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REPORT No. 134/23
PETITION 433-13
REPORT ON ADMISSIBILITY

ISY OBED MURILLO MENCÍAS AND OTHERS
HONDURAS

Approved electronically by the Commission on August 1, 2023

Cite as: IACHR, Report No. 134/23, Petition 433-13. Admissibility. Isy Obed Murillo Mencías and others. Honduras. August 1, 2023.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Committee of Relatives of the Detained and Missing in Honduras (COFADEH)
Alleged victim:	Isy Obed Murillo Mencías, Gedalia Murillo, José David Murillo Sánchez and Rebeca Murillo.
Respondent State:	Honduras
Rights invoked:	Articles 4 (life), 8 (fair trial), 15 (assembly) and 25 (judicial protection) of the American Convention on Human Rights ¹ , in relation to its Article 1.1 (obligation to respect rights)

II. PROCEEDINGS BEFORE THE IACHR²

Filing of the petition:	March 15, 2013
Additional information received at the stage of initial review:	July 25, 2017
Notification of the petition to the State:	October 26, 2017
State's first response:	August 14, 2018 ³
Additional observations from the petitioner:	June 23, 2021, October 22, 2021 and February 27, 2023
Additional observations from the State:	May 2, 2022
Notification of the possible archiving of the petition:	May 12, 2021 ⁴
Petitioner's response to the notification regarding the possible archiving of the petition:	November 28, 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 instrument of ratification made on September 8, 1977)

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	Articles 4 (life), 5 (humane treatment), 8 (fair trial), 13 (freedom of thought and expression), 15 (assembly) and 25 (judicial protection) of the American Convention, in relation to Article 1.1 (obligation to respect rights)

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

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

³ The State requested an extension on February 7, 2018 to issue its response, on the grounds of the complexity of the petition.

⁴ In a response of June 23, 2021, the petitioners stated that they had not received any communication from the IACHR which attached the State's response, and confirmed their interest in continuing with the processing of the petition.

Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, the exception of Article 46.2.c) of the American Convention applies
Timeliness of the petition:	Yes, in the terms of Section VI

V. POSITION OF THE PARTIES

Allegations of the petitioner

1. The petitioners denounce the death of young Isy Obed Murillo Mencías during a march that took place on July 5, 2009, as part of the protests following the *coup d'état* that took place in Honduras that year. The 19-year-old Isy Murillo died of a bullet wound to the head after members of the army fired on the marchers. The petitioners allege the lack of a proper investigation and punishment of this incident, and that this also constituted a violation of the right to assembly.

2. By way of context, both parties report on the events that took place in Honduras on June 28, 2009, when members of the Honduran army detained then President José Manuel Zelaya, who was removed from office by the National Congress on the same date, by a legislative decree that condemned his administrative conduct; he was subsequently exiled to Costa Rica.

3. In response to the protests against the *coup d'état*, on June 28, 2009, the Honduran Armed Forces deployed military devices with fighter planes and brigades of soldiers in Tegucigalpa and other cities. Petitioners also report that the police cut electricity, telephone and internet networks; that a 48-hour curfew was decreed⁵; that international television networks were banned from broadcasting; and that journalists were arrested.

4. On July 5, a protest was organized at the Toncontín International Airport in Tegucigalpa, because former President Zelaya announced his arrival at this airport. Around ten thousand people attended this mobilization. At 4:00 pm the armed forces began to throw tear gas bombs towards a fence and a wall of the airport, and began to shoot at the protesters for a period of 15 to 20 minutes, so they sought protection behind a stone wall in a nearby restaurant. Despite the fact that the participants began to flee and try to protect themselves, nineteen people were wounded, including the alleged victim, who was wounded by a bullet to the head and, after being helped by other protesters, he later died at the Hospital Escuela.

5. The petitioners contend that the security forces did in fact fire lead bullets, live ammunition, at the marchers, and not, as some claimed, that only rubber bullets were fired⁶. Thus, they do not conceive that there is an exception to the use of excessive force and that there was no legitimate defense because there were no threats from the protesters, it was not used in combat, and it was not performed in a rational, necessary and proportionate manner.

6. The petitioners hold that the death of the alleged victim constituted an extrajudicial execution, which is punishable under domestic law⁷; and that those responsible include not only the person who fired the weapon but also the senior military commanders and even the civilians who held the power.

