Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 46/04; Petition 12.180
Session:	Hundred Twenty-First Regular Session (11 – 29 October 2004)
Title/Style of Cause:	Luis Prado Alava v. Peru
Doc. Type:	Decision
Decided by:	First Vice-President: Clare K. Roberts; Commissioners: Evelio Fernandez Arevalos, Paulo Sergio Pinheiro, Freddy Gutierrez, Florentin Melendez. In accordance with Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Susana Villaran, a Peruvian national, did not take part in the discussion or the decision on the instant case.
Dated:	13 October 2004
Citation:	Prado Alava v. Peru, Petition 12.180, Inter-Am. C.H.R., Report No. 46/04, OEA/Ser.L/V/II.122, doc. 5 rev. 1 (2004)

I. SUMMARY

1. In a petition lodged with the Inter-American Commission on Human Rights (hereinafter “the IACHR” or “the Commission”) on November 10, 1998, Luis Prado Alava (hereinafter "the petitioner") alleged that the Republic of Peru (hereinafter "Peru", "the State" or "the Peruvian State") violated his right to judicial protection, enshrined in Article 25 of the American Convention on Human Rights (hereinafter the "Convention" or the "American Convention"). The violation alleged in the petition concerns the supposed disregard of a judgment of the Supreme Court of Justice that ordered his reinstatement in a position that he had held in the company Petróleos de Perú S.A. by the Mixed Chamber of the Superior Court of Loreto at the enforcement stage of the judgment, despite the fact that the decision concerned was res judicata.

2. The State, for its part, holds that there was no violation of rights enshrined in the American Convention and that the petitioner submitted his petition after the deadline for lodging petitions with the IACHR.

3. In the instant report the Commission examines the information available, concludes that the allegations do not tend establish violations of the American Convention and, consequently, declares the petition inadmissible for failure to meet one of the requirements provided in the aforesaid Convention. Furthermore, the Commission decides to publish and to notify the State and the petitioner of this decision.

II. PROCESSING BY THE COMMISSION

4. The Commission received the petition on November 10, 1998, registered it as number 12.180, and forwarded the pertinent portions thereof to the Peruvian State on June 21, 1999, giving it two months to submit observations. In a communication of September 21, 1999, the State requested an extension of the deadline to reply to the request of the Commission, which granted it an additional 30 days. By a note of October 26, 1999, the State submitted its brief in reply to the petition. On November 4, 1999, the Commission transmitted the pertinent portions of that reply to the petitioner, who, in turn, presented his observations in a brief of November 30, 1999, which were transmitted to the State on May 9, 2000. The State, for its part, presented observations to that communication in a note of June 9, 2000, which was sent to the petitioner on July 11, 2000. The Commission received further communications from the petitioner on July 24, 2000 and October 6, 2001. In a note of July 28, 2003, the IACHR informed the parties that in accordance with Article 37(3) of the Rules of Procedure of the Commission the admissibility of the case would be examined in conjunction with the analysis of merits. The petitioner then submitted a new brief of September 3, 2003, which was transmitted to the State on November 4, 2003; the Peruvian State submitted a brief with its comments thereto on November 19, 2003.

III. POSITIONS OF THE PARTIES CONCERNING ADMISSIBILITY

A. The petitioner

5. Mr. Luis Prado Alava, held the position of Head of the Maintenance Section of the Supply and Transport Division of the Jungle Operations Department of Petróleos de Perú, or PetroPeru. He was dismissed on March 26, 1979, for alleged irregularities in the performance of his duties.

6. For that reason he filed a complaint with the labor authority, Loreto Complaints Division, which after the respective proceeding, issued Divisional Decision Nº 010-80-918300 of February 21, 1980, in which it ordered his reinstatement in the labors that he normally performed in the company.

7. The petitioner says that in the aforesaid proceeding the company representative challenged that decision and that by Deputy Director's Decision Nº 51-85-SD-DEN-AH-DOC of November 12, 1985, the Second Complaints Division of the Ministry of Labor decided to reverse Divisional Decision Nº 010-80-918300 of February 21, 1980 of the Loreto Complaints Division that admitted the original complaint against the company and ordered his reinstatement, and instead amended the decision, declaring the complaint filed by Luis Prado Alava to be unfounded.

