

OEA/Ser.L/V/II
Doc. 127
8 August 2024
Original: Portuguese

REPORT No. 119/24
PETITION 1179-15
INADMISSIBILITY REPORT

A. R. G. AND HER SON P. H. R. G.
BRAZIL

Approved electronically by the Commission on August 8, 2024.

Cite as: IACHR, Report No. 119/24. Petition 1179-15. Admissibility. A. R. G. and her son P. H. R. G., Brazil. August 8, 2024.

I. INFORMATION ABOUT THE PETITION

Petitioner:	A. R. G.
Potential victims:	A. R. G. and her son P. H. R. G.
Respondent State:	Brazil
Rights invoked:	Articles 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial), 11 (right to privacy), and 24 (right to equal protection) of the American Convention on Human Rights, in connection with Article 1 (obligation to protect rights); Articles 1 and 2 of the Convention of Belém do Pará

II. PROCEEDINGS BEFORE THE IACHR¹

Filing of the petition:	August 19, 2015
Additional information in the initial study stage:	April 28, 2016, April 10, 2017, May 6, 2017, August 17, 2017, April 2, 2018, April 18, 2018, July 3, 2018, July 26, 2018, July 30, 2018, August 1, 2018, October 10, 2018,
Notification of the petition to the State:	January 6, 2020
State's first response:	September 1, 2020
Petitioner's additional observations:	October 17, 2020, January 13, 2022, March 1, 2022, July 12, 2022
State's additional observations:	June 10, 2022

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 on Human Rights ² (instrument adopted September 25, 1992) and Protocol of San Salvador (instrument adopted August 21, 1996)

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 admitted:	N/A
Exhaustion of domestic remedies or justifiable exception:	Yes, partially, under the terms of Section VI
Timeliness of the petition:	No, under the terms of Section VI

¹ The observations made by each party were duly translated for the other party.

² Hereinafter "the American Convention" or "the Convention."

V. POSITIONS OF THE PARTIES

Arguments of the petitioner

1. The petitioner and potential victim submit several briefs and documents with allegations and various items of information, some of which are unrelated to the main issues reported. The Inter-American Commission carefully examined all these briefs and documents and is able to identify, among them, the substantive allegations described below.

2. The petitioner reports having been the victim of domestic violence and involuntary psychiatric hospitalization marked by being held incommunicado, deprived of liberty without due process of law, and mistreated. The hospitalization was carried out at the request of third parties acting in bad faith for the purpose of working against her regarding custody of her son. The petitioner reports that the hospitalization and loss of custody of her son occurred with the collusion of the State, that the domestic proceedings failed to protect her rights, and that the violations remained unpunished to date.

3. On May 22, 2006, the petitioner and potential victim, A. R. G. , asserts that she endured a psychiatric hospitalization against her will and without justification, as she did not suffer from any mental disorder that would pose mortal risk to anyone. The hospitalization was promoted by Mr. J. P. A. G. J., her spouse, with the assistance of the physician, C. T. C. O., with the intention to use the hospitalization as the basis for a psychiatric report that was later used in a proceeding to withdraw custody of her son. As a consequence of this hospitalization, the State granted custody to her spouse, forcing Andrea to resume the marriage so that she could live with her son.

4. The petitioner alleges that, on June 6, 2006, she filed a written complaint regarding her hospitalization with the 16th Civil Police Station of the State of Rio de Janeiro. According to the petitioner, police inquiries were initiated that resulted in a criminal proceeding against J. P. A. G. J. (criminal proceeding 2006.800.152511-9), brought by the Office of the Public Prosecutor of Rio de Janeiro, also in 2006. The petitioner alleges that the judge in charge of the proceeding did not allow the responsibilities of the physician and the clinic to be determined. She also alleges that the judge limited himself to analyzing possible responsibility for domestic violence and not the false imprisonment and mistreatment related to involuntary hospitalization, and that the judge ultimately determined that Mr. J. P. A. G. J. would not be punished but submitted to psychiatric treatment, although there was no report or examination attesting to his psychiatric condition. The petitioner also alleges that, in the context of the same proceeding, Mr. J. P. A. G. J. confessed to the judge all his actions involving fraudulent documentation, torture, false imprisonment, rape, and bodily injury through false psychiatric hospitalization. She also alleges that the public defender who represented her did not file an appeal against the judge's decision ending the proceeding.

