

**REPORT NO. 44/10**  
PETITION 473-03  
INADMISSIBILITY  
MANUEL TEJEDA RUELAS  
MEXICO<sup>1</sup>  
March 17, 2010

**I. SUMMARY**

1. On June 27, 2003, Mr. Manuel Tejeda Ruelas, on his own behalf (hereinafter the “alleged victim” or “the petitioner”) presented a petition to the Inter-American Convention on Human Rights (hereinafter the “Commission,” the “Inter-American Commission,” or the “IACHR”), against the State of Mexico (hereinafter the “State,” “Mexico,” or the “Mexican State”), because his widowers’ pension was arbitrarily denied to him, a decision that was judicially ratified.

2. The petitioner alleges that the State has violated his rights as recognized in Articles 8.1, 24, and 25 of the American Convention on Human Rights (hereinafter the “Convention” or “American Convention”) and that he has exhausted the remedies available in the domestic jurisdiction.

3. For its part, the State alleges that in the determination of his rights, Mr. Manuel Tejeda Ruelas was heard with due guarantees and within a reasonable time by competent, independent, and impartial courts, previously established by law. Additionally, it indicates that it respected judicial guarantees and judicial protection, under just and equitable conditions, without discrimination, with equal treatment under the law. It indicates that the petitioner is attempting to use the IACHR as an additional instance to obtain a result favorable to his interests. Finally, it alleges that the petitioner could have filed a *recurso de inconformidad* (remedy of complaint) and a *recurso de revision* (appeal for review).

4. After examining the positions of the parties, the Commission concludes that it is competent to consider the petition under analysis and that the case is inadmissible in light of Articles 46 and 47 of the American Convention. The Commission also decided to notify the parties of this decision, publish it, and include it in its Annual Report to the General Assembly of the Organization of American States.

**II. PROCESSING BEFORE THE INTER-AMERICAN COMMISSION**

5. On June 27, 2003, the Commission received a petition presented by Manuel Tejeda Ruelas and assigned it the number 473-03. On October 14, 2003, it transmitted the pertinent parts to the State, requesting that it present its response within a period of two months, in accordance with that established in Article 30.2 of the Rules of Procedure of the Inter-American Commission on Human Rights (hereinafter the “Rules of Procedure”). The State’s response was received on December 16, 2003.

6. Additionally, the IACHR received information from the petitioner on the following dates: June 15, 2004; February 24, 2005; and May 11, 2007. These communications were duly transmitted to the State.

7. On the other hand, the IACHR received observations from the State on the following dates: November 2, 2004 and September 7, 2005. These communications were duly transmitted to the petitioner.

**III. POSITIONS OF THE PARTIES**

**A. The petitioner**

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<sup>1</sup> Commissioner José de Jesús Orozco Henríquez, of Mexican nationality, did not participate in the deliberations or in the decision of the present case, in accordance with that provided in Article 17.2.a of the Rules of Procedure of the Commission.

8. The petitioner states that on June 19, 1975, he married Mercedes Reyes Baca. He states that his wife was insured in the Mexican Social Security Institute (hereinafter the "IMSS," its Spanish acronym) and that on February 12, 1994 obtained a pension for "retirement due to advanced age," which is given to those who stop working due to their age.

9. Given the death of his wife on May 24, 1997, he states that on December 13, 1999, he requested a widower's pension. He states that the Office of Economic and Social Benefits of the IMSS, through the Coordinator of Economic and Social Benefits, resolved on January 4, 2000 to deny him the pension, on the grounds that he had not fulfilled that provided under Article No. 152 of the Social Security Law. He reports that on February 9, 2000, he presented a *recurso de inconformidad* before the Delegational Advisory Council of the IMSS, which was declared unfounded in a resolution dated March 6, 2000. He states that the Advisory Council established that he had not demonstrated "at the moment of requesting the pension" that he was incapacitated and that he had depended on his late wife.

10. The petitioner questions the referenced resolution alleging that the mentioned Article No. 152 requires that the "[male] complainant demonstrate disability and economic dependence upon the insured [female] deceased," a requirement not made for the widows of insured men. He argues that if marriage is a legal union that confers rights and obligations on both parties, it must be considered that if it is possible for the wife or concubine of the male insured or pension-holder can receive the widow's pension upon his death, without fulfilling any other requirements beyond accrediting the marriage or cohabitation, it would be just and egalitarian that the widower would have the same right. In this sense, he alleges that the provision violates the principle of equality between men and women, consecrated in the Constitution. Additionally, he alleges this norm was in force until June 30, 1997 and that, therefore, it was wrongfully applied to his case.

