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REPORT No. 125/23
PETITION 20-11
REPORT ON INADMISSIBILITY

TEODORO MANGEL LEÓN
COSTA RICA

Approved electronically by the Commission on August 1, 2023.

Cite as: IACHR, Report No. 125/23, Petition 20-11. Inadmissibility. Teodoro Mangel León.
Costa Rica. August 1, 2023.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Alexander Rodríguez Campos
Alleged victim:	Teodoro Mangel León
Respondent State:	Costa Rica
Rights invoked:	Articles 8 (fair trial) and 25 (judicial protection) of the American Convention on Human Rights ¹

II. PROCEEDINGS BEFORE THE IACHR²

Filing of the petition:	January 7, 2011
Additional information received at the stage of initial review:	December 16, 2011
Notification of the petition to the State:	November 1, 2016
State's first response:	June 13, 2017
Notification of the possible archiving of the petition:	September 28, 2020
Petitioner's response to the notification regarding the possible archiving of the petition:	August 12, 2021

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 made on April 8, 1970)

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:	Yes, in the terms of section VII
Timeliness of the petition:	Yes, in the terms of section VII

V. POSITION OF THE PARTIES*Allegations of the petitioner*

1. The petitioner alleges that Mr. Teodoro Mangel León did not have access to a remedy that would allow for a full review of his conviction for the crime of rape. The petitioner also claims that this criminal sanction also affected other judicial guarantees, due to the irregularities committed during the proceedings and the inadequate assessment of the body of evidence.

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

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

2. The petitioner reports that Mr. Mangel León is a gynecologist, and that in the exercise of his profession, on February 28, 2003, he performed a gynecological examination on a patient, which consisted of inserting his fingers into her vagina. He states that despite the fact that the alleged victim performed the procedure with complete regularity, said patient subsequently filed a criminal complaint against him, stating that Mr. Mangel León “*extrapolated the scope of vaginal touch and diverted the direction of an act, in principle medical, to develop his own particular purposes*”.

3. Based on this statement, the Public Ministry initiated criminal case number 03-0000351-0609 against the alleged victim, and after several hearings, on February 23, 2010, the Criminal Court of San José sentenced Mr. Mangel León to twelve years of imprisonment for the crime of rape.

4. Against this decision, the alleged victim's defense counsel filed a cassation remedy, arguing that: i) the first instance criminal court did not adequately assess the evidence; and ii) the existence of flaws in the grounds of the ruling. In addition to this appeal, and despite the fact that it was not provided for at that time in the legislation in force, on May 3, 2010 Mr. Mangel León filed an appeal, alleging: (i) the violation of the principle of presumption of innocence, due to the reversal of the burden of proof; (ii) the violation of the rule of the judge predetermined by law, since the testimony of the complainant was given before a judge who subsequently did not participate in the trial hearings; (iii) the violation of the principle of legality, since the facts denounced did not constitute the crime of rape; (iv) the absence of grounds to justify such a high sentence; and (v) that he was convicted for a criminal type not foreseen in the indictment.

5. However, the petitioner holds that on July 8, 2010, the Court of Criminal Cassation declared the aforementioned arguments inadmissible, considering that the judgment of first instance adequately assessed all the evidence provided to the process; and, without reversing the burdens of the process, it reasonably considered the plausibility of the complainant's account as proven, given its coherence, consistency and validity based on the various expert opinions provided. Likewise, it considered that there was no procedural defect or flaw in the decision that merited its nullity, since the entire process was conducted based on a certain factual framework and the alleged victim had a private defense counsel, who was able to participate with full regularity in all the stages of the process.

6. The petitioner adds that after filing this petition, the alleged victim filed an appeal for review of the decision dismissing his cassation appeal, in which he argued that: i) the Court of Criminal Cassation did not conduct a comprehensive review of the conviction; ii) that irregularities were committed in the processing of his appeal; and iii) that the decision lacked adequate substantiation. However, on July 29, 2011, the Court of Criminal Cassation rejected the request for review, considering that the sentence adequately addressed all the claims presented by Mr. Mangel León, and therefore, it was not appropriate to re-examine said allegations.

7. Based on these considerations, the petitioner argues that the domestic courts did not guarantee the right to a comprehensive review of the conviction, since the Court of Criminal Cassation limited itself to a formalistic analysis and did not analyze the various contradictions in the contested judgment. Furthermore, the petitioner adds that the decision to convict the alleged victim did not have an adequate evidentiary basis that would undermine the principle of presumption of innocence, since the ruling was based only on indirect evidence and inferential reasoning.