8. As a result of that decision, the petitioner instituted a contentious administrative proceeding and obtained the judgment of the Chamber for Labor Matters of the Superior Court of Iquitos of November 9, 1992, which ruled that the claim was founded and annulled Deputy Director's Decision Nº 51-85-SD-DEN-AH-DOC of November 12, 1985, for failure to give notice of the challenged decision in the appropriate manner and because said decision was issued by an authority that lacked jurisdiction. The company appealed this decision, which was upheld at second instance by the Supreme Court of Justice on July 21, 1993.

9. For the purposes of complying with the aforesaid judgment the First Court for Labor Matters in and for Maynas in Iquitos, issued a decision of September 20, 1993, which ordered "….the reinstatement of the complainant at the place of work in his place of work (sic) where he was serving at the time of his dismissal, with the same remunerations, benefits and work conditions that he enjoyed …".

10. The respondent company appealed this decision before the Superior Court of Loreto, which returned a judgment on February 25, 1994, in which it modified the instructions of the Supreme Court of Justice with respect to his reinstatement and ordered the proceeding returned to the labor authority so that it might issue a new decision.

11. Based on that decision of the Superior Court of Loreto, the alleged victim filed an amparo action. The amparo action was taken up by the First Civil Chamber of the Superior Court in and for Lima, which, in a judgment of November 2, 1995, found said action inadmissible. That ruling was confirmed by the Supreme Court of Justice in a judgment of April 26, 1996. The petitioner, therefore, sought a review of these decisions with the Constitutional Tribunal, which in a judgment of June 11, 1998, confirmed them and ruled the attempted amparo action inadmissible.

12. The petitioner has maintained in his briefs that the Peruvian State has violated the principle of res judicata guaranteed at Article 139(2) of the Constitution by its failure to respect the judgment of the Supreme Court of Justice that concluded the contentious administrative proceeding. In that judgment the Supreme Court annulled Deputy Director's Decision Nº 51-85-SD-DEN-AH-DOC of November 12, 1985 and left in force Loreto Complaints Division Decision Nº 010-80-918300 of February 21, 1980, which ordered him to be reinstated in his job.[FN2]

[FN2] Petition of Luis Prado Alava of November 10, 1998.

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13. The petitioner says that the decision of the Superior Court of Loreto to refer the case to the Labor Authority (Fuero de Trabajo y Communidades Laborales) for continued processing, pursuant to the Second Transitory Provision of Law 24514, was not applicable in this case because the administrative process had already concluded. The petitioner holds that the appropriate course of action was to comply with the decision to reinstate him in his job issued by the Court for Labor Matters of Maynas in Iquitos, and not to refer the case to the administrative authority, which, in his opinion, constitutes a breach of public duty. To the argument of the State that the petition was lodged with the IACHR later than the deadline of six months after the final judicial decision was rendered, the petitioner says that he was only notified on October 16, 1998 of the judgment of the Constitutional Tribunal of June 11, 1998, and that the petition was presented to the IACHR on November 12, 1998, on the occasion of the on-site visit of the Commission to Peru at the time.[FN3]

[FN3] Observations brief of the petitioner and his representative of November 30, 1999.

B. The State

14. According to the State, when he was dismissed from Petróleos del Peru in 1979, the petitioner took his case to the Office of the Deputy Director for Labor of Iquitos, Loreto, to request reinstatement in his position and payment of the wages that he ceased to receive. These requests were admitted by Divisional Decision Nº 009-79-918300 of September 10, 1979, which was quashed by the body superior in rank in Deputy Director's Decision Nº 301-79-918000 of November 7, 1979, and the petition was returned to the originating office in order for its admissibility to be reexamined.

15. The Complaints Division then issued Divisional Decision Nº 010-80-918300 of February 21, 1980, which declared the claim founded. On appeal, the aforesaid decision was confirmed by the Office of the Deputy Regional Director for Labor of Iquitos in Decision Nº 083-80-ORDL/SDRL-918000 of April 29, 1980. The respondent company appealed this decision before the Office of the Regional Director for Labor of Lima, which annulled the challenged decision by means of Director's Decision Nº 2438-910000 of August 25, 1980, and ordered the case returned to the Regional Labor Authority of Iquitos so that it might pronounce a new decision on the appeal. The foregoing notwithstanding, the case was referred to the Office of the Deputy Director for Labor of Lima, which issued Decision Nº 051-85-SD-DEN-AH-DOC of November 12, 1985, reversing Divisional Decision Nº 010-80-918300 of February 21, 1980 that ordered the reinstatement of the petitioner.