5. – The IACHR observes that the file includes copy of the police report dated June 6, 2006. As for the criminal proceeding, there is only partial copy of a court settlement relating to the referenced criminal proceeding 2006.800.152511-9. According to that copy, on June 19, 2007, the Judge of the 9th Special Criminal Court of the District of Rio de Janeiro conducted a preliminary hearing and approved an agreement between the parties according to which Mr. J. P. A. G. J. recognized his error in seeking psychiatric hospitalization for Mrs. A. R. G., said he was sorry for having caused her suffering, and agreed to attend therapy every two months. The partial copy does not identify the actions attributed to Mr. J. P. A. G. J. in the context of the proceeding. The IACHR also notes that the proceeding was conducted in a special criminal court. Special criminal courts were created by Law 9,099/95 and are competent to reconcile, process, and judge criminal offenses with less dangerous potential, which does not include serious crimes such as torture or rape. The petitioner also

submitted copy of an on-line procedural consultation related to criminal proceeding 2006.800.152511-9 according to which the subject of the proceeding was “slight physical injury.”³ –

6. In addition, the petitioner refers to another action filed against J. P. A. G. J. for unlawful restraint⁴ (proceeding 2007.800.098745-6), which she also associates with the involuntary hospitalization she claims to have endured. According to the petitioner, that action ended up being archived without a satisfactory resolution, with no penalties imposed on her spouse or the medical professionals involved. – The IAHR observes that the file does not contain copies of the criminal action.

7. The petitioner also indicates that in June 2006 she lost custody of her 11-year-old son in a judicial proceeding initiated by her then husband, J. P. A. G. J. (proceeding 0005268-78.2006.8.19.0209), in which she was not given the opportunity to be heard. The court decision, according to the petitioner, was influenced by a false psychiatric report produced by the physician, C. T. C. O. The petitioner alleges that this forced her to resume the marriage and to sell her car under duress in order to return to living with her son.

8. Moreover, the petitioner reports that she appealed to the Regional Council of Medicine of the State of Rio de Janeiro, seeking to open an investigation against the physician, C. T. C. O., and the clinic involved in her hospitalization (proceeding number 10040870/06). However, the Council absolved the accused in a decision that the petitioner calls biased, in that the clinic’s director was part of the body that rendered judgment.

9. The petitioner reports that she also sought reparations in the civil arena through proceeding 030054-55.2009.8.26.0576, initiated on May 25, 2009. The petitioner alleges that the proceeding dragged on for years, marked by a long waiting period and court decisions that failed to recognize the seriousness of the rights violations suffered by the petitioner. The initial petition for compensation was denied, with the judge alleging that there was no evidence of the crime to be repaired, a decision that the petitioner strongly contests, given the gravity and the impact of what she claims to have suffered. – The IACHR notes that the file does not contain copies of the proceeding and the decision. On the other hand, the petitioner submits copies of a medical report referring to proceeding 030054-55.2009.8.26.0576. The report, dated October 10, 2017, is signed by a expert psychiatrist and reports on the petitioner’s allegations on the psychic, physical, and sexual abuses she claims to have endured while hospitalized. The physician responsible for the report questions the hospitalization that occurred on May 22, 2006, assesses that the hospitalization was not justified, and considers that Mrs. A. R. G. developed a post-traumatic stress disorder following the hospitalization.

10. The petitioner alleges that she was forced to live as a couple with Mr. J. P. A. G. J. until her son reached his majority. According to copy of her marriage certificate, the couple divorced through court proceeding 1028613.38.2016.8.26.0071 before the 3rd Family and Inheritance Court of the District of Bauru, São Paulo, following a judgment of October 6, 2017, which became final on November 29, 2017.

