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**REPORT No. 221/20**  
**PETITION 820-10**  
REPORT ON ADMISSIBILITY

POLIDORO ANIBAL CABRALES NEGRETE AND OTHERS  
COLOMBIA

Approved electronically by the Commission on August 29, 2020.

**Cite as:** IACHR, Report No. 221/20, Petition 820-10. Admissibility. Polidoro Anibal Cabrales Negrete and others. Colombia. August 29, 2020.

**I. INFORMATION ABOUT THE PETITION**

<b>Petitioner:</b>	Identity withheld
<b>Alleged victim:</b>	Polidoro Anibal Cabrales Negrete and 37 other persons <sup>1</sup> , along with their families <sup>2</sup>
<b>Respondent State:</b>	Colombia
<b>Rights invoked:</b>	Articles 4 (life), 5 (humane treatment), 7 (personal liberty), 8 (fair trial), 19 (rights of the child) and 25 (judicial protection) of the American Convention on Human Rights <sup>3</sup> , in connection with article 1.1 thereof (obligation to respect rights)

**II. PROCEEDINGS BEFORE THE IACHR<sup>4</sup>**

<b>Filing of the petition:</b>	June 2, 2010
<b>Notification of the petition to the State:</b>	April 22, 2016
<b>State's first response:</b>	March 28, 2018
<b>Additional observations from the petitioner:</b>	October 30, 2018
<b>Additional observations from the State:</b>	June 17, 2019

**III. COMPETENCE**

<b>Competence <i>Ratione personae</i>:</b>	Yes
<b>Competence <i>Ratione loci</i>:</b>	Yes
<b>Competence <i>Ratione temporis</i>:</b>	Yes
<b>Competence <i>Ratione materiae</i>:</b>	Yes, American Convention (instrument of ratification deposited on July 31, 1973)

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

<b>Duplication of procedures and International <i>res judicata</i>:</b>	No
<b>Rights declared admissible</b>	Articles 4 (life), 5 (humane treatment), 8 (fair trial) and 25 (judicial protection) of the American Convention, in relation to Article 1.1 (obligation to respect rights) thereof
<b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b>	Yes, the exception of article 46.2.c) of the American Convention is applicable
<b>Timeliness of the petition:</b>	Yes, in the terms of section VI

<sup>1</sup> The petition names the following persons, all of whom died violently in the municipality of Tierralta (Cordoba) between 1981 and 2004: (1) Polidoro Cabrales Negrete, (2) Eugenio Cabrales Negrete, (3) Jairo Anaya Cordoba, (4) Juan Madera Gomez, (5) Luis Madera Payarez, (6) Silvia Rosa Gaviria Sierra, (7) Gustavo Velez Suescun, (8) Evaristo Antonio Meza Nieto, (9) Jhony Alvarez Rodriguez, (10) Miguel Hernandez Tordecilla, (11) Luis Zapata Hernandez, (12) Orlando Muñoz Benitez, (13) Jose Ramos Ardila, (14) Lucila David Ferraro, (15) Norberto de la Vega Cavadia, (16) Félix Antonio Correa Nieto, (17) Felipe Triana Gaviria, (18) Orlando Ramos Urango, (19) Eleazar Benitez Zandon, (20) Libardo Argel Gonzalez, (21) Hernando Muñoz Hernandez, (22) Juan Alvarez Murillo, (23) Gustavo Alvarez Murillo, (24) Buenaventura Marmolejo Padilla, (25) Juan Guerra Navarro, (26) Avis Perez Perez, (27) Gilberto Davila Meza, (28) Eder Arteaga Cuadrado, (29) Edinson Burgos Suarez, (30) Martha Osorio Sibaja, (31) Luis Camacho Galeano, (32) Edelfin López Carvajal, (33) Pedro Martinez Roqueme, (34) Pedro Martinez Agame, (35) Edinson Navarro Monterroza, (36) Francisco Martinez Negrete, (37) Eduardo Perez Pereira and (38) Vicente Ovidio Mejia Lara.

<sup>2</sup> For each one of the thirty-eight deceased people, the petitioners inform about the members of their respective family group, including parents, spouses, partners, siblings, and children, for a total of 210 people.

<sup>3</sup> Hereinafter "the American Convention".

<sup>4</sup> The observations submitted by each party were duly transmitted to the opposing party.

