REPORT No. 30/12
PETITION 736-03
INADMISSIBILITY
HERNÁN ALBERTO CHUMPITAZ VÁSQUEZ
PERU
March 20, 2012

I. SUMMARY

1. On September 12, 2003, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission," "the Commission," or "the IACHR") received a petition presented on his own behalf by Hernán Alberto Chumpitaz Vásquez (hereinafter "the petitioner" or "the alleged victim") in which he alleged the violation, by the Republic of Peru (hereinafter "Peru," "the State," or "the Peruvian State") of rights enshrined in the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention"), in the American Declaration of the Rights and Duties of Man (hereinafter "the Declaration"), and in the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (hereinafter "the Protocol of San Salvador"). The petitioner claimed that he was fired from his job as a technical officer with the National Intelligence Service (SIN) after that agency was dissolved in late 2000. He reported that he sought his reinstatement by means of *amparo* action, which was ruled inadmissible in the final instance by the Constitutional Court. He said that the Court had found that the alleged abridgments of his constitutional rights could not be repaired through *amparo* action. However, he reported that other former SIN employees in the same situation were reinstated in positions that were opened up at the National Intelligence Council and the National Intelligence Directorate, in compliance with court rulings in *amparo* proceedings. The petitioner held that by following a different reasoning with respect to his claims, the Constitutional Court had incurred in an arbitrary difference of treatment.

2. The State claimed that the reason why some former SIN employees were reinstated at the National Intelligence Council was because they obtained a favorable judgment at the second instance, from the Superior Court of Justice of Lima, without the Constitutional Court ruling in their cases. Peru held that the inter-American system cannot be used as a fourth instance to examine the merits of a matter already decided by the domestic courts within the scope of their competence and with full respect for the guarantees of due process. It therefore maintained that the facts alleged in the petition did not tend to establish a violation of rights protected by the Convention and requested that the IACHR rule it inadmissible in accordance with Article 47(b) thereof.

3. After analyzing the positions of the parties, the Commission concluded that it was competent to hear the petition, but that it was inadmissible on the grounds that it failed to meet the requirement set out in Article 47(b) of the American Convention. The Commission decided to notify this Inadmissibility Report to the parties, to publish it, and to include it in its Annual Report to the OAS General Assembly.

II. PROCEEDINGS BEFORE THE COMMISSION

4. The Commission received the petition on September 12, 2003, and registered it as No. 736-03. On May 21, 2009, the relevant parts of the complaint were conveyed to the State, along with a two-month deadline in which to return its reply, in compliance with the IACHR's Rules of Procedure.

5. The State lodged its reply on August 24, 2009, and on August 27 of that same year, it submitted the corresponding annexes. The State sent additional information by means of notes received on April 12, 2010, and March 25, 2011. The petitioner sent additional submissions on January 11 and December 27, 2010, and on October 5, 2011.

III. POSITIONS OF THE PARTIES

A. Position of the petitioner

6. The petitioner claimed that starting in February 1996, he was employed as a technical officer at the National Intelligence Service (SIN), under the employment regime governed by Legislative Decree 276, the Basic Law of the Civil Service. He maintained that the decree in question states that public servants may only be dismissed for the reasons set out in law and following disciplinary proceedings. He reports that in October 2000, the Congress of the Republic passed Law No. 27351, which dissolved the SIN and ordered the dismissal of all its employees. He added that Law No. 27479 of May 11, 2001, created the National Intelligence Council, which substituted the SIN in its functions and was later renamed the National Intelligence Directorate.

7. The petitioner reported that by means of resolution No. 052-2001-CNI-01 of July 25, 2001, the president of the National Intelligence Council ordered his dismissal from his position, causing significant harm to his personal livelihood and the subsistence of his family. He stated that "in spite of [his] training and duly qualified experience in intelligence issues, [he] was fired with no justification and with no reasons given, which constitutes arbitrary dismissal."

