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REPORT No. 218/19
PETITION 431-07
INADMISSIBILITY

RAÚL HILARIO RAMÍREZ
PERU

Electronically approved by the Commission on October 24, 2019.

Cite as: IACHR, Report No. 218/19, Petition 431-07. Inadmissibility. Raúl Hilario Ramírez. Peru.
October 24, 2019.



Organization of
American States

I. INFORMATION ABOUT THE PETITION

Petitioner:	Raúl Hilario Ramírez
Alleged victim:	Raúl Hilario Ramírez
Respondent State:	Peru ¹
Rights invoked:	The petition does not specifies articles of the American Convention on Human Rights ² but cites other international instruments ³

II. PROCEEDINGS BEFORE THE IACHR⁴

Filing of the petition:	April 10, 2007
Additional information received at the stage of initial review:	April 26, 2011; May 3, 2011; August 12, 2011; August 16, 2012; September 4, 2012; March 20, 2014
Notification of the petition to the State:	July 9, 2012
State's first response:	September 10, 2012
Additional observations from the petitioner:	January 2, 2013; September 26, 2013
Additional observations from the State:	July 18, 2013; September 12, 2014
Warning on possible archive:	June 19, 2018
Petitioner response on the warning on possible archive:	July 3, 2018

III. COMPETENCE

Competence <i>Ratione personae</i>:	Yes
Competence <i>Ratione loci</i>:	Yes
Competence <i>Ratione temporis</i>:	Yes
Competence <i>Ratione materiae</i>:	Yes, American Convention (deposit of instrument of ratification on July 28, 1978)

IV. DUPLICATION OF PROCEDURES AND INTERNATIONAL *RES JUDICATA*, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

Duplication of procedures and International <i>res judicata</i>:	No
Rights declared admissible	None
Exhaustion of domestic remedies or applicability of an exception to the rule:	February 4, 2014
Timeliness of the petition:	April 10, 2007

¹ In accordance with article 17.2.a of the Rules of Procedure of the Commission, Commissioner Francisco José Eguiguren Praeli, a Peruvian national, did not take part in the discussion or disposition of the instant matter.

²

³ Articles 23,3, 25.1 and other concordant articles of the Universal Declaration of Human Rights..

⁴ The observations of each party were duly notified to the other party.

V. ALLEGED FACTS

1. The petitioner denounces the violation of his human rights, due to the fact that the Personnel Management Office of the Judicial Power of Peru has not paid him the entire Compensation for Service Time (hereinafter "CST") that corresponds to him for his cessation of work, after having served as Judge for more than 28 uninterrupted years.

2. The petitioner explains that he resigned from his position as Judge of the Judiciary on August 11, 1993 and that his working career of more than twenty eight years was acknowledged through Management Resolution No. 414-94-GP/PJ, dated April 21, 1994. He alleges that this resolution granted him a permanent severance pension, which was never paid despite his repeated requests and requirements in administrative proceedings. The petitioner explains that, upon exhausting the administrative proceedings, he filed a lawsuit before the Permanent Labor Court of Lima, which granted the Judicial Power a period of 3 days to pay him S/. 22,581.16 (*nuevos soles*) for the concept of the CST owed, plus legal interests.⁵

3. The petitioner indicates that the Judicial Power continued to default on payments, so an expert report was required to calculate interest, which determined the sum of S/.29,859.70. He indicates that the total debt (CST plus interest) amounted to S/. 52,440.86 and it was not until January 2005 that the Judicial Power began paying its debt through tiny installments. On May 3, 2011, the petitioner informed that the Judicial Power owed him S/. 3,125.52 (*nuevos soles*) in concept of expansion of legal interests, which were judicially claimed, but again unfulfilled.

4. The petitioner argues that the Judicial Power unreasonably delayed the process by challenging each of the resolutions issued by the court through appeals and annulment proceedings that made no progress, and were thus sanctioned with fines of one or two URPs.⁶ The petitioner claims compensation for excessive and unjustified delay in the payment of his benefits.

