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**REPORT No. 210/19**  
**PETITION 1201-13**  
REPORT ON ADMISSIBILITY

URBIAN BURLESON, JULES GODDARD, KENNETH AMZINK AND  
ERROL HARRYSON  
SURINAME

Approved by the Commission on December 6, 2019 in San Salvador, El Salvador.

**Cite as:** IACHR, Report No. 210/19, Petition 1201-13. Admissibility. Urbian Burleson, Jules Goddard, Kenneth Amzink and Errol Harryson. Suriname. December 6, 2019.

**I. INFORMATION ABOUT THE PETITION**

Petitioner	Robert Karel Hewitt
Alleged victims	Urbian Burleson, Jules Goddard, Kenneth Amzink and Errol Harryson
Respondent State	Suriname
Rights invoked	Articles 4, 8, and 27 (1) and (2) of the American Convention on Human Rights <sup>1</sup>

**II. PROCEEDINGS BEFORE THE IACHR<sup>2</sup>**

Filing of the petition	July 26, 2013
Additional information received during initial review	October 28, 2013, February 9, 2016
Notification of the petition	February 26, 2016
State's first response	December 26, 2017
Additional observations from the petitioner	January 4 and August 11, 2018

**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 instrument of ratification made on November 12, 1987)

**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	Article 4 (right to life), 5 (right to physical integrity), 8 (right to a fair trial) and 25 (right to judicial protection) of the American Convention, in relation to its Article 1.1.
Exhaustion or exception to the exhaustion of remedies	Yes, under terms of Section VI
Timeliness of the petition	Yes, under terms of Section VI

**V. SUMMARY OF ALLEGED FACTS**

1. The petitioner contends that on June 13, 2012, the alleged victims were shot and killed by police officers in a suburb called Tout Lui Faut in circumstances that amounted to extrajudicial execution. According to the petitioner, the alleged victims were unarmed and did not represent a threat to national security nor were they confronting the authorities at the time that they were killed.<sup>3</sup> The petitioner bases these assertions on information that was supplied to him by family members of the deceased men as well as other unnamed persons. The petitioner further states that on the day after the killings, a press conference was held by the Minister of Justice, Procurator General and Chief of Police in which the use of lethal force was justified based on the purported criminal activities of the alleged victims.

2. The petitioner states that on June 18, he wrote to the Procurator General requesting a criminal investigation into the circumstances that led to the deaths of the alleged victims. According to the petitioner, the Procurator General responded on June 20 to say that a criminal investigation was underway. The petitioner complains that (a) up to November 2012 he had not received any updates about the investigation; and (b) that a reasonable time for completing the investigation had now elapsed. Accordingly, the petitioner states that he wrote to the Court of Justice of Suriname on November 26, 2012 on the

<sup>1</sup> Hereinafter "the American Convention" or "the Convention".

<sup>2</sup> The observations submitted by each party were duly transmitted to the opposing party.

<sup>3</sup> According to the petitioner, these homicides of the alleged victims are in keeping with a pattern of extrajudicial killings carried in Suriname by the police since 2004.

assumption that this tribunal was the ultimate authority responsible for supervising the investigation. The petitioner affirms that he received a response from the Court of Justice on December 6, 2012 in which the Court stated that could not interfere with the investigation and that it was up to petitioner to follow up with the Procurator General. Ultimately, the petitioner complains that there has been undue delay in the investigation, and that in any event, the investigation has not been impartial. The petitioner also asserts that there are no available or effective domestic remedies to redress this status quo.

3. According to the State, an investigation was initiated by the Procurator General in 2012, but that due to its complexity, the Procurator General later referred the investigation to the Supervisory Judge of Criminal Matters in 2013. The State indicates that the Supervisory Judge ultimately closed the investigation on February 5, 2016, with a finding that there was no legal or evidential basis to prosecute any of the police officers involved in the killings of the alleged victims. Based on this finding, the State affirms that the Procurator General declined to initiate any prosecutions. The State also contends that the alleged victims were armed members of a criminal gang travelling in a vehicle, who were killed by the police when they attempted to evade apprehension. According to the State, the use of lethal force was justified and that this was ultimately the finding of the prosecutorial and judicial investigations into the killings. The State concedes that the investigation took longer than “is common in other criminal cases”, but attributed this to the fact that “both the relatives of the deceased as well as the police officers deserved a fair hearing...”. The State emphasizes that the investigation process was conducted fairly and impartially in accordance with the laws of Suriname.

