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REPORT No. 134/25
PETITION 1585-15
ADMISSIBILITY REPORT

ANALÍA JULIETA VIGANÓ
ARGENTINA

Electronically approved by the Commission on July 21, 2025.

Cite as: IACHR, Report No. 134/25. Petition 1585-15. Admissibility. Analía Julieta Viganó.
Argentina. July 21, 2025.

I. PETITION DETAILS

Petitioner:	Laura Alejandra Calógero
Alleged victim :	Analía Julieta Viganó
Respondent State:	Argentina ¹
Rights invoked:	Articles 8 (right to a fair trial), 21 (private property), 23 (political rights), 24 (equality before the law), and 25 (judicial protection) of the American Convention on Human Rights ²

II. PROCEEDINGS BEFORE THE IACHR³

Filing of the petition:	October 6, 2015
Additional information received during the study stage:	November 4, 2015
Notification of the petition to the State:	October 18, 2021
The State's First Response:	April 5, 2022
Warning about possible archiving:	September 18, 2020 and April 16, 2024
Response of the petitioner to the warning of possible archiving:	September 28, 2020, and May 14, 2024

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 the instrument of ratification on September 5, 1984)

IV. DUPLICATION OF PROCEEDINGS AND INTERNATIONAL RES JUDICATA, CHARACTERIZATION, EXHAUSTION OF DOMESTIC REMEDIES AND TIME LIMIT FOR SUBMISSION

Duplication of procedures and International <i>res judicata</i>:	No
Rights declared admissible:	Articles 8 (Right to a Fair Trial), 23 (Political Rights), 24 (Equality before the Law), and 25 (Judicial Protection) of the American Convention
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, under the terms of Section VI
Timeliness of the petition:	Yes, under the terms of Section VI

V. POSITION OF THE PARTIES**From the petitioner**

1. The petitioner alleges that Mrs. Viganó was a victim of discrimination in the process of appointing national judges of first instance for labor, as a result of her marriage to a union leader who was opposed to the Argentine government at the time. She points out that, despite having 35 years of judicial

¹ Pursuant to Article 17(2)(a) of the Commission's Rules of Procedure, Commissioner Andrea Pochak, an Argentine national, did not participate in the debate or decision in this case.

² Hereinafter "The Convention" or "American Convention."

³ The observations of each party were duly forwarded to the opposing party.

experience and having obtained first place in the order of merit in Competition No. 185 convened by the Council of the Magistracy of the Nation to fill seventeen vacancies, she was systematically excluded from the appointment proposals submitted by the National Executive Branch.

About the process of appointing judges

2. According to him, in this contest the alleged victim obtained 181 points, surpassing the second place by 4.5 points and with a wide difference with respect to the rest of the applicants. However, the Executive Branch omitted to propose his name to the Senate, opting for candidates located in lower positions. She indicates that this omission occurred in a context of public conflict between the ruling party and her husband, Julio Juan Piumato, secretary general of the Union of Judicial Employees of the Nation (UEJN) and leader of the opposition General Confederation of Labor (CGT). He alleges that his exclusion was an indirect reprisal for this union membership.

Internal processes

3. Faced with this situation, on November 13, 2012, the petitioner filed an amparo action with a precautionary measure, requesting that the interviews before the Senate in relation to Competition No. 185 be suspended and that it be ordered to be included in the nomination proposal. However, on December 9, 2013, the Federal Administrative Court No. 1 rejected it, based on the alleged "loss of purpose", since judges had already been appointed for several vacancies. Although it appealed the decision, on April 3, 2014, the National Court of Appeals in Federal Administrative Litigation confirmed the rejection, reiterating that the case had become abstract. The requested precautionary measure was also denied in both instances. Against this decision, the petitioner filed an extraordinary federal appeal, which was declared inadmissible by the aforementioned Chamber on August 20, 2014, reiterating that the object of the action had become abstract and that the alleged arbitrariness of the contested decision was not susceptible to consideration.

4. Faced with this, on September 3, 2014, he filed a complaint and on December 30, 2014, the Supreme Court of Justice of the Nation rejected it, indicating that the brief "does not meet the requirements related to the number of pages and the accompaniment of copies established in Articles 4 and 7, subsection c, of the regulations approved by the agreement 3/2007". Against that refusal, he filed an appeal for reconsideration with clarification on 12 January 2015, which was dismissed on 7 April 2015.