8. Mr. Chumpitaz Vásquez reported that on October 10, 2001, he filed an *amparo* suit against the effects of resolution No. 052-2001-CNI-01, alleging a violation of his constitutional rights to job stability and to due administrative process. According to his claims, the alleged victim requested his reinstatement with the National Intelligence Council, in a position at the same level as the one he held in the SIN, together with the payment of compensation and of the earnings and social benefits owed up to the date of his rehiring. He noted that the National Intelligence Council pursues its activities in the same facilities that belonged to the SIN "and it has assumed all the existing fixtures and fittings, documents, budgetary arrangements, and intelligence analysts and processors that were trained by the former National Intelligence Service." He held that the closure of the SIN must be equated to the winding down of a private corporation followed by the incorporation of a new company with the same assets and business, in which case the principle of "business continuity," enshrined in Peruvian labor law, would apply.

9. The information submitted indicates that on December 17, 2001, the Fourth Specialized Public Law Court of the Superior Court of Justice of Lima ruled the suit inadmissible as regards the payment of compensation and lost earnings and with merit as regards the request for professional reinstatement. However, on June 24, 2002, the Second Civil Chamber of the Superior Court of Justice of Lima overturned the first-instance judgment and ruled the *amparo* suit inadmissible in all its claims.

10. The petitioner stated that on September 17, 2002, he lodged a special remedy for constitutional relief, and that on December 16 of that year, the Constitutional Court ruled the application inadmissible, on the grounds that his claim could not be addressed through *amparo* proceedings. Mr. Chumpitaz Vásquez described the situation of other former SIN employees who were rehired by the National Council or the National Intelligence Directorate pursuant to court orders. He enclosed copies of extracts from several decisions handed down by courts and civil chambers of the Superior Court of Justice of Lima, together with documents of their reinstatement in those intelligence agencies. He contended that although he was in the same situation as those workers, the Constitutional Court used a different, arbitrary, and discriminatory reasoning in his case. He added that since the SIN was involved in the case, the courts employed misguided political criteria.

11. Finally, the petitioner held that the State is responsible for violating the rights enshrined in Articles II, XVI, XVII, and XXXVII of the American Declaration, in Articles 1, 8.1, 24, and 25.1 of the American Convention, and in Articles 1, 2, 3, 6, and 7 of the Protocol of San Salvador.

B. Position of the State

12. The State offered a similar narrative to that of the petitioner regarding the administrative resolutions that led to his dismissal and the results of the *amparo* suit lodged on October 10, 2001. It maintained that Mr. Chumpitaz Vásquez's dismissal was not arbitrary, but based on the dissolution of the agency where he worked. Consequently, administrative proceedings for the termination of an

employment relationship were not admissible. Peru contended that Law No. 27479, which created the National Intelligence Council, contains no provision ordering the automatic reinstatement of SIN employees. It added that the National Intelligence Council was dissolved by means of Law No. 28664, which created the National Intelligence Directorate. It thus held that "with the dissolution of the [National Intelligence Council], the petitioner's reinstatement in [the National Intelligence Directorate] is not possible."

13. The State contended that since *amparo* relief action is essentially restorative, it is inadmissible when the public agency in which the applicant was employed has been dissolved. It added that in deciding on the application for constitutional relief filed by the alleged victim, the Constitutional Court concluded that the alleged abridgment of constitutional rights "has become irreparable with the dissolution of the National Intelligence Service."