11. He also states that during the proceedings he had a medical examination and it was determined that "he was not disabled in widowhood." He questions the claim that "at 67 years of age he can find a remunerative job when youths of 30 and younger cannot find work". He argues that given the economic situation in the country and the poverty of individuals over the age of 60, the State's claim in regard to his ability to work is unjustified.

12. In this context, on August 7, 2000, he filed a complaint with the Federal Board for Conciliation and Arbitration in the Federal District to grant him the widower's pension he demanded. He states that the Board issued a binding judgment in arbitration on October 23, 2002, resolving to absolve the IMSS from all of the benefits demanded in his petition. In this procedural step, he indicates that they rejected his requested pension based on the fact that he had not presented certified copies, but rather ordinary copies, and that therefore he had not proved his marriage or the death of his wife. In these circumstances, he reports that he filed a *recurso de amparo directo* (an appeal on the grounds of unconstitutionality) before the Fourth Collegial Court on Labor Issues of the First Circuit, arguing that the foregoing resolution violated his rights under Articles 4, 14, and 16 of the Mexican Constitution. He states that on April 10, 2003, they rejected the requested *amparo* on the grounds that the copies he provided as proof lacked legal validity.

13. He maintains that they violated his rights with an inaccurate and formalistic evaluation of the documentary proof submitted, which, he claims, were correctly certified by a notary public with more than thirty years of experience. Concretely, he states that the documents attached to the filings in his file are not "photocopies susceptible to alteration," as the judges in the first instance claimed, nor are they "copies lacking legal value," as stated by the judges in the second instance. Rather, they are copies duly certified by a notary public in the exercise of his functions. The petitioner considers that the judges "are ready to find in favor of the Mexican Social Security Institute in any case submitted to their jurisdiction in which this institution is a defendant."

14. He adds that the criteria used to deny him the pension were different in the administrative forum than in the judicial forum, given that in the first, they had recognized his marriage and the death of his wife. In effect, the petitioner alleges that in the judicial forum, they rejected his pension because he

had not proven his marriage or the death of his wife, although these facts had previously been recognized by the IMSS, given that in that instance they had rejected his request for not fulfilling the requirements of Article 152. In addition, he indicates that the State itself recognized his marriage in the processing of the petition before the IACHR.

15. He argues that the State cannot claim that it did not violate his human rights because he had “effective and adequate remedies” available to him and that there was no “unwarranted delay in its resolution,” given that it violated both his right to equality before the law and his right to effective judicial protection. He emphasizes, in this respect, that the evidence he provided in the file presented to the Mexican Courts constituted documentary evidence with full probative value and that their incorrect assessment determined the result of the judgment and ensured that his legal arguments were not analyzed.

16. With respect to the State’s allegations that he had not exhausted domestic remedies because he had not filed a *recurso de revision*, he claims that this would not be appropriate because according to the domestic law, this remedy is appropriate “when the collegial courts of the circuit decide on the constitutionality of federal or local laws, international treaties, regulations promulgated by the President of the Republic or by the Governors of the States or when a precept of the Constitution is interpreted.” He states that none of these situations apply to his case.

17. In summary, the petitioner alleges that his rights under Article 8.1, 24, and 25 of the American Convention on Human Rights have been violated and that he has exhausted the available domestic remedies.

## **B. The State**

18. The State indicates that Mercedes Reyes Baca was granted a pension for retirement due to advanced age on February 12, 1994 and that as a result, according to domestic law, the Social Security Law published on March 12, 1973 and in force until June 30, 1997 was the law applicable to the petitioner’s claims.

19. The State ratified the dates provided by the petitioner, indicating that Mrs. Reyes Baca died on May 24, 1997 and that he applied for the widower’s pension on December 13, 1999. It states that the application was considered in light of that which is established in Article 152 of the above-referenced Social Security Law of 1973, which provides:

“She who was the wife of the [male] insured or the pensioner shall have the right to a widow’s pension. If there is no wife, the right to receive the pension shall fall to the woman with whom the insured or pensioner lived as if he were her husband, for five years during which they had children, as long as both had remained free of marriage during the cohabitation. If upon his death, the insured or pensioner had more than one concubine, none of them shall have the right to receive the pension.