Allegations of the Costa Rican State

8. For its part, the State replies that the petitioner reported other aspects relevant to the analysis of the present case. In this regard, it reports that on June 8, 2012, Mr. Mangel León filed a review proceeding, based on Transitory III of Law No. 8837, claiming: i) violation of the right set forth in Article 8.2.h) of the American Convention; ii) that illegal evidence was introduced in his trial; and iii) that the principle of impartiality was affected. Nonetheless, the State specifies that on July 23, 2012, the Court of Appeals for Criminal Sentencing, through Resolution 1425-2012, rejected this appeal, concluding that there were no compelling allegations that would merit declaring the nullity of the decision, or even holding a new hearing, since no illegal evidence was incorporated into the process and no judicial guarantees were affected. In order

to reach this conclusion, said body analyzed each of the grievances alleged by the alleged victim and refuted them by means of a duly motivated decision.

9. In spite of this, Mr. Mangel León was dissatisfied with the aforementioned resolution, so he filed an appeal for revocation and defective procedural activity, questioning the motivation deployed by the aforementioned court. However, on August 10, 2012, the Court of Appeals for Criminal Judgment rejected said action, arguing that it was not proven that the decision in question had incurred in any arbitrariness.

10. Based on these factual considerations, the State contends that the petition is inadmissible for failure to exhaust domestic jurisdiction. It holds that at the time the petition was filed, the criminal proceedings against Mr. Mangel León were still in progress, and therefore, the domestic remedies had not been exhausted prior to the filing of this claim.

11. Likewise, it notes that the petitioner omitted to inform in his brief that the alleged victim also subsequently filed a review proceeding, based on Transitory III of Law No. 8837, against his conviction, which was dismissed by the Court of Cassation on July 29, 2011. In the State's view, this situation clearly demonstrates that, by the date the petition was filed, Mr. Mangel León had not duly exhausted domestic jurisdiction before lodging his petition, and it therefore requests the IACHR to reject this claim for failure to comply with the requirement set forth in Article 46.1.a) of the American Convention.

12. Finally, Costa Rica argues that the alleged facts do not characterize a human rights violation attributable to it. On the contrary, it argues that the petitioner seeks to have the Commission act as a fourth judicial instance and review the findings of fact and law made by the domestic judges and courts that acted within the sphere of their competence.

13. It stresses that the Costa Rican legal system provides for a series of remedies, mainly judicial, in order to offer individuals the means to determine different types of rights. Along these lines, it specifies that such remedies comply with the rules of due process and guarantee fair access and allow for a balanced discussion in the proceedings, and thus respect the norms of the American Convention. Therefore, it considers that it is not the Commission's responsibility to analyze the present case, since it has not been proven that there is a domestic judgment that has been handed down without due process or that has apparently violated any other right guaranteed by the Convention.

14. The State contends that despite the fact that Mr. Mangel León filed an appeal when it was not provided for in domestic law, the Cassation Court conducted a comprehensive review of the conviction and analyzed in depth all of his arguments. In the State's opinion, this demonstrates that the appeal was not formalistic, since the court admitted it for analysis and studied each of the arguments presented, in order to issue a judgment in accordance with the principles of sound criticism.

VI. PREVIOUS CONSIDERATIONS

15. The Commission notes that part of the main purpose of this petition is to question the violation of the right to appeal a judgment, as provided for in Article 8.2.h) of the American Convention. Therefore, since several decisions have been issued within the inter-American system on this matter, in light of the amendments implemented in Costa Rican criminal procedure legislation, the IACHR deems it necessary to review these rulings in order to identify standards that will allow it to adequately resolve the present petition.

16. Thus, in the judgment in the case of *Herrera Ulloa vs. Costa Rica* of July 2, 2004, the Inter-American Court of Human Rights³ examined the regulation established in the Criminal Procedural Code in force since 1998; and concluded that it did not have "*a remedy that would allow the higher court to conduct a comprehensive and integral analysis or review of all the issues debated and analyzed by the lower court*", given

³ Hereinafter the "Inter-American Court" or the "IHR Court".

the limitations of the regulation of cassation appeals in the criminal law field⁴. Consequently, the IACHR declared that the Costa Rican State violated Article 8.2.h) of the Convention in relation to its articles 1.1 and 2 to the detriment of Mr. Mauricio Herrera Ulloa, by failing to guarantee his right to appeal the judgment; and ordered Costa Rica to “*adapt its domestic legal system to the provisions of Article 8.2.h of the American Convention, in relation to Article 2 thereof*”.⁵

