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REPORT No. 189/19
PETITION 572-11
REPORT ON ADMISSIBILITY

SARAH LYN LANGTON AND FAMILY
VENEZUELA

Approved by the Commission on December 5, 2019

Cite as: IACHR, Report No. 189/19, Petition 572-11. Admissibility. Sarah Lyn Langton and family. Venezuela. December 5, 2019.

I. INFORMATION ABOUT THE PETITION

Petitioner	REDRESS
Alleged victim	Sarah Lyn Langton and family ¹
Respondent State	Venezuela
Rights invoked	Articles 4 (life), 5 (humane treatment), 8 (fair trial) and 25 (judicial protection) of the American Convention on Human Rights ² in relation to articles 1.1 (obligation to respect rights) and 2 (domestic legal effect)

II. PROCEEDINGS BEFORE THE IACHR³

Filing of the petition	April 25, 2011
Notification of the petition	April 25, 2017
State's first response	August 23, 2018
Additional observations from the petitioner	May 13, 2019

III. COMPETENCE

<i>Ratione personae:</i>	Yes
<i>Ratione loci:</i>	Yes
<i>Ratione temporis:</i>	Yes
<i>Ratione materiae:</i>	Yes, American Convention (since August 9, 1977, date of deposit of instrument of ratification until September 10, 2013, date when the denunciation took effect)

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), 25 (judicial protection) and 26 (economic, social and cultural rights) of the American Convention on Human Rights in relation to articles 1.1 (obligation to respect rights) and 2 (domestic legal effect)
Exhaustion or exception to the exhaustion of remedies	The exception to article 46.2.a and c of the American Convention applies
Timeliness of the petition	Yes, under the terms of Section VI

V. SUMMARY OF ALLEGED FACTS

1. The petitioner alleges that the State is responsible for the death of the alleged victim, as a result of its negligence in providing her with the necessary and timely medical attention, while she was deprived of liberty at the National Institute for Female Orientation (hereinafter "INOF"). It indicates that the alleged victim, of British nationality, was sentenced to prison in Venezuela for drug trafficking on August 8, 2000. It alleges that on March 6, 2001, the alleged victim, who had type I diabetes mellitus and mental health problems, conditions of which the State was aware, suffered an attack of hypoglycemia while she was being transferred to the Victorino Santaella General Hospital in Los Teques, where she was discharged the same day, without formal diagnosis. The next day, while she was in her cell, she began to convulse and fainted remaining unconscious and unable to administer her insulin dose. The petitioner alleges that despite the insistent call for help from the other inmates, the INOF staff took more than two hours to assist and transfer the alleged victim to the ambulance to be taken to the Victorino Santaella Hospital in a critical condition. As the public hospital lacked adequate facilities, the defense attorney for the alleged victim managed her transfer to a private medical center. However, when she entered, on the morning of March 8, she was already in a state of diabetic coma. The alleged victim died on March 13, due to anoxic encephalopathy and diabetes mellitus type I, according to the autopsy.

¹ Terry Langton and Lyn Langton, parents of the alleged victim.

² Hereinafter "America Convention" or "Convention".

³ The observations submitted by each party were duly transmitted to the opposing party.

2. The petitioner maintains that the Venezuelan authorities were aware of the health condition of the alleged victim, regarding his diabetes as well as her mental health. They also indicate that on several occasions the alleged victim had to go to the hospital because her insulin dose was not provided in time at the INOF. They also allege that during the events of March 2001, there were no doctors or equivalent personnel with the capacity to supply medical needs in case of emergency in the INOF.

