

OAS/Ser.L/V/II.  
Doc. 256  
6 September 2020  
Original: Spanish

**REPORT No. 240/20**  
**PETITION 399-11**  
REPORT ON ADMISSIBILITY

OVER JOSÉ QUILA *ET AL.* (LA REJOYA MASSACRE)  
COLOMBIA

Electronically approved by the Commission on September 6, 2020.

**Cite as:** IACHR, Report No. 240/20, Petition 399-11. Admissibility. Over José Quila *et al.* (La Rejoya Massacre) Colombia. September 6, 2020.

**I. INFORMATION ABOUT THE PETITION**

Petitioner	Justice and Dignity Corporation
Alleged victim	Over José Quila and others <sup>1</sup>
Respondent State	Colombia
Rights invoked	Articles 4 (life), 5 (humane treatment), 8 (fair trial), and 25 (judicial protection) of the American Convention on Human Rights, <sup>2</sup> in relation to Article 1.1 thereof (obligation to respect rights)

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

Filing of the petition	March 29, 2011
Notification of the petition to the State	December 21, 2017
State's first response	October 2, 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 (deposit of the instrument of ratification on July 31, 1973)

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

Duplication of procedures and international <i>res judicata</i>	No
Rights declared admissible	Articles 4 (life), 5 (humane treatment), 8 (fair trial), 13 (freedom of thought and expression), 22 (movement and residence), and 25 (judicial protection) of the American Convention, in relation to Article 1.1 thereof (obligation to respect rights)
Exhaustion of domestic remedies or applicability of an exception to the rule	Yes, under the terms of section VI
Timeliness of the petition	Yes, under the terms of section VI

**V. SUMMARY OF THE FACTS ALLEGED**

1. The Petitioner claims that on January 15, 2001, a group of paramilitaries intercepted a "ladder bus" (a rural bus) in La Rejoia district, killed nine of its passengers, who were peasants from the town of Cajibío, and a police officer that was passing by, and left the bus driver severely injured. The Petitioner alleges that even though military officers and members of several paramilitary groups were involved in these crimes, state authorities have failed to exercise due diligence in investigating this massacre, clarify the events, and punish the perpetrators.

2. In this context, the Petitioner explains that in November 1999, around 50,000 people from many different social backgrounds and peasant grassroots organizations blocked a highway in Cajibío, Cauca department, for twenty-six days to demand that the State allocate funds to meet a set of basic needs of the population of southwest Colombia. The Petitioner explains that given the place where the protest took place, around 12,000 Cajibians joined; they were almost 20 percent of the demonstrators. The Petitioner affirms

<sup>1</sup> This petition concerns nine people killed, one injured, and fifty-one next-of-kin of the alleged victims, identified in the attachment.

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

<sup>3</sup> The observations submitted by each party were duly transmitted by the Commission to the opposing party.

that thanks to the protest, the State agreed to give 112,000 million pesos to southwest Colombia, of which 13,000 million pesos he said would be destined for welfare programs in Cajibío.

3. However, the Petitioner submits that starting in 2000, state agents and paramilitary groups suppressed this collective action through systematic human rights violations against Cajibío's population. The Petitioner alleges that several informants reported that the Colombian Army Third Brigade helped the Colombian Self-Defense Groups' (or "AUC") Calima Front establish in Valle del Cauca and move to Cauca department. The Petitioner says that members of the Mártires de Ortega paramilitary front also participated in the planning and execution of that front's operations in this department.

4. The Petitioner claims that the operations of these paramilitary fronts and the army led to the incidents of January 15, 2001, in La Rejoja, among other massacres.<sup>4</sup> Allegedly, after the killings, the paramilitaries threatened the survivors, forcing them to leave the area. The petitioner claims that such a situation forcedly displaced around 300 families to the cities of Cali and Popayán and the towns of Santander de Quilchao and Pendamó in Cauca department, disintegrating the social fabric of Cajibío. The petitioner also claims that many social leaders abandoned their community activities for fear of reprisals and that, as a result, the State did not fulfill and renege the agreement signed in favor of Cajibío's population following the protests of 1999.

