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REPORT No. 99/25
PETITION 1169-14
ADMISSIBILITY REPORT

JUAN ANTONIO CABALLERO VILLAMIZAR AND FAMILY MEMBERS
COLOMBIA

Approved by the Commission electronically on June 5, 2025

Cite as: IACHR, Report No. 99/25, Petition 1169-14. Admissibility. Juan Antonio Caballero Villamizar and family members. Colombia. June 5, 2025.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Abimelec Aguilar Hurtado
Alleged victim:	Juan Antonio Caballero Villamizar and family members ¹
Respondent State:	Colombia ²
Rights invoked:	Articles 4 (life), 5 (personal integrity), 8 (judicial guarantees), 10 (compensation), 17 (protection of the family), 22 (freedom of movement and residence), 24 (equality before the law), and 25 (judicial protection) of the American Convention on Human Rights ³ , in relation to Article 1.1.

II. PROCEEDINGS BEFORE THE IACHR⁴

Filing of the petition:	August 21, 2014
Additional information received at the stage of initial review:	August 30, 2014
Notification of the petition to the State:	September 16, 2019
Request for Extension:	December 13, 2019
State's first response:	May 21, 2020
Warning to the Petitioning Party Regarding Possible Archiving:	November 9, 2021
Petitioner's Response to the Warning of Possible Archiving:	March 7, 2024

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, the 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

Duplication of procedures and International <i>res judicata</i>:	No
Rights declared admissible	Articles 4 (life), 5 (personal integrity), 8 (judicial guarantees), and 25 (judicial protection) of the American Convention, in relation to Article 1.1 (obligation to respect rights)
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, partially, as per the terms of Section VI
Timeliness of the petition:	Yes, partially, as per the terms of Section VI

¹ Yenni Carolina Hernández Garnica (wife), Juan Esteban Caballero Hernández and Luisa Fernanda Caballero Cundumi (children).

² 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 discussion or decision of this matter.

³ Hereinafter "the American Convention" or "the Convention."

⁴ The observations of each party were duly considered and forwarded to the other party.

V. POSITION OF THE PARTIES

The Petitioning Party

1. The petitioner denounces the violent death of Juan Antonio Caballero Villamizar (hereinafter also "Mr. Caballero," "Sergeant Caballero," or "the alleged victim") at the hands of the FARC, as well as the forced displacement and threats suffered by his family members as a consequence of these events. He alleges that these events are the result of the armed conflict and that the State is responsible for omission and negligence in failing to adequately protect its citizens and members of the public forces.

Information on the Death of Juan Antonio Caballero Villamizar

2. The petitioner states that Juan Antonio Caballero Villamizar served as a First Vice-Sergeant in the Colombian National Army, with over thirteen years of service in the Military Intelligence and Counterintelligence unit RIME 4, located in Villavicencio, Meta. On April 29, 2006, Mr. Caballero, along with Captain Hugo Díaz, traveled to the municipality of Granada, Meta, as part of "Operation Castillo," in accordance with military operation orders Nos. 094 and 097. His mission was to meet with Second Corporal José Fuentes in the Guarumales village of the municipality of Lejanías and deliver supplies such as cement, urea, insecticides, and zinc roofing sheets. That same day, around 3:00 PM, Sergeant Caballero reported that he had already met with Corporal Fuentes and that, due to the time, he would stay there and return the next day.

3. On May 1, 2006, at 5:30 AM, Captain Hugo Díaz received a call from an informant who said in a choked voice, "They just killed my brother." Concerned about the lack of communication with Sergeant Caballero and Corporal Fuentes, Captain Díaz immediately informed his superiors of the situation. Despite being aware of the imminent risk the non-commissioned officers were facing, the National Army allegedly failed to take the necessary measures to provide them with tactical or logistical support or to carry out a rescue operation. The soldiers were left to their own devices in an area with a known presence of insurgent groups, specifically the FARC-EP. Subsequently, it was confirmed that Sergeant Caballero and Second Corporal Fuentes had been kidnapped, tortured, and murdered by the aforementioned guerrilla group. Their bodies were found in a state of decomposition on a road and taken to the morgue as unidentified (N.N.).