14. Peru maintained that the *amparo* suit lodged by the petitioner was ruled grounded by the first-instance court, but not on appeal, or in the relief proceedings before the Constitutional Court. In addition, it noted that the judicial rulings cited by Mr. Chumpitaz Vásquez state that the former SIN workers rehired by the National Intelligence Council obtained favorable judgments at the first and second instances, and so there were no rulings from the Constitutional Court in their cases; in the Peruvian State's view, this refutes the argument that those individuals are in an identical situation to that of Mr. Chumpitaz Vásquez. On this point, Peru alleged that:

> The *amparo* proceedings brought by the former workers of the dissolved SIN requesting their hiring by the [National Intelligence Council] were mostly resolved favorably for the former workers on appeal; for that reason, and in accordance with the procedural rules in force at that time, no special remedies could be filed for examination by the Constitutional Court. Nevertheless, in the two cases in which former employees received unfavorable rulings on appeal, the Constitutional Court ruled their applications inadmissible on the grounds that in those cases, any harm to the former workers' constitutional rights had been rendered irreparable by the dissolution of the SIN under Law No. 27351, in accordance with Law No. 27479.

15. The State maintained that the organs of the inter-American system cannot serve as a fourth instance or replace the assessment made by the domestic courts, and it notes Mr. Chumpitaz Vásquez was fully able to make his case before competent, independent, and impartial domestic courts that respected due process. It held that the handing down of a judgment that is unfavorable to the applicant cannot be considered a denial of justice, and that simple dissatisfaction with the result obtained from the courts is not enough for it to be deemed arbitrary.

16. Finally, the State contended that the facts set out in the petition do not tend to establish a violation of rights protected by the Convention and asked the IACHR to declare it inadmissible under Article 47(b) thereof.

IV. ANALYSIS ON COMPETENCE AND ADMISSIBILITY

A. Competence of the Commission *ratione personae, ratione materiae, ratione temporis,* and *ratione loci*

17. The petitioner is entitled to lodge petitions with the Commission under Article 44 of the American Convention. The alleged victim is an individual with respect to whom the Peruvian State assumed the commitment of respecting and ensuring the rights enshrined in the Convention. For its part, Peru ratified the American Convention on July 28, 1978. Consequently, the Commission has competence *ratione personae* to examine the claim.

18. The Commission is competent *ratione loci*, since the petition contains allegations of violations of rights protected by the American Convention that allegedly took place within the territory of a state party to that treaty.

19. The Commission is competent *ratione temporis* because the obligation to respect and guarantee the rights protected by the American Convention was already in force for the State at the time of the events alleged in the petition.

20. The Commission has competence *ratione materiae* since the petition describes possible violations of human rights that are protected by the American Convention. Regarding the alleged violation of the provisions of the American Declaration, the Commission notes that the rights that the Peruvian State undertook to respect as part of the OAS Charter are set out in the American Declaration, which is a source of international obligations.[1] However, upon Peru's ratification of the American Convention, that instrument became its main source of obligations within the inter-American system for the promotion and defense of human rights.[2] Accordingly, and bearing in mind that the American Convention covers the rights invoked by the petitioner, the analysis offered in the following sections will center on that international instrument.[3]

21. Finally, the IACHR notes that under Article 19(6) of the Protocol of San Salvador, only the right to education and the right of workers to form trade unions may be addressed by the IACHR through the system of petitions and cases provided for in Article 44 of the American Convention. Thus, the IACHR does not have competence *ratione materiae* with respect to the alleged violation of the rights enshrined in Articles 1, 2, 3, 6, and 7 of the Protocol of San Salvador.

B. Exhaustion of domestic remedies

22. Article 46(1)(a) of the American Convention provides that in order for a petition presented to the Inter-American Commission under Article 44 of the Convention to be admitted, the remedies under domestic law must have been pursued and exhausted in accordance with generally recognized principles of international law. That requirement is intended to facilitate the domestic authorities' examination of the alleged violation of a protected right and, if appropriate, to enable them to resolve it before it is brought before an international venue.

23. The petition alleges the violation of rights protected by the Convention through the actions of the Peruvian judicial authorities in an *amparo* suit lodged by Mr. Chumpitaz Vásquez on October 10, 2001. According to the parties' statements, final judgment in that suit was given by the Constitutional Court on December 16, 2002, and there are no additional remedies to be exhausted. Therefore, the IACHR finds that the petition meets the requirement set by Article 46(1)(a) of the Convention.