The same pension shall be due to a widower who has been completely disabled or who has depended economically upon the deceased insured woman or pensioner.”

20. The State explains that, because of the legislation, for the granting of a widower’s pension to a man, two criteria must be met: 1. being completely disabled; and 2. being economically dependent upon the deceased female pensioner. In reference to the requirement referring to the state of the capacity of the applicant, it indicates that on April 30, 1999, the petitioner underwent a medical examination for the Department of Health and Labor of the IMSS to evaluate whether he was disabled and, if so, if this disability would prevent him from carrying out some type of remunerative work. It indicates that in this examination, it was concluded that “the widower was not disabled.” In this respect, it adds that the result of this conclusion could have been appealed through a *recurso de inconformidad*,

contemplated in the Social Security Law and the Rules of Procedure on the *Recurso de Inconformidad*,<sup>2</sup> but that the petitioner did not take advantage of this means of defense, indicating his tacit acceptance of the results of this conclusion.

21. Moreover, it indicates that with respect to economic dependence, this requirement was not proven in the sense that demonstrating that a marriage existed is insufficient to show that there was economic dependence in the relationship. Therefore, it alleges that based on the failure to comply with the requirements of the law, the petitioner's application for a widower's pension was denied through the resolution of the Coordinator of Economic Benefits of January 4, 2000.

22. With respect to the petitioner's allegation that the resolution of January 4, 2000 was based on erroneous grounds, given that the law that should have been applied was the one that entered into force in July of 1997, not the 1973 law, it states that the Advisory Council of the IMSS established that the right to request a widower's pension arose when the 1973 law was in force, and for this reason, the resolution denying the petitioner's request for a widower's pension included the essential requisites for foundation and motivation, in addition to respecting the guarantees of legal security and legality.

23. With respect to the judicial remedies pursued, the State's account coincides with that of the petitioner in terms of the actions filed and their results, in relation to the labor complaint filed before the Federal Board for Conciliation and Arbitration, and the *recurso de amparo* filed before the Fourth Collegial Court on Labor Issues of the First Circuit, to challenge the resolution of the aforementioned Federal Board for Conciliation.

24. The State alleges that during the proceedings carried out in both tribunals, the judges considered whether the petitioner had proven his marriage and the death of Mercedes Reyes Baca. In this respect, it indicates that all of the judges agreed that Mr. Tejeda Ruelas had not demonstrated his status as a widower, and that therefore it was not necessary to resolve the other questions posed. It claims that for the courts to consider the alleged discrimination, it was necessary for the complainant to proven the legitimacy of his cause of action, which depended on his situation as a widower. Given that the petitioner did not prove his matrimonial relationship with Mercedes Reyes Baca, nor did he correctly document her death, it was not necessary to consider the constitutionality of Article 152 of the Social Security Law.

25. It adds that the challenged resolution was affirmed at the level of *amparo*, because it was considered that the documentary evidence lacked probative value. It maintains in this respect that Mr. Tejeda Ruelas knew that it was a *sine qua non* requirement to present the original marriage and death certificates and that probative value cannot be given to photocopied documents if they do not comply with the following requirements of form: a) they are accompanied by the original; b) in the absence of the former, a comparison with the original is offered; c) in the absence of the aforementioned comparison, the photocopied document is certified by a functionary with public trust who certifies that s/he has seen the original and that both versions coincide in all of their parts.

26. In reference to this last requirement, it clarifies that although Mr. Tejeda Ruelas presented documents that were certified by Notary Public No. 126 of the Federal District, this certification did not comply with the specific requirements established in Articles 40, 56 part II, and 98 of the Notary Law.<sup>3</sup> It notes that from the analysis of the documents presented by the petitioner, one observes that the

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<sup>2</sup> The State reports that Article 274 of the Social Security Law establishes: "When employers or contractors, as well as insured parties or their beneficiaries, consider any final decision of the Institute to be contestable, they shall have recourse to file a grievance, in the manner and according to the terms established in the rules of procedure [...]."

<sup>3</sup> The State notes that the 1994 Notary Law for the Federal District establishes in its Articles 40 and 56:

Article 40. The authorization seal shall be printed in the upper left-hand corner on the front of each page of the book or on each sheet that is going to be used, and must also be printed each time the notary authorizes a written document, record, testimony, or certification.

