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**REPORT No. 125/25**  
**PETITION 1061-15**  
ADMISSIBILITY REPORT

LUIS ORLANDO REYES LÓPEZ AND KENIA YELIZABETH GARCÍA  
GONZÁLEZ  
COLOMBIA

Electronically approved by the Commission on July 2, 2025.

**Cite as:** IACHR, Report No. 125/25. Petition 1061-15. Admissibility. Luis Orlando Reyes López and Kenia Yelizabeth García González. Colombia. July 2, 2025.

**I. INFORMATION ABOUT THE PETITION**

<b>Petitioner:</b>	Tachi Jerz Ramírez
<b>Alleged victim :</b>	Luis Orlando Reyes López and Kenia Yelizabeth García Gonzalez
<b>Respondent State:</b>	Colombia <sup>1</sup>
<b>Rights invoked:</b>	Articles 4 (life), 5 (humane treatment), 8 (right to a fair trial), 10 (compensation), 17 (protection of the family), 22 (movement and residence), 24 (equality before the law) and 25 (judicial protection) of the American Convention on Human Rights <sup>2</sup>

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

<b>Filing of the petition:</b>	August 7, 2015
<b>Additional information received during the study stage:</b>	March 7, 2017 and June 19, 2017
<b>Notification of the petition to the State:</b>	December 2, 2019
<b>The State's First Response:</b>	November 3, 2020
<b>Additional Observations of the Petitioner:</b>	December 30, 2021

**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, the American Convention (deposit of instrument made 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 (right to a fair trial), and 25 (judicial protection) of the American Convention, in relation to Article 1(1) (obligation to respect rights)
<b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b>	Yes, the exception of Article 46.2.c) applies under the terms of Section VI
<b>Timeliness of the petition:</b>	Yes, under the terms of Section VI

**V. POSITION OF THE PARTIES****The petitioner**

1. The petitioner alleges the violent death of patrolman Luis Orlando Reyes López, which occurred on January 16, 2000, in the municipality of Santa Rosalía, Vichada, as a result of an armed attack perpetrated by the Revolutionary Armed Forces of Colombia (hereinafter, FARC) against the facilities of the

<sup>1</sup> In accordance with the provisions of Article 17(2)(a) of the Commission's Rules of Procedure, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the debate or decision in this case.

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

<sup>3</sup> The observations of each party were duly forwarded to the opposing party.

police station. It maintains that, despite the fact that the presence and actions of the illegal armed group in the area were known and repeatedly denounced, the State failed to adopt reasonable measures of prevention and protection, incurring in a failure of service that resulted in the death of the patrolman.

*On the murder of the alleged victim*

2. The petitioner says that the alleged victim, who was an active patrolman of the National Police at the station in the aforementioned municipality, died during an attack with cylinder bombs and long-range weapons directed against the police facilities. It argues that, despite repeated requests for protection made by the population and local authorities in the face of the guerrilla presence in the region, the State did not reinforce security; it did not carry out patrols or carry out control operations; nor did it improve the physical and structural conditions of the police post, which lacked trenches and adequate defenses. He argues that it was precisely the collapse of these precarious structures, added to the explosive wave of the attack, that caused the death of his partner.

3. According to the complainant, the State's responsibility derives not only from the omission of preventive measures in the face of a known risk, but also from the lack of timely reaction to reinforce security in a high-risk area, where violent acts had already occurred previously.

*About the Direct Reparation Process*

4. A process of direct reparation was carried out before the contentious-administrative jurisdiction, which concluded without the recognition of State responsibility. On February 28, 2008, the Administrative Court of Meta rejected in the first instance the claims of Mr. Reyes López's family, considering that there was no omission attributable to the State, given that the attack was carried out by an illegal armed group in the context of the Colombian armed conflict. The tribunal concluded that it was not possible to derive direct liability for the mere fact of the harmful result, in the absence of concrete proof of failure in service.