## V. ALLEGED FACTS

1. The petitioner claims the international responsibility of the Colombian state for the violent death of thirty-eight people in the municipality of Tierralta (Córdoba) between 1981 and 2004, in several places and circumstances, and at the hands of different private armed actors. The petition argues with regard to all of them, in general terms, that they worked in agricultural activities, that they were apparently killed by the paramilitary group United Self-Defense Forces of Colombia (*Autodefensas Unidas de Colombia - AUC*), and that their murders were perpetrated with the State's connivance. However, the petition presents no information on the reasons for which the State allegedly acted as an accomplice, propitiator or enabler of any of the deaths; the only information provided on this matter, regarding all of the deceased people, is the following:

In the jurisdiction of the municipality of Tierralta, department of Córdoba, Republic of Colombia, the aforementioned persons, who worked in agricultural activities, were subjected to selective detention and execution, by illegal groups, presumably paramilitaries belonging to the United Self-Defense Forces of Colombia (AUC), who apparently acted with the assent of the authorities, according to the versions and the claims made by the relatives of the victims and corroborated by the other claimants, according to the facts reported in the corresponding claims filed before the different state organisms, copies of which are attached hereto.

According to our clients' versions, some of the relatives of the aforementioned victims have been subjected to forced displacement by illegal groups, which motivated them, once the generalized state of fear was mitigated, to file criminal complaints for the facts occurred before the respective Prosecutorial offices, with no positive results as of this date.

As for the reported facts, days or weeks before each one it was always rumored that attacks such as these were going to happen, and in the neighborhoods, shires, roads, as well as in public places, the community would say and know that these crimes were going to happen, homicides, disappearances, forced displacements, and attacks on people's property, all of which was known by State authorities, among them the police, army, mayors and other public servants, and State agents were indifferent or failed to provide aid or to request it in order to prevent the occurrence of these crimes. All of the officials of these aforementioned entities would find out about these rumors, or sometimes several of them, there was always some public official who was informed about these acts before and after they happened.

2. Next, the petitioner indicates the place and date of death of each one of the fatal victims—without providing specific information on each case—, and requests the IACHR to examine by itself the copies of the corresponding criminal complaints provided along with the petition in order to complete the factual panorama of the case. The information provided by the petitioner is described in the following table, made by the IACHR after a detailed examination of the casefile:

Name of the victim of murder	Place and date of the violent death, as reported by the petitioner	Date and of the criminal complaint and authority who received it	Alleged perpetrator according to the criminal complaint	Did the petitioner provide a copy of the criminal report, or other evidence of State responsibility for action or omission?
Polidoro Cabrales Negrete	September 30, 1996, Penjamo Street (Tierralta)	Criminal Complaint before the de Tierralta Local Prosecutor, November 10, 2006.	AUC Paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Eugenio Cabrales Negrete	November 24, 1996, public marketplace (Tierralta)	Criminal Complaint before the de Tierralta Local Prosecutor, November 10, 2006.	AUC Paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Jairo Anaya Cordoba	August 19, 1981, Lorenzo shire –	Criminal Complaint before Delegate Prosecutor 22	Unknown	Yes, a copy of the criminal complaint was provided.

	Santa Rosa farm (Tierralta)	acting before the Municipal Judges of Valencia and Tierralta, June 7, 2006.		The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Juan Madera Gomez	November 17, 1990, El Caramelo ward (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, June 20, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Luis Madera Payarez	November 17, 1990, El Caramelo ward (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, June 20, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Silvia Rosa Gaviria Sierra	July 15, 1998, El Nain shire (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, June 13, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Gustavo Vélez Suescún	July 18, 1990, El Nain ward –El Pancho farm (Tierralta)	Criminal Complaint before the Local Prosecutors' Unit of Tierralta, November 28, 2006.	AUC Paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. There is a certificate issued by the Tierralta Municipal Ombudsman's Office stating that Mr. Suescún died "in a selective individual murder, for ideological and political motives, in the framework of the internal armed conflict". No additional evidence was provided.
Evaristo Antonio Meza Nieto	May 28, 2004, Colón ward – Vía Crucito (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, June 13, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Jhony Alvarez Rodríguez	June 16, 2000, Batata ward (Tierralta)	Criminal Complaint before the Central Police Inspectorate of Tierralta, May 4, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.