17. Because of this judgment, Costa Rica reformed the regulation of its criminal procedural system in order to have a regulation in accordance with the obligations contemplated in Article 8.2.h) of the American Convention. Thus, on June 6, 2006, Law No. 8503, known as the “Law on the Opening of Criminal Cassation” entered into force, which amended and added various articles of the Criminal Procedural Code with regard to appeals for cassation and review. Likewise, and relevant to the present case, such law established in its Transitory I, a special review procedure for “*persons convicted of a criminal act prior to this Law, who have been prevented from filing a cassation remedy against the sentence, due to the rules that governed its admissibility at that date [...] invoking, in each case, the grievance and the factual and legal aspects that could not be heard in cassation*”. By virtue of this, the Inter-American Court considered that “*by means of the ground for review created by Transitory I, a person convicted of a criminal offense could, in principle, obtain a comprehensive review of his or her sentence, including both factual and legal matters*”.⁶

18. In addition, both the Commission and the IACHR Court also noted that on June 9, 2010, Law No. 8837 was published, called “Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings,” in force as of December 9, 2011, which created and regulated the appeal. In addition, Transitory III of said law regulated two additional assumptions: i) for persons whose sentences were final at the time the law came into force, it was established that they may file, for one time only, a review procedure within the first six months; and ii) for persons whose cassation appeals were pending resolution at the time the law came into force, it was established that they may request the conversion of the cassation appeal already filed to an appeal under the new law.

19. As a consequence of the aforementioned modifications, in the judgment of the case of *Amrhein and others vs. Costa Rica* of April 25, 2018, the Inter-American Court re-evaluated the Costa Rican criminal procedural regulation; and expanded its legal criteria both with respect to the exhaustion of domestic jurisdiction, as well as the analysis of the merits of cases on the same subject matter.

20. With regard to the first point, the Commission highlights that, in the aforementioned case, the IACHR Court considered that the alleged victims should have filed the special review appeal based on Transitory I of Law 8503 of 2006 during the admissibility process of the petition, since it was specifically intended for persons with final convictions; and therefore, “*the fact that it would be an extraordinary remedy cannot be decisive, per se, to conclude its ineffectiveness*”⁷. Consequently, following the aforementioned jurisprudence, the Commission considers that, in order to determine the admissibility of a case on this issue, it must determine whether or not the aforementioned remedy was available to the alleged victims after the issuance of their conviction, and if so, whether or not they exhausted said remedy.

21. Finally, for purposes of the analysis of the characterization of the petitions, the Commission notes that the Inter-American Court concluded in the aforementioned judgment that it was not appropriate to “*declare a violation of Article 2 of the American Convention for the way in which the Costa Rican recourse system is regulated, nor for the way in which the State addressed the situation of persons whose sentences were already final prior to the entry into force of Laws 8503 and 8837, since, by means of said reforms, it remedied the*

⁴ IHR Court. Case of Herrera Ulloa vs. Costa Rica. Preliminary Exceptions, Merits, Reparations and Costs. Judgment of July 2, 2004. Series C No. 107, para.167.

⁵ IHR Court. Case of Herrera Ulloa vs. Costa Rica. Preliminary Exceptions, Merits, Reparations and Costs. Judgment of July 2, 2004. Series C No. 107, para.198.

⁶ IHR Court. Case of Amrhein and others vs. Costa Rica. Preliminary Exceptions, Merits, Reparations and Costs. Judgment of April 25, 2018. Series C No. 354, para. 262.

⁷ IHR Court. Case of Amrhein and others vs. Costa Rica. Preliminary Exceptions, Merits, Reparations and Costs. Judgment of April 25, 2018. Series C No. 354, para. 48.

*deficiencies in the application of the recourse norms[...]*⁸. Likewise, it recalls that in the compliance monitoring resolution of November 22, 2010 in the case of *Herrera Ulloa vs. Costa Rica*, the Court positively assessed the reforms introduced in the criminal procedural legislation and, by virtue of such modifications, concluded that “*by guaranteeing the possibility of a broad review of the sentence issued by a criminal trial court at the domestic level*”⁹, Costa Rica had complied with adapting its domestic legislation.

22. Without prejudice to the foregoing, the Commission stresses that the aforementioned laws recognized the possibility for those whose convictions had already become *res judicata* to file a review proceeding, although subject to compliance of certain requirements. In the case of Law 8503, the Commission points out that the appellant was required to invoke in its filing “*the grievance and the factual and legal aspects that could not be heard in cassation*”. In turn, Transitory III of Law 8837 required that for the review procedure to proceed, the convicted person “*has to have previously alleged a violation of Article 8.2. h) of the Convention*”.