5. The State, for its part, considers that the petition must be considered inadmissible on account of the lack of *ratione materiae* competence, as the petitioner claim refers to the right to work but the Protocol of San Salvador only allows individual petitions to be filed before the Inter-American Commission on the grounds of the violation of union rights and the right to education.

6. Notwithstanding the foregoing, the State indicates that by means of resolution N° 3011-1998-GG-GAyF-SP/PJ of July 31, 1998, the petitioner's CST was acknowledged for S/. 23,213.40 (*nuevos soles*), together with S/. 632.24 (*nuevos soles*) as payment to his account (credit), with a balance payable of S/. 22,581.16. It indicates that the payment of S/.16,956.83 (*nuevos soles*) was authorized through administrative resolution No. 644-2006-GG-PJ of December 27, 2006, a sum that reduced the outstanding amount to S/. 5,624.33 (*nuevos soles*). The State alleges that the payment of this last sum was authorized by administrative resolution N° 1447-2012-GPEJ-GG-PJ of August 13, 2006. The State points out that the intention was to cancel the debt owed in less time, but the total payment of the credit could not be made due to the lack of authorized budget credits.

7. The State indicates that, after this, the payment of the sum of S/. 3125.52 (*nuevos soles*) was authorized by means of social benefits settlement N° 000189, a credit that was recognized by means of the administrative resolution of the Personnel and Judicial Rank Management Office N° 0509- 2013-GPEJ-GG-PJ of April 23, 2013. Therefore, the State requests that the petition be declared inadmissible because the total debt on account of CST that the petitioner has claimed has been canceled.

VI. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

⁵ Resolution N° 1014-96-GG-GR y S-SP-PJ, dated August 28, 1996, adopted by the Personnel Supervisor of the Judicial Power and recognizing a debt of S/. 23,213.40 was deemed to be an executory document.

⁶ Unidad de Referencia Procesal (*Procedural Reference Unit*)

8. On the basis of information submitted by the parties, the Commission considers that the national jurisdiction was exhausted with the last resolution issued in a nullity proceeding on August 23, 2013 by the Third Labor Chamber of Lima and notified to the petitioner on February 4, 2014 on the obligation to pay money, which confirms resolution 58 issued by the ninth Labor Court of Lima, and thus the requirement established in article 46.1 (a) is met. The petition was filed on April 10, 2007, within the term established in Article 46.1 (b) of the American Convention.

VII. COLORABLE CLAIM

9. The Inter-American Commission notes that the petitioner claims compensation for an alleged excessive and unjustified delay in the payment of his labor benefits. The State, for its part, indicates that it has already paid the alleged victim the entire amount owed as well as the legal interests recognized in his favor by the domestic authorities. The petitioner has not indicated that the assertion made by the State is false nor has he presented arguments to demerit that the legal interests paid by the State constitute adequate reparation for the delay in the payment of the benefits. Therefore, based on the allegations presented by the parties and the nature of the matter that has been studied and analyzed, the Commission concludes that the petition does not meet the requirement established in Article 47.b of the American Convention, since the facts do not *prima facie* appear to constitute violations of the Convention.

10. The Commission lacks competence to pronounce itself on the alleged violations of the Universal Declaration of Human Rights. Nevertheless, if a violation of human rights had been found, said Declaration could be used for the purposes of interpreting treaty obligations, with regards to the identical rights established in the American Convention and provided that the matter does not involve a continuous violation.

VIII. DECISION

1. To find the instant petition inadmissible;
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 Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 24th day of the month of October, 2019. (Signed): Esmeralda E. Arosemena Bernal de Troitiño, President; Joel Hernández, First Vice President; Antonia Urrejola, Second Vice President; Margarete May Macaulay, Luis Ernesto Vargas Silva, and Flávia Piovesan, Commissioners.