Miguel Hernandez Tordecilla	December 11, 1995, San Clemente ward (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, June 15, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility; Mr. Hernandez's widow declares that he had close friends who were members of the Army, and that his murderers were members of the guerrilla or the paramilitaries. There is a certificate issued by the Tierralta Municipal Ombudsman's Office stating that Mr. Hernandez died "in a selective individual murder, for ideological and political motives, in the framework of the internal armed conflict". No additional evidence was provided.
Luis Zapata Hernandez	May 5, 1995, Bocas de Baltasar ward (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, July 17, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. There is a certificate issued by the Tierralta Municipal Ombudsman's Office stating that Mr. Zapata died "in a selective individual murder, for ideological and political motives, in the framework of the internal armed conflict". No additional evidence was provided.
Orlando Muñoz Benitez	March 6, 1983, Escolar neighborhood park (Tierralta)	Criminal Complaint before the Central Police Inspectorate of Tierralta, August 31, 2006	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Jose Ramos Ardila	January 13, 1989, Frasquillo Viejo shire (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, August 31, 2006.	Unidentified Guerrilla	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Lucila David Ferraro	January 13, 1989, Frasquillo Viejo shire (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, August 31, 2006.	Unidentified Guerrilla	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.

Norberto De la Vega Cavadia	June 24, 2000, Barro Blanco ward (Tierralta)	There is certification of the death and of the criminal investigation, issued by the Immediate Reaction Unit of the Office of the General Prosecutor of the Nation, October 12, 2006.	There is no copy of the criminal complaint	No copy of the criminal complaint was presented. There is a copy of an autopsy report and of the corpse-recovery record, where it is stated that he died of multiple stab wounds. No additional evidence was provided.
Felix Antonio Correa Nieto	January 18, 1988, Tierralta – Betansi road	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, June 30, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Felipe Triana Gaviria	April 3, 1995, Puerto de las Claras (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, May 16, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Orlando Ramos Urango	May 2, 1994, Nueva Granada shire (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, June 28, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Eleazar Benitez Zandon	May 2, 1994, Mucura guesthouse (Tierralta)	Criminal Complaint before the Tierralta Local Prosecutors' Unit, October 27, 2006.	AUC Paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. There is a certificate issued by the Tierralta Municipal Ombudsman's Office stating that Mr. Benitez died "in a selective individual murder, for ideological and political motives, in the framework of the internal armed conflict". There is a copy of the autopsy report, where it is recorded he died due to gunshot wounds. No additional evidence was provided.
Libardo Argel González	November 12, 2000, El Recreo neighborhood (Tierralta)	Criminal Complaint before the Tierralta Local Prosecutors' Unit, November 27, 2006.	Paramilitaries	Yes, a copy of the criminal complaint was provided. The criminal complaint points to locally known paramilitaries as authors of the murder. The claim states that the Police knew of the presence of that

				armed group in the region but did not protect the civilian population; there are no concrete indications that the victim requested protection measures. No additional evidence was provided.
Hernando Muñoz Hernandez	February 19, 1988, Centro neighbourhood (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, September 7, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Juan Alvarez Murillo	September 29, 1995, La Sierpe stream –Batata shire (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, May 5, 2006	There is no copy of the complaint	No copy of the criminal complaint was provided. No additional evidence was provided.
Gustavo Alvarez Murillo	September 29, 1995, La Sierpe stream –Batata shire (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, May 5, 2006	There is no copy of the complaint	No copy of the criminal complaint was provided. No additional evidence was provided.
Buenaventura Marmolejo Padilla	February 28, 1982, El Raton Medio ward (Tierralta)	Criminal Complaint before the Tierralta Local Prosecutors' Unit, October 30, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Juan Guerra Navarro	May 27, 2001, Tierralta	There is a certificate of return of his bone remains to the family issued by Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, July 14, 2003.	Unknown	A copy of the certificate of return of his bone remains issued by the Prosecutor was submitted, with no attribution of responsibilities or any additional elements of judgment.
Avis Perez Perez	October 10, 2001, Tierralta	There is a certificate of return of his bone remains to the family issued by Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and	Unknown	A copy of the certificate of return of his bone remains issued by the Prosecutor was submitted, with no attribution of responsibilities or any additional elements of judgment.