23. In that sense, the Commission reaffirms that the way in which the review procedure established by Transitory I of Law 8503 was regulated could generate limitations in terms of the accessibility of the appeal, and, consequently, does not in itself guarantee the right to a full review of the conviction to all those who were convicted during the original text of the Criminal Procedural Code¹⁰. The same conclusion can be reached with regard to the appeal for review established in Transitory III of Law 8837, since the law included the requirement of having previously alleged the violation of the right to appeal as a procedural requirement for the review remedy.

24. Nonetheless, the Commission recognizes, first of all, that the Constitutional Chamber of the Supreme Court of Justice of Costa Rica has repeatedly referred in its rulings to the need to “*ensure the right to appeal, excluding formalities that would prevent the review of convictions, in order to comply with the provisions of Article 8.2.h of the Convention*”.¹¹

25. Likewise, the IACHR considers that, despite the obstacles to the admissibility of the appeal incorporated in the wording of Transitory I of Law 8503, the appeal for review recognized therein represented an additional opportunity for a convicted person to obtain a comprehensive review of his or her sentence. This comprehensive review depended, in essence, on the way in which the judges of the appellate courts interpreted the procedural norms in force in light of the jurisprudence of the Constitutional Chamber of the Supreme Court of Justice of Costa Rica, Article 8.2.h of the American Convention and the decision of the IHR Court in the *Herrera Ulloa* case.

26. In particular, and in line with the Court's decision, the Commission observes that, bearing in mind that such legislative amendments to the Costa Rican appeal system were adopted as a result of the rulings of the bodies of the Inter-American human rights system, it is reasonable as grounds for admissibility of the appeal that the interested parties should invoke the possible errors that may have been committed by the judge or court of the lower court.

27. Consequently, taking into account the specificities that exist with regard to this issue in the Costa Rican system, as a result of the judgments handed down by the Inter-American system, and specifically with what was stated by the IHR Court in the “*Amrhein*” case, the Commission considers that it is not appropriate to make an abstract evaluation of each of the remedies available in the criminal procedural legislation, but rather “*a case-by-case analysis of the appeals actually filed by the alleged victims in order to determine whether the manner in which they were resolved in the Costa Rican appeal system, taking into account its reforms, respected their right to a comprehensive review of their convictions*”¹². Which, in principle, requires

⁸ IHR Court. Case of Amrhein and others vs. Costa Rica. Preliminary Exceptions, Merits, Reparations and Costs. Judgment of April 25, 2018. Series C No. 354, para. 265.

⁹ IHR Court. Case of Herrera Ulloa vs. Costa Rica. Supervision of Compliance with Judgment. Judgment of the Inter-American Court of Human Rights of November 22, 2010, para.16.

¹⁰ IACHR. Report No. 33/14. Case 12.820. Merits. Manfred Amrhein and others. Costa Rica. April 4, 2014. Paras. 217 to 220.

¹¹ IHR Court. *Case of Amrhein and others Vs. Costa Rica*. Preliminary Exceptions, Merits, Reparations and Costs. Judgment of April 25, 2018. Series C No. 354, para. 260.

¹² IHR Court. *Case of Amrhein and others Vs. Costa Rica*. Preliminary Exceptions, Merits, Reparations and Costs. Judgment of April 25, 2018. Series C No. 354. para. 266.

an analysis of the merits by the IACHR, unless the information provided by the parties shows that the facts raised by the petitioner do not *prima facie* characterize violations of the American Convention, in the terms of Article 47 thereof.

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

28. Regarding the State's questioning of the fact that the exhaustion of domestic jurisdiction occurred after the petition was filed, the IACHR reiterates its constant position that the analysis of the requirements set forth in Articles 46 and 47 of the Convention must be made in light of the situation in force at the time the admissibility or inadmissibility of the claim is decided. It is very frequent that during the processing of a case there are changes in the exhaustion of domestic remedies. However, the system of petitions and cases ensures that both the State and the petitioner have a full opportunity to provide information and allegations in this regard.¹³

29. Based on this premise, the Commission observes that, according to the information provided by the State itself, in accordance with the jurisprudence of the Inter-American Court in the case of *Amrhein and others v. Costa Rica*, Mr. Mangel León complied with a review procedure, based on Transitory III of Law No. 8837, in order to question the alleged violation of his right to a full review of his conviction. Thus, as a result of this action, on July 23, 2012, the Court of Criminal Sentence Appeals, by means of Resolution 1425-2012, rejected the aforementioned review procedure.

