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REPORT No. 266/20
PETITION 952-15
REPORT ON INADMISSIBILITY

JEAN SEAS ACOSTA
COSTA RICA

Approved electronically by the Commission on October 1, 2020.

Cite as: IACHR, Report No. 266/20. Petition 952-15 Inadmissibility. Jean Seas Acosta. Costa Rica.
October 1, 2020.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Jean Seas Acosta
Alleged victim:	Jean Seas Acosta
Respondent State:	Costa Rica
Rights invoked:	Articles 7 (personal liberty), 11 (privacy), and 13 (freedom of thought and expression) of the American Convention on Human Rights ¹ ; in relation to its article 1.1 (obligation to respect rights); Article 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women ² ; and other International Treaties ³

II. PROCEDURE BEFORE THE IACHR⁴

Filing of the petition:	July 30, 2015
Additional information received during the study stage:	August 11, 2018
Notification of the petition to the State:	April 29, 2019
State's first response:	July 23, 2019
Petitioner's additional observations:	September 29, 2019
State's additional observations:	April 2, 2020

III. COMPETENCE

Competence Ratione personae:	Yes
Competence Ratione loci:	Yes
Competence Ratione temporis:	Yes
Competence Ratione materiae:	Yes, American Convention (instrument of ratification deposited on April 8, 1970); and Convention of Belém do Pará (instrument of ratification deposited on December 7, 1995)

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

Duplication of procedures and International res judicata:	No
Rights declared admissible	None
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

¹ Hereinafter "the American Convention" or "the Convention".

² Hereinafter "the Convention of Belém do Pará".

³ Articles 2.2 and 3 of the International Covenant on Economic, Social, and Cultural Rights; article 24. d.f. of the Convention on the Rights of the Child; the International Conference on Human Rights held in Tehran from April 23 to May 13, 1968 and the International Conference on Population and Development, held in Cairo from September 5 to 13, 1994, which refers to reproductive rights and health reproductive.

⁴ The observations submitted by each party were duly transmitted by the Commission to the opposing party.

V. SUMMARY OF THE ALLEGED FACTS

1. Mr. Jean Seas Acosta (hereinafter also “the petitioner” or “the alleged victim”), affirms that since 2011 he began the necessary formalities before the Costa Rican Social Security Fund (hereinafter also “the CCSS”) to opt for a definitive sterilization, this after “*a reflection of a social, economic, ecological, and philosophical nature*”. In this sense, he points out that they scheduled an appointment on May 28, 2014 for surgical intervention at the San Juan de Dios Hospital; however, the doctor in charge of carrying out the procedure refused to do it for personal reasons, and considered that it was not prudent, given that the petitioner was a young man, 24 years old at the time, single and without children. The petitioner also indicates that the doctor considered that the clinical file did not have the necessary formalities for this surgical intervention.

2. In response to these facts, the petitioner appealed to the Constitutional Chamber of the Supreme Court of Justice by means of an *amparo* action against the CCSS, since it considered that the doctor refused to carry out the surgical intervention based only on the principle of authority and mere opinion; as well as in the administrative argument of requirements validation. The petitioner states that, through Judgment No. 2015-09134 of June 18, 2015 the court indicated that it was not a comptroller of the legality of the Administration's actions or resolutions, and therefore rejected the appeal outright; and recommended to raise the disagreement or claim with the same authority appealed.

3. Following the recommendation of the Constitutional Court, the petitioner went to the Services Comptroller of the San Juan de Dios Hospital to present the claim. Thus, through Official Letter No. 425-J-U.2015, from Interim Chief of the Urology Service, the petitioner was told that “*according to the collegiate criteria of the members of the Urology Service, vasectomies are not performed on young patients who have never had children, despite the fact that we respect the criteria of the patient requesting this procedure, if we do not agree, we do not carry out this procedure*”. The petitioner points out that in the face of this refusal, he again went to the Constitutional Chamber, this time indicating not a negligence in the administrative process of validation of requirements, but in the face of the flat refusal to carry out the family planning surgical procedure. Through Resolution No. 2015011450 of July 28, 2015, the Constitutional Chamber declared it inadmissible to express itself on the situation, based on the same allegations. This highest instance court considered that: “[t]he fact that this time it is a medical council that rejects his request, instead of a professional, individually, does not change the criteria of this Court.” Faced with this situation, the petitioner went to the Office of the Ombudsman, where he was informed that he should opt for the judicial route, since that office had no power to order the CSSC to perform the surgery.