11. The petitioner also reports that Mr. J. P. A. G. J. stole all her assets and fled to the United States, and that the Brazilian authorities were complicit in this. She submits copies of incident report 1632359/2020, of October 29, 2020, issued by the Civil Police of São Paulo (PCSP), which includes the complaint indicating that Mrs. A. R. G. was threatened with death and attempts to invade her house by an initially unidentified person who she believes was her husband or someone ordered by him. The petitioner also reports that her former husband sold some land that belonged to her in order to damage her, in addition to mortgaging the house where she lives, and also indicates that, again in 2020, she filed an action for damages with the 6th Civil Court of Bauru, proceeding 1016885-58.2020.8.26.0071, whereby she sought reparations for what she considers to have been acts of financial abuse on the part of Mr. J. P. A. G. J.

³ In Brazilian criminal law, slight physical injury is defined by Article 129 of the Penal Code. This type of physical injury occurs when someone offends another’s bodily integrity or health, causing physical or mental damages that are not considered serious or very serious.

⁴ In Brazilian criminal law, unlawful restraint is a crime defined by Article 146 of the Penal Code. This crime occurs when someone forces another person through violence or serious threat to do, tolerate, or cease doing something they are not legally required to do or tolerate. This must be done without any legal authorization for the purpose.

12. The petitioner also submits copies of i) incident report 452118/2021, issued by the PCSP on March 12, 2021, whereby she reports that the land that her former husband sold to harm her was also related to a money laundering crime he committed; ii) report 1279637/2022, issued by the PCSP on June 7, 2022, in which she claims that her former husband had defamed, assaulted, and stalked her; and report 1291102/2022, in which she claims that her former husband committed the crime of slander against her by calling her mentally insane and committed fraud relating to the claims on the hospitalization in 2006. In conclusion, the petitioner asserts that she developed a post-traumatic stress disorder as a result of what happened in 2006.

Arguments of the Brazilian State

13. The State believes that the petition refers to a family situation of spousal conflict properly addressed by domestic entities within the legal deadlines, and that the petitioner triggered the IACHR before handling of the domestic proceedings concluded.

14. With regard to the domestic proceedings, the State indicates that on May 22, 2009 Mrs. A. R. G. filed an action seeking compensation for moral and material damages related to attacks, false imprisonment, mistreatment, and torture she says she suffered as a result of her involuntary hospitalization, assigning responsibility to the physician, C. T. C. O., and the clinic involved in her hospitalization (proceeding 0030054-55.2009.8.26.0576).

15. Under the terms of the action, Mrs. A. R. G. alleged, in summary, that in May 2006, after a series of conjugal problems and a heated argument with her then husband, J. P. A. G. J., she reported that she sought a separation. She says that J. P. A. G. J. made serious threats, and since she had no relatives in the city of Rio de Janeiro and was worried about her physical and moral safety, she decided to go to the city of Bauru, where she stayed in a hotel. J. P. A. G. J. went after her and tried to convince her to return to Rio de Janeiro with the argument that a separation would harm the couple's son, who was an eleven-year-old child at the time. On May 22, 2006, when Mrs. A. R. G. had already returned to Rio de Janeiro, the couple again had a heated argument, and Mr. J. P. A. G. J. attacked the potential victim and threatened to take her son and to put her in an insane asylum. He then locked her in the apartment. She called the police. When she opened the door thinking that the police had arrived to protect her, she was surprised by three men in white who identified themselves as nurses. She was then placed against her will in an ambulance, given intravenous medication, and taken to the psychiatric clinic. Upon reaching the clinic, they took her bag, which held her cell phone among other items, preventing her from communicating with anyone, and again gave her intravenous medication. During the period in the clinic, deprived of her freedom, she underwent involuntary drug interventions, mistreatment, beatings, and sexual violence. On the third day of her hospitalization J. P. A. G. J. was authorized to visit her and took her away. The clinic, for its part, in its response to the action, asserts that it is a reputable company and it only admits people committed with mental problems who are monitored and upon medical advice. It states that the version presented by Mrs. A. R. G. is not true and that she was held in the facilities of the clinic in order to ensure her mental and physical safety.