30. Consequently, since the alleged victim used the avenue provided by the State to question possible violations of the right set forth in Article 8.2.h) of the American Convention, the Commission considers that the instant case meets the requirement set forth in Article 46.1.a) of the American Convention. Likewise, since the decision that exhausted domestic jurisdiction was issued when the present case was under admissibility review, the Commission also concludes that this petition meets the time limit requirement established in Article 46.1.b) of the Convention.

VIII. ANALYSIS OF COLORABLE CLAIM

31. The Commission observes that the petitioner mainly questions three points: i) the violation of the right to appeal the judgment; ii) the violation of the presumption of innocence, due to the inadequate grounds for Mr. Mangel León's conviction, and the reversal of the burden of proof in his case; and iii) the violation of fair trial guarantees, due to the manner in which the criminal proceeding against him was conducted.

32. Regarding the first aspect, the Commission recalls that the right to appeal a judgment before a different and higher judge or court is one of the minimum guarantees that every person subjected to a criminal investigation and proceeding has. Its purpose is to ensure the review of an adverse judgment in such a way that there is the possibility of correcting judicial decisions which are contrary to law and to prevent an unjust decision from acquiring the status of *res judicata*¹⁴. In this vein, it is irrelevant for international human rights law the denomination or name by which the available remedy is designated¹⁵. What matters is that the remedy contemplated in the domestic regulations meets a series of standards and, in this sense, complies with

¹³ IACHR, Report No. 35/16, Petition 4480-02. Admissibility. Carlos Manuel Veraza Ustusuástegui. Mexico. July 29, 2016, para. 33.

¹⁴ IHR Court. Case of Herrera Ulloa vs. Costa Rica. Preliminary Exceptions, Merits, Reparations and Costs. Judgment of July 2, 2004. Series C No. 107, para.158 through 161; IHR Court. Case of Mendoza and others vs. Argentina. Preliminary Exceptions, Merits and Reparations. Judgment of May 14, 2013. Series C No. 260. para.242.

¹⁵ IHR Court., Case of Herrera Ulloa vs. Costa Rica. Judgment on Preliminary Exceptions, Merits, Reparations and Costs. July 2, 2004. Series C No. 107, para. 165; UN Human Rights Committee. Gómez Vázquez vs. Spain. Communication No. 701/1996. Decision of August 11, 2000, para.11.1.

being timely¹⁶, accessible¹⁷, efficient¹⁸ and, in particular, that allows for a comprehensive review of the conviction.¹⁹

33. Regarding this last point, the Inter-American Commission indicated in the Abella case with respect to Argentina:

Article 8.2.h refers to the minimum characteristics of a remedy that controls the correctness of the judgment, both material and formal. In this sense, from a formal point of view, the right to appeal the judgment before a higher judge or court, as referred to in the American Convention, must in the first place proceed [...] with the purpose of examining the misapplication, non-application or erroneous interpretation of the rules of law which determine the decisive part of the judgment. The Commission also considers that, in order to guarantee the full right of defense, this remedy must include a material review of the interpretation of the procedural rules that have influenced the decision of the case, when they have produced an irrevocable nullity or caused a lack of defense, as well as the interpretation of the rules concerning the assessment of evidence, whenever they have led to an erroneous application or non-application of such rules.²⁰

34. Along these lines, the IACHR has stressed that, although the right to appeal does not necessarily imply a new trial or a new hearing, as long as the reviewing court is not prevented from studying the facts of the case, it is necessary in light of Article 8.2.h of the Convention that there be the possibility of pointing out and obtaining a response with regard to errors that may have been committed by the judge or court of the lower instance. This means that it is not possible to exclude from the scope of the appeal certain categories such as factual issues, the manner in which the evidence was incorporated into the proceedings and the evaluation made of it by the lower instance judges. The form and means of review will depend on the nature of the issues in dispute, as well as the particularities of the criminal procedural system of the respective States.²¹

35. Based on the aforementioned considerations, in the instant case the Commission notes that on February 23, 2010, the Criminal Court of San José sentenced Mr. Mangel León to twelve years imprisonment for the crime of rape. In response, the alleged victim filed an appeal in cassation and, additionally, an appeal, questioning both factual and legal aspects of the first instance decision. However, on July 8, 2010, the Court of Criminal Cassation dismissed these appeals, after analyzing all the claims raised.