7. Following the death of young Isy Murillo, the Public Ministry initiated an *ex officio* investigation on July 7, 2009, with a preliminary qualification of homicide, injury and abuse of authority⁸; however, more than a decade later, the perpetrator has not been identified or prosecuted. The petitioners

⁵ With respect to the facts presented herein, the IACHR previously noted that "*the de facto government took power in Honduras on June 28, 2009 and announced a state of emergency and a curfew*"; according to the IACHR report, Honduras: Human Rights and Coup d'Etat. OEA/Ser.L/V/II. Doc. 55, December 30, 2009, paras. 88-91; and IACHR, Merits Report No. 103/13. OEA/Ser.L/V/II.149, Case 12.816, Adan Guillermo López Lone and others, Honduras. Nov. 5, 2013, para. 28.

⁶ In particular, they hold that the National Commissioner for Human Rights stated that only rubber bullets were fired.

⁷ Refer to Article 117.1 of the Honduran Criminal Code, regarding homicide with malice aforethought.

⁸ The information on the preliminary qualification of the crime was obtained from the documentation submitted by the petitioner.

denounce flaws in the criminal investigation, particularly that the authorities did not allow the weapons used in the protest to be seized by the Public Ministry for laboratory tests. In fact, they hold that the prosecutor in charge of the investigation requested before the Criminal Court of the Judicial Section of Tegucigalpa that ballistics tests be ordered, but the judge declared the request inadmissible on grounds of “*national security reasons*”, therefore, the prosecutor in charge filed remedies of reinstatement and appeal, which were declared inadmissible.

8. The petitioners hold that they have faced difficulties in accessing information on the results of the investigation. For this reason, over the years they have insisted on the continuity of the investigations, submitting briefs to the Office of the Special Prosecutor for Human Rights. Thus, they point out that on February 8, 2010 they submitted a request to the Prosecutor's Office to know the progress of the investigation, without receiving any response. Subsequently, on February 2, 2011, they requested a photocopy of the complaint 0801-2009-27544 from the General Secretariat of the Public Ministry, but they did not receive any response either. On May 17, 2011 they submitted a document to the Attorney General of the Republic regarding the denial of information by the prosecutor's office in charge of the investigation⁹. In response to this last communication, on June 28, 2011, they received information from the Prosecutor's Office about the performance of a ballistic analysis that would include more than 300 weapons, but they were asked to specify the information they required. They did so on July 26, 2011, receiving a verbal response from the prosecutor in charge, who told them that a power of attorney was missing, which they submitted on December 9, 2011; however, they did not receive any further response. On February 27, 2013 they requested again the report of Investigative Proceedings before the Prosecutor's Office, and on March 1, 2013 they were given a file on the matter.

9. It is also noted in the documents submitted by the petitioners that on October 8, 2019, the Office of the Special Prosecutor for Human Rights sent a communication to the petitioners informing them that the file related to the young Murillo was at the investigative stage and describing the proceedings that had been conducted up to that point¹⁰. Based on the facts set forth above, which would evidence a pattern of unwarranted delay in the investigations, the petitioners request the IACHR to apply the corresponding exception to the rule of exhaustion of domestic remedies.

10. As a matter of substance, the petitioners claim that the response of the judicial authorities to the death of the alleged victim has exceeded any reasonable time frame to capture, prosecute and eventually punish the perpetrators, denying the family of young Isy Murillo the right to access to justice, truth and full reparation.

11. On the other hand, the petitioners consider that the events of July 5, 2009, constitute a violation of the right to protest. They claim that this right plays a central role in the defense of democracy and human rights, and therefore the peaceful protest of July 5, 2009 was “*a citizen's expression in defense of the democratic rule of law demanding the reinstatement of President Manuel Zelaya Rosales*”. For the petitioners, the right to protest does not only include the right of mobilization to the airport, but also to provide guarantees for the peaceful development of the protest.

12. On the other hand, the petitioners denounce that the father of the alleged victim, Mr. José David Murillo Sánchez, was detained on July 9, 2009, by agents of the National Directorate of Criminal Investigation, in front of the offices of the Committee of Relatives of the Detained and Disappeared in Honduras, after giving statements about the death of the alleged victim. They claim that this detention was due to an accusation against Mr. Murillo Sánchez for the crime of attempted homicide, which had been

⁹ In this document, the petitioners expressed before the Attorney General of the Republic that the prosecutor in charge of the case “*has made clear his personal apathy for the work we do, [...] and has said publicly that COFADE hinders his work, and has unjustifiably delayed the complaints we present to him, leaving the victims in a clear defenseless situation*”.