5. Although the family of the alleged victim appealed this determination and on January 28, 2015, the Contentious Administrative Chamber, Third Section, of the Council of State upheld the ruling, arguing that the State could not be held responsible for the acts of third parties not related to the public function, and that in this case the existence of serious or negligent omission was not demonstrated, nor the real possibility of avoiding the attack. It added that in contexts of internal war it is not possible to impose an obligation of absolute protection on the State and that the mere fact that the victim belongs to the National Police does not automatically imply strict liability for damages suffered in acts of service.

6. In the petitioner's view, such decisions disregard the international standard of enhanced duty of guarantee with respect to State agents deployed in high-risk areas, and that both the court and the Council of State failed to adequately assess the prior context; warnings about the threat in the area; the material conditions of the station; and the type of functions performed by the victim; that they were not combat or command. It also alleges that the ruling of the Council of State is limited to reproducing formal precedents without addressing the particularities of the specific case, and that the judicial action focused on a defensive logic, without taking into account the right to truth, to full reparation and to the protection of the family of the deceased patrolman.

*About the criminal investigation*

7. The petitioner points out that in 2000 the Office of the Attorney General of the Nation opened an investigation into these events, although it does not specify the exact date on which the case was opened. It maintains that this file remains formally open, but has not registered substantive progress since its inception. It affirms that more than fifteen years after the crime, no alleged perpetrator has been identified, no relevant charges or investigative proceedings have been carried out, and the victims have not been linked as active procedural subjects, preventing them from exercising their right to truth and justice. The petitioner emphasizes that this inactivity is aggravated by the fact that the event occurred in the context of the armed conflict, where the State's duty to investigate and punish serious violations acquires a reinforced character. It argues,

therefore, that the criminal proceedings have been ineffective, lengthy and merely formal, with an appearance of legality without substantive content.

### *Closing arguments*

8. Based on the factual considerations set forth above, the petitioner asserts that the Colombian State failed to comply with its duty of prevention and protection by failing to act in the face of a certain, concrete, and known risk that threatened the life of patrolman Luis Orlando Reyes López. In the first place, it maintains that the municipality of Santa Rosalía, Vichada, had an active and repeated presence of the FARC, an illegal armed group whose violent actions were public and official knowledge, which generated a context of constant threat. It also states that previous violent events had already been recorded in the area, which reinforced the objective and predictable nature of the risk. It also alleges that the police station where Reyes López was serving was in precarious security conditions, without basic defensive structures, which was decisive in the death of the patrolman after the collapse of a part of the building during the attack. According to him, both local authorities and the community had requested protection measures, without the State taking effective action. Finally, it argues that, since it was a patrol vessel without command functions, Reyes López lacked tactical decision-making capacity, so his protection depended entirely on the State, which failed to act with due diligence in the face of a threat that was not only foreseeable, but warned in advance, thus violating the duty to guarantee in accordance with the standards of international human rights law.

9. Finally, it adds that as a result of the death of Mr. Luis Orlando Reyes, his wife, Mrs. Kenia Yelizabeth García Gonzalez, suffered a serious psychological and emotional impact, as well as a direct economic impact, since she depended on the income of the alleged victim. Finally, it argues that, given the ineffective procedural status of criminal and administrative proceedings, the absence of reparation, and the lack of concrete institutional progress, the exception to the exhaustion of domestic remedies provided for in Article 46(2)(a) and (b) of the American Convention is configured, which enables the IACHR to intervene.

### **The Colombian State**

10. For its part, the State replies that the petition is inadmissible for failure to exhaust domestic remedies. It maintains that the petitioner did not exercise the additional review mechanisms available, such as the tutela action against judicial decisions, which would have allowed its questions to be channeled to the decisions handed down in the contentious-administrative jurisdiction. It emphasizes that the Constitutional Court has indicated that, although it is an exceptional mechanism, protection is appropriate when a judgment incurs manifest defects, such as disregard of precedent or direct violation of the Constitution. In this regard, the State maintains that the petitioner did not exhaust this remedy, nor did he justify his inaction, so that the requirement of subsidiarity that governs the inter-American system is not met.

11. Notwithstanding the foregoing, if the Commission considers that the petitioner has properly exhausted jurisdiction, Colombia considers that the petition would continue to be inadmissible, since the petitioner's allegations would lack sufficient support to establish a possible violation of the human rights established in the Convention.