36. In this regard, based on a detailed analysis of the latter decision, the Commission considers that the Court of Criminal Cassation re-examined the manner in which the trial court assessed the body of evidence in the case, and in response to the grievances raised by Mr. Mangel León's defense, it explained why the reasoning used to justify his conviction did not affect the principles of sound criticism and the presumption of innocence, nor did it incur in any contradiction or reversal of the burden of proof. Furthermore, the Commission appreciates that the court also analyzed issues related to the application of the substantive criminal law, specifically with respect to the subsumption of the petitioner's conduct to the crime of rape. Therefore, the Commission considers that, *prima facie*, no arguments or evidence have been presented that would make it possible to identify any restriction or limitation that would have prevented a comprehensive analysis of the challenges raised by Mr. Mangel León against his first instance conviction.

¹⁶ IHR Court., Case of Herrera Ulloa vs. Costa Rica. Judgment on Preliminary Exceptions, Merits, Reparations and Costs. July 2, 2004. Series C No. 107, para.158

¹⁷ IHR Court. Case of Barreto Leiva vs. Venezuela. Judgment on the Merits, Reparations and Costs, November 17, 2009. Series C No. 206, para. 90.

¹⁸ IHR Court. Case of Amrhein and others vs. Costa Rica. Preliminary Exceptions, Merits, Reparations and Costs. Judgment of April 25, 2018. Series C No. 354. paras. 272-274.

¹⁹ IHR Court. Case of Norín Catrimán and others (Leaders, Members and Activist of the Mapuche Indigenous People) vs. Chile. Merits, Reparations and Costs. Judgment of May 29, 2014. Series C No. 279. para. 270.

²⁰ IACHR. Report No. 55/97. Case 11.137. Merits. Juan Carlos Abella. Argentina. November 18, 1997. Para. 261.

²¹ IACHR, Report No. 172/10, Case 12.561, Merits, César Alberto Mendoza and others ("Prison and life imprisonment of adolescents"), Argentina, November 2, 2010, para. 189.

37. Without prejudice to the foregoing, the Commission notes that, following the filing of a review proceeding based on Transitory III of Law No. 8837, on July 23, 2012, the Court of Criminal Sentence Appeals, by means of Resolution 1425-2012, again analyzed the alleged victim's challenges to his conviction and once again dismissed them. According to the information in the casefile, the Commission notes that in the aforementioned resolution it examined all of Mr. Mangel León's arguments, referring mainly to the lawfulness and plausibility of certain evidence and expert opinions used to support the conviction, and dismissed them by means of a duly justified decision. Consequently, the IACHR concludes that, *prima facie*, no elements have been provided to identify a possible violation of the right contemplated in Article 8.2.h) of the Convention.

38. As for the second point, concerning the grounds for the conviction of the alleged victim, the Commission observes that, although the domestic courts used the testimony of the complainant as the main basis for the conviction of Mr. Mangel León, the body of evidence also consisted of witness statements and expert opinions that corroborated the coherence, consistency and credibility of the victim's account. The Commission also notes that the authorities also requested expert opinions to determine whether the medical procedure followed by Mr. Mangel León was in accordance with medical practice. Thus, based on these elements, the domestic courts considered that the commission of the crime of rape was duly proven, since Mr. Mangel León's actions deviated from proper medical practice.

39. In the Commission's opinion, the aforementioned elements make it possible to verify that the domestic courts, with respect for the principle of the presumption of innocence, relied on various measures to corroborate the testimony of the complainant and to determine whether the actions of Mr. Mangel León were in accordance with the standards of medical practice. Consequently, since the conviction was based on the use of different evidentiary means and had, in principle, a reasonable basis, the Commission does not identify any elements that allow characterizing, *prima facie*, a possible violation of Articles 8 and 25 of the American Convention.

40. Finally, the Commission does not identify any allegation in the petitioner's position that would indicate any violation of due process in the manner in which the criminal proceedings against the alleged victim were conducted. According to the information available in the casefile, the alleged victim's representatives had the opportunity to actively participate in the proceedings and to broadly question factual and legal aspects of the case.

41. Based on these considerations, the Commission concludes that the present case does not present elements that could involve a possible violation of the rights enshrined in the American Convention in the terms of its Article 47.

IX. DECISION

1. To find the instant 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 August 2023. (Signed:) Margarete May Macaulay, President; Roberta Clarke, Second Vice President; Julissa Mantilla Falcón and Carlos Bernal Pulido, Commissioners.