16. As a result of those decisions, Mr. Luis Prado Alava, filed a contentious administrative suit, which was taken up by the Second Chamber for Labor Matters of the Superior Court of Justice in and for Lima on November 9, 1992, which annulled Deputy Director's Decision Nº 051-85-SD-DEN-AH-DOC of November 12, 1985; the aforesaid judgment was confirmed by the Supreme Court of Justice on July 21, 1993.

17. Based on said decisions, the petitioner requested his reinstatement before the First Court for Labor Matters in and for Maynas, which, in a ruling of September 20, 1993, ordered the reinstatement of Luis Prado Alaya. However, subsequently, the same court ruled that the decision of the Superior Court of November 9, 1992, which annulled Deputy Director's Decision Nº 051-85-SD-DEN-AH-DOC of November 12, 1985, should be replaced with another decision of the same nature, issued not by the administrative authority but by the equivalent authority in the Labor Courts, since the jurisdiction had changed. Therefore, in accordance with the legal provisions in force, it referred the proceedings to the Mixed Chamber for Labor Matters of the Superior Court of Loreto.[FN4]

[FN4] Law 24514, Second Transitory Provision and Legislative Decree 384, Seventh Transitory Provision.

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18. In that context, the Mixed Chamber of the Superior Court of Loreto, while a decision was pending on the appeal interposed by the company against Divisional Decision Nº 010-80-918300

of February 21, 1980, declared the petition groundless with the argument that Petróleos de Perú had dismissed Mr. Luis Prado Alava by means of a notarized letter for having committed a serious infraction.

19. The State said that the petitioner then filed an amparo action in which the Constitutional Tribunal ultimately ruled against him in a judgment of June 11, 1998, inasmuch as it considered that the judgment of the Supreme Court of Justice of July 21, 1993 in the contentious administrative proceeding only concerned the validity of Deputy Director's Decision Nº 051-85-SD-DEN-AH-DOC of November 12, 1985, and did not order the reinstatement of the complainant. By the same token, left pending in the said administrative proceeding was a decision on the appeal entered by the respondent company, Petróleos de Perú, against Divisional Decision Nº 010-80-918300 of February 21, 1980. Said Decision was ultimately reversed by the Mixed Chamber of the Superior Court of Loreto in a regular proceeding, for which reason, in accordance with Article 6(2) of Law 23506, an amparo action was not allowed.[FN5]

[FN5] Law 23506 on Habeas Corpus and Amparo. "Article 6. Cases of inadmissibility of amparo actions. Amparo actions are inadmissible:….2. Against judicial or arbitration decisions arising from regular proceedings."

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20. The State says that based on the date the State was notified of the petition, it would be fair to surmise that the petition was lodged with the IACHR on June 21, 1999. The petitioner was notified of the final decision in the domestic jurisdiction on October 16, 1998, an interval that exceeds the six-month deadline provided in Article 32 of the Rules of Procedure of the Commission in order for the petition to be declared admissible.[FN6]

[FN6] Brief Nº 01 of the Peruvian State, sent by note of October 26, 1999.

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21. In a later communication the State reiterates that the object of the contentious administrative proceeding instituted by the petitioner was the annulment of Deputy Director's Decision Nº 051-85-SD-DEN-AH-DOC of November 12, 1985 and that the claim, on being upheld at first instance and confirmed by the Supreme Court, caused the nullity of said decision. Therefore, due to the nature of the annulment, the administrative proceeding returned to the state immediately prior to the defect that caused the nullity, bringing back into force Divisional Decision Nº 010-80-918300 of February 21, 1980. The latter decision was under appeal, and therefore a decision at second instance was required to resolve the administrative proceeding. Given that court's pronouncement concerns nullity, it is not a decision on merits of the case. Furthermore, at no time did the petitioner appeal the ruling of the Superior Court of Loreto, which ordered revision of the case after annulling the decision in accordance with the petitioner's allegations.[FN7]

[FN7] Brief Nº 02 of the Peruvian State sent by note of June 9, 2000, and Brief No 68 2003, sent by note of
November 19, 2003.