¹⁰ The investigative steps include: i) taking witness and victim statements; ii) ocular inspection report; iii) two ballistic examinations; iv) autopsy report; v) meeting on April 22, 2019 with authorities of the Department of Crimes against Life of the Police Investigation Directorate in order to continue with the investigations; and vi) meeting on September 23, 2019 of the Special Prosecutor for Human Rights with authorities of the Task Force Unit in order to move forward with the investigations.

inactive for years¹¹, in compliance with an arrest warrant issued by the Sentencing Court of Juticalpa, Olancho on May 18, 2007. Thus, after Mr. Murillo Sánchez's arrest, which the petitioners consider illegal, he was held in the Juticalpa Penitentiary Center, in inadequate conditions. He was subsequently released and acquitted in February 2010. In addition, the alleged victim's next of kin report that they have been the victims of threats through text messages and surveillance.

Arguments of the Honduran State

13. The State, for its part, recognizes young Isy Murillo as one of the victims of the events that took place at the Toncontín International Airport on July 5, 2009, and deems his death regrettable. However, it considers that the petition should not be admitted because it does not make a precise characterization of the allegedly injured rights.

14. On the one hand, it holds that the death of young Murillo cannot be attributed to the State because it happened under a mass call and there is no "*precision as to who the perpetrator was, since the forces of law and order were there to maintain order and security at the site*". It considers that the death of the young Murillo took place in a complex and confusing scenario, which complicates the determination of the origin of the attack, so that even "*it is reasonable to assume that the bullet that killed [the alleged victim] could have come from the same rally that was taking place*". Thus, it considers that there was no failure to comply with the obligation to prevent the death of the alleged victim and that there is no evidence nor can it be inferred that those responsible for the death of the young Murillo are members of the forces of law and order.

15. The State informs that the Public Ministry, through the Special Prosecutor's Office for Human Rights, has carried out *ex officio* investigative proceedings. It specifies that there is a record of the removal of the body, photographic albums, witness statements, creation of a table with data of all the units of the forces of public order that participated in the protest, expert analysis of the weapons used, and the statement of the suspects. In spite of this, it is difficult to identify the person responsible and to file an indictment with sufficient evidence to determine which weapon caused the death of the alleged victim and who fired it. Thus, the State argues that the delay in the investigations is due to the confusing context in which the events occurred, but that the authorities have taken seriously their duty to investigate, which is one of means and not of results.

16. With respect to the alleged violation of the right of assembly, the State argues that the petitioners do not allege a specific violation of that right; and that at no time were the protesters limited in their right to assemble and move to the place of the protest. It holds that the intervention of the armed forces took place when the marchers were causing disturbances and violently threatening to invade the runway, so that the priority was to avoid a chaotic situation that would end in a tragedy due to the large number of people gathered there who "*were violently attacking public forces*". Honduras also reports that the protesters even tried to break parts of a metal fence surrounding the final perimeter of the runway, for which reason the forces of law and order used tear gas to disperse them.

17. The State concludes that the right of assembly has the characteristic of being peaceful and unarmed, that is, without altering national security and public order. Therefore, when these parameters were exceeded, the national authorities were legitimized to intervene in the way they did.

18. As to the admissibility of the instant petition, the State objects, claiming that the requirement of exhaustion of domestic remedies set forth in Article 46.1.a) of the American Convention has not been met.

19. Finally, the State refers that, in an act of recognition and reconciliation of what happened in 2009, on February 4, 2022, it issued the Law for Reconstruction which, *inter alia*, declared the square in front of the airport with the name "Isy Obed"; and also erected a symbol and a canvas with his name and that of the

¹¹ According to the petitioners, the case against Mr. Murillo Sánchez began in 2004, but the facts are not described with precision.

others who died in the events described. It also informs that it seeks to support the families of the victims through a social program that guarantees their education and survival in conditions of dignity and safety.

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

20. The Petitioner requests that the Honduran State be declared internationally responsible for the events that occurred during the march of July 5, 2009 and their continuing effects, particularly denouncing: i) the excessive use of force against the protesters; ii) the alleged extrajudicial execution of young Murillo; iii) the violation of the right to assembly; and, iv) the delay in the effective criminal investigation to punish those responsible for the events. For its part, the State alleges a lack of characterization of the alleged violations presented by the petitioner and a lack of clarity in the exhaustion of domestic remedies, considering that the criminal investigation continues to be active.