Article 56. The book of registration of comparisons and its respective appendix referred to in Article 42 of this Law shall be regulated by the following: ... IV.- the notary certified with his/her seal and signature the copy or copies s/he compared, putting on

notary's seal appears on the front of the pages, but not his signature or partial signature as required under Article 56 of the Notary Law for the Federal District. It maintains that the resolutions of the Board for Conciliation and Arbitration and the Collegial Circuit Court, respectively, supported their judgments clearly and adequately and that, therefore, they did not violate the guarantees of legality and legal security of Manuel Tejeda Ruelas.

27. Additionally, it emphasizes that with its arguments before the IACHR, it is not recognizing a relationship that, according to the petitioner, existed with Mercedes Reyes Baca. It clarifies that although, in its first response to the petition, it referred to Mercedes Reyes Baca as the wife of Manuel Tejeda Ruelas, it did this in consideration of the petitioner's arguments in the petition and it does not imply that there was a recognition of such a relationship.

28. In summary, it argues that the case of Mr. Manuel Tejeda Ruelas has been effectively and expeditiously resolved by the domestic courts in adherence to the national legislation and individual guarantees. It adds that although the results of the remedies pursued by the petitioner were not resolved in his favor, this is not a reason to argue a violation of the Convention since "judicial protection [...] comprises the right to fair, impartial, and rapid proceedings that allow the possibility but never the guarantee of a favorable result given that a negative result from a fair hearing does not itself constitute a violation of the Convention," in accordance with the jurisprudence of the Inter-American Court.

29. In addition, it states that the resolutions issued by the authorities are not related to issues of gender, but rather of legality and legal certainty; therefore, they are based on the domestic legal order, a situation that does not violate equality before the law. It asserts that by declaring the case admissible, the IACHR would have to evaluate the actions of the courts with respect to the application of domestic legislation regarding the characterization of evidentiary documentation and the regulation of the exercise of the practice of notaries, making itself an instance for review and exceeding its condition of subsidiarity.

30. With respect to the exhaustion of domestic remedies, the State refers to the same remedies as the petitioner mentioned. Nevertheless, it should be noted that in its first communications, it indicated that the petitioner had exhausted the legally available domestic remedies to safeguard his fundamental rights and that the inter-American system does not constitute a fourth instance, as the petitioner is attempting to use it, but rather its jurisdiction is supplemental to domestic law in the area of human rights violations. However, in later communications, the State alleged that the petitioner had not exhausted the domestic remedies, stating that if the petitioner considered that the judgment on the *amparo* issued by the Fourth Collegial Circuit Court for Labor Issues of the First Circuit violated his rights, he had the opportunity to file a *recurso de revision*, as provided under Article 83 of the *Amparo Law*.<sup>4</sup> The petitioner did not assert this right, an omission that cannot be attributed to the State.

31. In conclusion, it alleges that in the determination of his rights, Manuel Tejeda Ruelas was heard with due guarantees and within a reasonable time period, by competent, independent, and impartial tribunals, established previously by law. Additionally, it states that the rights to judicial guarantees and judicial protection were respected, in just and equitable conditions, without discrimination,

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record therein that they are faithful reproductions of their originals or certified copies that s/he saw, as well as the corresponding number and date of registration."

<sup>4</sup> The State notes that this norm establishes that the "*recurso de revision* is appropriate:

V. Against resolutions issued by the Collegial Circuit Courts in cases of *amparo directo*, when they decide on the constitutionality of federal local laws, international treaties, regulations issued by the President of the Republic in accordance with section I of Article 89 of the Constitution, and regulations of local laws issued by the governors of states, or when they establish a direct interpretation of a constitutional precept.

The subject of the remedy shall be limited, exclusively, to the decision of constitutional questions, without including any others.

In all cases referred to in this article, the party that received a resolution favorable to his or her interests can join the *revisión* filed by the appellant, within a period of five days, counted from the date s/he was notified of the admission of the remedy, expressing the corresponding offenses; in this case, the joining of the remedy follows the results of the principal.

with equal treatment under the law and that therefore it presumes that the petitioner is attempting to use another instance to obtain a result favorable to his interests.

#### **IV. ANALYSIS**

##### **A. Competence of the Inter-American Commission**

32. The petitioner is entitled to present petitions before the IACHR under Article 44 of the American Convention. The petition indicates as the alleged victim an individual person with respect to whom the State of Mexico has committed to respect and guarantee the rights consecrated in the American Convention and in other international instruments. As a result, the IACHR has competence *ratione personae* to consider the present petition.