4. The petitioner alleges that the National Army failed to provide the necessary tactical, logistical, and technological support, and that it did not act with due diligence once it became aware of the danger faced by the non-commissioned officers. He further argues that, as a consequence of these events, Mr. Caballero's family members were targeted with threats from the FARC, forcing them to move from their places of residence, leaving behind their family, cultural, and social roots, and facing difficulties in their new location. The petitioner alleges that the State did not provide them with protection or assistance in their situation of displacement.

Information on Internal Proceedings

5. The petitioner reports that the Attorney General's Office initiated an investigation through the Sixth Specialized Prosecutor's Office (file No. 157.326), which was later transferred to the 43rd Human Rights Unit Prosecutor's Office (file No. 7956) and subsequently to the 50th Sectional Prosecutor's Office of Mesetas, Meta (file No. 503306105622201380082). However, as of the date of the initial petition, the investigation had not yielded conclusive results, and those responsible had not been identified or punished.

6. Likewise, on September 5, 2007, the family members of Juan Antonio Caballero Villamizar filed a direct reparation lawsuit before an Administrative Court, registered under number 50001-33-31-001-2007-00122-00. The claims were denied in the first instance and confirmed in the second instance by the Administrative Court of Meta, arguing that there was no failure in the service by the State, and consequently, state responsibility for the events was not established.

7. Regarding administrative investigations, the petitioner indicates that no effective investigations have been carried out by the Attorney General's Office or the Ombudsman's Office, further

stating that the National Army did not conduct an internal investigation to clarify the facts or punish those responsible for the omission in the duty to protect the non-commissioned officers.

Petitioner's Conclusions

8. In view of the above, the petitioner alleges that the Colombian State has violated: i) the obligation to respect human rights by failing to guarantee the rights and freedoms recognized in the American Convention and not adopting the necessary measures to ensure their exercise; ii) the right to life by failing to protect the life of Sergeant Caballero, allowing him to be murdered by illegal armed groups; iii) the right to personal integrity due to the suffering caused to both the deceased and his family members, who faced threats and forced displacement; iv) judicial guarantees by failing to provide an effective judicial remedy to investigate, prosecute, and punish those responsible for the events; v) the right to compensation by denying the family members the right to full reparation for the damages suffered; vi) the right to the protection of the family by failing to guarantee protection and assistance to the family of the deceased, affecting their unity and well-being; vii) the right to freedom of movement and residence due to the forced displacement of the family members as a result of the threats received; viii) equality before the law by failing to provide them with the same treatment and protection as other citizens in similar situations; and ix) the right to judicial protection by failing to provide effective judicial remedies to protect their fundamental rights.

The Colombian State

9. The State presents information on the ordinary criminal investigation, the process before the Special Jurisdiction for Peace (JEP), and the contentious-administrative jurisdiction, in addition to its arguments against the admissibility of the petition.

The Ordinary Criminal Investigation

10. The State alleges that the reported events were the subject of a criminal investigation initiated ex officio on May 10, 2006, by the Attorney General's Office. From that same day, the prosecutor's office ordered the taking of evidence aimed at identifying those responsible for these events, so that they could later be tried and punished. This evidence included taking statements and judicial inspections. Thanks to the investigations carried out, the prosecutor's office was able to establish that the perpetrators of the alleged victim's death were the same individuals responsible for the deaths of four other people on May 1, 2006, in the Diamante village of the municipality of Mesetas, Meta. Therefore, the investigation was forwarded to be integrated into file No. 7956, which was being handled by the 43rd Specialized Prosecutor's Office for Human Rights and International Humanitarian Law.

11. As a result of all the investigative work carried out, on March 17, 2014, the Prosecutor's Office issued a resolution to open an investigation against Pedro López Hinceca and Marco Julio Aguirre Hernández. Subsequently, on December 19, 2015, by virtue of the inquiries made and new statements and facial recognition procedures, Henry Castellanos Garzón and Rafael Antonio Ovalle were linked to the process as absent persons.

12. On the other hand, on August 3, 2016, the Second Specialized Criminal Court of Villavicencio handed down a conviction against Marco Julio Aguirre Hernández, finding him criminally responsible as a co-perpetrator of the crimes of aggravated homicide, simple homicide in homogeneous concurrence with homicide of a protected person, and torture. The Second Criminal Court imposed a sentence of 450 months in prison and a fine equivalent to 4,500 legal monthly minimum wages (approximately one million US dollars⁵).

