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**REPORT No. 144/20**  
**PETITION 615-11**  
REPORT ON INADMISSIBILITY

HUGO RAMON LOYOLA  
ARGENTINA

Approved electronically by the Commission on June 9, 2020.

**Cite as:** IACHR, Report No. 144/20, Petition 615-11. Inadmissibility. Hugo Ramon Loyola.  
Argentina. June 9, 2020.

**I. INFORMATION ABOUT THE PETITION**

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|--------------------------|---|
| <b>Petitioner:</b>       | Hugo Ramon Loyola   |
| <b>Alleged victim:</b>   | Hugo Ramon Loyola   |
| <b>Respondent State:</b> | Argentina   |
| <b>Rights invoked:</b>   | Articles 5 (personal integrity), 8 (judicial guarantees), 11 (safeguard of honor and dignity), 24 (equality before the law), 25 (judicial protection) and 29 (interpretation norms) of the American Convention on Human Rights <sup>1</sup> |

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

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|--|--------------------------------|
| <b>Filing of the petition:</b>   | May 1 <sup>st</sup> 2011       |
| <b>Additional information received at the stage of initial review:</b>                             | December 26 <sup>th</sup> 2012 |
| <b>Notification of the petition to the State:</b>  | December 9 <sup>th</sup> 2015  |
| <b>State's first response:</b>   | August 16 <sup>th</sup> 2016   |
| <b>Notification of the possible archiving of the petition:</b>                                     | November 9 <sup>th</sup> 2018  |
| <b>Petitioner's response to the notification regarding the possible archiving of the petition:</b> | December 2 <sup>nd</sup> 2019  |

**III. COMPETENCE**

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| <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 (deposit of the instrument of ratification made on September 5 <sup>th</sup> 1984) |

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

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| <b>Duplication of procedures and International <i>res judicata</i>:</b>              | No   |
| <b>Rights declared admissible</b>  | None |
| <b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b> | No   |

<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.

## V. FACTS ALLEGED

1. The alleged victim and petitioner, Hugo Ramon Loyola, claims infringement to his right to defense and judicial guarantees during a criminal process in which he was deprived of liberty on the crimes of theft and use of firearm.

2. The petitioner sustains that on July 22<sup>nd</sup> 2004 the Fiscalía de Instrucción de la provincia de Córdoba [Instructional Prosecutor of the Cordoba province] begun a criminal investigation against him and detained him with no regard of due process. He claims he was taken into trial without prior fact-finding diligence in the audience room, as he considers is stated by law, but through a police lineup. He explains this happened this way because the illegal action was caught in flagrante, without being proven; and because blood samples were collected at the crime scene, yet with no D.N.A. analysis. The latter is questioned by the petitioner based on the fact that a police officer wounded at the crime scene had the same blood type as him, which is why only a D.N.A. test would be fit to place him unequivocally at the crime scene.

3. The petitioner also argues that the testimonies on the facts were contradictory because the witnesses declared one thing at the instruction and another one at the oral trial, and that when validating the physiological description of the ones involved, it matched the alleged victim; however, he claims the description could match any subject, which is why it should be regarded as invalid. He adds his image was published on newspapers, which could have influenced the statements from witnesses. He adds that should he have had the money to afford a lawyer, and wouldn't have had to turn to a legal counselor, he would not have been incriminated.

4. The petitioner affirms the process ended on December 28<sup>th</sup> 2005 and that he was sentenced on February 10<sup>th</sup> 2006 by the Cámara de Séptima en lo Criminal [Seventh Chamber on Criminal Affairs] of the city of Cordoba. He filed a cassation action against this sentence which was dismissed by the Tribunal Superior de Justicia [Higher Justice Court of Justice] of Córdoba through a sentence dated August 8<sup>th</sup> 2008. Additionally, the petitioner presented an extraordinary federal remedy, declared inadmissible by the Tribunal Superior de Justicia [Higher Justice Court of Justice] of Córdoba through a writ from May 7<sup>th</sup> 2009, and filed a complaint to the Supreme Court of Justice requesting a challenge on the writ, which was rejected on December 21<sup>st</sup> 2010.

