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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 121/01; Petition 0344/97
Session:	Hundred and Thirteenth Regular Session (9 – 17 October and 12 – 16 November 2001)
Title/Style of Cause:	Segundo Wenceslao Segura v. Argentina
Doc. Type:	Decision
Decided by:	President: Claudio Grossman; Second Vice-President: Marta Altolaguirre; Commission members: Helio Bicudo, Robert K. Goldman, Peter Laurie, Julio Prado Vallejo. The First Vice President of the IACHR, Juan E. Mendez, an Argentine national, did not participate in the discussion or vote on this petition, in keeping with Article 17(2)(a) of the Commission’s Rules of Procedure.
Dated:	10 October 2001
Citation:	Segura v. Argentina, Petition 0344/97, Inter-Am. C.H.R., Report No. 121/01, OEA/Ser./L/V/II.114, doc. 5, rev. (2001)
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I. PROCEEDINGS BEFORE THE COMMISSION

1. On October 6, 1997, the Inter-American Commission on Human Rights (hereinafter “the Commission” or the “IACHR”) received a complaint against the Argentine State in connection with the situation of Mr. Segundo Wenceslao Segura. The Commission acknowledged receipt of the complaint on December 3 of that year. On August 18, 1998, the petitioners filed a chronological account of the facts. The Commission acknowledged receipt of the information on October 11, 1998. On March 1, 1999, the petitioners presented to the Commission their legal arguments and requested that the petition be admitted. On June 10, 1999, the Commission asked the petitioners to provide a copy of the sentence at first instance. On July 12, 1999, the petitioners submitted a copy of all local court proceedings. Finally, on February 9 and August 8, 2000, the petitioners requested information on the action taken on the petition.

II. VIOLATIONS ALLEGED

2. The petitioners alleged violations of the rights protected under Articles 8(1) (right to due process guarantees), 5(1) (right to respect for one’s personal integrity) and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter the “Convention”).

III. FACTS AND ARGUMENTS

3. Since his youth, Segundo W. Segura, father of a low-income family, had been partially disabled, as he was blind in the left eye. He had, therefore, been receiving a pension from the National Social Security Institute for Retirees and Pensioners [Instituto Nacional de Seguros Sociales para Jubilados y Pensionados] (PAMI). In 1990, his right eye, in which he had very little sight, suffered from neo-vascular glaucoma, according to a November 8, 1990 diagnosis by Dr. Magrini. Because the eye required surgery, he was to be transported immediately from the Province of Rio Negro to the federal capital. On November 9, the petitioner went to PAMI to request transfer to the capital, which was authorized on November 13. That authorization covered travel expenses and accommodations. The petitioner arrived in Buenos Aires on November 14. The attending PAMI physician ordered tests, which were scheduled on November 16. An electroretinogram done on November 20 showed that the retina was not functioning. The petitioners allege that Mr. Segura suffered permanent, irreversible loss of sight in his right eye, and with that was left completely blind and unable to work, all because PAMI failed to provide Mr. Segura emergency treatment.

4. The petitioners went to the Argentine civil courts seeking compensation for damages and injuries. The lower court ruling of December 5, 1995, dismissed the suit and ordered costs. After examining and weighing the evidence tendered by the parties and the experts, the judge concluded that PAMI had acted properly; that hospitalization did not appear to be necessary; and that with surgery the petitioner would have retained, at best, less than 5% of his sight, which “would never have been enough to enable the [petitioner] to again become a self-sufficient member of society.” The Civil Appeals Court dismissed the appeal on June 19, 1996. The Appeals Court also refused to hear the extraordinary appeal that the attorneys for Mr. Segundo Segura filed. The extraordinary appeal filed before the Supreme Court on March 18, 1997 was also declared inadmissible.

IV. ANALYSIS

5. As indicated by the preamble of the American Convention on Human Rights, the nature of the protection that the organs of the inter-American system for the protection of human rights offer complements that afforded under local law. Consequently, while it is a function of the Commission to ensure the observance of the obligations undertaken by the States parties to that international instrument, it cannot perform the functions of an appeals court to examine alleged errors of fact or law that the local courts may have committed acting within the scope of their jurisdiction. The Commission is not competent to investigate the actions of the local courts or to review the evidence that the national courts have weighed, unless there is unequivocal evidence that the guarantees of due process recognized in the American Convention have been violated.

6. The petitioners allege that the absence of an objective justification to explain why evidence fundamental to a fair decision was ignored constitutes a miscarriage of due process prejudicial to the alleged victim’s right of defense. However, the information in the case file indicates that Mr. Segundo Segura was given access to all levels of the judiciary in Argentina, which, based on the evidence in the case, concluded that the medical assistance afforded by the health care agency was adequate and timely.

7. The Commission notes that the alleged victim was heard by independent and impartial courts that, having examined and weighed the evidence presented in the judicial proceedings, ruled in accordance with the guarantees recognized in the American Convention, even though the ruling was not in the alleged victim's favor. As for the alleged violations of Articles 5(1) and 21 of the American Convention, the Commission considers that, as presented, they are subsidiary to the alleged violations of Articles 8 and 25 of that instrument. Therefore, as there is no independent allegation of violations of those provisions, it would not be appropriate for the Commission to examine them separately.

V. DECISION

8. In accordance with the brief review above, the Commission considers that the material facts in the petition under study do not tend to characterize a violation of the American Convention. It therefore declares the petition inadmissible, in accordance with Article 47(b) of the American Convention.

9. Based on the analysis and the conclusions set out in the present report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare the present petition inadmissible.
2. To notify the petitioner of this decision.
3. To publish this decision and include it in the Commission's 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 October 10, 2001. (Signed): Claudio Grossman, President; Marta Altolaguirre, Second Vice-President; Commission members Hélio Bicudo, Robert K. Goldman, Peter Laurie and Julio Prado Vallejo.