13. Against this decision, Marco Julio Aguirre Hernández's lawyer filed an appeal. Consequently, the file was initially sent to the Criminal Chamber of the Superior Court of the Judicial District of Villavicencio. Subsequently, in compliance with Agreement PCSJA17-10677 of the Superior Council of the Judiciary, which

⁵ Estimated calculation based on the value of the current legal monthly minimum wage in 2016 (689,455 Colombian pesos) and the exchange rate of August 3, 2016 (1 US dollar was equivalent to 3,096.44 Colombian pesos). The information was compiled, respectively, from https://es.wikipedia.org/wiki/Anexo:Salario_m%C3%ADnimo_en_Colombia and <https://www.exchange-rates.org/pt/historico/usd-cop-2016>.

decreed a decongestion measure, the file was sent to the Criminal Chamber of the Court of the Judicial District of Sincelejo.

14. During the course of the appeal, the file was again sent to the Second Specialized Criminal Court of Villavicencio, which ordered the suspension of the appeal until the Special Jurisdiction for Peace (JEP) became operational. This decision was based on the request of Marco Julio Aguirre, submitted on May 5, 2017, in which he requested *de iure* amnesty and his transfer to a Transitory Village Normalization Zone, arguing that the crimes for which he was convicted were related to his membership in the FARC-EP guerrilla group.

15. In this regard, by judgment of June 27, 2017, the Second Specialized Criminal Court of Villavicencio denied *de iure* amnesty, considering that the crimes for which Mr. Aguirre was convicted were not subject to amnesty or related to crimes of a political nature. However, it authorized his transfer to a Transitory Village Normalization Zone and decided that the process would be suspended until the JEP became operational.

16. Regarding the other individuals linked to the criminal investigation, the State reported, in summary, that on August 23, 2017, the Attorney General's Office issued an indictment against Henry Castellanos Garzón and Rafael Antonio Ovalle. The situation of these individuals, identified as members of the FARC-EP, is pending resolution by the JEP regarding their appearance in this and other cases that occurred in the context of the armed conflict.

The Process before the JEP

17. On June 20, 2019, by means of Official Letter No. 1253, the Second Specialized Criminal Court of Villavicencio forwarded the file related to the criminal proceedings of Mr. Aguirre Hernández to the JEP so that this special court could resolve his legal situation on the merits.

18. Subsequently, by communication of January 3, 2020, the Amnesty or Pardon Chamber of the JEP reported that the case was assigned to one of its magistrates in charge of resolving the amnesty request, as well as the accreditation request submitted by certain victims. However, Mr. Caballero's family members are not among the accredited victims. According to the latest information provided by the State in these proceedings before the IACHR, in May 2020, the process before the JEP remained pending.

The Contentious-Administrative Jurisdiction

19. On July 7, 2007, Mr. Caballero's wife filed a direct reparation lawsuit against the Ministry of Defense-National Army. The case was heard in the first instance by the First Administrative Decongestion Court of the Circuit of Villavicencio and identified with file No. 50001-33-31-001-2007-00122-00. On September 11, 2007, the court accepted the lawsuit and transferred it to the Ministry of Defense-National Army. The defendant entity argued that Mr. Caballero's employment relationship implied the voluntary assumption of risks inherent to the military profession; therefore, according to contentious-administrative jurisprudence, there was no failure in the service, since his death occurred within the framework of said risks.

20. On February 29, 2012, the First Administrative Decongestion Court of the Circuit of Villavicencio issued a judgment denying the plaintiff's claims. The judge concluded that a failure in the service or the exposure of the affected party to a risk greater than the usual one for his profession had to be demonstrated. However, the analysis of the arguments and evidence did not show any omission by the National Army that could be attributed as the cause of the events, nor was it proven that the Army knew of the specific danger faced by Sergeant Caballero or that he had requested protection in circumstances that would have made his death foreseeable, and therefore, avoidable.

21. In the second instance, on April 1, 2014, the Administrative Court of Meta upheld the decision. The panel considered that it had not been demonstrated that the Army had precise and sufficient information about the specific risk to which the sergeant was exposed, nor that he had requested specific support that would justify additional intervention. In addition, it pointed out that the State's responsibility for omission requires

proof that the damage was foreseeable and that the authorities did not use the available means to prevent it. In this case, the report of Captain Hugo Díaz did not provide the necessary certainty to conclude that the Army had clear knowledge of the risk or that its action would have prevented Sergeant Caballero's death. Therefore, the court concluded that there was no failure in the service by the State.

