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**REPORT No. 22/24**  
**PETITION 2030-13**  
REPORT ON INADMISSIBILITY

LUCERO SARRIA REYES AND ALÓN ESTHEWAR SARRIA REYES  
COLOMBIA

Approved electronically by the Commission on April 30, 2024.

**Cite as:** IACHR Report No. 22/24. Petition 2030-13. Inadmissibility. Lucero Sarria Reyes and Alón Esthewar Sarria Reyes. Colombia. April 30, 2024.

**I. INFORMATION ABOUT THE PETITION**

<b>Petitioner:</b>	José Alberto Leguizamo Velásquez and Margarita María Leguizamo Vaquero
<b>Alleged victims:</b>	Lucero Sarria Reyes and Alón Esthewar Sarria Reyes
<b>Respondent State:</b>	Colombia <sup>1</sup>
<b>Rights invoked:</b>	Articles 4 (life), 5 (humane treatment), 7 (personal liberty), 8 (judicial guarantees), 10 (compensation), 17 (rights of the family), 21 (private property), 22 (movement and residency) and 25 (judicial protection) of the American Convention on Human Rights <sup>2</sup> , read in conjunction with its Article 1(1) (obligation to respect rights)

**II. PROCEEDINGS BEFORE THE IACHR<sup>3</sup>**

<b>Filing of the petition:</b>	December 13, 2013.
<b>Notification of the petition to the State:</b>	November 27, 2018.
<b>Extension requested:</b>	February 28, 2019
<b>State's first response:</b>	August 15, 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 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>	None
<b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b>	No, pursuant to the terms of Section VI
<b>Timeliness of the petition:</b>	No, pursuant to the terms of Section VI

**V. PARTIES' POSITIONS**

*Position of the petitioner*

1. The petitioner alleges a failure to provide compensation for the forced displacement of Lucero Sarria Reyes and her son, Alón Esthewar Sarria Reyes, caused by members of the paramilitary group Autodefensas Unidas de Colombia (hereinafter "AUC").

<sup>1</sup> Commissioner Carlos Bernal Pulido, of Colombian nationality, did not participate in the deliberations nor in the decision in this matter, in keeping with the provisions of Article 17(2)(a) of the Rules of Procedure of the Commission.

<sup>2</sup> Hereinafter "the American Convention" or "the Convention."

<sup>3</sup> The observations presented by each party were duly considered and transmitted to the opposing party. The petitioner expressed its interest in pursuing the case before the IACHR in its brief dated December 2, 2021.

2. The petitioner states that on May 4, 1998, in the municipality of Puerto Alvira, Meta, Lucero Sarria Reyes and her son, Alón Esthewar Sarria Reyes, were at the mercy of AUC paramilitaries and forcibly displaced by them. The petitioner argues that military and police authorities should have been providing security at the location where the facts took place.

3. The petition also references the murder of Ms. Sarria Reyes and her son; however, the IACHR notes that the petition is not clear with respect to the alleged murder, as it presents information contradicting the claim that the alleged victims had died, since it indicates that the displacement caused them serious economic and moral damage that persists to this day, meaning that they are alive. In addition, the petitioner alleges a failure to compensate the alleged victims for the moral and economic damage caused. It therefore asks the IACHR to declare the Colombian State responsible for the forced displacement of the alleged victims and to order payment of fair compensation for the moral and economic damage caused.

4. With respect to domestic proceedings, the petition is quite brief. It indicates that "these crimes were reported to the authorities in Colombia, and the ordinary proceedings were handled by the Attorney General's Office." It indicates that the case was processed in a proceeding under Law 975 of 2005<sup>4</sup>—also known as the Justice and Peace Law—under case numbers 292778 and 157103, but does not indicate the status of the proceedings, nor does it provide any other information.

5. The petitioner makes the general claim that the Justice and Peace Jurisdiction did not achieve the objectives of truth, justice and reparation it set out to achieve, since of the 35,200 perpetrators, only 11 had been sentenced as of 2013, and of the six million victims, approximately 5% had received reparations. The petitioner argues that the enactment of Law 1448 of 2011, the Victims and Land Restitution Act, eliminated reparations from the criminal Justice and Peace process, replacing it with administrative mechanisms for providing reparation to victims.

*Position of the State of Colombia*

6. According to the State, different sections of the initial petition erroneously state that the alleged violation by the State was a result of the "murder" of the alleged victims. However, the alleged victims have reported the alleged forced displacement to the competent authorities and are alive.

7. The State notes that it conducted a criminal investigation into the alleged facts, No. SIJYP 116626, under Justice and Peace Law 975 of 2005. According to the State's August 2019 brief, it is ongoing—specifically, at the indictment hearing stage and awaiting a hearing. Likewise, according to the information submitted by the Unit for Comprehensive Victim Response and Reparation, the alleged victims are included in the Unified Victims Registry for the forced displacement that took place in May 1998.

8. For its part, the Ministry of National Defense reported that after reviewing its databases, it did not find any administrative litigation proceedings brought against the National Police for the facts in question.

9. The State argues that domestic remedies were not exhausted in relation to the criminal proceeding and the contentious-administrative proceeding. It also states that none of the grounds for exemption from the exhaustion of domestic remedies apply because the State's legislation provides for due process of law and access to criminal proceedings; and it argues there was no unjustified delay in the resolution of the case, considering the complexity of the matter and the diligent action of the Colombian State in the investigation of the facts.

