove that domestic remedies remain to be exhausted and that they are effective."[FN7]

[FN6] Velásquez Rodríguez Case, Preliminary Objections, Judgment of July 29, 1988, paragraphs 64.
[FN7] Velásquez Rodríguez Case, Preliminary Objections, Judgment of June 26, 1987, paragraph 88.

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36. With regard to the channels that Ms. Perrone and Mr. Preckel should have used, the State noted that they could have filed suit against the State for damages arising from their separation from their jobs, including the claims contained herein. If their intent was to obtain redress for damages, then the channel they chose--that of contentious-administrative proceedings--was incorrect. Moreover, when they went before the courts in 1988, they were uncertain about the existence of an administrative channel for redress, since the corresponding procedure began with Decree 70/91, which was published in the Official Bulletin on January 16, 1991. However, the State concludes that the object of the suit and the identification of the responsible area of government--the General Tax Directorate--do not allow the object of the suit in question to be turned into a damages suit.

37. The Commission notes that the petitioner's allegations essentially address the judicial authorities' refusal to admit its claim based on the payment obligations incumbent on the General Tax Directorate as the employer. Contentious-administrative proceedings, as used by the alleged victims in their attempt to secure payment of their job earnings, differ from civil actions for damages. The petitioner stated in the case file that the issue is not the responsibility of the State through its illegal actions of arrest and torture, but rather that of the employer, an autonomous

State agency that ordered them to be suspended from work and did not pay their wages during the period of their arrest Under these circumstances, the Commission believes that Ms. Perrone and Mr. Preckel have invoked and exhausted the appropriate remedies available in the Argentine legal system for resolving their situation. Consequently, the Commission holds that domestic remedies have been exhausted in accordance with Article 46(1)(b) of the Convention.

b. Filing period

38. In this case, the ruling of the Supreme Court of Justice rejecting the appeal filed against the dismissal of the extraordinary remedy was handed down on June 11, 1996, in the proceedings dealing with Ms. Perrone and Mr. Preckel. The petitions were filed with the Commission on December 9, 1996, (Ms. Perrone) and December 13, 1996 (Mr. Preckel). The Commission holds that Ms. Perrone's petition was submitted within the prescribed six-month period. Mr. Preckel's petition, however, was one day late. The State made no claim regarding failure to comply with this requirement. Since the petitions were combined and since the State made no objection the Commission holds that the filing period requirement set forth in Article 46(1)(b) of the Convention has been met.

c. Duplication of proceedings and res judicata

39. Article 46(1)(c) stipulates that to be admissible, a petition must not cover a question pending in any other international proceeding (nonduplication) and Article 47(d) requires that the petition not be substantially the same as one previously studied by the Commission or by another international organization (res judicata). In the case at hand, the parties have neither claimed nor proved the existence of either of these circumstances. Consequently, the Commission holds that these requirements have been met.

d. Nature of the allegations

40. Regarding the requirements of substance for a petition to be declared admissible, Article 47(b) states that inadmissibility will be declared when the allegations do not constitute a violation of rights guaranteed by the Convention. The Commission holds that if they are true, the petitioner's allegations do tend to establish violations of the human rights protected by Articles 3, 8, 21, 24, and 25 of the American Convention, together with the right of work and fair remuneration (Article XIV) enshrined in the American Declaration.

V. CONCLUSIONS

41. The Commission concludes that it is competent to hear this case and that the petition is admissible pursuant to Articles 46 and 47 of the American Convention.

42. Based on the factual and legal considerations outlined above, and without prejudice to the merits of the case,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare this case admissible.
2. To notify the parties of this decision.
3. To proceed with the analysis of the merits of the case.
4. To make itself available to the parties in order to reach a friendly settlement based on respect for the rights enshrined in the American Convention, and to invite the parties to make a statement regarding said possibility.
5. To publish this decision and to include it in its Annual Report to the OAS General Assembly.

Done and signed at the headquarters of the Inter-American Commission on Human Rights in the city of Washington, D.C., on the Fourth day of May, 1999. (Signed): Robert K. Goldman, Chairman; Hélio Bicudo, First Vice Chairman; Claudio Grossman, Second Vice Chairman; and Commissioners Carlos Ayala Corao, Alvaro Tirado Mejía, and Jean Joseph Exumé.