		Tierralta, July 14, 2003.		
Gilberto Davila Meza	November 9, 1988, Frasquillo-Crucito road (Tierralta)	Criminal Complaint before the Central Police Inspectorate of Tierralta, August 31, 2006.	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Eder Arteaga Cuadrado	July 4, 1999, center of Tierralta	Criminal complaint before the Tierralta Local Prosecutors' Unit, December 6, 2006.	AUC Paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Edinson Burgos Suárez	April 29, 2002, Lorenzo Abajo ward (Tierralta)	Criminal Complaint before the Central Police Inspectorate of Tierralta, October 17, 2006.	AUC Paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Martha Osorio Sibaja	September 30, 1993, San Carlos neighborhood (Tierralta)	Criminal Complaint before the Central Police Inspectorate of Tierralta, January 21, 2008.	There is no copy of the complaint	No copy of the criminal complaint was provided. No additional evidence was provided.
Luis Camacho Galeano	August 4, 1996, Tres Esquinas sector (Tierralta)	Criminal Complaint before the Tierralta Local Prosecutors' Unit, November 2, 2006.	AUC Paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Edelfin Lopez Carvajal	January 14, 2004, Tierralta municipality	Criminal Complaint before the Tierralta Central Police Inspectorate, October 30, 2006.	AUC Paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Pedro Martinez Roqueme	March 27, 2000, Tierralta municipality	Criminal complaint before the Tierralta Local Prosecutor, December 13, 2000.	Unknown	Yes, an incomplete copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Pedro Martinez Agamez	March 27, 2000, Tierralta municipality	Criminal Complaint before the Tierralta Local Prosecutor, December 13, 2000.	Unknown	Yes, an incomplete copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Edinson Navarro Monterroza	November 20, 1998, El Gurullo ward – El Aguila shire (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the	Unknown persons in uniform	Yes, an incomplete copy of the criminal complaint was provided.



		Municipal Judges of Valencia and Tierralta, September 7, 2006.		The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Francisco Martinez Negrete	February 5, 1984, Alto de Viviano ward (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, July 27, 2006.	Unknown persons in uniform, possibly guerrillas	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Eduardo Pérez Pereira	July 16, 1988, Bonito Viento ward (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, June 22, 2006.	Unknown, possibly guerrillas	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Vicente Ovidio Mejia Lara	March 16, 1992, La Versalles Farm – Santana village (Tierralta)	Criminal Complaint before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta, September 7, 2006.	Unknown persons in uniform, possibly AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. There is a copy of the autopsy report where it is recorded he died by gunshot wound. No additional evidence was provided.

As for those responsible of these crimes, the petitioner holds in general terms that “according to the accounts of the facts made by the petitioners and recorded in their complaints and corroborated by their families and the witnesses of the violations, they were committed by members of the United Self-Defense Forces of Colombia AUC or group of paramilitaries who operated in the area with the assent and acquiescence of the Colombian State”. However, beyond this generic statement no further elements are provided.

3. The petitioner informs that he requested an extrajudicial settlement with the Interior and Justice Ministry in December 2009, before the Judicial General Attorney II No. 33 of Montería (Córdoba), by virtue of the above-listed deaths and for the purpose of obtaining a recognition of responsibility by the State. However, that Ministry expressed its unwillingness to settle due to a lack of *locus standi* as a respondent –since the deaths had been caused by third parties, not State agents–, and thus a non-settlement record was signed on December 14, 2009, a copy of which is attached to the petition.

4. Regarding the criminal investigations, the petitioner holds that the victims’ relatives had to wait for the paramilitary groups that operated in the region to demobilize under Law 975 of 2005 before filing the corresponding criminal complaints, given the climate of terror prevailing in the region. And although the criminal complaints were effectively presented –the large majority of them in 2006–, the petitioner states in general terms that they have not produced results, since it has not been established who was responsible for each death, nor has anyone been convicted for the crimes. The petitioner does not provide specific information about any of these criminal investigations. The petitioner also reports that the relatives of the fatal victims refrained from filing compensation lawsuits before the administrative jurisdiction due to the generalized fear that prevailed in Córdoba until the demobilization of the paramilitary groups.

5. The petitioner also announces that he is willing to provide copies of press articles and notes which, he says, “record public and evident facts related to the reported cases since they took place in an armed

*conflict area that is nationally and internationally known as such*". He considers that the murders referred to in the petition are all well-known facts that entail State responsibility by tolerance or omission, and that they require no additional evidence for they are known by the public.