State's Conclusions

22. The State considers that the petitioner has not exhausted the remedies of domestic jurisdiction, since these are pending before the JEP, and requests the IACHR not to consider applicable any of the exceptions to the exhaustion of domestic remedies contained in Article 46.2 of the American Convention. This is based on the fact that, according to the description of the processes carried out, there is an internal legal framework that guarantees the protection of the rights alleged to have been violated, through the ordinary criminal process and the JEP. It also highlights that the interested parties have had access to these remedies and there has been no unjustified delay in the corresponding decisions.

23. Likewise, the State argues that the victim's family members initiated a process before the contentious-administrative jurisdiction, which was carried out with full respect for conventional guarantees and culminated in final decisions. The national jurisdiction in this matter complied with conventional standards, since: i) both the First Administrative Decongestion Court of the Circuit of Villavicencio and the Administrative Court of Meta analyzed the arguments and evidence presented by the parties; ii) the plaintiffs were allowed to participate in the different procedural instances, as well as the possibility of appealing the decisions; and iii) the resolutions were duly reasoned from a factual and legal point of view. In addition, the petitioner did not present arguments to prove that the decisions issued within the framework of the contentious-administrative jurisdiction were contrary to international standards. Consequently, the "fourth instance" formula is configured, since the domestic instances have already evaluated the facts subject to the petition to the IACHR, which makes any claim in this regard inadmissible, in accordance with Article 47.b of the American Convention.

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

24. The IACHR identifies that the object of the petition is: i) the execution and torture of Juan Antonio Caballero Villamizar at the hands of the FARC, as well as the alleged impunity and lack of compensation for the events; ii) the alleged threats and forced displacement suffered by his family members as a direct consequence of his murder.

25. With respect to matter i), the IACHR recalls that in cases where a claim is made for the death of persons and the resulting impunity, the appropriate remedy to be exhausted at the domestic level is the criminal route, through the ex officio and diligent conduct of investigations that determine those responsible for the violation of the right to life and subject them to trial and punishment in accordance with the American Convention⁶; this burden must be assumed by the State as its own legal duty, and not as a management of the interests of individuals or that depends on their initiative or the contribution of evidence by them⁷.

26. According to the information provided by the parties, on May 1, 2006, Mr. Juan Antonio Caballero Villamizar was executed by members of the FARC-EP. The Attorney General's Office initiated the criminal investigation ex officio on May 10, 2006, and upon identifying possible connections with other deaths, forwarded the case to the 43rd Specialized Prosecutor's Office for Human Rights. On May 17, 2014, this

⁶ IACHR, Report No. 13/22. Petition 1332-11. Admissibility. Orlando Hernández Ramírez and family members. Colombia. February 9, 2022, paragraph 7; IACHR, Report No. 72/18, Petition 1131-08. Admissibility. Moisés de Jesús Hernández Pinto and family. Guatemala. June 20, 2018, paragraph 10; IACHR, Report No. 70/14. Petition 1453-06. Admissibility. Maicon de Souza Silva. Renato da Silva Paixão and others. July 25, 2014, paragraph 18; Report No. 3/12, Petition 12.224. Admissibility, Santiago Antezana Cueto and others, Peru, January 27, 2012, paragraph 24; Report No. 124/17, Petition 21-08, Admissibility, Fernanda López Medina and others, Peru, September 7, 2017, paragraphs 3, 9-11.

⁷ IACHR, Report No. 13/22. Petition 1332-11. Admissibility. Orlando Hernández Ramírez and family members. Colombia. February 9, 2022, paragraph 7; IACHR, Report No. 159/17, Petition 712-08. Admissibility. Sebastián Larroza Velázquez and family. Paraguay. November 30, 2017, paragraph 14.

prosecutor's office formally opened the investigation against two suspects, and on December 19, 2015, linked two others. On August 3, 2016, the Second Specialized Criminal Court of Villavicencio convicted one of the suspects: Marco Julio Aguirre Hernández. However, on appeal, he requested *de iure* amnesty and transfer to a Transitory Village Normalization Zone. On June 27, 2017, the court denied the amnesty but authorized his transfer to the zone and suspended the process pending the JEP assuming jurisdiction. On the other hand, on August 23, 2017, the Prosecutor's Office formally charged Henry Castellanos Garzón and Rafael Antonio Ovalle, identified as members of the FARC-EP, whose situation was also pending resolution by the JEP. On June 20, 2019, Marco Julio Aguirre Hernández's file was sent to the JEP to determine his legal situation. On January 3, 2020, the Amnesty or Pardon Chamber of the JEP assigned the case to a magistrate, but without including Mr. Caballero Villamizar's family members among the accredited victims. As of May 2020, according to the information provided by the State, the process before the JEP was still pending.