3. On March 7, 2002, a citizen notified the facts to the Attorney General of the Republic, and on April 30, a criminal investigation was opened. In 2004, the father of the alleged victim was informed that the investigation was in its final stage. Between 2006 and 2007, 4 people were charged for the crime of negligent homicide or for the crime of abandonment of a child or other incapable person and, in 2008, the accusations against the defendants were submitted for the crime of culpable homicide or omission of relief. The petitioners allege that the preliminary and merits hearings were not held until October 20, 2010, more than two years after the accusations. On October 29, 2010, the Court of First Instance acting as Control No. 3 of the Criminal Judicial Circuit of the Judicial District of the State of Miranda dismissed the case because the statute of limitations operated in relation to the crime of wrongful homicide, because it had been more than three years since the commission of the alleged punishable act and his first summons as defendants; and, regarding the crime of abandonment of persons, operated the statute of limitations because nine years, seven months and twelve days had elapsed between the denounced event and the holding of the hearing. In view of the statute of limitations, the defendants were acquitted.⁴ The petitioner alleges that the authorities did not act with due diligence to avoid excessive delay in the initiation of the criminal action and in the development of the investigative process. It argues that it was the Public Ministry that had the power and obligation to consider appealing the October 29 ruling in the interest of justice. Faced with the inaction of the Public Ministry, the sentence became *res judicata*, taking the process to its final stage. It contends that despite the existence of remedies for the protection of rights that were allegedly violated, these remedies are not effective.

4. For its part, the State alleges that the petition must be declared inadmissible because domestic remedies have not been exhausted. It argues that the petitioners, in their capacity as victims in the criminal proceedings, did not file an appeal against the judgment of October 29, 2010 had they considered that this sentence entailed a violation of their rights, a breach of the law or, simply to express their disagreement with it. Likewise, after attempting such an appeal, they would have had to file an appeal for cassation, which would have exhausted the domestic jurisdiction.

VI. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

5. The Commission observes that on October 29, 2010, the First Instance Court of Control No. 3 of the Criminal Judicial Circuit dismissed the criminal case due to the application of the statute of limitations. The Commission notes that the State mentions the remedies of appeal and appeal for cassation, which were available to the petitioners. However, the Commission reiterates that the precedents established by the IACHR indicate that whenever an alleged crime is prosecuted *ex officio*, the State has the obligation to promote and advance criminal proceedings and that this is the best way to clarify the alleged facts, prosecute those responsible and establish the corresponding criminal sanctions, in addition to enabling other forms of pecuniary reparation. In addition, the Commission has established that, as a general rule, a criminal investigation must be promptly conducted to protect the interests of the victims, preserve the evidence and even safeguard the rights of any person who, in the context of the investigation, is considered suspicious.⁵ Therefore, the Commission considers that taking into account the context and the time elapsed since the facts denounced, the exception provided for in Article 46.2.a and c of the Convention applies.

6. In the same way, the Commission notes that the petition was received on April 25, 2011, and the facts denounced began in March 2001 and its alleged effects extend to the present. Therefore, the Commission considers that the petition was filed within a reasonable period of time and that the admissibility requirement regarding the filing period is satisfied.

VII. COLORABLE CLAIM

⁴ In its decision, the Tribunal established that the alleged punishable acts had occurred and, based on the evidence presented in the file, they could be attributed to the defendants.

⁵ IACHR, Report No.49/14. Petition 1196/07. Admissibility. Juan Carlos Martínez Gil, Colombia, July 21, 2014, par. 29.

7. In view of the factual and legal elements put forward by the parties and the nature of the matter brought to its attention, the Commission considers that, if proven, the allegations related to the lack of access to adequate health services and lack of care by the public authorities, as well as the subsequent death of the alleged victim while she was deprived of her liberty, and in state custody, as well as the unjustified delay in the investigation and the development of the criminal process, added to the impunity in which the facts remain, could amount to possible violations of articles 4 (life), 5 (humane treatment), 8 (fair trial), 25 (judicial protection) and 26 (economic, social and cultural rights) of the American Convention, in accordance with its articles 1.1 (obligation to respect rights) and 2 (domestic legal effects).

VIII. DECISION

1. To find the instant petition admissible in relation to Articles 4, 5, 8, 25 and 26 of the American Convention, in accordance with articles 1.1 and 2;

2. To notify the parties of the decision; to continue with the analysis on the merits and to publish this decision and to 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 5th day of the month of December, 2019. (Signed): Esmeralda E. Arosemena Bernal de Troitiño, President; Joel Hernández García, First Vice President; Antonia Urrejola, Second Vice President; Margarett May Macaulay, Francisco José Eguiguren Praeli, Luis Ernesto Vargas Silva and Flávia Piovesan, Commissioners.