4. The State contends that the relatives of the deceased could have challenged the decision of the Procurator General by way of appeal to the Court of Justice but that they failed to do so. Accordingly, the State concluded that there was a failure to exhaust domestic remedies.

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

5. The petitioner contends that apart from making a complaint to the Procurator General, there were no other effective domestic remedies available. The petitioner complains that the investigation by the State lacked impartiality and that there was undue delay in completing the investigation. While the State acknowledges that the investigation took longer than usual, it asserts that this was due to the complexity of the issues involved. The State concludes that its investigation was conducted with due regard for the requirements of Surinamese law; and that in any event, it was open to the petitioner to appeal to the Court of Justice if he was dissatisfied with the outcome of the investigation. In this respect, the State contends that the petitioner failed to exhaust domestic remedies.

6. The Commission has established that in situations related to possible violations of the right to life and humane treatment, the domestic remedies to be taken into account for the purposes of admissibility of the petition are those related to the investigation and punishment of those responsible, which are reflected in domestic legislation as crimes prosecuted *ex officio*.<sup>4</sup> Such an investigation is the only adequate avenue to clarify the facts and impose appropriate criminal sanctions, in addition to enabling other means of financial compensation. In this regard, the Commission notes that the State did, at the request of the petitioner, undertake an investigation following which it concluded that there was no basis to prosecute any of the state agents involved in the killing of the alleged victims. For the purpose of exhaustion of domestic remedies, the Commission does not consider that the petitioner was obliged to appeal to the Court of Justice as argued by the State. As it relates to the alleged undue delay in completing the investigation, the Commission makes an assessment of the circumstances, and an analysis on a case-by-case basis to determine if there has been an unwarranted delay. As a general rule, the Commission has established that a criminal investigation shall be carried out promptly to protect the interests of the victims and to preserve evidence. To determine if an investigation has been carried out “promptly,” the Commission takes into account a series of factors such as the time elapsed since the offense was committed, if the investigation is beyond than the

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

preliminary stage, the measures adopted by the authorities, and the complexity of the case. In the Commission's view, the State has presented no compelling reasons to justify a four-year long investigation; and accordingly, the Commission finds that there was undue delay in completing this investigation.

7. Based on the foregoing, the Commission concludes that the petition meets the requirement of exhaustion of domestic remedies set out at Article 46(1)(a) of the Convention. The Commission notes that the petition was filed on June 26, 2013, which it considers to be a reasonable time, having regard for the chronology of circumstances that gave rise to the petition. Accordingly, the IACHR considers that the petition meets the requirement of timeliness and is therefore admissible.

## **VII. COLORABLE CLAIM**

8. With respect to the killings of the alleged victims, the IACHR notes that the State conducted an investigation both at the level of the Procurator General and the judiciary. This investigation concluded that there was no legal or evidential basis to prosecute any of the police officers involved in the killings. However, the State has not clarified the facts leading to the homicides of the four alleged victims. In the circumstances, the Commission considers that alleged extrajudicial executions of the alleged victims, the failure to clarify the facts leading to these homicides, together with the delay in completing the investigation could characterize possible allegations of the rights enshrined in Articles 4 (right to life), 8 (right to fair trial) and 25 (right to judicial protection) of the American Convention. Likewise, the same allegations, if proven, could constitute a violation of the rights enshrined in Article 5 (physical integrity), 8 (fair trial) and 25 (judicial protection) of the American Convention, in accordance with Article 1.1 of the same instrument, in relation to the relatives of alleged victims.

9. The IACHR considers that the petitioner has not presented sufficient evidence to demonstrate a possible violation of the rights recognized in Article 27 (1) and (2) [suspension of guarantees] of the American Convention.

## **VIII. DECISION**

1. To find the instant petition admissible in relation to Articles 4, 5, 8 and 25 of the American Convention in conjunction with Article 1.1 of the same instrument;

2. To find this petition inadmissible in relation to Article 27 of the American Convention; and

3. To notify the parties of this decision; 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 December, 2018. Margarete May Macaulay, President; Esmeralda E. Arosemena Bernal de Troitiño, First Vice President; Luis Ernesto Vargas Silva, Second Vice President; Francisco José Eguiguren Praeli, Joel Hernández García, Antonia Urrejola, and Flávia Piovesan, Commissioners.