Closing arguments

5. Based on the foregoing considerations, the petitioner complains that the Judiciary engaged in undue delays and arbitrary decisions, avoiding a ruling on the merits of the case – that is, the alleged discrimination – and relying on merely formal grounds. He argues that there were still unfilled vacancies in the competition at the time of filing his claim, so there was no loss of real purpose. It adds that the rulings failed to consider the background of the alleged victim, the merit obtained, and the fact that people with lower scores or with disciplinary sanctions were finally appointed.

6. It also questions that the use of discretionary criteria in the appointment process and the absence of effective judicial control allowed for covert retaliation to be exercised against Mrs. Viganó, based on her family environment. He considers that this violated his right of access to public office under conditions of equality, his right to equality and non-discrimination and his right to effective judicial protection.

7. It also states that the lack of appointment affected the employment and professional stability of the alleged victim, since, although she was appointed as a substitute judge in 2013, that appointment was without the agreement of the Senate and in conditions of institutional precariousness. She states that the situation persisted until 2016, the year in which she was finally appointed as a titular judge by Decree 794/16. In view of the foregoing, he requests that the Inter-American Commission declare the international responsibility of the Argentine State for having tolerated an institutional mechanism that allowed the discriminatory and unfounded exclusion of his judicial candidacy, without granting an effective judicial remedy for reparation.

Of the Argentine State

8. For its part, the State replies that the petitioner did not properly exhaust domestic remedies by not adjusting its submissions to the legal requirements applicable in the processing of the amparo action. It states that, although an extraordinary federal appeal and a complaint appeal were filed, they were not correctly articulated or with procedural requirements for their filing, which prevented their substantive treatment.

9. It also maintains that the petition was filed outside the six-month period provided for in Article 46(1)(b) of the American Convention. It explains that the Supreme Court of Justice of the Nation rejected the complaint filed by the petitioner on December 30, 2014, and that the presentation to the IACHR was not made until October 2015, that is, ten months after the notification of that decision. It adds that the subsequent filing of an appeal for reversal or reversal, decided on April 7, 2015, cannot be considered a valid means of interrupting the calculation of the time limit, given that such remedies are inadmissible in the Argentine procedural system, and their presentation was unreasonable, in accordance with both national and inter-American jurisprudence.

10. On the other hand, the State alleges that the claim that motivated the petition has already been satisfied, since Dr. Viganò was finally appointed as a National Labor Judge of First Instance in 2016, by Decree 794/16, and currently holds the position in Labor Court No. 31. It points out that, in accordance with Article 48(1)(b) of the Convention and Article 42(1) of the IACHR's Rules of Procedure, the petition must be archived when the original grounds for the complaint do not exist. It adds that the purpose of the system of individual cases is not to analyze abstract institutional situations, but rather concrete facts that represent a current violation or with a current projection of damage, which is not verified in this case.

11. In addition, Argentina rejects that there has been a violation of the rights alleged. In particular, it argues that the judicial selection system in Argentina does not automatically guarantee the designation of the applicant with the highest score, since the process culminates with a complex federal act that includes the proposal of the Executive Branch and the agreement of the Senate, in which multiple criteria of suitability are weighed, not limited to technical merit. It cites Supreme Court jurisprudence according to which suitability for entry into the public service is not abstract, but relative to the set of functions of the position, and maintains that international law does not impose a single model of judicial selection based exclusively on bankruptcy results. It adds that there is insufficient evidence to prove political discrimination, and that the mere existence of suspicions or suspicions is not sufficient to impute international responsibility.

12. In short, the State concludes that the petition does not present facts that constitute a violation of human rights, that the alleged situation has already been remedied through the effective designation of the petitioner, and that the procedure followed was respectful of the constitutional and conventional framework in force in the Argentine Republic. For all these reasons, it requests the Commission to archive the petition.

13. Finally, the State raises what it calls "the late transfer of the petition." It states that, despite the fact that the IACHR Executive Secretariat received the petition on October 6, 2015, the document was not forwarded until October 18, 2021. In the State's view, the delay in processing the petition creates a serious problem that affects the proper exercise of his right to defense.