16. According to the State, the proceeding was assigned to the Judge of the 4th Civil Court of the District of São José do Rio Preto on May 25, 2009. After the respondents' defense, the plaintiff replied. The parties were urged to specify the evidence they considered necessary for resolving the case. The proceeding also included, in its handling, an attempt to reconcile the parties, which was ultimately unsuccessful. The attorney for Mrs. A. R. G. also requested the submission of copies of a criminal proceeding related to the facts in the case. Despite various indicated developments, the Judge of the 4th Criminal Court managed to analyze the case and render a judgment on May 19, 2010. The judgment considered the action unfounded. – However, the State does not explain the reasons why the action was unfounded.

17. Following the judgment, according to information provided by the State, there was a series of appeals filed by both Mrs. A. R. G. and the respondents (the physician and the clinic). In this regard, the State indicates that, after the clinic filed an appeal with a motion for clarification, which was deemed unfounded, Mrs. A. R. G. filed an appeal on April 4, 2011. For their part, the physician and the clinic submitted counter-arguments challenging the appeal. The State does not provide more details regarding the tenor of the appeals. On April 18, 2014, the Court of Justice of São Paulo (TJSP) decided to overturn the judgment after deeming that the

proceeding, although it had had an evidence production stage, could have an additional evidentiary stage to better resolve the case. After the decision of the TJSP, according to the State, there were motions for clarification made to the TJSP, a special appeal filed with the Superior Court of Justice (3rd body of the Judicial Branch), a bill of review, a specific appeal, and motions for clarification. The State does not provide more details on the tenor of the appeals and who submitted them. The proceeding then returned to the first instance and was again judged on July 24, 2018. The new judgment of the Judge of the 4th Civil Court of the District of São José of Rio Preto established, in summary, that the parties were again heard on whether they sought more evidence, but they did not respond. The judgment deemed the action unfounded, on the grounds summarized below:

— According to the facts established during the proceeding, Mrs. A. R. G. was picked up at home, on the day of hospitalization, at the request of her then husband, Mr. J. P. A. G. J. Her husband called the required physician, reporting that the petitioner was experiencing a behavioral disorder with episodes of aggression. An ambulance was sent to help the petitioner, with a physician and psychiatric team. When the need for hospitalization was noted, she was removed with the consent of her husband. This was stated in 2006, before the existence of the proceeding. Payment was made for private service. It was the physician who attended Mrs. A. R. G. at home who made the decision to hospitalize her. Upon reaching the clinic, the petitioner was attended by a female physician and the next morning by the respondent physician (who is not the same physician who decided on hospitalization). At that time, the petitioner's mother-in-law was present. There is nothing indicating that J. P. A. G. J. had acted in collusion with the respondent physician in the action to bring about an unnecessary hospitalization. The judgment also mentions the statement made by the physician who attended J. P. A. G. J. on the day of hospitalization to the effect that J. P. A. G. J. informed him by telephone that Mrs. A. R. G. had threatened suicide; avoiding suicide was the primary reason why J. P. A. G. J. signed the hospitalization and authorized treatment. The positions of the expert hired by Mrs. A. R. G. that the hospitalization was unnecessary were based on information she provided to him twelve years after the events occurred and contradict the assessment made by the physician who decided on hospitalization during the emergency situation.

— Mrs. A. R. G. was hospitalized at the request of J. P. A. G. J., she was sick on the day of hospitalization, she was visited daily by physicians on duty while hospitalized and, on the third day, although she was not medically discharged, she left the clinic, also at the request of J. P. A. G. J. The hospitalization occurred on May 22, 2006, and the petitioner left the clinic at 3:00 p.m. on May 24, 2006. Technically, the hospitalization was involuntary, without the patient's consent, at the request of a third party, Mr. J. P. A. G. J. Article 6, item II of Federal Law No. 10.216 makes provision for the possibility of hospitalization. However, Article 8, item II of the same law, required that the Office of the Public Prosecutor be informed regarding the hospitalization within 72 hours. Although the Office of the Public Prosecutor was not informed, the hospitalization lasted less than the 72 hours in question.