21. With regard to the deprivation of life of the young Murillo and the excessive use of force, this Commission notes that the circumstances of the death of the alleged victim presented by both parties coincide in that it occurred on July 5, 2009, during the aforementioned protest. In addition, it is recalled that the IACHR previously referred in another report to information provided on the occurrence of deaths of opponents of the *de facto* government, presumably attributable to State agents, including that of young Murillo¹².

22. Thus, due to the events of July 5, 2009, in which the alleged victim died and the alleged lack of effective investigation and criminal punishment of those responsible, the Commission stresses that when there are alleged crimes against life and integrity, as in the present case, criminal proceedings are the appropriate remedy to clarify this type of facts, judge those responsible and establish the corresponding criminal penalties, in addition to making possible other means of reparation for the family members¹³.

23. In this regard, as a general rule, a criminal investigation should be conducted promptly to protect the interests of the victims, preserve evidence and even safeguard the rights of any person who in the context of the investigation is considered a suspect. According to information submitted by both parties, the Prosecutor's Office initiated an investigation in relation to the death of the alleged victim on July 17, 2009; however, the investigation remains open. The IACHR takes note of the State's argument regarding the complexity of the facts, but observes that, to date, no conclusion has been reached in the investigations nor has the responsible party or parties been punished. This is also supported by the observations that the State of Honduras submitted for the IACHR report of December 22, 2009, signed by the President of the Supreme Court of Justice, in which they hold that: "*At present, the case is under secrecy, being investigated by the Human Rights Prosecutor's Office*"¹⁴.

24. Thus, when an unwarranted delay is alleged, the Inter-American Commission evaluates the circumstances and conducts a case-by-case analysis to determine whether it has occurred. To establish whether an investigation has been conducted promptly, the IACHR considers a number of factors, such as the time elapsed since the crime was committed; whether the investigation has gone beyond the preliminary stage; the steps taken by the authorities; and the complexity of the case. In the instant case, more than thirteen years have elapsed since the facts that are the subject of the petition and the initiation of the investigation before the Prosecutor's Office, and there is no evidence of substantive progress towards establishing material and intellectual responsibility for the facts. The Inter-American Commission stresses that, although all criminal investigations must comply with a series of legal requirements, the requirement of prior exhaustion

¹² According to the IACHR report, "Honduras: Human Rights and Coup d'Etat" OEA/Ser.L/V/II. Doc. 55. December 30, 2009, para. 239: "*On July 5, Isis Obed Murillo Mencías, 19 years old, died as a result of a gunshot wound to the head in the vicinity of the Toncontín airport in Tegucigalpa. This protest was repressed by the Armed Forces, who placed snipers in nearby buildings*". And in paragraph 92: "*Likewise, sniper shots were fired by the Armed Forces in nearby buildings. The death of young Isis Obed Murillo occurred as a consequence of this*".

¹³ IACHR, Report No. 71/12. Admissibility, Petition 1073-05, Inhabitants of the "Barão de Mauá" housing complex, Brazil, July 7, 2012, para. 22.

¹⁴ According to the IACHR report, "Honduras: Human Rights and Coup d'Etat" OEA/Ser.L/V/II. Doc. 55. December 30, 2009, para. 240.

cannot be interpreted in such a way as to produce a prolonged or unjustified impediment to access the Inter-American system¹⁵.

25. In conclusion, the Commission considers that the exception provided for in Article 46.2.c) of the American Convention, for unwarranted delay in the development of domestic judicial proceedings, is applicable to the fundamental purpose of the petition. This determination has effects for the present admissibility analysis and does not constitute a prejudgment on the merits of the petition. Likewise, considering that the death of the alleged victim occurred in 2009; the present petition was received in 2013; and that the alleged effects in terms of the lack of an adequate investigation and punishment of those responsible would extend to the present, the Commission considers that the present petition was presented within a reasonable time in terms of Article 32.2. of its Rules of Procedure.

26. In view of these considerations, it is pertinent to recall that Article 46.2 of the Convention, by its own nature and purpose, is a norm with autonomous content *vis-à-vis* the substantive norms of the American Convention. Therefore, the determination of whether the exceptions to the rule of exhaustion of domestic remedies are applicable to the case in question must be carried out prior to and separately from the analysis of the merits of the case, since it depends on a different standard of appreciation from that used to determine the possible violation of Articles 8 and 25 of the Convention.