6. In the same line, the petitioner requests that several reports by UN rapporteurs and agencies about the Colombian armed conflict be incorporated into the casefile, as well as the Inter-American Court on Human Rights' judgment in the case of the Pueblo Bello massacre, and a series of domestic legal and regulatory provisions. The petitioner does not explain what the evidentiary usefulness of such elements would be for his petition, merely enunciating them.

7. The State, in its response, holds that the petition must be declared inadmissible; and also requests that it be divided into separate procedures that deal with different victims, since the State would otherwise deem itself to be in a situation of defenselessness.

8. The State claims that the petition does not provide evidentiary elements on either the AUC paramilitaries' responsibility for the murders, or on any alleged State connivance or complicity which would make it responsible for them. The State emphasizes that even though the petitioner has announced several press articles which allegedly recorded such events as publicly-known facts, no news clips or reports whatsoever were attached to the petition. In this sense, it considers that *"we are faced with a lack of any evidence that concretely supports the alleged connivance of state officials towards the individuals who presumably perpetrated the murders enlisted in this international claim, this being a matter which cannot be considered as a 'well-known fact', since it is not a publicly or generally known affair"*. Likewise, the State claims that the statements contained in the petition as to the terror that prevailed in the region, which allegedly precluded a timely presentation of the criminal complaints, are formulated in an abstract manner, and are not related to any specific facts.

9. As for the need to divide the petition into separate proceedings, the State holds that the different murders included therein do not have, with regard to each other, the minimum necessary connection required for them to be accumulated in a single claim before the IACHR; for which reason their joint processing would breach the principles of legal certainty and procedural balance, to the detriment of the State. The State considers that although the stated facts may have some type of spatial relationship, there is no other common element between them, not even in terms of their timing or of the alleged perpetrators; for which reason their joint processing would entail impinging upon the defense of the Colombian State in these proceedings. It also points out that *"during the internal armed conflict that Colombia suffered, in the region where the municipality of Tierralta is located, different illegal groups were active, in particular, the insurgence and the illegal self-defense forces. Due to this, it is understood that the alleged violations were caused by the actions of several armed actors, on very different dates. For this reason, it is impossible to define a connection in time or in the scheme or practice which led to their perpetration, which is why the treatment of each fact must be independent"*.

10. On the other hand, the State argues that the petition has not been filed within a reasonable time after the date of occurrence of each murder; in this regard it argues that the petition contains unrelated facts, regarding which the State has taken independent judicial and administrative actions. The State highlights that in the cases reported in the petition, periods of between 6 and 29 years elapsed between the crime and the filing of the respective complaints, both before the criminal justice authorities and before the Inter-American system. And it rejects the petitioner's argument on the existence of widespread fear in the region which would have justified not filing criminal complaints as inadmissible, since such argument is not supported on any evidence which would demonstrate such situation in relation to each specific case, nor would it justify the unreasonableness of the time elapsed before filing the petition with the IACHR.

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

11. The Inter-American Commission has established that in cases where violations of the right to life are claimed, the suitable domestic remedy to be exhausted is the initiation of criminal judicial proceedings, through the diligent and ex officio conduction of investigations which can identify those responsible for the

violations so as to prosecute and punish them in accordance with the American Convention<sup>5</sup>. This charge is to be assumed by the State as a legal duty of its own, and not as the management of private interests or one that depends on private initiative or on their provision of evidence by the victims<sup>6</sup>.

12. In this sense, the petitioner argues that the corresponding criminal complaint was filed for each one of those cases, and that the respective investigation was initiated, with no significant progress or developments as of the date of filing of the petition. The State, for its part, does not question the exhaustion or domestic remedies, nor does it provide any information about the current status of those 38 criminal investigations or proceedings. Therefore, the Commission considers that for each one of these murders, suitable domestic remedies were initiated; to this date, it has not been reported that any of these remedies has been exhausted, or advanced to any extent. For this reason, given that in most of the cases nearly fourteen years have gone by with no significant developments reported in the corresponding criminal investigations, and with no determination of those responsible for those 38 violent deaths, the IACHR considers that the exception of unjustified delay in the decision of the domestic remedies, established in article 46.2.c) of the American Convention, is applicable.