IV. ANALYSIS

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

22. The Commission is competent to examine the subject matter of this complaint, which refers to alleged violation of the right enshrined in Articles 25 of the American Convention. The petitioner has standing to appear, as provided in Article 44 of the Convention. The Peruvian State ratified that Convention on July 28, 1978. The petition in question alleges events that occurred after the date of ratification of the American Convention.

23 The petitioner is entitled, under Article 44 of the American Convention, to lodge complaints with the IACHR. The petition names as alleged victim an individual on whose behalf Ecuador undertook to respect and ensure the rights enshrined in the American Convention. The Commission therefore has ratione personae competence to examine the petition.

24. The Commission is competent ratione loci to consider the petition inasmuch as it alleges violations of rights protected under the American Convention which are said to have taken place within the territory of a state party to said treaty.

25. The IACHR is competent ratione temporis, because the facts alleged in the petition occurred when the obligation to respect and ensure the rights recognized in the American Convention was already in force for the Peruvian State.

B. Admissibility requirements for the petition

1. Exhaustion of domestic remedies

26. Article 46 of the American Convention provides

1. Admission by the Commission of a petition or communication lodged in accordance with Articles 44 or 45 shall be subject to the following requirements:

a. that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law;
b. that the petition or communication is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment;
(….)

2. The provisions of paragraphs 1.a and 1.b of this article shall not be applicable when:

a. the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated;
(….)
c. there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

27. The above-cited provision contained in the Convention requires exhaustion of the remedies available under domestic law in accordance with generally recognized principles of international law. The jurisprudence of the Inter-American Court of Human Rights has determined that the rule of prior exhaustion of domestic remedies is designed to benefit the State, and therefore the State may waive this objection, expressly or by implication.[FN8] In order to presume that the State has tacitly waived this objection, it must be expressly invoked in a timely manner at an early stage of the proceedings before the Commission, and the mere submission of information on progress in domestic judicial proceedings is not equivalent to expressly invoking the requirement of prior exhaustion of domestic remedies.[FN9]

[FN8] IACHR, Report 46/96, Case 11.206, Juan Milla Bermúdez (Honduras), October 17, 1996, paras. 31 and 32.
[FN9] Inter-Am. Ct. HR, Castillo Páez Case, Preliminary Objections. Judgment of January 30, 1996, para. 40; Loayza Tamayo Case, Preliminary Objections, Judgment of January 31, 1996, para. 40; Castillo Petruzzi Case, Preliminary Objections, Judgment of September 4, 1998, para. 56; Mayagna (Sumo) Awas Tingni Community Case, Judgment of February 1, 2000, paras. 54 to 56.
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28. The parties have not disputed this point in the instant case, since both the petitioner and the State consider that the domestic remedies pursued by the petitioner, which consisted of the administrative proceeding, the contentious administrative proceeding, and the amparo action, were suitable to invoke and demand observance of his rights.[FN10]

[FN10] "As regards exhaustion of the domestic jurisdiction, I should mention that I have met this requirement, inasmuch as the Constitutional Tribunal has pronounced a decision in a ruling of June 11, 1998, on the special cassation appeal presented to the Constitutional and Social Law Chamber of the Supreme Court of Justice." Communication of the petitioner of September 3, 2003; and "Conclusion: All of the foregoing shows that the petitioner, Luis Prado Alava, had the opportunity to invoke all the judicial remedies to safeguard his allegedly violated rights, which guaranteed the exercise of his right of defense and to a fair trial …" Brief 68-2003 of the Peruvian State of November 19, 2003.
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29. The Commission, therefore, considers that, domestic remedies having been exhausted, it is appropriate at this time to pronounce its opinion on the petition in accordance with the arguments advanced by the parties.

2. Deadline for lodging the petition

30. In its reply to the petition, in order to support "the objection on grounds of expiration of time-limit" and request that the petition be found inadmissible under Article 37 (2) of the Rules of Procedure of the IACHR, the State estimated "…in good faith that petition 12.180 was presented on June 21, 1999, as mentioned in the note of the IACHR and the pertinent portions were transmitted on the same date in accordance with the procedure mentioned in Article 34 (1) of the Rules of Procedure of the IACHR."[FN11]

[FN11] Brief 01 of the Peruvian State, sent by note of October 26, 1999.