27. For the sake of clarity in determining the factual framework of the present case, the Commission observes that the petitioners suggest that a criminal proceeding initiated years earlier against the father of the alleged victim was resumed or reactivated based on the facts of the instant petition, the Commission considers that it does not have sufficient information or arguments provided by the petitioners to consider this fact as part of the main subject matter of the petition. In any case, as the petitioners themselves hold, Mr. José David Murillo Sánchez was acquitted in February 2010, and since the instant petition was filed in 2013, this proceeding is outside the factual framework of the present case because it is out of time under the terms of Article 46.1.b) of the American Convention.

VII. ANALYSIS OF COLORABLE CLAIM

28. The petition takes place in the context of the 2008 *coup d'état* in Honduras¹⁶, the facts presented occurred during the protest on July 5, 2009 at the Toncontín airport¹⁷, when young Murillo lost his life after receiving a gunshot wound in the head. Thus, the petitioners denounce the death of the alleged victim allegedly caused by the excessive use of force by members of the Honduran armed forces; the lack of an investigation and punishment of those responsible for his death; the violation of the right to assembly in terms of the lack of protection for the protesters; and the excessive time taken in the criminal investigations.

29. For its part, the State holds that there are no violations against the alleged victim inasmuch as the State cannot be held responsible for his death; furthermore, the State holds that the violation of the right to assembly cannot be characterized, since the protesters always had the opportunity to assemble and protest. Likewise, it considers that the investigation of the facts is complex due to its very nature, so it would not be incurring in an unjustified delay. On the other hand, it holds that the exhaustion of domestic remedies by the petitioners cannot be identified.

¹⁵ IACHR. Report No. 34/15. Petition 191-07 and others. Admissibility. Álvaro Enrique Rodríguez Buitrago and others. Colombia. July 22, 2015, para. 245. And IACHR. Report No. 435/21. Petition 1-09. Admissibility. Neighbors of the Communities of the Maya Achi People in the municipality of El Rabinal. Guatemala. December 31, 2021, para. 20.

¹⁶ According to the IACHR report, "Honduras: Human Rights and Coup d'Etat" OEA/Ser.L/V/II. Doc. 55. December 30, 2009, para. 77: "Honduran Army troops entered the presidential residence and deprived the President of the Republic, José Manuel Zelaya Rosales, of his freedom. The president was taken to an air base and transferred to Costa Rica in a military plane. On the same day, the National Congress ordered the removal of President Zelaya from office and appointed the President of the National Congress as President of the Republic until presidential elections were held in November 2009".

¹⁷ According to the IACHR report, "Honduras: Human Rights and Coup d'Etat" OEA/Ser.L/V/II. Doc. 55. December 30, 2009, para. 92: "One of the protests took place on July 5 at Toncontín Airport, where thousands of supporters of President Zelaya awaited his announced return to the country. As part of the protest, violent clashes took place between the marchers and the public forces".

30. With regard to the State's assertions concerning lack of characterization, the Commission reiterates that, for purposes of admissibility, it must determine whether the facts alleged could characterize a violation of rights under Article 47.b of the American Convention, whether the petition is "manifestly unfounded" or whether it is "obviously out of order" under subsection (c) of said Article. The criteria for evaluating these requirements differ from those used to rule on the merits of a petition. Similarly, within the scope of its mandate, the Commission has the competence to declare a petition admissible if it refers to domestic proceedings that could violate rights guaranteed by the American Convention. In other words, in light of the aforementioned conventional rules, in accordance with Article 34 of the Commission's Rules of Procedure, the admissibility analysis focuses on the verification of such requirements, which refer to the existence of elements that, if true, could *prima facie* constitute a violation of the American Convention¹⁸.

31. With respect to the allegations concerning the violation of the right to assembly, this Commission recognizes that States have the duty to adopt the necessary measures to prevent acts of violence, guarantee the security of persons and public order. However, when using force in these contexts, States are obliged to guarantee and facilitate the exercise of the human rights that are at stake during protests and mobilizations, and to implement measures and mechanisms so that these rights can be exercised in practice, not as a way of hindering them¹⁹. The Inter-American Court has also ruled that citizen security cannot be based on a paradigm of the use of force that aims to treat the civilian population as the enemy, but must consist of the protection and control of civilians participating in protests²⁰. Similarly, it should be noted that the use of firearms in the context of social protests is almost never justified by the criterion of proportionality. As the IACHR has duly considered, this implies that States must implement mechanisms to effectively prohibit the use of lethal force in public mobilizations²¹.