4. On the other hand, and referring to the procedure of his petition before the IACHR, Mr. Jean Seas Acosta states that after the petition was transferred to the State, when the process of the petition was formalized, the Ministry of Foreign Relations and Worship in an expeditious and timely manner organized the performance of the surgery for July 5, 2019 at the Dr. Clorito Picado Clinic of the Tibás-Uruca-Merced Health Area. In fact, the petitioner stresses that the medical care provided “*had nothing to envy the private health services of the first world*”; and that there were no post-operative complications. Finally, the alleged victim states that he leaves the course of his petition to the Commission and that the assistance of the IACHR helped to ensure that his rights were not violated.

5. The State, for its part, argues that the petition is inadmissible for the following reasons: (a) it does not meet the admissibility requirements set forth in Article 46 of the Convention and 31 of the Commission's Rules of Procedure; (b) The petitioner intends that the IACHR acts as a fourth instance, reviewing a ruling of the Constitutional Chamber of the Supreme Court of Justice with which he is dissatisfied; (c) violation of the principle of subsidiarity; and (d) the petitioner's claim was already satisfied, since the necessary steps were taken with the Ebais de Santa Ana and the Medical Directorate of the Clorito Picado Clinic, and the surgical sterilization was carried out on July 5, 2019. The State underscores the importance of the petitioner's compliance with the medical care provided by the CCSS in his surgical procedure. And it states that the petitioner does not allege violations of due process in the processing of the internal judicial remedies that he raised.

6. The State further indicates that the CCSS prepared in January 2019 a "*Guidance Guideline to Conduct Surgical Sterilization in the Health Services of the Costa Rican Social Security Fund*", which is in the process of validation. This document is addressed to regional directors, directors of hospitals and health areas, health personnel involved in counseling and prescribing contraceptive and protective methods, and all health personnel; with the objective of guaranteeing that users who request surgical sterilization from the CCSS receive counseling on reproductive and sexual health based on a comprehensive, interdisciplinary, and respectful perspective of their reproductive and sexual rights.

VI. ANALYSIS OF THE EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

7. The petitioner argues the exhaustion of domestic remedies, having gone to the Constitutional Chamber of the Supreme Court of Justice by means of amparo actions; before the Office of the Comptroller of Services of the San Juan de Dios Hospital, administratively; and even before the Ombudsman's Office. The State, for its part, questions the exhaustion of domestic remedies, in accordance with the provisions of Article 46 of the Convention and 31 of the Commission's Rules of Procedure.

8. According to the information provided, the final decision of the Constitutional Chamber of the Supreme Court of Justice, Resolution No. 2015011450, was issued on July 28, 2015; and the petition presented to the IACHR on July 30 of that same year. Therefore, it is clear that the present petition formally complies with the provisions established in Articles 46.1.a) and 46.1.b) of the American Convention.

VII. ANALYSIS OF COLORABLE CLAIM

9. The IACHR observes that this claim is essentially based on the alleged discriminatory and arbitrary act of the State by initially denying the petitioner to be practiced a vasectomy in the Costa Rican public health system. This is the reason why the State has violated the petitioner's rights to personal liberty and dignity, freedom of thought and expression, equality between men and women, to freely and responsibly decide the number of children, among others.

10. However, the Commission notes that it is an established fact by both parties that on July 5, 2019, the vasectomy requested by the petitioner was actually performed, and the conformity of the petitioner with the medical care received. In this sense, the Commission observes that according to Article 47.c) of the American Convention, a petition will be declared inadmissible when "it results from the petitioner's own presentation or from the State's manifestly unfounded petition or communication or its total is evident inadmissibility". In this sense, the Commission has already established in the preceding section of this report that the petition formally meets the basic admissibility requirements established in Article 46 of the Convention; however, under the terms of the aforementioned article 47.c), the petition is inadmissible, since the object claim raised by the petitioner has already been addressed by the State, in conditions that are satisfactory to him. Furthermore, it is not alleged in the petition, nor does it appear from the facts, that there has been any damage to the petitioner due to the time elapsed since he first requested that his vasectomy be performed by the CCSS and the moment in which this procedure was performed..

VIII. DECISION

1. To declare this petition inadmissible; and
2. To notify the parties of this decision; 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 1st day of the month of October, 2020. (Signed): Joel Hernández, President; Antonia Urrejola, First Vice-President; Esmeralda E. Arosemena Bernal de Troitiño and Stuardo Ralón Orellana, Commissioners.