C. Timeliness of the petition

24. Article 46(1)(b) of the Convention states that for a petition to be admissible, it must be lodged within a period of six months following the date on which the complainant was notified of the final judgment at the national level.

25. In his initial petition, Mr. Chumpitaz Vásquez attached a copy of the notification deed of the Constitutional Court's decision of December 16, 2002. Although that deed is dated March 6, 2003, the petitioner maintains that he was not notified thereof until April 6 of that year. Since the State has not disputed that information, and since the petition was received by the IACHR on September 12, 2003, the requirement set in Article 46(1)(b) is met.

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[1] I/A Court H. R., *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*, Advisory Opinion OC-10/89 of July 14, 1989, Series A No. 10, paras. 43 to 46.

[2] *Ibid., para.* 46.

[3] IACHR, Report No. 38/09, Case 12.670, National Association of Ex-Employees of the Peruvian Social Security Institute and Others (Peru), March 27, 2009, para. 68.

D. Duplication and international *res judicata*

26. Article 46(1)(c) of the Convention provides that the admission of a petition is subject to the requirement that the matter "is not pending in another international proceeding for settlement," and Article 47(d) of the Convention stipulates that the Commission will not admit a petition that is substantially the same as a petition or communication previously studied by the Commission or by another international organization. In this case, the parties have not cited the existence of either of those two circumstances, nor can they be inferred from the case documents.

E. Characterization of the facts alleged

27. Article 47(b) of the Convention establishes that the Commission shall consider inadmissible any petition that does not state facts that tend to establish a violation of rights guaranteed in the Convention.

28. According to information publicly available, in the second half of 2000 the Peruvian press reported the existence of video recordings in which Vladimiro Montesinos Torres, at the time a presidential advisor, was filmed in the SIN's offices handing over large sums of money to owners of media outlets, members of Congress, judges, and other high ranking public officials, in exchange for actions favorable to the incumbent government. In that context, the Congress of the Republic enacted Law 27351, ordering the immediate dissolution of the SIN and the dismissal of its officers.[4] According to the parties' claims, on May 11, 2001, during the reorganization of the national intelligence system, the Congress of the Republic enacted Law 27479, which created the National Intelligence Council to replace the SIN.

29. According to the petitioner's contentions, on June 25, 2001, and in compliance with Law 27351, the National Intelligence Council issued resolution No. 052-2001-CNI-01, which ordered his dismissal. Mr. Chumpitaz Vásquez maintains that he filed for *amparo* relief against the effects of that resolution, but that the judicial authorities dismissed his claims in a ruling that was in breach of the applicable legal provisions. The information submitted indicates that after obtaining a favorable judgment at the first instance, the *amparo* suit was ruled ungrounded by the Second Civil Chamber of the Superior Court of Justice of Lima on June 24, 2002, under the following reasoning:

> ***Five:*** *That the creation by Law No. 27479 of the National Intelligence System (SINA) as a distinct entity did not mean, as can be seen in its third additional provision, that the staff of the agency dissolved by Law No. 27351 […] would be automatically transferred to the new institution, in that the latter only received the specific instruction, by means of Supreme Decree No. 078-2001 of June 12, 2001, to order the administrative actions necessary to conclude the dissolution.* ***Six:*** *That since the cause for the dismissal was the dissolution, by legislative decision, of the agency where the applicant was employed, administrative proceedings for the severance of a relationship of employment as provided for in Legislative Decree Number 276 are not admissible in this case;* ***Seven:*** *The applicant argues that his right to work was affected; however, it should be noted that the Constitution of 1993, Article 27, states that the law shall grant workers adequate protection against arbitrary dismissal but it does not enshrine the right of absolute stability, as the applicant claims in seeking reinstatement in an agency other than the one in which he was employed […].*[5]

30. On September 17, 2002, Mr. Chumpitaz Vásquez filed a special remedy for constitutional relief against the above decision from the Superior Court of Justice of Lima. On December 16, 2002, the Constitutional Court dismissed that filing and ruled the *amparo* suit inadmissible, on the basis of the arguments set out below:

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[4] Law No. 27351 of October 3, 2000, available on the web site of the Congress of the Republic of Peru: www.congreso.gob.pe/ntley/Imagenes/Leyes/27351.pdf.