27. The above shows that to date, the State has not demonstrated that the criminal process has reached the level of *ex officio* and diligent investigations that determine those responsible for the violation of the right to life and are subject to trial and punishment. Therefore, and considering that more than eighteen years have elapsed since the execution, the Inter-American Commission considers that the exception to the rule of prior exhaustion provided for in Article 46.2.c) of the Convention applies to the case.

28. In its recent jurisprudence on admissibility, the Inter-American Commission analyzed similar cases where domestic remedies are still pending before the JEP, or have been suspended due to the mere existence of the JEP, many years after the events occurred. In these analyses, the Commission concluded that the exception of unjustified delay must be applied, since the requirement of exhaustion of domestic remedies cannot be such that it indefinitely delays the access of the alleged victims to the inter-American system⁸.

⁸ IACHR, Report No. 239/23. Petition 467-12. Admissibility. Ernesto Cruz Guevara and family. Colombia. October 20, 2023, para. 25 ("the Inter-American Commission on Human Rights considers that the internal remedy processed before the JEP, that is, the criminal process of recognition of truth and responsibility, has not been exhausted, and has prevented the decisions adopted in the ordinary justice system from becoming enforceable. Thus, the Commission understands that the internal remedy indicated for cases of serious human rights violations is the criminal process, and this has not been exhausted due to the initiation of a new process before the JEP."); IACHR, Report No. 226/23. Petition 468-12. Admissibility. Omar Lizarazo Guitero and family. Colombia. October 20, 2023, paras. 37-38 ("In the present case, according to the information provided by the parties, the Commission observes that, after the death of the alleged victim in February 2007: i) initially, the military criminal justice system took over the investigation of these events; however, on November 30, 2010, the investigation was transferred to the 61st Specialized Prosecutor's Office for Human Rights and International Humanitarian Law; [...] iv) on July 17, 2018, the JEP's Recognition Chamber took cognizance of the case; v) on November 22, 2022, the Chamber began the restorative process in preparation for a public hearing to acknowledge the respective truth and responsibility. Thus, taking into account the above, and the fact that the process considered as a whole has lasted for more than sixteen years since the death of Mr. Lizarazo Guitero, the IACHR concludes that there is an unjustified delay in the adoption of a final decision at the internal level, and therefore the exception provided for in Article 46.2.c) of the American Convention is applicable."); IACHR, Report No. 170/23. Petition 619-13. Admissibility. Héctor Quinceno López and family. Colombia. August 20, 2023, paras. 17-18 ("from the time of the commission of the crime in December 2000 to date, more than twenty-two years have elapsed without all those responsible for the massacre that occurred in the city of Granada having been identified, prosecuted and punished. In this sense, the Inter-American Commission recalls that the requirement of exhaustion of internal remedies cannot be such that it indefinitely delays the access of the alleged victims to the inter-American system for the protection of human rights. Consequently, the exception to the duty to exhaust internal remedies provided for in Article 46.2.c) of the American Convention is applicable to this aspect of the petition. Now, since December 2021, the State reports that the Special Jurisdiction for Peace (JEP) has carried out relevant activities in relation to the analysis of the events that occurred on December 6, 2000 in the city of Granada; however, it does not provide any additional information on the status of the investigation before the transitional justice system, nor does it specify whether it assumed specific jurisdiction over this specific criminal investigation, what procedural or investigative actions the JEP has carried out in relation to this case; whether the relatives of the deceased victims have been recognized as victims before the JEP; or in what time frame or procedural framework the adoption of a decision in this case can be foreseen."); IACHR, Report No. 33/22. Petition 1394-12. Admissibility. Isnardo León Mendoza and family. Colombia. March 9, 2022, paras. 27-28 ("The State has alleged before the Commission a lack of exhaustion of domestic remedies, since in its opinion the authorities of the criminal justice system, both ordinary and transitional, have acted diligently and continue to advance in their investigations, without having incurred in an unjustified delay. However, the IACHR observes that taking into account the internal processes as a whole, a total of more than sixteen years have elapsed since the commission of this serious crime against an absolutely innocent and defenseless peasant child, a period after which the criminal process initiated for his death or disappearance remains inconclusive, without any person having been formally charged as a possible perpetrator, much less tried or determined a fair sanction against all those responsible, material and intellectual. In this sense, the Inter-American Commission recalls that the requirement of exhaustion of internal remedies cannot be such that it indefinitely delays the access of the alleged victims to the inter-American system for the protection of human rights. Therefore, the IACHR considers applicable, in the case under examination, the exception to the duty to exhaust domestic remedies established in Article 46.2.c) of the American Convention.").