5. The petitioner submits that on January 20, 2001, the El Liberal newspaper of Popayán city reported that an AUC paramilitary leader admitted to having committed the crimes in La Rejoja, in a letter to Popayán Ombudsman's Office. The petitioner says that on February 2, 2001, the Public Prosecutor's Office filed a preliminary investigation and that seven Calima Front paramilitaries were included in it during the process, who admitted to their involvement in the facts denounced. Thus, on April 10, 2010, the Second Specialized Criminal Court of Popayán Circuit sentenced these people to nineteen years' imprisonment for aggravated murder, but, the Court failed to establish reparations for moral and material damage.

6. The Petitioner reports that the civil party was not notified of this judgment and that, consequently, this became final without the victims' families' having the opportunity to appeal the decision and challenge the lack of reparations. The Petitioner says that, at the same time, these families presented two direct claims for damages to obtain compensation and that the Contentious Administrative Court of Cauca rejected these in its judgments of February 27, 2007, and September 2, 2008, leaving the claimants without redress.

7. Further, the petitioner stresses that during the inquests, the defendants and some witnesses alleged that in the massacre in La Rejoja were involved paramilitaries of the AUC Mártires de Ortega front, military officers, and an officer of the Unified Action Group for Personal Liberty. Nonetheless, the Petitioner claims that the criminal investigations failed to incriminate all the private parties and state officers involved in the massacre of La Rejoja and that to date, there is only one person convicted, which does not satisfy the rights to truth and justice. Lastly, the Petitioner alleges during these proceedings, there were no security measures in place for the victims' families and witnesses to participate safely, which violated their right to justice.

8. The State, for its part, claims that the petition is inadmissible as it was filed beyond the time limit required by Article 46.1.b of the American Convention. The State argues that the petition was filed 11 months after the domestic authorities' last decision, as the condemnatory judgment against the Calima Front paramilitaries was notified through an edict on April 16, 2010. The State contends that the petitioner has not submitted arguments to justify their delay in filing their petition.

9. Moreover, the State asserts that the facts set forth in the petition do not establish human rights violations. The State claims to have fulfilled its duty to investigate the facts with due diligence and to have established the facts and punished seven paramilitaries. The State contends that the lack of prosecution

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<sup>4</sup> The petitioner refers to the massacres in La Pedregosa and El Carmelo.

of all the alleged perpetrators does not alone show that the State has failed to fulfill its duty to investigate. Moreover, the State holds that the Second Specialized Criminal Court of Popayán Circuit decided not to grant reparations on considering the submitted evidence; thus, the IACHR should not replace the domestic bodies by conducting a new analysis. The State claims that in keeping the domestic rules, this decision was notified through an edict on April 16, 2010; that, therefore, the alleged victims were able to challenge the judgment. Further, the State explains that the Contentious Administrative Court of Cauca dismissed the claims for damages presented by some of the alleged victims' families in well-founded judgments proving the absence of State responsibility, given the impossibility to prevent the facts denounced. Accordingly, the State requests that the petition be declared inadmissible per Article 47.b of the American Convention, because the petitioner expects that the Commission will work as a higher court, in contravention of its subsidiary nature.

10. Finally, the State claims the non-exhaustion of domestic remedies by the family of alleged victims Rubén Darío Sánchez Urmendez, Florencio Florez Mesa, and José Luis Campo Imbachi, because of the lack of a claim for damages. The State considers that this remedy is adequate and effective for determining the State's responsibility in cases of possible violations of the American Convention; that, consequently, this must be pursued before filing a petition to the IACHR.