[5] Resolution No. 6 of the Second Civil Chamber of the Superior Court of Justice of Lima, June 24, 2002, Case File No. 697-2002, paras. 5 to 7. Annex to State's communication of August 27, 2009. Italics, underlinings, and boldface per original.

> 2. As indicated in the petition of the suit, its purpose is to render without effect resolution No. 052-2001-CNI-01 by the president of National Intelligence Council, dated July 25, 2001, and to order his reinstatement.
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> 3. In compliance with Article 1 of Law No. 23506, the purpose of *amparo* constitutional relief proceedings is to return matters to the situation they were in prior to the violation of a constitutional right. Notwithstanding, the Constitutional Court finds that Article 6.1 of the law in question applies in this case, in that any abridgment of the applicant's constitutional rights has been rendered irreparable with the dissolution of the National Intelligence Service under Law No. 27351, in accordance with Law No. 27479.[6]

31. The petitioner claims that the Second Civil Chamber of the Superior Court of Justice of Lima ruled his *amparo* suit ungrounded using a different reasoning from the one used by other civil chambers of the same Superior Court. On this point, he provided copies of a decision by the First Civil Chamber of the Superior Court of Justice of Lima dated November 2004, three decisions by the Sixth Civil Chamber from between April 2002 and March 2003, and five decisions by the Fourth Civil Chamber from between July 2002 and March 2003, all upholding *amparo* applications presented by former officers of the SIN who had been dismissed from their positions under Law 27351 and who were seeking reinstatement at the National Intelligence Council. However, the information submitted indicates that at least three *amparo* suits filed by former employees of the SIN in the same situation were dismissed by the civil chambers of the Superior Court of Justice of Lima during the same period.

32. The IACHR notes that the alleged inconsistency among the civil chambers of the Superior Court of Justice of Lima between April 2002 and November 2004 is in contrast with the uniform reasoning offered by the Constitutional Court. Thus, the decisions submitted by the parties indicate that the three *amparo* suits brought by former employees of the SIN that led to applications for constitutional relief were ruled inadmissible by the court in question, on the grounds – already cited – that *amparo* cannot be used to reinstate an employee of an agency of the public administration that has been dissolved by statute.

33. The European Court of Human Rights has ruled that conflicted decisions from courts in different jurisdictions – or even by the same court – do not inherently entail a violation of the guarantees of due process.[7] The ECHR has ruled a violation of Article 6.1 of the European Convention on Human Rights to exist based on an assessment of whether "profound and long-standing differences exist in the case-law of a supreme court, whether the domestic law provides for machinery for overcoming these inconsistencies, whether that machinery has been applied and, if appropriate, to what effect […]."[8] On this point, it had noted that

> Just as it is not for the Court to act as a court of third or fourth instance and review the choices of the domestic courts concerning the interpretation of legal provisions and the inconsistencies that may result, nor is it its role, it would like to emphasize, to intervene simply because there have been conflicting court decisions.
>
> For the Court, where there is no evidence of arbitrariness, examining the existence and the impact of such conflicting decisions does not mean examining the wisdom of the approach the domestic courts have chosen to take […]. Its role in respect to Article 6 § 1 of the Convention is limited to cases where the impugned decision is manifestly arbitrary.[9]

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[6] Resolution of the Constitutional Court of December 16, 2002, Case File No. 2536-2002-AA/TC, paras. 2 and 3. Annex to State's communication of August 27, 2009.