VI. ANALYSIS OF EXHAUSTION OF DOMESTIC REMEDIES AND TIME LIMIT FOR SUBMISSION

14. The Commission observes that the petitioner mainly claims that Mrs. Viganò was excluded for discriminatory reasons from the process of appointing labor judges, despite her merit and track record, because of her relationship with an opposition union leader. In order to exhaust domestic remedies, the alleged victim initiated an amparo proceeding and, following an unfavorable decision by the National Court of Appeals in Federal Administrative Litigation, filed a complaint and a reversal appeal, but the Supreme Court also dismissed them. The last decision was issued on April 7, 2015.

15. In this scenario, the State questions the fact that it argues that the alleged victim did not exhaust the remedies under domestic law correctly, since his extraordinary federal remedy and complaint did

not comply with the procedural requirements required by domestic law. It also maintains that the petition is untimely. In its opinion, the six-month period provided for in Article 46(1)(b) of the Convention should be counted from the resolution of the complaint appeal, given that the remedy of reversal was inadmissible by definition and, therefore, did not constitute an acceptable case of procedural continuity. Additionally

16. Despite Argentina's submissions, the Commission notes that the State does not provide more exhaustive information or arguments to corroborate that there has indeed been an improper use of domestic law. With regard to the extraordinary federal appeal, it notes that the National Court of Appeals in Federal Administrative Litigation rejected it on substantive grounds, reiterating the arguments used by the previous instances.

17. With respect to the complaint appeal, the Commission notes that the Supreme Court of Justice dismissed it because of a formality referring to the number of pages of the brief and the number of copies. The IACHR has previously established that *"it cannot consider that the petitioner has duly complied with the requirement of prior exhaustion of domestic remedies if they have been rejected on reasonable and non-arbitrary procedural grounds."*⁴ In the present case, the Inter-American Commission notes that the information available on the rejection of the last remedies is not sufficient to discredit the filing of the complaint remedy as a validly exhausted remedy. Consistent with its precedents in similar matters, the IACHR considers that it considers that the relationship between the last remedies and the formal requirements of Agreement No. 4/2007 can be evaluated at the merits stage to determine whether it is consistent with the norms of the American Convention⁵.

18. Given the scenario described above, and in accordance with its previous decisions, the Commission also considers that the filing of an appeal for reconsideration to challenge the dismissal of the complaint appeal, on mere formal issues relating to the number of pages of the brief, represented the last reasonable attempt to access justice and obtain a final ruling analyzing the judgment under appeal⁶.

19. For the reasons set forth above, the Commission considers that the present case meets the requirement set forth in Article 46(1)(a) of the American Convention. In addition, given that the petition was filed on October 6, 2015, and that the Supreme Court of Justice's judgment rejecting the motion for reconsideration was issued on April 7, 2015, this petition also satisfies the time limit rule set forth in provision 46(1)(b) of the same treaty.

20. Finally, the Commission takes note of the State's complaint regarding the alleged untimely transmission of the petition. In this regard, the IACHR notes that neither the American Convention nor the Commission's Rules of Procedure establish a time limit for the transmission of a petition to the State as of its receipt, and that the time limits established in the Rules of Procedure and in the Convention for other stages of the process are not applicable by analogy⁷. In addition, the IACHR, in its Admissibility Report No. 79/08⁸, clarified that:

the time elapsed from the time the Commission receives a complaint until it transmits it to the State, in accordance with the norms of the inter-American human rights system, is not, in itself, a reason for deciding to archive the petition. As this Commission has pointed out, *"in the processing of individual cases before the Commission, there is no concept of lapse of instance as an ipso jure measure, due to the mere passage of time"*

21. In addition, in support of the foregoing, the Inter-American Court of Human Rights has established precisely on this point that:

This Court considers that the criterion of reasonableness, on the basis of which the procedural rules must be applied, implies that a period of time such as the one proposed by the State would have to be clearly provided for in the rules governing the procedure. This is particularly so considering that the alleged victims' right to petition,

⁴ IACHR, Report No. 90/03, Petition 0581/1999. Inadmissibility. Gustavo Trujillo González. Peru. October 22, 2003, para. 32.

⁵ IACHR, Report No. 180/20, Petition 270-11. Admissibility. Mateo Amelia Griselda. Argentina. July 6, 2020, paras. 6, 10, 13.

⁶ IACHR, Report No. 245/23. Petition P-1359-11. Admissibility. Nelida Manopella and Guillermo Puy. Argentina. October 7, 2023.