33. The IACHR has competence *ratione loci* to consider the petition because it contains allegations of violations of rights protected in the American Convention that took place within the territory of a state party to that treaty.

34. The IACHR has competence *ratione temporis*, since the alleged facts occurred when the obligation to respect and guarantee the rights established in the Convention were already in force in Mexico, given that it has been a party to the American Convention since March 24, 1981, the date it deposited its accession to that treaty. Finally, the IACHR has competence *ratione materiae* because the petition contains denunciations of violations of human rights protected in the American Convention.

## **B. Other requirements for admissibility of the petition**

### **1. Exhaustion of domestic remedies**

35. Article 46.1.a of the American Convention provides that, in order for a petition presented before the Inter-American Commission to be admissible under Article 44 of the Convention, it is necessary that domestic remedies have been exhausted according to generally recognized principles of international law. This requirement has as its objective allowing national authorities to consider the alleged violation of a protected right and, if appropriate, they have the opportunity to resolve it before it is considered by an international body.

36. The petitioner claims that he has exhausted the available domestic remedies.

37. For its part, the State claims that in the determination of his rights, the petitioner was heard with due guarantees and within a reasonable timeframe, by competent, independent, and impartial tribunals previously established by law. Notwithstanding this, it alleges that the petitioner could have filed a *recurso de inconformidad* against the result of the medical exam given to him to verify his state of capacity and that, moreover, he did not attempt a *recurso de revisión* with respect to the decision denying him the *amparo*, in accordance with that provided under Article 83 of the *Amparo* Law.

38. The Commission considers it pertinent to state first that, in order to determine if compliance with the conventional requirement of prior exhaustion of domestic remedies has been verified, it is necessary to identify precisely the object of the complaint and analyze the actions taken in the domestic arena with relation to the situation denounced. Along these lines, the Commission notes that the object of the complaint in the present case refers to the denial of a widower's pension to the petitioner, which was verified in a discriminatory manner, in violation of the principle of equality under the law, and, moreover, the Mexican tribunals had carried out an inadequate evaluation of the evidence provided by the petitioner.

39. Regarding the allegations referring both to equality before the law and the alleged lack of due process and judicial protection, the IACHR observes that the petitioner pursued a series of remedies in the domestic arena, a fact that both parties agree upon, except with reference to the failure to file the *recurso de inconformidad* and the *recurso de revisión*.

40. The IACHR observes that although the petitioner did not file a *recurso de inconformidad* with regard to the medical examination report itself, he did so with respect to the resolution of the Office of Economic and Social Benefits of the IMSS, which resolved on January 4, 2000 to deny him the requested pension. In effect, from the information presented by the parties it can be concluded that on February 9, 2000, the petitioner presented a *recurso de inconformidad* before the Delegational Advisory Council of the IMSS, which was resolved by a resolution of March 6, 2000, declaring it unfounded.

41. Later, on August 7, 2000, he filed a complaint before the Federal Board for Conciliation and Arbitration in the Federal District asking to be granted the widower's pension and on October 23, 2002, it resolved to absolve the IMSS, given that the complainant had not adequately proven the elements required by law, among them "the marriage of the complainant and the deceased, [and] her death," since the Tribunal established that the documentary proof lacked probative value because it consisted of photocopies susceptible to alteration.

42. The *recurso de amparo* was rejected by judgment of the Fourth Collegial Court on Labor Issues of the First Circuit, dated April 10, 2003. The judgment established that "the complainant submitted copies that did not comply with the requirements of the law," that these lacked probative value, and that therefore the determination of the Board to limit their probative value was in accordance with the law. Additionally, the Court established that it was inappropriate to refer to the allegations of inequality before the law, stating in this respect:

...in these conditions, it must be stated that the concept of violation in which the unconstitutionality of Article 149 of the Social Security Law is alleged cannot appropriately be considered, [...] in the sense that the actor, now the petitioner, did not prove that he was the husband of the worker Mercedes Reyes Baca or that she died.<sup>5</sup>

43. By virtue of the forgoing, the IACHR considers that the petitioner exhausted the domestic remedies and that it was not necessary to file a *recurso de revision*, because in addition to constituting an extraordinary remedy, it is designed in conformity with the regulations of Article 83 of the *Amparo* Law to challenge the resolutions made by the Collegial Circuit Courts with respect to *amparo directo*.

44. Therefore, the Commission considers that the petition satisfies the requirement of exhaustion of domestic remedies established by Article 46.1.a of the American Convention.