— There are various contradictions in the information provided by Mrs. A. R. G.: i) in the preliminary hearing in the forum of Rio de Janeiro, in the absence of J. P. A. G. J., she says she left the hospital with the help of another patient's visit; in the next hearing, J. P. A. G. J. reported that it was he who removed his wife from the hospital. The documentary evidence includes the signature of J. P. A. G. J. on the discharge; ii) in the initial hearing, in the absence of her husband, the petitioner says that he would not go to the hearing, that he would switch his duty roster and do everything possible not to go to court; however, when the clerk of the court went to summons J. P. A. G. J., he was not at home, the petitioner received the order to appear and was to pass it on to J. P. A. G. J. and, in the next hearing, J. P. A. G. J. appeared, while not being personally summoned; iii) Mrs. A. R. G. says that J. P. A. G. J. locked the door of the apartment, but also says that she opened the door when she was informed that the police had arrived; iv) Mrs. A. R. G. initially blamed J. P. A. G. J. for the hospitalization, filing a criminal complaint against him alone, but later she sued the respondent physician and the clinic in the action seeking compensation for moral and material damages.

— In the context of a criminal proceeding filed by Mrs. A. R. G., a social study was conducted on the couple. It indicates that Mrs. A. R. G. had already separated from J. P. A. G. J. and lost custody of her son. The petitioner states that J. P. A. G. J. had "contrived" everything with the judge. She later said that the mother-in-law manipulated J. P. A. G. J., claiming that her mother-in-law was responsible for the hospitalization. Ultimately, the health professional concluded that the petitioner goes back and forth blaming J. P. A. G. J. and other persons for the events in her life.

— Mrs. A. R. G. filed the criminal complaint against J. P. A. G. J. because she felt that he was to blame for the hospitalization. The police formalized the complaint and referred the matter to the court. In court, J. P. A. G. J. acknowledged in writing that he was mistaken and that Mrs. A. R. G. was right, as a way to put an end to the dispute. The police investigated the case and did not confirm the allegations made by Mrs. A. R. G. regarding the

responsibility of the respondent physician and clinic for the crimes of kidnapping, false imprisonment, bodily harm, torture, and other crimes. The allegation that Mrs. A. R. G. was improperly held at the clinic is not consistent with the photos of the site. The use of intravenous medication was necessary due to the momentary condition of the patient. The use of sedative medication is usual in treatment clinics during nervous breakdowns. In the hospital, the petitioner had access to the telephone and made calls. In the context of the representation made by Mrs. A. R. G. against the respondent physician before the Regional Medical Council, the procedure was archived even before the start of a proceeding with a formal accusation due to the lack of just cause for initiating such a proceeding.

18. After the judgment, Mrs. A. R. G. filed an appeal with the TJSP. In January 2020, the proceeding was definitively archived after the TJSP had dismissed the appeal, upholding the judgment in its entirety.

19. The State believes that there was no unwarranted delay in analysis of the action. In addition, it reports that during the action Mrs. A. R. G. filed a complaint for excessive time with the National Council of Justice (CNJ), the body that supervises the Judicial Branch. The State does not report the date that the complaint was filed. The complaint was archived on November 3, 2016 after the CNJ decided that the proceeding was handled normally.

20. The State also indicates that in 2020 Mrs. A. R. G. filed a compensatory action for moral damages against her former husband. The action was being handled by the Judge of the 6th Civil Court of the Forum of Bauru, São Paulo. The State suggests that, in view of this, the domestic remedies were not yet exhausted.

21. The State argues that, since the action was still in progress at the time of Mrs. A. R. G.'s complaint to the IACHR, the domestic remedies have not yet been exhausted, for which reason the petition should be deemed inadmissible. In addition, it believes that the petition is the fruit of Mrs. A. R. G.'s disagreement with the results of the domestic proceedings and, for this reason, it goes against the subsidiary nature of the inter-American system and the so-called "fourth instance formula."