[7] European Court of Human Rights, *Case of Nejdet Sahin and Perihan Sahin v. Turkey*, Petition 13279/05, Judgment of October 20, 2011, paras. 51 and 67.

[8] European Court of Human Rights, *Case of Nejdet Sahin and Perihan Sahin v. Turkey*, Petition 13279/05, Judgment of October 20, 2011, paras. 53 and 54.

[9] European Court of Human Rights, *Case of Nejdet Sahin and Perihan Sahin v. Turkey*, Petition 13279/05, Judgment of October 20, 2011, paras. 88 and 89.

34. The IACHR holds that although the obligations arising from Articles 8(1) and 25(1) of the American Convention require that States ensure a certain degree of predictability in access to justice,[10] that does not pose a barrier to the existence of divergent judicial decisions. Thus, legal security, as an inherent component of effective judicial protection, must be kept in line with the principle of judicial autonomy, so that officers of the judiciary are not hindered in their free interpretation of the laws that apply in the cases they are called on to decide. The existence of inconsistent judicial opinions over an unreasonable length of time or a judicial or administrative authority's use of different reasoning in situations of the same substantive and procedural nature could constitute a situation of uncertainty that would be incompatible with Article 25(1) of the Convention. However, the IACHR finds no such situation in the facts adduced by the petitioner in the case at hand.

35. The IACHR believes that the judgment handed down by the Second Civil Chamber of the Superior Court of Justice of Lima on June 24, 2002, while using a different reasoning from that used by other civil chambers of the same Superior Court, contains a reasonable explanation of the scope of domestic law and lacks any indication of an absence of justification. The IACHR notes that in challenging that judgment by means of an application for constitutional relief on September 17, 2002, Mr. Chumpitaz Vásquez did not refer to the inconsistency with the arguments used by the different civil chambers of the Superior Court of Justice of Lima in resolving similar matters. Thus, although he had the procedural opportunity to challenge, before the Constitutional Court, the alleged divergence in jurisprudence at the appeals court's civil chambers, the petitioner only raised this point before this international body.

36. Given the circumstances of this case, and in light of the absence of evidence indicating that the decisions of the Peruvian courts cited in paragraphs 29 and 30 *supra* were inadequately grounded, the petitioner's claims regarding an allegedly mistaken interpretation of the Constitution, of the Basic Law of the Administrative Career, and of Law No. 27351 do not tend to establish a violation of rights protected by the Convention. On this point, the IACHR reiterates its doctrine whereby it is not its task to replace the domestic judicial authorities in interpreting the scope of the provisions of applicable procedural and material laws.[11] The IACHR has stated that it cannot serve as a court of appeal for examining alleged legal or factual mistakes committed by the domestic courts within the scope of their competence.[12]

37. In connection with the right protected by Article 24 of the Convention, the petitioner maintains that since he was a former employee of the SIN, the Peruvian courts acted discriminatorily for political reasons. On this point, the petitioner himself reports that other former officers of the SIN were reinstated in their positions by means of court decisions, and the Peruvian courts offered no explanation of why the same reasoning was not applied in his case. The IACHR therefore considers that the claims of allegedly discriminatory treatment on account of Mr. Chumpitaz Vásquez's status as a former officer of the SIN are sustained in the evidence provided. Consequently, that they do not tend to establish a violation of the right enshrined in Article 24 of the Convention.

38. In addition to the alleged discrimination, the petitioner argues that by using a different reasoning from that used in other workers' *amparo* applications, the Second Civil Chamber of Lima and the Constitutional Court committed an arbitrary difference in treatment, thereby violating the terms of Article 24 of the Convention. Regarding these claims, the IACHR reiterates that the apparent inconsistency in jurisprudence among the civil chambers of the Superior Court of Justice of Lima between

[10] I/A Court H. R., *Case of the Dismissed Congressional Employees (Aguado Alfaro et al.)*, Judgment of November 24, 2006, Series C No. 158, para. 129.