## **2. Timeliness of the petition**

45. According to the provisions of Article 46.1.b of the Convention, for a petition to be admitted, it must be presented within six months of the date on which the petitioner was notified of the final decision at the national level.

46. In relation to the present petition, the IACHR has established that domestic remedies were exhausted with the decision of the Fourth Collegial Court on Labor Issues of the First Circuit on April 10, 2003, and that the petition was presented to the IACHR on June 27, 2003. Therefore, the Commission concludes that this requirement has been satisfied.

## **3. Duplication of proceedings and *res judicata***

47. The petition's file does not contain any information that could lead to a determination that the issues contained in it are the subject of other proceedings pending in an international forum or that they have previously been decided by the Inter-American Commission. Therefore, the IACHR concludes that the exceptions provided in Article 46.1.d and in Article 47.d of the American Convention are not applicable.

## **4. Characterization of the alleged facts**

48. According to that which has been expressed by the Commission in other cases, it is not appropriate at this stage of the proceedings to verify whether or not there has been a violation of the American Convention. To determine admissibility, the IACHR must simply decide whether the allegations set forth facts that could characterize a violation of the American Convention, as required in its Article 47.b and if the petition is "manifestly groundless" or "obviously out of order," according to clause (c) of the same article. The standard of evaluation of these issues is different from that required to decide on the merits of the case. In the present step, the IACHR must carry out a *prima facie* evaluation that does not imply a prior judgment or the advancement of an opinion on the merits. Its own Rules of Procedure reflect this distinction between the evaluation that must be carried out with respect to determining the admissibility of a petition and that required to determine if the State's responsibility has effectively been verified, by establishing clearly differentiated steps for the study of admissibility and merits.

49. In the present case, the petitioner alleges the violation by the State of equality before the law, due process, and judicial protection by application of a discriminatory norm and in virtue of the fact that the documents he submitted during the domestic proceedings for the determination of his rights were not given probative value. He claims that his rights were violated by an inadequate and formalistic evaluation of the documentary evidence submitted, which he alleges were correctly certified by a notary public with more than thirty years of experience.

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<sup>5</sup> Fourth Collegial Court on Labor Issues of the First Circuit. Judgment of April 10, 2003.

50. The State, for its part, alleges that in the determination of his rights Mr. Tejeda Ruelas was heard with due guarantees and within a reasonable time period by competent, independent, and impartial tribunals, established previously by law. It claims that during the proceedings, the judges coincided in concluding that the petitioner did not succeed in accrediting his situation as a widower and that therefore it was unnecessary to resolve the other issues raised, such as, for example, the alleged discrimination of Article 152 of the Social Security Law.

51. In this respect, the Commission observes that the *amparo* Court determined that it was unnecessary to make a pronouncement about the alleged lack of equality before the law because Mr. Tejeda Ruelas did not accredit his marriage with Ms Reyes Baca and, consequently, his status as a widower. Regarding the valuation of the evidence, in the section relating to the *amparo* judgment, the Court established:

However, from the analysis of these documents it is noted that only the notary's seal appears on the front of the pages, but not the signature or partial signature of the notary, as required by Article 56 of the Notary Law.

It does not affect the forgoing that in the copy of the marriage certificate, an annex was added in which the seal and the signature of the notary appeared, because this related to the nature of the annex itself and was not in compliance with the legal requirement to place the signature or partial signature on the page to be certified.

The thesis maintained by the plenary of the Supreme Court of Justice of the Nation is applicable to the case, [...] COPIES COMPARED BY A NOTARY. REQUIREMENTS THAT MUST BE CONTAINED IN THEIR CERTIFICATIONS (NOTARY LAW FOR THE FEDERAL DISTRICT) – In accordance with Articles 40, 56 part IV, and 98 of the Notary Law for the Federal District, typed copies, photocopies, or other types of copies compared with their originals by the notaries of the Federal District must contain the following: a) the seal of authorization printed on each page of the compared copy; b) the signature or partial signature on each page of the copy; c) certification of the notary stating that the copy is a faithful reproduction of its original and the number and date of the registry where it is recorded; and d) authorization of the certification placed by the notary with his/her signature and seal [...]. If the copy does not meet these requirements, the certification is invalid. Therefore, it lacks the full probative value that the certification of documents in this manner provides, since it does not comply with the requirements for validity contemplated in Article 129 of the Federal Code of Civil Procedure that is applied to supplement the *juicio de amparo*, making the photocopies submitted without these elements inadequate to prove in a trial the existence of the findings of fact upon which the interests of the complainant depend.