29. Regarding the reasonableness of the period in which this petition was filed, in accordance with Article 32.2 of its Rules of Procedure, the IACHR concludes that it meets this requirement, since the initial events occurred in 2006; the petition was filed in 2014; and the effects of the alleged violations in terms of the alleged impunity would remain until the present.

30. The Commission also observes that Mr. Caballero's family members filed a direct reparation lawsuit. This lawsuit was resolved unfavorably in the first instance on February 29, 2012, and confirmed in the second instance on April 1, 2014, exhausting the contentious-administrative route. Since the petition was filed on August 21, 2014, the requirement of the filing period of Article 46.1.b) of the Convention is also met in relation to this aspect of the petition.

31. In relation to matter ii), that is, the alleged threats and forced displacement suffered by the family members of Mr. Caballero Villamizar as a direct consequence of his execution, the petitioner does not provide information on the activation of internal remedies, such as complaints to police authorities or specialized mechanisms for addressing threats and forced displacement. Nor does he offer any explanation as to the impossibility of using such internal remedies. The absence of this information prevents the IACHR from proceeding with the analysis of the exhaustion of internal remedies and the filing period, so this part of the petition is considered inadmissible, and remains outside the factual framework of this case.

VII. ANALYSIS OF COLORABLE CLAIM

32. For the purposes of admissibility, the Commission must decide whether the alleged facts could characterize a violation of rights, as stipulated in Article 47.b of the American Convention, or whether the petition is "manifestly groundless" or "its total inadmissibility is evident," in accordance with paragraph (c) of said article. The criterion for evaluating these requirements differs from that used to rule on the merits of a petition. Likewise, within the framework of its mandate, it is competent to declare a petition admissible when it refers to internal processes that could violate rights guaranteed by the American Convention. That is to say, in accordance with the aforementioned conventional rules, in accordance with Article 34 of its Regulations, the admissibility analysis focuses on the verification of such requirements, which refer to the existence of elements that, if true, could constitute *prima facie* violations of the American Convention.

33. Firstly, although Juan Antonio Caballero Villamizar was killed by the FARC, and even though the mere participation in a military operation does not automatically constitute a violation of the right to life, it must be assessed whether the authorities had knowledge, or reasonably should have had knowledge, of a specific and pressing risk against Sergeant Caballero; and, if so, whether they took the necessary actions to prevent it. Likewise, the Commission notes that, according to the facts as alleged, in the context of the Colombian armed conflict, Sergeant Caballero Villamizar was allegedly sent on a military mission to an area with a known presence of insurgent groups. This issue constitutes a matter pertaining to the merits as to the article 4 of the Convention that cannot be dismissed *in limine* at this stage.

34. In light of the foregoing, the Commission considers that it is not appropriate to dismiss *prima facie* the possible responsibility of the State for the alleged omission in fulfilling its obligation or duty of protection. The seriousness of the allegations (kidnapping, torture, and subsequent execution) and the context described warrant a more in-depth examination at the merits stage, in order to determine whether or not the aforementioned obligation was fulfilled, bearing in mind that the alleged facts took place in high-risk areas with a background of illegal armed group presence.

35. The Commission also recalls the petitioner's claim that the family members of the alleged victim saw their right to compensation violated due to the lack of full reparation for the damages suffered. On this point, the IACHR observes that the right to compensation of Article 11 of the American Convention refers to compensation for criminal convictions resulting from judicial error, which is not the case of the present petition. Furthermore, the Commission observes that there are no complaints or elements that point to possible violations of judicial guarantees and protection in relation to the internal process of direct reparation. Thus, in relation to this aspect, there is also no characterization of possible violations of the Convention.

