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REPORT No. 146/20
PETITION 1665-10
REPORT ON ADMISSIBILITY

MARTA SUSANA CAPELLA
ARGENTINA

Electronically approved by the Commission on June 17, 2020.

Cite as: IACHR, Report No 146 /20, Petition 1665-10. Admissibility. Marta Susana Catella.
Argentina. June 17, 2020.

I. INFORMATION ABOUT THE PETITION

Petitioner	Marta Susana Catella and Center for Legal and Social Studies (CELS)
Alleged victim	Marta Susana Catella
Respondent State	Argentina
Rights invoked	Article 8 (fair trial) and 25 (judicial protection) of the American Convention on Human Rights, ¹ in relation to Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects) thereof

II. PROCEEDINGS BEFORE THE IACHR²

Date of filing	November 19, 2010
Additional information received during initial review	March 11, 2014 and June 26, 2016
Notification of the petition	December 6, 2016
State's first response	November 22, 2017
Additional observations from the petitioner	February 1 and August 3, 2018; September 27, 2019; January 1, 2020

III. COMPETENCE

<i>Ratione personae</i>	Yes
<i>Ratione loci</i>	Yes
<i>Ratione temporis</i>	Yes
<i>Ratione materiae</i>	Yes, American Convention (deposit of instrument of ratification on September 5, 1984)

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	Article 8 (fair trial), 23 (participation in government), and 25 (judicial protection) of the American Convention, in relation to Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects) thereof
Exhaustion or exception to the exhaustion of remedies	Yes, July 4, 2013
Timeliness of the petition	Yes

V. SUMMARY OF FACTS ALLEGED

1. The petitioner claim that Ms. Catella worked as a Justice in the Superior Court of the Province of Misiones until February 8, 2006, when she was removed following her impeachment, filed by a mayor from that province facing impeachment at that time. It claims that in the impeachment trial, her right to due process and the principle of judicial independence were violated. Overall, the petitioner holds that Ms. Catella's arbitrary removal from office illustrates the institutional crisis in several provincial jurisdictions of Argentina back then.

2. The petitioner submits that on December 27, 2005, the Charging Committee of the Legislature of Misiones processed a complaint for impeachment from Mr. Benítez, the then-mayor of the town of San Vicente, Misiones, against Ms. Catella on charges of malfeasance in office and reckless prevarication. It also submits that the trial began when the complaint was still being processed and that the complaint was decided upon in secret. Thus, the alleged victim's trial began following a resolution by the Charging Committee, notified on January 6, 2006.

¹ Hereinafter "American Convention" or "Convention."

² The observations submitted by each party were duly transmitted to the opposing party.

3. The petitioner asserts that on January 9, 2006, she requested to access the whole case file and that on January 11, she filed a motion to dismiss all the hearings and proceedings. On January 12, 2006, the appeals were rejected because the provincial Constitution and the legislation in force do not provide for pleading during impeachment unless there is a formal accusation. The alleged victim also says that it is unclear when the defendant officer can answer the charges.

4. The petitioner claims that on January 26, 2006, she filed her defense and her objection regarding two members of the Charging Committee. Nevertheless, the Charging Committee rejected these objections. On January 27, 2006, it again rejected the motion to dismiss and a request for witness evidence. Accordingly, on February 8, 2006, Justice Catella was removed from office on the grounds of malfeasance in office and reckless prevarication in office. The first ground involved three charges: (a) approval of a fraudulent impeachment trial; (b) waiver of a constitutional review of a judicial process filed by San Vicente's Town Council; and (c) passing of contradictory judgments, thus failing to take the legal and juridical precautions required for any decision.

5. According to the petitioner, she filed an appeal for annulment in which she claimed that her rights to due process and of defense had been violated in the proceeding. On March 2, 2006, the Legislature's Charging Committee rejected the appeal because the legal framework does not provide for appeals against judgments issued in an impeachment trial. The petitioner says that, as a result, she appealed against this refusal with the Superior Court of Misiones, which admitted it on October 8, 2007, on considering that the appeal for annulment had been wrongfully rejected. However, on February 13, 2009, the Superior Court overturned the appeal for annulment on considering that the alleged victim had not proved the violation of her right to due process that she alleged. The petitioner holds that on February 27, 2009, she challenged that resolution by filing a special federal appeal and that on August 25, 2009, the same Superior Court found it inadmissible. Subsequently, she appealed against this refusal with the National Supreme Court of Justice, but it dismissed it on June 4, 2013, claiming that Ms. Catella had not proved the alleged violation of the structural rules of due process.