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31. For his part, the petitioner observed that the request of the State in that regard was inadmissible because, while it is true that the date of the judgment of the Constitutional Tribunal was June 11, 1998, he had only been notified of it on October 16, 1998, and he had presented the petition on November 12, 1998 to the representatives of the IACHR, who were on a visit to Peru at the time.[FN12]

[FN12] Observations brief of the petitioner and his representative of November 30, 1999.

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32. In that connection the Commission finds that the petitioner lodged the petition within the six-month time limit mentioned in Article 46(1)(b) of the Convention, insofar as notice of the judgment of the Constitutional Tribunal was served on October 10, 1998, and the petitioner delivered his brief to the representatives of the IACHR during the on-site visit to Peru from November 9 to 13, 1998, as shown by the note of confirmation of receipt from the Executive Secretary of the Commission to the petitioner of May 5, 1999.[FN13]

[FN13] "This is to confirm receipt of your petition presented during the visit of the Inter-American Commission on Human Rights to Peru in November 1998." Note of May 5, 1999 to Luis Prado Alava.

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3. Duplication of proceedings and res judicata

33. There is no prior proceeding connected with the aforesaid petition before the Commission, nor is it pending in another international proceeding for settlement.

4. Nature of the alleged violations

34. The petitioner did not allege violation of any particular right protected by the Convention; however, from the text of the petition, the Commission concludes that he alleges violation of Article 25(2)(c) of the American Convention, in that he considers that the State

failed to comply with the judgment of the Supreme Court of Justice of July 21, 1993, which annulled Deputy Director's Decision Nº 051-85-SD-DEN-AH-DOC of November 12, 1985 and replaced it with another judicial decision (that of the Superior Court of Loreto of February 25, 1994), which amended the instructions by ordering the case returned to the labor authority so that it might issue a new decision.

35. The petitioner bases his argument on the fact that the decision of the Supreme Court of Justice of July 21, 1993, in upholding the judgment of November 9, 1992, of the Second Chamber for Labor Matters of the Superior Court of Justice in and for Lima, which annulled Deputy Director's Decision Nº 051-85-SD-DEN-AH-DOC of November 12, 1985 in the framework of the contentious administrative proceeding instituted by him against Petróleos de Perú, at the same time ordered the reinstatement of the petitioner in his position of employment. The foregoing is on the basis that the annulled decision had reversed, in turn, Divisional Decision Nº 010-80-918300 of February 21, 1980, which declared the petition of Mr. Luis Prado Alava against the company to be founded and, accordingly, ordered his reinstatement in his place of work.

36. The Commission notes that the judicial decision which the petitioner alleges was disregarded or not respected as "res judicata", in both instances, only ordered annulment of Deputy Director's Decision Nº 051-85-SD-DEN-AH-DOC of November 12, 1985, on the grounds that the authority that issued it, the Second Complaints Division of the Ministry of Labor in the city of Lima, lacked jurisdiction, and, furthermore, that the complainant was improperly notified of said decision.[FN14]

[FN14] Judgment of the Superior Court in and for Lima of November 9, 1992.

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37. By the same token, despite the fact that the First Court of Maynas in the City of Iquitos agreed by decision Nº 2 of September 20, 1993, to order the reinstatement of Mr. Luis Prado Alava and the payment of the wages that he ceased to receive in the time he was dismissed from employment, it is also true that the same court, by decision Nº 3 of September 24, 1993, annulled the previous decision and forwarded the case to the equivalent instance of the Labor Courts, namely the Mixed Chamber for Labor Matters of the Superior Court of Loreto, for adoption of the appropriate decision, as in fact occurred.[FN15] In sum, the Commission considers that the petitioner has not adduced sufficient evidence to tend to establish a possible violation of Article 25 of the Convention for failure to comply with a court judgment.

[FN15] Decision of February 25, 1994 of the Mixed Chamber of the Superior Court of Justice of Loreto.