10. Regarding the complexity, it indicates that many of the facts took place in Puerto Alvira on May 3, 1998, and that they involved a massacre, multiple blocs of self-defense groups, acts of terrorism, and multiple crimes, among them aggravated homicide, forced disappearance, forced displacement, and aggravated theft, as well as damage to civilian structures and illegal seizure of property. The multiple actors involved and

<sup>4</sup> Congress of Colombia, Law 975 of 2005 - "Dictating provisions for the reincorporation of members of organize armed groups operating outside the law who contribute effectively to attaining national peace, along with other provisions on humanitarian agreements."

the plurality of criminal acts, in a context of an internal armed conflict in a region that is difficult to access, justify the length of the process concerning the alleged victims.

11. Regarding diligent action, the State reports that at the domestic level, it adopted several measures aimed at clarifying the facts and identifying those responsible. It cites the following as among its investigative activities: taking of statements, field investigations to locate the victims and the alleged perpetrators, taking of voluntary confessions, interrogations, and the imposition of security measures.

12. Furthermore, the State argues that the petition in question is time-barred, inasmuch as the facts that are the basis of the alleged victims' allegations took place May 4, 1998, but the international complaint was filed on December 13, 2013—that is, 15 years and 7 months after the facts took place.

13. The State also argues that the petitioner's allegations are manifestly groundless. According to the State, in the investigation conducted by the Attorney General's Office, a confession was secured for the alleged act in joint deposition hearings held on November 25, 2010, December 2011, and January and August 2012, from former commanders of the Centauros Bloc of the AUC. In this sense, the petitioner cannot assert that the alleged violations of the alleged victims' rights are attributable to Colombia.

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

14. For the purposes of assessing the suitability of the remedies available in the domestic legal system, the Commission usually establishes the specific claim that has been made and then identifies the judicial remedies provided by the domestic legal system that were available and adequate to air that particular claim. This is precisely where the suitability and effectiveness of each remedy, considered specifically, lies, in that it should provide a real opportunity for the alleged human rights violation to be remedied and resolved by the national authorities before a victim can turn to the Inter-American human rights protection system.<sup>5</sup>

15. Thus, the Commission observes that the petitioner's central claim is that the State failed to provide compensation for the forced displacement of the alleged victims. In effect, it emphasizes in its initial petition that "[...] *the State of Colombia has not fairly compensated the victims for the moral and economic harm caused, failing to comply with its international human rights obligations.*" This is evident from the fact that the petitioner emphasizes the remedies related to reparation within the criminal proceedings before Justice and Peace—of whose status it is unaware—and the exhaustion of the administrative remedy of reparation, with the victims' inclusion in the Single Registry of Victims.

16. The IACHR therefore considers that the remedy provided by domestic legislation to address the claim for compensation for human rights violations in Colombia is for direct reparation from the State—that is, the contentious-administrative remedy;<sup>6</sup> however, if the petitioner decides to resort to the administrative remedy for reparation, it must exhaust that procedure, as well as the ordinary judicial remedies available administratively in order to obtain "fair compensation." In this regard, the State indicated that the petitioner had not filed any suit at the domestic level to make this claim, despite the fact that the petitioner argues that the State should have provided security to prevent forced displacement. It also indicated that the alleged victims are registered with the Victims Unit so they can receive the corresponding administrative compensation.

<sup>5</sup> IACHR Report No. 279/21. Petition 2106-12. Admissibility. Huitosachi, Mogótavo and Bacajípare communities of the Rarámuri indigenous people. Mexico. October 29, 2021, para. 29; and IACHR. Report Report 89/21, Petition 5-12, Cananea Mine Workers and their relatives. Mexico. March 28, 2021, para. 32.

<sup>6</sup> IACHR Report No. 241/22. Petition 2377-12. Inadmissibility. Zuluaga Obando Family. Colombia. September 26, 2022, para. 18; IACHR, Report No. 236/22. Petition 1828-12. Inadmissibility. Relatives of Julio César Cardona Lozano. Colombia. September 17, 2022, para. 12; and IACHR Report No. 328/22. Petition 657-08. Inadmissibility. Relatives of Julio Roldán Burbano Lasso. Colombia. November 29, 2022, para. 10.

17. Given that the petitioner failed to demonstrate that it had exhausted the claim for direct reparations, nor had it exhausted the administrative and judicial remedies for reparation before the Victims Unit, the Commission cannot conclude that the requirement of prior exhaustion of domestic remedies, established in Article 46(1)(a) of the American Convention, has been met. Consequently, this petition should be declared inadmissible.

18. Lastly, the Inter-American Commission recalls that although due to the nature of the bodies of the inter-American human rights system, the presentation of contentious cases before them is, by its nature, not a very formalistic exercise compared to other legal proceedings at the domestic level, it does require compliance with a series of minimum requirements and conditions, and demands a level of commitment and ethics from the petitioners before the bodies of the Inter-American System, especially with respect to the victims, who are ultimately the objective and reason for international human rights law itself.<sup>7</sup>

## **VII. DECISION**

1. To declare this petition inadmissible;
2. To notify the parties of this decision; and to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 30<sup>th</sup> day of the month of April, 2024. (Signed:) Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice President; Arif Bulkan, and Gloria Monique de Mees, Commissioners.

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<sup>7</sup> IACHR Report No. 193/22. Petition 1153-12 Inadmissibility. Luis Alejandro Cárdenas Tafur and Family. Colombia. August 3, 2022, para. 15.