22. The State also argues that Mrs. A. R. G. is not clear regarding which domestic remedies of a criminal nature she filed regarding all the events she considers criminal. It emphasizes that, with regard to the events of 2006, the petitioner entered into an agreement with her former husband before the special criminal court, opting for the route of civil resolution of the alleged damages, as recorded in the minutes of the preliminary hearing in criminal proceeding 2006.800.152511-9, which the petitioner herself attached to the inter-American file. The State also mentions that the petitioner has access to the Women's Call Center – Dial 180 for any claim of violence against women.

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

23. The Commission notes that the petitioner presented a large number of situations that she considers in violation of her rights. However, not all of them were presented with the clarity, coherence, and precision needed with regard to the facts, the activation of domestic remedies, and the requirements for timely submission of the petition to the IACHR. In this regard, *e.g.*, although she alleges that the involuntary hospitalization occurred in order to harm her in the discussion regarding the custody of her son, a child at the time, the petitioner does not provide more details or documents to corroborate the allegation. The same defect applies to the petitioner's allegation that she was forced to live as a couple with Mr. J. P. A. G. J. until her son reached his majority. For this reason, as regards these matters, the analysis of the exhaustion of domestic remedies remains invalidated.⁵

24. Conversely, an approach that systematizes the petitioner's various allegations and briefs makes it possible to identify two blocks on which the IACHR has the minimum elements for proceeding to analyze the exhaustion of domestic remedies and the timeliness of the petition: first, the facts alleged regarding

⁵ Similarly: IACHR, Report No. 228/23. Petition 318-14. Inadmissibility. Renato das Neves et al. Brazil, October 20, 2023, paragraph 38.

the petitioner's involuntary hospitalization, starting in 2006; secondly, the facts alleged regarding the acts of violence committed by the former husband, based on the divorce in 2017.

25. Regarding the facts reported with reference to the involuntary hospitalization, the Commission notes that they include allegations of torture, mistreatment, and sexual violence. In situations that include crimes against personal integrity, the domestic remedies that should be taken into account for purposes of the admissibility of petitions are those related to the criminal investigation and punishment of those responsible, it being up to the State to promote them *ex officio*, officially, and diligently, in accordance with the American Convention.⁶

26. The petitioner alleges that the facts related were reported to the 16th Civil Police Station of the State of Rio de Janeiro, which led to the police investigation and thereafter a criminal action, criminal proceeding 2006.800.152511-9. On this proceeding, the petitioner complains that the judge excluded from the purview of the case the potential criminal liability of the physician, the clinic, and her then husband, Mr. J. P. A. G. J., for the violations she alleges she suffered by virtue of and during the hospitalization. She also asserts that the judge, at the conclusion of the proceeding, did not punish Mr. J. P. A. G. J., but only determined that he should undertake psychiatric treatment.

27. The Inter-American Commission notes that the petitioner submitted copies of the police report. As for the criminal proceeding, there is a partial copy according to which, on June 19, 2007, a preliminary hearing conducted by the Judge of the 9th Special Criminal Court of Rio de Janeiro resulted in approval of a judicial agreement between Mr. J. P. A. G. J. and the petitioner.

28. The petitioner alleges that the public defender who represented her had failed to appeal the judicial decision. However, the decision only judicially approves an agreement between the petitioner and her then husband, indicating that this type of approval causes the proceeding to end. The Inter-American Commission notes that neither of the parties alleged that that judicial agreement would be invalid by virtue of some issue related to the context of mental suffering that makes up the case. Moreover, the Commission notes that there are no indications, in the file, regarding Mrs. A.R.G.'s lack of capacity to participate in a judicial agreement like that mentioned. On the contrary, the medical report attached by Mrs. A. R. G. indicates that she had the faculties needed to exercise her legal capacity.

