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**REPORT No. 123/25**  
**PETITION 1236-15**  
ADMISSIBILITY REPORT

OMAR HERNANDO MIRAMÓN GUTIÉRREZ, MARIO ERNESTO  
MIRAMÓN GUTIÉRREZ AND FAMILY MEMBERS  
COLOMBIA

Approved by the Commission electronically on July 2, 2025.

**Cite as:** IACHR, Report No. 123/25, Petition 1236-15. Admissibility. Omar Hernando Miramón Gutiérrez, Mario Ernesto Miramón Gutiérrez and family members. Colombia. July 2, 2025.

## I. INFORMATION ABOUT THE PETITION

<b>Petitioner:</b>	Yecid Bairum Chequemarca García, Angela Maria Asensio Rubio
<b>Alleged victim:</b>	Omar Hernando Miramón Gutiérrez, Mario Ernesto Miramón Gutiérrez and family members <sup>1</sup>
<b>Respondent State:</b>	Colombia <sup>2</sup>
<b>Rights invoked:</b>	Articles 4 (right to life) of the American Convention on Human Rights <sup>3</sup> , in conjunction with Article 1.1 (obligation to respect rights) thereof

## II. PROCEEDINGS BEFORE THE IACHR<sup>4</sup>

<b>Filing of the petition:</b>	July 21, 2015
<b>Additional information received at the stage of initial review:</b>	July 25, 2016; August 14, 2016; May 19, 2017
<b>Notice of the petition to the State:</b>	October 28, 2019
<b>State's first response:</b>	October 6, 2020
<b>Additional observations from the petitioner:</b>	October 15, 2020; January 28, 2021
<b>Additional observations from the State:</b>	December 24, 2020; May 20, 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, American Convention (instrument of ratification 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>	Articles 4 (right to life), 5 (personal integrity), 8 (judicial guarantees), and 25 (judicial protection) of the American Convention, in relation to its Article 1.1
<b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b>	Yes, under the terms of Section VI
<b>Timeliness of the petition:</b>	Yes, under the terms of Section VI

<sup>1</sup> Enrique Miramón (father), Leidy Paola Miramón Gutiérrez (sister), Yuli Esther Miramón Gutiérrez (sister), Ana Milena Miramón Gutiérrez (sister), Enrique Miramón Gutiérrez (brother), and the minor Deinny Camila Miramón Barbosa (daughter of Omar Hernando Miramón Gutiérrez).

<sup>2</sup> In accordance with 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 of this matter.

<sup>3</sup> Hereinafter "the American Convention" or "the Convention."

<sup>4</sup> The observations of each party were duly considered and transmitted to the opposing party. The petitioner has repeatedly expressed its interest in the continuation of the inter-American process, most recently on March 18, 2024.

## V. POSITION OF THE PARTIES

### *The Petitioner*

1. The petitioner denounces the murder of Omar Hernando Miramón Gutiérrez and Mario Ernesto Miramón Gutiérrez at the hands of paramilitaries, as well as the lack of compensation for the events to date and the consequent suffering of the family members.

2. According to the petitioner, on February 3, 2002, in the Villa Teresa neighborhood, a central area of the municipality of Acacias in the department of Meta, two individuals belonging to the United Self-Defense Forces of Colombia (AUC) shot and killed the Miramón Gutiérrez brothers in front of their house, while they were in a state of total defenselessness. It affirms that this loss caused serious moral and economic damage to their father, siblings, and daughter, as the murdered individuals provided them with moral and economic support.

3. Regarding domestic remedies, the petitioners indicate that the affected family did not file a complaint before the domestic jurisdiction due to the pain of the death of their sons and brothers; and that the deadlines for filing a lawsuit have expired. It argues that because the State of Colombia has not recognized the payment of moral and material damages, nor has it prosecuted those responsible, with the investigation being closed, they are resorting to the inter-American system.

4. The petitioner argues that the State of Colombia incurred in a serious omission due to the lack of National Police presence at the place where the homicide occurred, which allowed the assassins to act freely. It considers the absence of authority in a central location unjustifiable, evidencing a serious omission regarding the State's obligations to guarantee the security of its citizens and the life and physical integrity of the murdered individuals. In its petition, it requests compensatory damages for moral and material harm.