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38. Furthermore, the IACHR notes that, owing to his discrepancy with these decisions against him, the petitioner lodged an amparo appeal with the Superior Court of Lima at first instance,[FN16] and with the Supreme Court of Justice at second instance,[FN17] as well as

invoking a special appeal with the Constitutional Tribunal,[FN18] which, though unfavorable to him in denying the petition for amparo, were processed in a regular manner and in accordance with due process, which does not guarantee a favorable outcome for the complainant and exempts the IACHR from reviewing said judgments.[FN19]

[FN16] Judgment of November 25, 1995.
[FN17] Judgment of April 26, 1996.
[FN18] Judgment of June 11, 1998.
[FN19] IACHR, Report 55/97, Case 11.137, Juan Carlos Abella, November 18, 1997, para. 141.

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39. It does not arise, furthermore, from the proceedings, either in the aforesaid instances or before the administrative authorities, that Mr. Luis Prado Alava's right to a fair trial under Article 8(1) of the American Convention was violated. On the contrary, he lodged his claims; they were addressed through procedures created in an accepted manner by Peruvian law; and he had the opportunity to challenge them in due course.

40. The IACHR has held since its main decision in this area, that:

The Commission is competent to declare a petition admissible and rule on its merits when it portrays a claim that a domestic legal decision constitutes a disregard of the right to a fair trial, or if it appears to violate any other right guaranteed by the Convention. However, if it contains nothing but the allegation that the decision was wrong or unjust in itself, the petition must be dismissed under this formula. 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 to examine alleged errors of internal law or fact that may have been committed by the domestic courts acting within their jurisdiction[FN20]

[FN20] IACHR, Report 39/96, Case 11.673, (Marzioni v Argentina), October 15, 1996.

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41. In the instant case, the IACHR notes that the petitioner disputes, on one hand, the scope of the judgment that concluded the contentious administrative proceeding and, therefore, its compliance as a violation of the right to judicial protection protected by Article 25 of the American Convention; and also the decision in the contentious administrative proceeding of the Mixed Chamber for Labor Matters of the Superior Court of Loreto, which annulled a decision of the administrative authority. As far as the Commission is concerned, in adopting their decisions, the Peruvian courts acted within their powers to interpret the law and the case was processed in the framework of a normal proceeding. Therefore, the IACHR, is not empowered as an international appellate or review court to take cognizance of such decisions.

42. In addition to the foregoing, at the request of Mr. Luis Prado Alava, said contentious administrative action was reviewed in an amparo proceeding in two instances by the Peruvian judiciary, and by the Constitutional Tribunal in a special appeal, which are the domestic

remedies available to that end under the domestic laws of that state, and to which the petitioner submitted. The fact that there was an unfavorable verdict, therefore, in no way implies a violation of the rights enshrined in the Convention.

43. Furthermore, the IACHR notes from the information supplied by the parties that the allegations on which the petition is based do not to tend to establish a violation of the human rights protected by the American Convention and, therefore, do not warrant continued processing with a view to arriving at a decision on merits. The decisions of the domestic tribunals contained the necessary justification for the petitioner to know the reasons why the state denied his claims. Furthermore, as mentioned, due process was observed in those proceedings. The Commission is also unable to find any other kind of unappealable decisions on merits and final declarations on rights that the State refused to apply.

44. Based on the foregoing, the Commission finds that it is not competent to make a decision on the merits of the matter and, furthermore, from the information provided by the parties, it notes that the allegations on which the petition is based do not tend to establish a violation. Therefore, the Commission abstains from analyzing the petition because the facts alleged do not characterize a violation of the rights enshrined in the American Convention.

V. CONCLUSIONS

45. The IACHR has determined in the instant report that the facts described by the petitioner do not tend to establish a violation of the American Convention and, therefore, it declares the petition inadmissible for failure to meet one of the requirements provided in said Convention. Accordingly, it is not necessary to proceed with the examination of merits.

Based on the factual and legal arguments given above,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare the instant petition inadmissible.
2. To notify the petitioners and the State parties of this decision.
3. 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 13th day of October 2004. Signed: Clare K. Roberts, First Vice-President; Evelio Fernández Arévalos, Paulo Sérgio Pinheiro, Freddy Gutiérrez and Florentín Meléndez, Commissioners.