29. For its part, the Brazilian State also fails to submit copies of the criminal investigation and, in its briefs, adopts an approach in the domestic proceedings that is civil in nature. On the other hand, one of the annexes represented by the State, the judgment issued by the Judge of the 4th Civil Court of the District of São José do Rio Preto of July 24, 2018 incidentally provides information on the criminal investigation. In the judgment, the civil judge mentions that the husband sought his wife's hospitalization after Mrs. A. R. G. had threatened to commit suicide. The judge also records that the allegations of kidnapping, false imprisonment, bodily harm, and torture, and other injuries associated with the hospitalization, were duly investigated by the police, which concluded that the crimes reported did not occur. However, there is no information on the date of this conclusion. The same judge indicates, as proven facts, that the disciplinary proceeding opened by Mrs. A. R. G. against the physician in the hospitalization was archived by the Regional Council of Medicine, and that during the hospitalization Mrs. A. R. G. was subjected to justifiable sedative medications, was housed under good conditions, had access to the telephone, and made calls.

30. Thus, the Inter-American Commission notes that the information presented by the State and by the petitioner allow it to infer that there was an investigation of the allegations of serious violations occurring during the hospitalization. However, the information is sparse. There is no clear indication regarding the date when the investigations concluded, nor the filing of appeals. Consequently, there is no evidence to deem that the requirements of Articles 46.1.a) and 46.1.b) of the Convention in relation to that aspect of the petition were met.

⁶ IACHR, Report No. 226/20. Petition 32-07. Admissibility. Márcio Antônio Maia de Souza and family. Brazil, September 6, 2020, paragraph 8.

31. The partial copy of the judicial agreement of June 19, 2007 indicates that Mr. J. P. A. G. J. recognized his error in seeking psychiatric hospitalization for Mrs. A. R. G., said he was sorry for having caused her suffering, and agreed to attend therapy every two months. The nature of the suffering that may have been caused cannot be clearly established, as in relation to this subject the information was also sparse. The procedural consultation screen annexed by the petitioner relating to the criminal proceeding includes very basic information, including that the subject of the proceeding was “slight bodily harm,” which, under Brazilian law, refers to when someone violates the bodily integrity or health of another, causing them mental or physical damages that are not considered serious. It can be inferred from the above-referenced judgment of July 24, 2018 that the civil judge confirms that preventing Mrs. A. R. G. from committing suicide had been the principal motivation for Mr. J. P. A. G. J. to sign the hospitalization and psychiatric treatment; and that, in the context of the criminal proceeding, Mr. J. P. A. G. J. signed the judicial agreement acknowledging that he was wrong to authorize that treatment as a way to put an end to the controversy.

32. Therefore, the fragmented information indicates that proceeding 2006.800.152511-9 probably dealt with some type of domestic violence that was physical or psychological in nature in the context of the spousal conflict, at the time of hospitalization. The lack of more details makes it difficult to analyze compliance or non-compliance with the requirement of Article 46.1.a) of the Convention and, even if the domestic remedies were considered exhausted, said exhaustion would have occurred as from the judicial agreement of June 19, 2007, as the petition to the IACHR was submitted more than eight years later, on August 19, 2015, which would make this aspect of the petition inadmissible in view of the requirement of Article 46.1.b) of the Convention.

33. The second block under analysis refers to the allegations of threats and violence, including financial abuse, allegedly occurring based on the divorce. On this subject, the petitioner made reports to the police in October 2020, March 2021, and June 2022, each with its own purpose. In addition, she filed an action for compensation in 2020. According to the parties, the action seeking compensation is still in progress. The Commission did not receive detailed information from the State regarding the ramifications of the reports to the police. From what has been presented, the Inter-American Commission concluded that the domestic remedies, relatively recent actions, were not yet exhausted, for which reason the petition does not comply, as regards the issues in question, with the requirement of Article 46.1.a) of the Convention.

VII. DECISION

1. To declare this petition inadmissible.
2. To notify the parties regarding this decision, publish the 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 8th day of the month of August, 2024. (Signed:) Roberta Clarke, President; Carlos Bernal Pulido, Vice President; Arif Bulkan, and Gloria Monique de Mees, Commissioners.