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

11. The Petitioner claims that the criminal proceedings held regarding the facts exceeded the reasonable term and that not all the responsible parties have been punished so far. Therefore, the Petitioner requests the application of the exception set forth in Article 46.2.c of the American Convention. In turn, the State says that the petition was filed beyond the established deadline and that in the case of the relatives of Rubén Darío Sánchez Urmendez, Florencio Florez Mesa, and José Luis Campo Imbachi, domestic remedies have not been exhausted because a claim for damages has not been filed.

12. In this regard, the Commission observes that in petitions involving alleged violations of the rights to life and humane treatment, the domestic remedies to be considered in the admissibility study are those concerning the criminal investigation and punishment of those responsible, and enabling other forms of compensation.<sup>5</sup> In this case, the Commission observes that regardless of a few final convictions, the information submitted shows that not all of the alleged persons responsible have been investigated or punished even though it has been nine teen years since the massacre. In view of the foregoing, the IACHR decides to apply in this case the exception to the exhaustion of domestic remedies established in Article 46.2.c of the Convention, as it did in previous petitions alleging situations of partial impunity.<sup>6</sup>

13. The IACHR reiterates that in order to determine the admissibility of a claim such as the one at hand, the claim for damages is not a suitable remedy and need not be exhausted, in that it is inappropriate for providing comprehensive reparation and justice to the family. Additionally, the IACHR has argued that reparations granted by an administrative or judicial body neither exclude other remedies nor exempt the State from its duty to deliver justice for the damage caused.<sup>7</sup>

14. As for the filing of this petition, the IACHR observes that although the alleged facts occurred on January 15, 2001, and it received the petition on March 29, 2011, some of the effects of these facts appear to persist in the present, such as the lack of identification and punishment of those responsible and the lack of reparations for the victims. Thus, having applied the exception set forth in Article 46.2.c of the Convention

<sup>5</sup> IACHR, Report No. 97/18, Petition 1071/07, Admissibility. Naudin José Fajardo Martínez *et al.* (Massacre of the Los Kativos Farm), Colombia, September 6, 2018, par. 9.

<sup>6</sup> See, for example IACHR, Report No. 129/18, Petition 1256/07, Admissibility. Cornelio Antonio Isaza Arango *et al.* (Massacre of the El Retiro Sawmill), Colombia, November 20, 2018; Report No. 104/18, Petition 221/08, Admissibility. Delis Palacio Herrón *et al.* (Bojayá Massacre), Colombia, September 20, 2018.

<sup>7</sup> IACHR, Report No. 129/18, Petition 1256/07, Admissibility. Cornelio Antonio Isaza Arango *et al.* (Massacre of the El Retiro Sawmill), Colombia, November 20, 2018, par. 10.

and considering the context and the characteristics of the matter at hand, the IACHR concludes that the petition was filed within a reasonable time under Article 32.2 of the IACHR Rules of Procedure.

#### **VII. ANALYSIS OF COLORABLE CLAIM**

15. In view of the available factual and legal elements, the IACHR considers that, if proven, the allegations of a lack of due diligence in the investigation and punishment of all those responsible for the killings and the damage on the alleged victims; their ensuing forced displacement, and the suppression of the families' community activities all may constitute violations of the rights protected by Articles 4 (life), 5 (humane treatment), 8 (fair trial), 13 (freedom of thought and expression), 22 (residence and movement), and 25 (judicial protection) of the American Convention.

16. Regarding the allegations by the State of "the fourth instance of jurisdiction," the Commission reiterates that for the purpose of admissibility, it must decide whether the facts alleged could characterize a violation of rights under the provisions of Article 47.b of the American Convention or whether the petition is "manifestly groundless" or "obviously out of order," pursuant to subparagraph (c) of the said article. The criterion for evaluating these requirements differs from that used for ruling on the merits of a petition. Moreover, within its mandate, the Commission is competent to declare a petition admissible when this concerns domestic legal proceedings that may be in violation of the rights protected by the American Convention. Thus, by declaring a petition admissible, the IACHR does not seek to replace the competence of domestic judicial authorities; however, it is competent to declare a petition admissible and rule on the merits when this involves domestic legal proceedings that may be in violation of the rights protected by the American Convention.