12. With regard to the criminal investigation, he alleges that it was effectively initiated by the Office of the Attorney General of the Nation shortly after the events occurred, specifically through the Unit of the Office of the Prosecutor Delegated to the Criminal Judges of the Villavicencio Circuit, under case number 18383, which was opened on January 8, 2000. However, since it was impossible to identify the FARC members who committed the murder, the prosecutor's office issued a suspension order, which became final on 30 August 2000. It argues that this action shows that the State immediately activated the investigative apparatus, thus fulfilling its duty to act diligently. It adds that the duty to investigate in accordance with the standards of the Inter-American System is one of means and not of results, citing jurisprudence of the Inter-American Court to the effect that States are not obliged to guarantee the success of any investigation, but to demonstrate that reasonable measures were adopted in accordance with the context and the facts available.

13. With respect to the contentious-administrative jurisdiction, the State reiterates that the direct reparation process was duly processed and decided in law. It emphasizes that the case was the subject of a double instance, being resolved initially by the Administrative Court of Cundinamarca, and later by the Council of State on September 27, 2012, by means of a judgment that ratified the non-existence of State responsibility, arguing that no failure in service or serious omission was proven. The State emphasizes that these decisions were adopted by competent judicial authorities, with full observance of the guarantees of due process, so that the fact that the decisions were not favorable to the petitioner cannot be qualified as a denial of justice.

14. With regard to the death of Mr. Reyes López, he stresses that due to the armed conflict there are complexities derived from the action of illegal armed groups such as the FARC. In this regard, it points out that the murder of the alleged victim occurred in the context of an insurgent offensive action, which imposes objective limits on the State's capacity to foresee and respond, without this being automatically interpreted as a violation of the duty to guarantee. It argues that requiring the State to provide absolute and infallible protection in all cases of violence arising from the conflict would be unreasonable and disproportionate.

15. Finally, the State notes that the petition is based on an erroneous reading of the scope of international obligations, in that it seeks to transfer to the international arena a disagreement with the evidentiary and legal assessment made by national judges, without proving an autonomous violation of rights. It considers that this approach is tantamount to trying to have the IACHR act as a court of review, which violates the consolidated doctrine of the "fourth instance."

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

16. The petitioner argues that it has exhausted domestic remedies, since it filed a claim for direct reparation, which received a final response on January 28, 2015, from the Council of State. It also states that the criminal investigation has been ineffective, because 25 years after the murder of the alleged victim, those responsible have not yet been identified. For its part, the State replies that the requirement set forth in Article 46(1)(a) of the Convention is not met, since the petitioner did not file an action for protection of constitutional rights by questioning the resolutions that dismissed the claim for direct reparation filed by Mr. Reyes López's next of kin.

17. The Commission recalls that, in cases of crimes prosecutable *ex officio*, such as homicides, kidnappings, or torture, the State has the obligation to promote and promote criminal proceedings, which constitute the ideal way to clarify the facts, prosecute those responsible, and establish the corresponding criminal sanctions, in addition to allowing the application of other forms of pecuniary<sup>4</sup> reparation. This obligation is not limited to a specific phase of the process, but extends to its entirety, including the appeals stage. Consequently, in cases such as the present one, the promotion of domestic proceedings should not depend solely on the initiative of the victims' relatives, but it is up to the State to guarantee access to justice and the effective investigation of the facts.

18. The Commission also recalls that, as a general rule, the petitioner is only in principle obliged to exhaust ordinary judicial remedies at the domestic level. Thus, the IACHR has repeatedly maintained that, although in some cases extraordinary remedies may be adequate to address human rights violations, the only remedies that are necessary to be used are those whose functions within the legal system are appropriate to provide protection aimed at remedying an infringement of a certain right<sup>5</sup>.

19. In the present case, the Commission observes that, although the authorities have initiated a criminal investigation, it has been suspended since August 30, 2000, since it was considered that there was insufficient evidence to identify those responsible. Thus, after 25 years since the death of the alleged victim, and despite the various advances in the peace processes promoted by Colombia, the file remains inactive, with

<sup>4</sup> IACHR, Report No. 155/17, Petition 1470-08, Admissibility. Beatriz Elena San Miguel Bastidas and family, Colombia. 30 November 2017, para. 9.