13. On the other hand, the State has challenged the timeliness of the presentation of the criminal complaints for most of the thirty-eight cases, given that between the moment of the deaths and the time of the filing of the corresponding criminal complaints, periods of several years went by, in some cases of over two decades in length. In spite of this, the petitioner has provided a plausible explanation for the delay in the presentation of these claims, namely, the terror that prevailed among the civilian population of Tierralta during the most active stage of the armed conflict in that region, which prevented the families of those murdered to report what had happened. A fear which allegedly ceased or diminished when the paramilitary groups who operated there demobilized under Law 975 of 2005. The IACHR notes in this regard that the great majority of the criminal complaints for these individual cases was filed during the year 2006, which coincides with the date at which the demobilization process was undertaken by these illegal armed groups in Colombia. In this sense, it is not unreasonable, and has been sufficiently explained, that such long periods of time elapsed between the facts and their reporting to the authorities. Considering the above, as well as the fact that the criminal complaints were filed mainly in the year 2006, and that the petition was received at the Executive Secretariat of the IACHR on June 2, 2010, the Commission concludes that it was filed within a reasonable period of time, in light of Article 32.2 of the Rules of Procedure.

## VII. ANALYSIS OF COLORABLE CLAIM

14. The petitioner has presented to the IACHR 38 cases of violent deaths which have, as a common denominator, the fact of having occurred somewhere in the municipality of Tierralta during the decades in which the armed conflict ravished that region of the country. The petitioner does not explain why said murders -whose material perpetration he attributes to paramilitary groups, guerrillas, or unknown actors- may have taken place with the assent, acquiescence or participation of State agents;<sup>7</sup> he simply describes these events as “public and notorious”, and thus exempted, in his view, from having to be proven. The petitioner has also argued that the State’s responsibility for its assent to the murders shall be evinced by the claims and testimonies made by the victims in their corresponding criminal complaints. However, a careful reading of said criminal

<sup>5</sup> IACHR, Report No. 72/18, Petition 1131-08. Admissibility. Moisés de Jesús Hernández Pinto and family. Guatemala. June 20, 2018, par. 10. IACHR, Report N° 70/14. Petition 1453-06. Admissibility. Maicon de Souza Silva. Renato da Silva Paixão and others. July 25, 2014, par. 18; Report No. 3/12, Petition 12.224, Admissibility, Santiago Antezana Cueto and others, Peru, January 27, 2012, pár. 24; Report No. 124/17, Petition 21-08, Admissibility, Fernanda López Medina and others, Peru, September 7, 2017, par. 3, 9-11.

<sup>6</sup> IACHR, Report No. 159/17, Petition 712-08. Admissibility. Sebastián Larroza Velázquez and family. Paraguay. November 30, 2017, par. 14.

<sup>7</sup> With regard to the minimum evidentiary and argumentative support required of the petitioners’ allegations in order to declare a claim admissible, see among others: IACHR, Report No. 76/19. Admissibility. Hugo Eduardo Ibarbuden. Argentina. May 21, 2019, par. 9; Report No. 70/19. Petition 858-09. Admissibility. Luiz José da Cunha “Crioulo” and family. Brazil. May 5, 2019, par. 14; Report No. 164/17. Admissibility. Santiago Adolfo Villegas Delgado. Venezuela. November 30, 2017, par. 14; Report No. 57/17. Petition 406-04. Admissibility. Washington David Espino Muñoz. Dominican Republic. June 5, 2017, par. 36; Report No. 149/17. Admissibility. Samuel Walter Romero Aparco. Peru. October 26, 2017, par. 14.

complaints by the IACHR has confirmed that there is no indication whatsoever in them of State responsibility in any of these deaths, nor did the complainants attribute the crimes, by action or omission, to the State.

15. Notwithstanding the above, the IACHR notes that in all of the cases described in the petition, it was claimed before the criminal justice authorities that the deaths had been caused by unknown persons, in some cases apparently associated to the paramilitary or guerrilla groups that operated in the region of Tierralta, or in other cases without any information about the private armed group that may have committed the crime, but with a description of individuals wearing uniforms or bearing weapons who had killed the victim. The IACHR also notes that in every one of these events the victims were civilians -non-combatants- and they were unprotected on the face of the threat and danger of the violent groups that were active in the Tierralta region. In relation to this context, in its annual and country reports the IACHR has recorded that the Department of Cordoba has been one of the most affected by armed violence in Colombia, with high levels of victimization of the non-combatant civilian population,<sup>8</sup> a characterization which is directly relevant for the assessment of the facts described in the instant petition. In addition, in one of those 38 cases, the father of the victim stated in his criminal complaint, in general terms, that the police had refrained from protecting the population of the area despite its knowledge of the criminal activities of paramilitary groups there; although the claimant did not link this generalized lack of protection to actual requests for protection made by the deceased, but rather made his statement in a generic manner without relating it to the crime, it is in any case an accusation of State responsibility for lack of protection that the IACHR may not ignore in its *prima facie* evaluation of the present petition.