#### **VIII. DECISION**

1. To declare this petition admissible with regard to Articles 4, 5, 8, 13, 22, and 25 of the American Convention in accordance with Article 1.1 thereof; and

2. To notify the parties of this decision; to continue with the analysis on the merits; and to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 6<sup>th</sup> day of the month of September, 2020. (Signed): Joel Hernández, President; Antonia Urrejola, First Vice President; Esmeralda E. Arosemena Bernal de Troitiño, and Stuardo Ralón Orellana, Commissioners.

**Annex 1**  
**Alleged victims**

**1. Over José Quila (injured)**

**2. Carlos Adolfo Chantre Peña (dead)**

Next of kin:

1. Bertha Irene Peña Galvis (mother)
2. Carlos Adolfo Chantre (father)
3. María del Socorro Chantre (sister)
4. Fabio Chantre Peña (brother)
5. María Consuelo Chantre Peña (sister)
6. Nelsi Amparo Chantre Peña (sister)
7. Soraida Mamian (wife)
8. Edith Natalia Chantre Mamian (daughter)
9. Jerson Felipe Chantre Mamian (son)

**3. Rubén Darío Sánchez Urmendez (dead)**

Next of kin:

- 10) Bertha Urmendez Campo (mother)
- 11) Juna Isidro Sánchez (father)
- 12) Juan Andrés Sánchez (brother)
- 13) Diana Yaneth Sánchez (sister)
- 14) Luz Minde Sánchez (sister)
- 15) John Edison Sánchez (brother)
- 16) Leidy Patricia Sánchez (sister)
- 17) Duber Breiner Sánchez (brother)
- 18) Lucy Zoraida Sánchez (sister)
- 19) Elizabeth Sánchez (sister)

**4. Hugo Idrobo Ledesma (dead)**

Next of kin:

- 20) María Deyane Chate (wife)
- 21) Víctor Hugo Idrobo Chate (son)
- 22) José Yeison Chate (son)

**5. Absalón Troyano (dead)**

Next of kin:

- 23) María Neli Victoria Ante (mother)
- 24) Marceliano Troyano Ordoñez (father)
- 25) Diana Marcela Victoria Troyano (sister)
- 26) Luis Carlos Troyano (brother)
- 27) Delmira Troyano Gómez (sister)
- 28) Marcelo Troyano Gómez (brother)
- 29) Gilberto Troyano Gómez (brother)
- 30) Alirio Troyano Gómez (brother)
- 31) Humberto Troyano Gómez (brother)
- 32) Hernando Troyano Gómez (brother)
- 33) Ramiro Troyano Gómez (brother)

**6. Florencio Florez Mesa (dead)**

Next of kin:

- 34) Elizabeth Fernández (wife)
- 35) Yeison Duban Florez Fernández (son)
- 36) César Augusto Florez Fernández (son)

**7. José Luis Campo Imbachi (dead)**

Next of kin:

- 37) José Gildardo Campo Belancazar (father)
- 38) María Iliá Ibachi Sánchez (mother)
- 39) Ana Milena Campo Imbachi (sister)
- 40) Jhon Edison Campo Imbachi (brother)
- 41) Edison René Quina Campo (nephew)

**8. Juan Carlos Velasco Orozco (dead)**

Next of kin:

- 42) María Irene Orozco (mother)
- 43) Juan Bautista Velasco Zuñiga (father)
- 44) William Velasco Orozco (brother)

**9. José Oveider Mosquera Mosquera (dead)**

Next of kin:

- 45) Julián Mosquera Rodríguez (father)
- 46) María Eni Mosquera (mother)
- 47) José Ledemir Mosquera (brother)
- 48) José Orlidio Mosquera (brother)
- 49) José Líder Mosquera (brother)
- 50) María Nelli Mosquera (sister)
- 51) Leidy Viviana Mosquera (daughter)

**10. Wilmer Camayo Montenegro (dead)**