<sup>5</sup> IACHR, Report No. 221/22. Petition 434-12. Admissibility. Hugo Paz Lavadenz. Bolivia. August 13, 2022, para. 23.

no evidence that measures have been adopted to clarify the facts. For the reasons set forth above, and considering the State's duty to act *ex officio* and provide a reasoned response to what happened, the Commission considers the exception provided for in Article 46(2)(c) of the Convention to be applicable, and will analyze in the merits stage whether the State diligently investigated what happened. In addition, although the petition was filed on August 7, 2015, the Commission takes into account that the alleged victim brought actions before the contentious-administrative jurisdiction, and therefore considers that the petition was filed within a reasonable period of time, in compliance with Article 32(2) of its Rules of Procedure.

20. Finally, the Commission notes that the petitioner also alleges that the direct reparation process violated the rights of the alleged victim and his wife, since the authorities rejected without due justification the arguments aimed at questioning the lack of prevention and protection measures. Consequently, the Commission will also assess this aspect and understands that, with the decision of the Council of State of January 28, 2015, domestic remedies were exhausted, as required by Article 46(1)(a) of the Convention. In addition, considering that the petition was sent by mail on August 7, 2015 and that, in accordance with its repeated practice, there is a reasonable tolerance for the time it may take to send such a petition, the Commission concludes that the requirement of time established in Article 46(1)(b) of the American Convention is also satisfied.

## VII. ANALYSIS OF COLORABLE CLAIM

21. The Commission reiterates that the criterion for evaluating the admissibility phase differs from that used to rule on the merits of a petition; at this stage, the IACHR must carry out a *prima facie* evaluation to determine whether the petition identifies the basis for the possible or potential violation of a right guaranteed by the Convention. but not to establish the existence of a violation of rights. This determination on the characterization of violations of the American Convention constitutes a primary analysis that does not imply prejudging the merits of the case. For purposes of admissibility, the Commission must decide whether the alleged facts may constitute violations of rights, as stipulated in Article 47(b) of the American Convention, or whether the petition is "manifestly groundless" or "manifestly out of order," pursuant to Article 47(c) of the American Convention.

22. Based on this, the Commission observes that the petitioner presents a series of arguments and evidence aimed at demonstrating that the State was aware of a certain and imminent risk to the detriment of the alleged victim. Likewise, although the authorities initiated an investigation, he maintains that it was not carried out diligently and that, twenty-five years after the homicide occurred, there is still no trace of the possible perpetrators. Finally, it also asserts that the reparation process was ineffective, despite evidence demonstrating the failure of the officials to protect Mr. Reyes López.

23. For the reasons set forth above, after examining the factual and legal elements presented by both parties, the Commission concludes that the petitioner's allegations regarding the failure to prevent the alleged victim's homicide and her subsequent failure to identify those responsible and to provide reparation are not manifestly groundless, and require an analysis of the merits. In this regard, the IACHR considers that, if the alleged facts are corroborated, they could constitute violations of Articles 4 (life), 5 (humane treatment), 8 (right to a fair trial), and 25 (judicial protection) of the American Convention, in relation to Article 1(1) of the same instrument, to the detriment of Mr. Luis Orlando Reyes López and Kenia Yelizabeth García González. under the terms of this report.

24. Finally, with regard to the alleged violation of Articles 10 (compensation), 17 (protection of the family), 22 (movement and residence), and 24 (equality before the law), the Commission considers that no evidence has been provided to clarify, *prima facie*, its possible violation.

## VIII. DECISION

1. To declare this petition admissible in relation to Articles 4, 5, 8, and 25 of the American Convention; and

2. To declare the present petition inadmissible in relation to Articles 10, 17, 22, and 24 of the Convention; and

3. To notify the parties of this decision; to continue with the analysis of the merits of the matter; and 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 2<sup>nd</sup> day of the month of July, 2025. (Signed:) José Luis Caballero Ochoa, President; Arif Bulkan, Second Vice President; Roberta Clarke, and Gloria Monique de Mees, Commissioners.