### *The Colombian State*

5. The State first alleges the inadmissibility of the petition due to the failure to exhaust domestic remedies, noting that the facts are being investigated under the Justice and Peace Law, and that the corresponding remedies before the contentious-administrative jurisdiction were also not filed. Second, it argues that the petition is manifestly unfounded.

6. Regarding the failure to exhaust domestic remedies, it reports, in summary, that: i) the Miramón Gutiérrez brothers were murdered on February 3, 2002; ii) the initial proceedings began immediately; the Attorney General's Office initiated investigation 177.373, undertaken by the 7th Specialized Prosecutor's Office of Villavicencio-Meta; iii) on September 29, 2011, José Vicente Rivera Mendoza acknowledged in a voluntary statement having knowledge of the facts, mentioning the involvement of "Piñalito" and Jairo Alfaro, alias "Japonés," and accepted responsibility for the crimes by chain of command, asking for forgiveness; for his part, Yuber Piñalito is a candidate in the Justice and Peace process but has not appeared, while Jairo Alfaro was murdered; iv) on June 12, 2012, the Prosecutor's Office charged Manuel de Jesús Pirabán, Jorge Humberto Victoria Oliveros, Luis Omar Marín Londoño, José Vicente Rivera Mendoza, and José Eleazar Moreno Sánchez with the aforementioned crimes, as indirect perpetrators; in said process, Enrique Miramón (father) and the siblings of the direct victims have been accredited as victims, with the Prosecutor's Office recognizing their suffering due to forced displacement; v) the 7th Specialized Prosecutor's Office of Villavicencio confirmed that there was no prior complaint regarding a risk to Messrs. Miramón Gutiérrez; vi) the criminal process is active before the Justice and Peace Chamber of the Superior Court of Bogotá; there are confessions that guarantee the right to truth and, although there is no final judgment, those responsible are subject to Law 975 of 2005.

7. The State argues that the petitioners' claims about a serious State omission are unfounded, as the obligation to investigate is one of means, not of result. Regarding reasonable time, it cites the criteria of

complexity, procedural activity, conduct of authorities, and impact, to justify the duration of domestic proceedings.

8. The State also maintains the failure to exhaust remedies with respect to the direct reparation action, noting that the family members did not resort to the contentious-administrative jurisdiction to request comprehensive reparation. It argues that under domestic law, this action is the appropriate and effective remedy to obtain compensation from the State, citing Judgment C-644 of 2011 of the Colombian Constitutional Court. It maintains that the IACHR Court has recognized the suitability of this jurisdiction (Case of Manuel Cepeda Vargas Vs. Colombia, Judgment of May 26, 2010) and has validated pecuniary reparations granted by it (Case of the Santo Domingo Massacre Vs. Colombia, Judgment of May 30, 2012). Additionally, it mentions that the Council of State adopts criteria from the inter-American system.

9. As to the petition being manifestly unfounded, Colombia alleges that the petitioners claim a serious State omission without evidence. It argues that it is necessary to present evidence to attribute responsibility to the State for acts of private individuals, citing the Case of the Pueblo Bello Massacre Vs. Colombia (Judgment of November 25, 2006) and Advisory Opinion OC-18/03. It explains that responsibility for acts of private individuals can arise from tolerance, complicity, or acquiescence of State agents, or from a lack of diligence to prevent, and affirms that none of these scenarios is verified. It maintains that there is no evidence of State connivance nor that the authorities knew of a real and immediate risk to the victims.

10. The State also argues that the petitioner did not offer a factual or evidentiary basis for the omission to provide security, and that the authorities were not informed of a specific risk. It cites the Case of *Yarce et al. Vs. Colombia* (Judgment of November 22, 2016) regarding the criteria for determining the violation of the duty to prevent (real and immediate risk, reasonable possibility of preventing, and non-adoption of measures despite knowledge of the risk). It maintains that there was no risk known to the authorities and that the 7th Specialized Prosecutor's Office of Villavicencio-Meta confirmed the absence of prior complaints.

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

11. The main object of the petition is the murder of Omar Hernando Miramón Gutiérrez and Mario Ernesto Miramón Gutiérrez at the hands of paramilitaries in 2002, as well as the alleged lack of compensation for the events to date and the consequent suffering of the family members.