Later, the complainant exhibited copies that do not comply with the previously-mentioned legal requirements. These do not have probative value and, therefore, the decision of the Board evaluating them, denying their probative value, was in accordance with the law.

In this vein, since the challenged binding judgment in arbitration did not violate guarantees, it is appropriate to deny the requested *amparo* and protection of the Federal Judiciary.<sup>6</sup>

52. In this respect, the Commission considers it important to emphasize that according to the jurisprudence of the inter-American system, it is not competent to 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.”<sup>7</sup> The Commission has repeatedly stated in this respect that:

Under the preamble of the American Convention on Human Rights, the protection that the organs of the inter-American system for the protection of human rights offers is intended to complement the protection afforded by the local courts. The Commission cannot take upon itself the functions of an appeals court in order to examine alleged errors of fact or law that local courts may have

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<sup>6</sup> Fourth Collegial Court on Labor Issues of the First Circuit. Judgment of April 10, 2003.

<sup>7</sup> IACHR, Report No. 8/98, Case 11.671, Carlos García Saccone (Argentina), March 2, 1998, para. 53.

committed while acting within the scope of their jurisdiction, unless there is unequivocal evidence that the guarantees of due process recognized in the American Convention have been violated.<sup>8</sup>

53. The Commission lacks competence to substitute its judgment for that of the national tribunals on questions involving the interpretation and explanation of domestic law or the findings of fact. Therefore, the judicial protection recognized by the Convention includes the right to fair, impartial, and timely proceedings that allow the possibility, but never the guarantee, of a favorable result.<sup>9</sup> Thus, the interpretation of the law, the pertinent procedures, and the weighing of the evidence are, among other factors, the function of the domestic jurisdiction, which cannot be replaced by the IACHR.<sup>10</sup>

54. In light of the foregoing considerations, what can be concluded from the allegations of the parties and the documents provided is that the courts rejected the remedies filed by the petitioner due to his failure to comply with the evidentiary requirements of the domestic law, a situation that falls to the national judicial authorities to decide and in this case does not present a question of a potential violation of the American Convention.

55. In addition, in the present case, the Commission does not have evidence that would allow it to infer from the judicial actions that there have been acts or omissions that tend to characterize violations of due process under the American Convention.

56. From this perspective the object of the petition seems to be a request to review a decision from the domestic jurisdiction, given that there is no evidence of manifest arbitrariness in the process and the grounds for the aforementioned judgment appear, *prima facie*, to be objective and reasonable.

57. In summary, from the allegations of the parties and the documentary evidence in the file, it can not be inferred that the facts characterize a violation of the right to judicial protection and guarantees, nor that the alleged victim has been prevented from accessing domestic legal remedies. The Commission concludes that, in light of the foregoing, the alleged facts do not tend to characterize a violation of rights recognized in the American Convention and, therefore, the petition must be declared inadmissible.

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<sup>8</sup> IACHR, Report No. 122/01, Petition 0015/00, Wilma Rosada Posadas (Argentina), October 10, 2001, para. 10.

<sup>9</sup> IACHR, Report No. 39/96, Case 11.773, S. Marzoni (Argentina), October 15, 1996; Report No. 48/98, Case 11.403, Carlos Alberto Marín Ramírez (Colombia), September 29, 1998, para. 42.

<sup>10</sup> IACHR, Report No. 39/05, Petition 792/01, Carlos Iparraguirre and Luz Amada Vásquez de Iparraguirre (Peru).

**V. CONCLUSIONS**

58 Based on the arguments of fact and law set forth above, the Inter-American Commission concludes that the petition is inadmissible in accordance with that established in Article 47.b of the American Convention, because it does not set forth facts that constitute a violation of the rights protected by the Convention.

59 Given the foregoing considerations,

**THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,**

**DECIDES:**

1. To declare the present petition inadmissible, in accordance with Article 47.b of the Convention.
2. To notify the parties of this decision.
3. To publish this decision and include it in its Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 17<sup>th</sup> day of the month of March, 2010. (Signed: Felipe González, President; Paulo Sérgio Pinheiro, First Vice-President; Dinah Shelton, Second Vice-President; María Siliva Guillén, and Rodrigo Escobar Gil, members of the Commission).