[11] IACHR, Report No. 79/10, Petition 12.119, Inadmissibility, Association of Retired Oil Industry Workers of Peru – Metropolitan Area of Lima and Callao (Peru), July 12, 2010, paras. 41 and 42; Report No. 27/07, Petition 12.217, Inadmissibility, José Antonio Aguilar Angeletti (Peru), March 9, 2007, paras. 41 and 43; and Report No. 39/05, Petition 792-01, Inadmissibility, Carlos Iparraguirre and Luz Amada Vásquez de Iparraguirre (Peru), March 9, 2005, paras. 52 and 54.

[12] IACHR, Report No. 45/04, Petition 369-01, Inadmissibility, Luis Guillermo Bedoya de Vivanco (Peru), October 13, 2004, para. 41; Report No. 16/03, Petition 346-01, Inadmissibility, Edison Rodrigo Toledo Echeverría (Ecuador), February 20, 2003, para. 38; Report No. 122/01, Petition 15-00, Inadmissibility, Wilma Rosa Posadas (Argentina), October 10, 2001, para. 10; and Report No. 39/96, Case 11.673, Inadmissibility, Santiago Marzioni (Argentina), October 15, 1996, para. 71.

April 2002 and November 2004 stands in contrast with the consistent position adopted by the Constitutional Court. The information submitted indicates that the three decisions adopted in constitutional relief cases during this period found that the claims made by Mr. Chumpitaz Vásquez and other former SIN employees were inadmissible. Although the civil chambers of the Superior Court of Justice of Lima handed down decisions that found in favor of the claims made by people in a similar situation to that of Mr. Chumpitaz Vásquez, their claims were not heard by the Constitutional Court. That was because the applicable procedural law prevented the public administration from filing for constitutional relief against decisions in annulment suits favoring the applicants handed down by the Superior Courts of Justice, which did not take place in Mr. Chumpitaz Vásquez's case. Consequently, although the factual situations of the former SIN employees who obtained favorable judgments in the annulment proceedings were similar to that of the alleged victim, the procedural situations of their *amparo* filings were substantially different, in that they were heard on final appeal by different agencies of the judiciary.

39. Although Article 24 of the Convention requires the agencies of a state party thereto to ensure that the effects of its domestic law have the same legal consequences for people in the same situation, that does not mean that the adoption of a more favorable interpretation by an appellate Civil Chamber is binding on the reasoning used by higher judicial venues. The fact that the alleged victim obtained an unfavorable decision was, according to the information submitted, the result of the free interpretation of the relevant legislation made by the Second Civil Chamber of the Superior Court of Justice of Lima and by the Constitutional Court. As stated above, both the decision of the Second Civil Chamber of the Superior Court of Justice of Lima and the final judgment handed down by the Constitutional Court are reasonably grounded, and the IACHR is not entitled to rule on a possible misinterpretation of the scope of domestic law. In addition, and since the procedural situation of the *amparo* suit brought by the alleged victim is not comparable to that of the other former employees of the SIN who obtained favorable decisions on appeal, the IACHR finds that the evidence submitted does not tend to establish a violation of the right to equality before the law through the alleged arbitrarily different treatment of the Constitutional Court in issuing the judgment of December 16, 2002.

V. CONCLUSIONS

40. Based on the foregoing considerations of fact and law, the Inter-American Commission concludes that the petition is inadmissible, in that it fails to meet the requirement set by Article 47(b) of the Convention. Consequently,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To rule the petition inadmissible for failing to meet the requirement established in Article 47(b) of the American Convention.

2. To give notice of this decision to the State and to the petitioner.

3. To publish this decision and include it in the Annual Report of the Commission, to be presented to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 20th day of March 2012. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Felipe González; Second Vice-President, Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz and Rose-Marie Belle Antoine, Commission Members.