12. In the present matter, the IACHR recalls that in cases where claims are made for the death of persons and the resulting impunity, the suitable remedy that must be exhausted at the domestic level is the criminal one, 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 Convention<sup>5</sup>; this burden must be assumed by the State as its own legal duty, and not as a management of private interests or one that depends on their initiative or the provision of evidence by them<sup>6</sup>.

13. In the present case, according to the State, after the murder of Omar Hernando Miramón Gutiérrez and Mario Ernesto Miramón Gutiérrez, which occurred on February 3, 2002, the criminal investigation began immediately. The Attorney General's Office opened file No. 177.373, which was assumed by the 7th Specialized Prosecutor's Office of Villavicencio (Meta). On September 29, 2011, José Vicente Rivera Mendoza, in a voluntary statement, acknowledged having knowledge of the facts, mentioning the participation of "Piñalito" and Jairo Alfaro, alias "Japonés." For his part, Yuber Piñalito is a candidate in the Justice and Peace

<sup>5</sup> IACHR, Report No. 13/22. Petition 1332-11. Admissibility. Orlando Hernández Ramírez and family members. Colombia. February 9, 2022, para. 7; IACHR, Report No. 72/18, Petition 1131-08. Admissibility. Moisés de Jesús Hernández Pinto and family. Guatemala. June 20, 2018, para. 10; IACHR, Report No. 70/14. Petition 1453-06. Admissibility. Maicon de Souza Silva. Renato da Silva Paixão and others. July 25, 2014, para. 18; Report No. 3/12, Petition 12.224. Admissibility. Santiago Antezana Cueto and others, Peru, January 27, 2012, para. 24; Report No. 124/17, Petition 21-08, Admissibility, Fernanda López Medina and others, Peru, September 7, 2017, paras. 3, 9-11.

<sup>6</sup> IACHR, Report No. 13/22. Petition 1332-11. Admissibility. Orlando Hernández Ramírez and family members. Colombia. February 9, 2022, para. 7; IACHR, Report No. 159/17, Petition 712-08. Admissibility. Sebastián Larroza Velázquez and family. Paraguay. November 30, 2017, para. 14.

process but has not appeared, while Jairo Alfaro was murdered. On June 12, 2012, the Prosecutor's Office charged Manuel de Jesús Pirabán, Jorge Humberto Victoria Oliveros, Luis Omar Marín Londoño, José Vicente Rivera Mendoza, and José Eleazar Moreno Sánchez with the aforementioned crimes, as indirect perpetrators. Currently, the criminal process is still active before the Justice and Peace Chamber of the Superior Court of Bogotá.

14. Thus, taking the foregoing into account, and the fact that the process considered as a whole has lasted for more than twenty-three years since the deaths of Messrs. Omar Hernando Miramón Gutiérrez and Mario Ernesto Miramón Gutiérrez, the IACHR concludes that there is an unjustified delay in the adoption of a final decision at the domestic level, for which reason the exception provided for in Article 46.2.c) of the American Convention is applicable.

15. In this regard, the Commission reiterates first, as it has done consistently, that Article 46.2 of the Convention, by its nature and object, is a norm with autonomous content vis-à-vis the substantive norms of the American Convention. Therefore, the determination of whether the exceptions to the rule of exhaustion of domestic remedies are applicable to the case in question must be carried out prior to and separately from the analysis of the merits of the matter, as it depends on a different standard of assessment than that used to determine the possible violation of Articles 8 and 25 of the Convention. The IACHR has also stressed that there are no conventional or regulatory provisions that specifically regulate the period that constitutes an unjustified delay, for which reason the Commission evaluates on a case-by-case basis to determine if such a delay exists<sup>7</sup>. In this line, the Inter-American Court has established as a guiding principle for the analysis of a possible unjustified delay as an exception to the rule of exhaustion of domestic remedies, that "in no way should the prior exhaustion rule lead to the international action in aid of the defenseless victim being stopped or delayed to the point of uselessness."<sup>8</sup> That is, in the Commission's view, the complementary nature of the international protection provided for in the American Convention also implies that the intervention of the organs of the Inter-American System must be timely so that it can have some kind of useful effect in protecting the rights of the alleged victims.