32. Similarly, with respect to the right to freedom of thought and expression in relation to young Murillo and his participation in the protest of July 5, 2009, to demonstrate his disagreement with what he considered a *coup d'état*, the Inter-American Court emphasizes that in situations of institutional rupture, after a *coup d'état*, the relationship between the rights of assembly and freedom of thought and expression is even more manifest, especially when they are exercised jointly with the purpose of protesting against the actions of the state powers contrary to the constitutional order and to demand the return of democracy. Demonstrations and related expressions in favor of democracy must have the maximum possible protection²².

33. Regarding the allegations of violations of the right to personal integrity, the Inter-American Court has stated that any use of force that is not strictly necessary for the detainee's own behavior constitutes an attack on human dignity²³; furthermore, the effects can be extended to the alleged victim's family members not only because of the death of their relative, but also as a consequence of the lack of an adequate investigation of such death²⁴.

34. The Commission highlights the importance of the allegations of violation of the right to life of young Murillo, who perished as a result of the events that took place during the July 2009 protest, especially

¹⁸ IACHR. Report No. 143/18, Petition 940-08. Admissibility. Luis Américo Ayala Gonzales. Peru, December 4, 2018, para. 12; and IACHR. Report No. 293/20, Petition 434-09. Admissibility. Gabriel Ulises Valdez Larqué and family members. Mexico, October 13, 2020, para. 22.

¹⁹ IACHR. Special Rapporteurship for Freedom of Expression. Report on Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19, September 2019, para. 12.

²⁰ Case of Montero Aranguren and others (Catia Police Station) vs. Venezuela. Preliminary Exception, Merits, Reparations and Costs. Judgment of July 5, 2006, Series C No. 150, para. 78, and Case of Women Victims of Sexual Torture in Atenco vs. Mexico. Preliminary Exception, Merits, Reparations and Costs. Judgment of the Inter-American Court of Human Rights of November 28, 2018. Series C No. 371, para. 167.

²¹ IACHR, Annual Report 2015, chapter IV A, para. 81, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II. Doc. 57, December 31, 2009, para. 201.

²² According to the Inter-American Court of Human Rights, "Jurisprudence Notebook of the Inter-American Court of Human Rights No. 16: Freedom of thought and expression". 2021, para. 160.

²³ IACHR. Loayza Tamayo v. Peru, Preliminary Objections, Merits, Reparations and Costs, Judgment September 17, 1997, para.

²⁴ IACHR. Acosta v. Ecuador, Preliminary Objections, Merits, Reparations and Costs, Judgment March 25, 2017, para. 200.

because of the State's obligation to guarantee the creation of the conditions required to prevent violations of this inalienable right and its duty to prevent its agents from making an attempt against him²⁵.

35. In this same sense, regarding the events that occurred against young Murillo where he lost his life, it is emphasized that the obligation to investigate is the responsibility of the State, and entails the duty that, once the State authorities have knowledge of the occurrence of human rights violations, they must initiate *ex officio* and without delay, a serious, impartial, effective, prompt, exhaustive, thorough and complete investigation within a reasonable period of time, using all available legal means and aimed at determining the truth and the prosecution, capture, trial and eventual punishment of all perpetrators, especially when State officials may be or are involved. The right to know the truth constitutes a means of reparation and gives rise to an expectation of the victims that the State must satisfy. Likewise, the State has the obligation to initiate criminal proceedings when crimes that can be prosecuted *ex officio* are committed²⁶.

36. In view of these considerations and after examining the elements of fact and law exposed by the parties, the Commission considers that the allegations of the petitioner are not manifestly unfounded and require a study of the merits; since the alleged facts, if corroborated as true, could characterize violations of Articles 4 (life), 5 (humane treatment), 8 (fair trial), 13 (freedom of thought and expression), 15 (assembly) and 25 (judicial protection) to the detriment of Isy Obed Murillo Mencías and his family members in the terms of the present report.

VIII. DECISION

1. To find the instant petition admissible in relation to Articles 4, 5, 8, 13, 15 and 25 of the American Convention, in connection with Article 1.1 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 1st day of the month of August 2023. (Signed:) Margarette May Macaulay, President; Roberta Clarke, Second Vice President; Julissa Mantilla Falcón and Carlos Bernal Pulido, Commissioners.

²⁵ IACHR. *García Ibarra et al. V. Ecuador* Preliminary Objections, Merits, Reparations and Costs, Judgment November 17, 2015, Ser. C No 306, para 97.

²⁶ Special Rapporteurship for Freedom of Expression. Report on Protest and Human Rights. OEA/Ser.L/V/II IACHR/RELE/INF.22/19, September 2019, para. 257.