16. In view of the above considerations, and after an examination of the information provided by the parties, the Commission notes that, indeed, nearly 14 years have gone by between the presentation of most of the criminal complaints in 2006 and the date of adoption of the present report, without the State having reported any advancements in these criminal proceedings, in a duly proven context of violence in the region. Therefore, without advancing any conclusions on the merits of the present petition, the Commission considers *prima facie* that the facts related to an alleged lack of investigation and punishment of the reported events may characterize violations of Articles 4 (right to life), 5 (humane treatment), 8 (due process) and 25 (judicial protection) of the American Convention, in relation to Article 1.1 (obligation to respect rights) thereof, to the detriment of the alleged victims and their relatives, in the terms of the present report.

17. Finally, as for the State's request to divide the petition, the Commission recalls that according to Article 29.4 of its Rules of Procedure, the IACHR may divide a petition if it "*sets forth distinct facts, or if it refers to more than one person or to alleged violations not interconnected in time and place*". The interpretation of this article does not require that the facts, the victims or the violations presented in a petition strictly coincide in time and place in order for them to be processed as a single case.<sup>9</sup> The Commission has processed individual cases related to numerous alleged victims who claim violations that occurred in different moments and places, but which allegedly had one same source, such as the application of legal provisions or the existence of one single scheme or practice, or in which there were similarities between the alleged facts. Even though the petitioner has not argued in detail why there may be a link between the 38 murders he reports, the IACHR notes that they all took place in one same municipality (Tierralta), which is located in a region that was particularly affected by the violence of the armed conflict, and *prima facie* in the absence of any measures of protection by the State to safeguard the rights of the civilian population. Therefore, there exists a possible connection between the 38 reported cases, which must be studied at the merits stage of the present case, and which makes the division of the petition impertinent.

<sup>8</sup> See, inter alia: (1) IACHR, Third Report on the Situation of Human Rights in Colombia, 1999, Chapter I - par. 45; Chapter IV - par. 61; (2) IACHR, 1996 Annual Report, Chapter V - Colombia, par. 73; (3) IACHR, 1999 Annual Report, Chapter V - Colombia, pars. 82, 146; (4) IACHR, 2002 Annual Report, Chapter IV - Colombia, pars. 35, 36; (5) IACHR, 2004 Annual Report, Chapter IV - Colombia, pars. 12, 16, 17; (6) IACHR, 2005 Annual Report, Chapter IV - Colombia, Footnote No. 7; (7) IACHR, 2007 Annual Report, Chapter IV - Colombia, pars. 29, 37, 59; (8) IACHR, 2008 Annual Report, Chapter IV - Colombia, pars. 19, 20, 22, 23, 42, 93; (9) IACHR, 2009 Annual Report, Chapter IV - Colombia, pars. 56, 68, 158; (10) IACHR, 2010 Annual Report, Chapter IV - Colombia, pars. 36, 52, 106, 228, 236.

<sup>9</sup> IACHR, Report N°5/97. Admissibility. Petition 11.227, Unión Patriótica Nacional, Colombia, March 12, 1997, pars. 39- 42; Report N°61/16, Petition 12.325. Admissibility. Comunidad de Paz San José de Apartadó. Colombia. December 6, 2016; Report No. 113/17. Petition 1141-07. Admissibility. Alfredo Manuel Martínez Meza and others. Colombia. September 7, 2017, par. 3.

## VIII. DECISION

1. To find the instant petition admissible in relation to Articles 4, 5, 8 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 of the matter; 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 29<sup>th</sup> day of the month of August, 2020. (Signed): Joel Hernández, President; Antonia Urrejola, First Vice President; Flávia Piovesan, Second Vice President; Margarete May Macaulay, Esmeralda E. Arosemena Bernal de Troitiño, and Stuardo Ralón Orellana, Commissioners.