16. Regarding the reasonableness of the period in which the present 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 2002; the petition was filed in 2015; and the effects of the alleged violations in terms of the alleged impunity would persist to the present.

## VII. ANALYSIS OF CHARACTERIZATION OF THE ALLEGED FACTS

17. The State maintains that the petition is manifestly unfounded. It points out that the petitioner attributes the events to illegal self-defense groups, but alleges State connivance or tolerance without providing sufficient proof. It adds that it has also not been proven that the State had prior knowledge of a situation of real and immediate risk to the alleged victims. Likewise, it argues the configuration of the fourth instance formula with respect to the criminal process.

18. For admissibility purposes, 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 if the petition is "manifestly unfounded" or "its total inadmissibility is evident," according to paragraph (c) of said article. The evaluation criterion for 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 domestic processes that could be violative of rights guaranteed by the American Convention. That is to say, according to the cited conventional norms, in accordance with Article 34 of its Rules of Procedure, the admissibility analysis focuses on verifying such requirements, which refer to the existence of elements that, if true, could *prima facie* constitute violations of the American Convention.

<sup>7</sup> IACHR, Report No. 14/08, Petition 652-04. Admissibility. Hugo Humberto Ruíz Fuentes. Guatemala. March 5, 2008, para. 68.

<sup>8</sup> Inter-American Court of Human Rights, Velásquez Rodríguez vs. Honduras, Preliminary Objections, judgment of June 26, 1987, para. 93.

19. In the present matter, the Commission observes that the petitioner's main claim focuses on the murder of Omar Hernando Miramón Gutiérrez and Mario Ernesto Miramón Gutiérrez at the hands of paramilitaries, the alleged responsibility of the Colombian State for these events, as well as for the subsequent lack of investigation and reparation.

20. The Inter-American Commission observes that, in a *prima facie* analysis, the petition is not manifestly unfounded. Responsibility may be triggered by the verification of the petitioner's allegations regarding the State's omission to protect the alleged victims from paramilitary armed groups, akin to State security forces according to the context at the time of the events. The IACHR's merits analysis will establish the proven facts and, if applicable, the State's eventual international legal responsibility<sup>9</sup>. Likewise, the Commission notes that, according to the State, after the investigations began in 2002, prosecutorial charges were filed in 2012, and more than twenty-three years have passed without a final decision. The Commission considers *prima facie* that, if this situation is proven without definitive clarification, trial and punishment of those responsible, nor comprehensive and effective reparation for the family members, such facts could constitute violations of judicial guarantees and the right to judicial protection.

21. In light of these considerations and after examining the factual and legal elements presented by the parties, the Commission considers that the petitioner's allegations are not manifestly unfounded and require a merits study, as the alleged facts, if proven true, could characterize violations of Articles 4 (right to life), 5 (personal integrity), 8 (judicial guarantees), and 25 (judicial protection) of the American Convention on Human Rights, in relation to its Article 1.1 (obligation to respect rights), to the detriment of Omar Hernando Miramón Gutiérrez, Mario Ernesto Miramón Gutiérrez, and their family members, under the terms of this report.

22. Finally, the Commission clarifies that in a case like the present one, should violations of the American Convention be verified to the detriment of the alleged victims, and by extension to their close relatives, any reparations it establishes will be those corresponding to such violations.

## VII. 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 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 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.

<sup>9</sup> See, e.g., IACHR, Report No. 139/24. Petition 526-14. Admissibility. Saulo José Posada Rada and others. Colombia. September 9, 2024, para. 29 ("The international responsibility of the State for human rights violations may be triggered, e.g., by the State's omission to protect individuals from armed groups that have victimized the alleged victims. The IACHR's merits analysis will establish the proven facts and, if applicable, the eventual existence of international responsibility of the State."); IACHR, Report No. 78/23. Petition 1376-12. Admissibility. Oscar Andrés Bedoya Arango and others. Colombia. June 7, 2023, para. 23 ("responsibility may be triggered by the verification of the petitioner's allegations regarding the State's omission to protect individuals from armed groups that have victimized the alleged victims").