⁷ See, for example, IACHR, Report No. 56/16. Petition 666-03. Admissibility. Luis Alberto Leiva. Argentina. December 6, 2016, para. 25.

⁸ IACHR, Report No. 79/08, Petition 95-01. Admissibility. Marcos Alejandro Martín. Argentina. October 17, 2008, para. 27.

established in Article 44 of the Convention, would be at stake because of actions or omissions of the Inter-American Commission over which the alleged victims have no control⁹.

22. In this regard, the Inter-American Commission reiterates its commitment to the victims, based on which it makes constant efforts to guarantee at all times the reasonableness of the deadlines in the processing of their processes; and the appropriate balance between justice and legal certainty.

VII. ANALYSIS OF COLORABLE CLAIM

23. For purposes of admissibility, the Commission must decide whether the alleged facts can establish a violation of rights, as stipulated in Article 47(b) of the American Convention, or whether the petition is "manifestly groundless" or "manifestly out of order," in accordance with Article 47(c) of the American Convention. In this regard, the Commission reiterates that the criterion for assessing the admissibility phase differs from that used to rule on the merits of a petition; At this stage, the IACHR must carry out a *prima facie* analysis to determine whether the petition establishes the basis for the possible or potential violation of a right guaranteed by the Convention, but not to establish the existence of a violation of rights.

24. In the present case, the Commission observes that the petitioner states that, despite having obtained first place in the order of merit in Competition No. 185 convened by the Council of the Judiciary of the Nation to fill seventeen judicial vacancies, Mrs. Viganò was repeatedly excluded from the appointment proposals made by the National Executive Branch. without objective or transparent justification. He alleges that this exclusion occurred in indirect retaliation for his marriage to a trade union leader opposed to the Argentine government at the time, which would constitute covert political discrimination and a misuse of power.

25. In this regard, the Commission recalls that according to the jurisprudence of the Inter-American Court of Human Rights, when the State exercises a legal power for a purpose other than the one established, pursuing an ulterior objective (political or discriminatory), there is a misuse of power, which implies a violation of the right to equality, freedom of thought, and political¹⁰ participation. Based on the foregoing, in the opinion of the IACHR, the petitioner's allegations, if true, could characterize a violation of the right of access under general conditions of equality to public functions enshrined in Article 23(1)(c) of the American Convention, as well as in Article 24 of the same instrument.

26. In addition, the Commission considers that the allegations relating to the lack of an effective judicial remedy that would allow the alleged exclusion to be challenged in a substantive manner, as well as the alleged refusal of the domestic courts to examine the merits of the case, could characterize a possible violation of the rights recognized in Articles 8 and 25 of the American Convention. In particular, it is alleged that the judicial authorities rejected the amparo action based on formal arguments on the alleged loss of purpose, without analyzing the indications of discrimination or offering adequate protection against allegedly arbitrary decisions in the framework of a public appointment procedure.

27. For the reasons outlined above, the Commission considers that the petitioners' allegations merit an analysis of the merits, since, if the petition's assertion is corroborated, this could constitute possible violations of Articles 8, 23, 24, and 25 of the American Convention, in relation to Article 1(1) thereof.

28. With respect to Article 21 (right to private property) of the American Convention, the Commission considers that the petitioner does not provide arguments or information that would make it possible, *prima facie*, to identify that its possible violation is internationally attributable to the Argentine State.

⁹ Inter-American Court H.R., *Case of Mémoli v. Argentina*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 22, 2013, Series C No. 295, paragraph 32.

¹⁰ I/A Court H.R., *Case of San Miguel Sosa et al. v. Venezuela*, Merits, Reparations, and Costs. Judgment of February 8, 2018. Series C No. 348, paras. 191 and 221; and *Case of Granier et al. (Radio Caracas Televisión) v. Venezuela*, Preliminary Objections, Merits, Reparations and Costs, Judgment of June 22, 2015, Series C No. 293, paragraphs 189-197.

VIII. DECISION

1. To declare the present petition admissible in relation to Articles 8, 23, 24, and 25 of the Convention; and
2. To declare this petition inadmissible under Article 21 of the Convention; and
3. To notify the parties of this decision; to continue with the analysis of the merits of the matter; and 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 21 days of the month of July, 2025. (Signed:) Arif Bulkan, Second Vice President; Edgar Stuardo Ralón Orellana, Roberta Clarke, and Gloria Monique de Mees, Commissioners.