5. The State, in return, argues that Mr. Loyola was arrested in flagrante resulted from a police pursuit started by an attempted theft with a firearm which involved exchange of gun fire with police officials. It adds that on that same day he was informed of his rights and that during the prosecution he had the defense from private lawyers who did not object the deprivation of liberty, and then resigned, which is why Mr. Loyola was assigned a legal counselor. On November 26<sup>th</sup> 2004, the prosecutor in charge summoned the alleged victim who was accused as author of the crimes of repetitive aggravated cover-up in real concurrence, grand theft due to the repetitive attempted use of a firearm in real concurrence, and trespassing in attempted concurrence, severe injury and repeated trespassing, all in real concurrence, and adds that the petitioner denied the facts attributed to him and declined to give statement in the presence of his lawyer. The State affirms that Mr. Loyola effectively exercised his right to being heard and had both private and public legal counseling through which he had access to file all procedural remedies available in order to challenge judicial resolutions.

6. The State adds, that Mr. Loyola was on parole since he had been declared guilty of , aggravated cover-up, theft, illegal aggravated detention and resistance to authority, all in real occurrence, in a previous sentence of August 20<sup>th</sup> 2002, issued by the Cámara en lo Criminal de Octava Nominación [Eighth Nomination Criminal Affairs Chamber] of Cordoba, where he had been sentenced to three years and four months in prison, which had been fulfilled on March 22<sup>nd</sup> 2005. Additionally, the State indicates that the alleged victim had an open process at the Juzgado Federal n°1 [Federal Court N°1] of Cordoba on collection of war firearms and ammunition which, at the time of responding to the IACHR, had not been yet settled.

7. In regards to the criminal process the petitioner complains of before the IACHR, the State adds that this was judged in 2005, before the expiration of the maximum preventive prison time; and that (at the time of responding to the IACHR, on August 16<sup>th</sup> 2016) a remedy for revision filed before the Sala Penal del

Tribunal Superior de Justicia [Criminal Chamber of the Higher Court of Justice] on December 16<sup>th</sup> 2015 was still unsolved.

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

8. The petitioner party argues that filed a cassation action versus the condemnatory sentence from February 10<sup>th</sup> 2006, an extraordinary remedy and a complaint that was finally dismissed by the Supreme Court of Justice on December 21<sup>st</sup> 2010. The State, on the other hand, provides detailed information on the different criminal cases against the petitioner; and also points out that there is a pending resolution for a revision action of the Sala Penal del Tribunal Superior de Justicia [Criminal Chamber of the Higher Court of Justice] of Cordoba filed by the petitioner on December 16<sup>th</sup> 2015.

9. In this regard, the Commission reminds its criteria according to which although at first, the exhaustion of extraordinary remedies is not mandatory in all cases, if the petitioner considers these may have a favorable result at helping the juridical situation allegedly infringed and decides to turn to this channel, he must exhaust them according to current procedural norms, provided that the conditions to access them are reasonable<sup>3</sup>. In this sense, the Commission also reminds that the procedural moment in which the petitioner assesses exhaustion of domestic remedies is concerning the adoption of the decision on admissibility or inadmissibility of the petition, not of the filing of the petition.

10. In this respect, the Commission observes that in its answer to forward the petition, the State provided concrete information regarding the pendency of an extraordinary remedy of revision filed in favor of the petitioner. The petitioner in return did not challenge this allegation from the State, although the IACHR forwarded it on July 26<sup>th</sup> 2017 asking him to provide his observations on it. Neither did the petitioner provide updated information as to his revision remedy at any further time to the errand and prior to the adoption of the present report. Therefore, upon the State's approach regarding the lack of a final decision in the criminal process questioned by the petitioner, the Commission has no piece of information that may allow to support that the petitioner has fulfilled the requirement of exhausting domestic remedies set forth in article 46.1.a of the American Convention.

## **VIII. DECISION**

1. To find the instant petition inadmissible and
2. 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 9<sup>th</sup> day of the month of June, 2020. (Signed): Joel Hernández, President; Antonia Urrejola, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay, Esmeralda E. Arosemena Bernal de Troitiño, and Julissa Mantilla Falcón, Commissioners.

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<sup>3</sup> CIDH, Report No. 135/18, Petition 1045-07. Inadmissibility. Enrique Alberto Elías Waiman. Argentina. November 20<sup>th</sup> 2018, pars. 9 and 10.