36. On the other hand, the prolonged duration of the criminal investigation, as well as the lack of identification and punishment of all those responsible, raise serious doubts about the effectiveness of the state response, in addition to potentially generating intense suffering for the family members, to the detriment of their personal integrity.

37. The IACHR also notes that a controversy remains regarding the submission of the case to the JEP and whether that jurisdiction can provide an appropriate and effective remedy to investigate and redress the human rights violations arising from the alleged extrajudicial executions of the alleged victims, in accordance with international standards of the right of access to justice and the punishment of international crimes. On this issue, the Commission will defer its analysis to the merits stage and will admit the articles invoked on the occasion of the extrajudicial execution and the processing of the criminal proceedings.

38. In view of these considerations and after examining the elements of fact and law presented by the parties, the Commission considers that the allegations of the petitioning party are not manifestly groundless and require an examination of the merits, since the alleged facts, if corroborated as true, could characterize violations, fundamentally of Articles 4 (life), 5 (personal integrity), 8 (judicial guarantees), and 25 (judicial protection) of the American Convention, in relation to its Article 1.1, to the detriment of Juan Antonio Caballero Villamizar and his family members, in the terms of this report.

39. Likewise, the Commission observes that the petitioner has also invoked violations of Articles 17 (protection of the family), 22 (freedom of movement and residence), and 24 (equality before the law) of the American Convention. However, with respect to these allegations, the Commission considers that their inclusion in this characterization analysis is not appropriate. These articles were invoked in the context of the claims related to the threats and forced displacement of Mr. Caballero Villamizar's family members, which were declared inadmissible in Section VI.

40. With respect to the argument of the "fourth instance formula," the Commission emphasizes the complementary nature of the inter-American system and highlights that, as the Inter-American Court has indicated, for a "fourth instance" exception to apply, it would be necessary to "seek that [...] the ruling of a domestic court be reviewed by virtue of its incorrect assessment of the evidence, the facts, or domestic law, without, at the same time, alleging that such ruling incurred in a violation of international treaties [...]"⁹. In the present case, the Commission considers that, as indicated by the Inter-American Court, "[it] is competent to verify whether the steps actually taken at the internal level violated or not international obligations of the State derived from the inter-American instruments that grant it competence"¹⁰. Likewise, it is incumbent upon it to examine "whether the actions of judicial bodies constitute or not a violation of the international obligations of the State, [which] may lead to [...] having to examine the respective internal processes to establish their compatibility with the American Convention"¹¹. In this sense, the analysis of whether the State incurred in violations of the American Convention is a matter that corresponds to be decided on the merits of this matter.

41. In this sense, the IACHR, by admitting a petition, does not intend to supplant the competence of the domestic judicial authorities. Rather, within the framework of its mandate, it is competent to declare a petition admissible and to rule on the merits when it refers to internal processes that could violate rights guaranteed by the American Convention.

⁹ I/A Court H.R. Case of Cabrera García and Montiel Flores v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 26, 2010. Series C No. 220, para. 18.

¹⁰ I/A Court H.R. Case of Cabrera García and Montiel Flores v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 26, 2010. Series C No. 220, para. 19.

¹¹ I/A Court H.R. Case of Palma Mendoza et al. v. Ecuador. Preliminary Objection and Merits. Judgment of September 3, 2012. Series C No. 247, para. 18; I/A Court H.R. Case of Rosadio Villavicencio v. Peru. Preliminary Objections, Merits, Reparations and Costs. Judgment of October 14, 2019. Series C No. 388., para. 24; I/A Court H.R. Case of Cabrera García and Montiel Flores v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 26, 2010. Series C No. 220, para. 19.

VIII. DECISION

1. To declare the present petition admissible in relation to Articles 4, 5, 8, and 25 of the American Convention in connection with its Article 1.1;
2. To declare Articles 17, 22, and 24 of the American Convention inadmissible;
3. To notify the parties of this decision; to continue with the analysis of the merits of the matter; 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 5th day of the month of June, 2025. (Signed:) José Luis Caballero Ochoa, President; Arif Bulkan, Second Vice President; Roberta Clarke, and Gloria Monique de Mees, Commissioners.