6. The petitioner submits that Justice Catella's temporary suspension was decided without her having been allowed to access all the information about the case filed against her and that none of the remedies she presented were decided within a reasonable time, as it took her over seven years to exhaust the legal remedies, while the impeachment trial concluded within one and a half month.

7. For its part, the State insists on the belated notification of the petition, as this was notified to it over six years after its submission to the IACHR.

8. As for the subject of this petition, Argentina argues that, in order to protect the alleged victim's rights derived from the American Convention, the judiciary of Misiones exceptionally processed the petitioner's objections, even though this is not provided for under the applicable law. It also claims that this exception was extended so that a judicial body other than the competent body would review the resolution at issue.

9. It submits that the alleged victim was able to file domestic remedies and that these were adjudicated by impartial and independent courts in keeping with the rules of due process. It holds that the fact that the petitioner has not had an outcome in line with their judicial claims does not establish alone a violation of the guarantees embodied in the Convention.

10. The State further submits that the petition does not disclose any facts that may establish a violation of the alleged victim's human rights and that, from the petition, it is clear that the petitioning party expects that the Commission will adjudicate as a fourth instance of jurisdiction and review the factual and legal considerations by administrative and judicial bodies acting within their sphere of competence.

VI. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

11. The petitioning party argues that although, in this case, the domestic legislation does not provide for a specific remedy to challenge the judgment by the Charging Committee, Ms. Catella did file

(although unsuccessfully) all the domestic remedies available, the last of which was decided by the National Supreme Court of Justice on June 4, 2013. Thus, it says that all domestic remedies were exhausted. For its part, the State does not controvert that the petitioner has exhausted their domestic remedies.

12. In this case, the Commission takes note that, as the petitioners said, this complaint is about the lack of effective and adequate remedies under the applicable law, for the alleged victim to protect her rights in the impeachment trial that led to her removal from office. Nevertheless, it also observes that, to protect her rights, the alleged victim filed several legal remedies and that, regardless of whether they were effective or not, which will be analyzed in the merits stage, she filed and pursued them in good faith and that the last decision was the Supreme Court of Justice's dismissal of the special federal appeal on June 4, 2013. Thus, the Commission deems that the alleged victim exhausted her domestic remedies under the terms of Article 46.1.a of the American Convention.

13. Besides, since the IACHR received the petition on November 19, 2010, the petition meets the requirement established in Article 46.1.b of the American Convention.

14. Furthermore, the Inter-American Commission takes note of the State's claim that the petition's notification was tardy. With respect to this, the IACHR reiterates that neither the American Convention nor the IACHR Rules of Procedure set forth a deadline for referring petitions to the State upon receipt and the deadlines that the Rules and the Convention set forth for other stages in the processing do not apply by analogy.

VII. COLORABLE CLAIM

15. Given these considerations and having examined the factual and the legal elements presented by the parties, the Commission deems that the claims submitted by the petitioner, which concern the lack of effective and adequate remedies for appealing the alleged victim's removal from office as a Justice and the lack of judicial guarantees in the case against her, are not manifestly groundless and require a substantive analysis. Especially, considering previous decisions by the Inter-American Commission on similar cases regarding Argentina.³ If proven to be true, the facts alleged in the petition may constitute violations of the rights protected by Articles 8 (fair trial), 23 (participation in government), and 25 (judicial protection) of the American Convention, in line with Articles 1 (obligation to respect rights) and 2 (domestic legal effects) thereof.

16. Regarding the claim of the State about the fourth instance of jurisdiction, the Commission reiterates that, under its mandate, it is competent to declare a petition admissible and rule on its merits when this refers to domestic proceedings that may be contrary to the rights protected by the American Convention.

VIII. DECISION

1. To declare this petition admissible regarding Articles 8, 23, and 25 of the American Convention, in accordance with Articles 1 and 2 thereof; and

2. To notify the parties of this decision; to continue with the analysis on the merits; and 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 17th day of the month of June, 2020. (Signed): Joel Hernández, President; Antonia Urrejola, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay, Esmeralda E. Arosemena Bernal de Troitíño, and Julissa Mantilla Falcón, Commissioners.

³ IACHR, Report No. 34/18. Admissibility. Guillermo Juan Tiscornia and Family. Argentina. May 4, 2018, par. 21; IACHR, Report No. 104/17. Petition 1281-07. Admissibility. Mirta Carmen Torres Nieto. Argentina. September 7, 2017, pars. 12-13; IACHR, Report No. 56/16. Petition 666-03. Admissibility. Luis Alberto Leiva. Argentina. December 6, 2016, pars. 36-39; IACHR, Report No. 9/16. Petition 149-02. Admissibility. Eduardo Rico. Argentina. April 13, 2016, pars. 43-47.