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REPORT No. 278/21
PETITION 1234-18
REPORT ON ADMISSIBILITY

ANGEL EDUARDO GAHONA LOPEZ
NICARAGUA

Approved electronically by the Commission on October 9, 2021.

Cite as: IACHR, Report No. 278/21, Petition 1234-18. Admissibility. Ángel Eduardo Gahona López. Nicaragua. October 9, 2021.

I. INFORMATION ABOUT THE PETITION

Petitioners:	Juan Carlos Gahona López, Delmira Migueliuth Sandoval Cruz, Angel Augusto Gahona Sandoval, Amanda Gahona Sandoval, and Nicaraguan Center for Human Rights (CENIDH)
Alleged victim:	Ángel Eduardo Gahona López
Respondent State:	Nicaragua
Rights invoked:	Articles 4 (Right to life), 5 (Right to humane treatment), 8 (Right to a fair trial), and 25 (Right to judicial protection) of the American Convention on Human Rights ¹

II. PROCEEDINGS BEFORE THE IACHR²

Filing of the petition:	May 19, 2018
Additional information received at the stage of initial review:	August 26, 2020
Notification of the petition to the State:	October 22, 2020
State's first response:	January 19, 2021
Additional observations from the State:	March 9, 2021
Notification of the possible archiving of the petition:	July 22, 2020
Petitioner's response to the notification on the possible archiving of the petition:	August 17, 2020

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, American Convention (deposit of instrument of ratification done on September 25, 1979)

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 (Right to life), 5 (Right to humane treatment), 8 (Right to a fair trial), 13 (Freedom of thought and expression), and 25 (Right to judicial protection) of the American Convention
Exhaustion or exception to the exhaustion of remedies:	Yes, the exception in Article 46.2.c of the American Convention is applicable
Timeliness of the petition:	Yes, under the terms of section VI

V. FACTS ALLEGED

1. In essence, the petitioners claim a failure to duly investigate and punish the murder of journalist Ángel Eduardo Gahona López committed amid police repressive action against demonstrators and journalists in April 2018.

2. The petitioners state that on April 21, 2018, the alleged victim was in the town of Bluefields—the administrative center of the Southern Caribbean Coast Autonomous Region. He was reporting live, via a

¹ Hereinafter “the American Convention” or “the Convention.”

² The observations submitted by each party were duly transmitted to the opposing party.

social media network, on the police action against civilians that were demonstrating against the announcement, by Nicaragua's government, of policy reforms in social security, and its purported inaction to combat the fire in the Indio-Maíz Biological Reserve.

3. The petitioners allege that the government responded to the protests with a massive deployment of security forces, suppressing the civilian population, especially young people, students, and journalists. The petitioners claim that on April 21, 2018, the alleged victim was reporting these events live from outside of Bluefields city hall when two shotgun pellets (steel projectiles) fired from a gun hit and wounded him in three different parts of his body: on the head, his arm, and the thorax. According to them, he was taken alive on a taxi to Hospital Ernesto Sequeira Blanco, arrived in a shock, and later died because of the fatal wounds of the gunshots.

4. From the information submitted by the petitioners, the Public Prosecutor's Office opened *ex officio* an investigation into the murder of the alleged victim and identified Brandon Cristofer Lovo Tayler and Glen Abraham Slate (hereinafter "Mr. Lovo and Mr. Slate") as those responsible—the former as the perpetrator and the latter as an accomplice. However, the petitioners allege that the government, in seeking to deliver justice, hastily and groundlessly accused Mr. Lovo and Mr. Slate. The petitioners assert that the gunshot that killed the alleged victim appeared to correspond to the type of bullets and firearms that police used on the day of that repression.

5. In sum, the petitioners claim that the State of Nicaragua violated the alleged victim's rights to life, humane treatment, a fair trial, and judicial protection since no reliable, objective, and effective investigation has been conducted yet into the death of Mr. Ángel Gahona.

6. For its part, the State claims that regarding the murder of the alleged victim and the criminal proceedings filed against Mr. Lovo and Mr. Slate, the National Police, in the exercise of its duty and after an investigation at the crime scene, determined that Mr. Lovo and Mr. Slate were involved in a breach of the peace in the town of Bluefields. These investigations showed that Mr. Lovo and Mr. Slate fired a handcrafted firearm to wound members of the National Police. It was the use of these illegal firearms by these men that caused Mr. Ángel Gahona's death from irreversible, severe cranioencephalic trauma.

7. The State argues that Mr. Lovo's and Mr. Slate's responsibility was determined based on witness, documentary, and expert evidence that demonstrated that the handcrafted firearm was fired by Mr. Lovo. It provides a detailed account of the criminal proceedings filed against Mr. Lovo and Mr. Slate for the murder of the alleged victim, along with other crimes, as follows:

8. In its judgment of August 30, 2018, the Sixth Criminal Court of Managua District found Mr. Lovo and Mr. Slate guilty, the former being sentenced to twenty-three years and six months in prison, and the latter, to twelve years and six months in prison. Against this decision, the defense of Mr. Lovo and Mr. Slate filed an appeal, which was forwarded to the Second Criminal Chamber of the Court of Appeals of Managua District.

9. Nevertheless, on July 25, 2019, the Second Criminal Chamber of the Court of Appeals of Managua District granted, under Law No. 966, an amnesty to all those who had participated in the incidents in Nicaragua, including those that involved the murder of the alleged victim. As a result, Mr. Lovo and Mr. Slate were released from prison.

10. To conclude, the State claims that pertinent investigations, including the applicable procedures in the police investigation, were carried out to clarify the facts that caused the alleged victim's death; yet, their result did not produce any documentary, witness, photographic, audiovisual, or another form of evidence to demonstrate the alleged involvement of the National Police in the death of journalist Ángel Eduardo Gahona López.

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

11. The petitioners claim that the criminal investigation filed to clarify the murder of the alleged victim is still pending and that, to date, the actual responsible have not been punished yet. They argue that although a criminal case was filed for Mr. Gahona's death, which resulted in the conviction of Mr. Lovo and Mr. Slate—who were later granted an amnesty under Law No. 966—, this was groundless. They assert that this was a form of a farce aimed at holding someone responsible without truly seeking to find the actual responsible and the truth about the facts. For they claim that there are witness statements and evidence that, in their opinion, indicate that the pellets that wounded Mr. Gahona were those used by the Nicaraguan police. The Commission observes that, in general, the facts reported by the petitioners were well-known.³

12. Concerning this, the Commission has previously established that in situations where a violation of the right to life is alleged, the domestic remedies to be considered for admissibility purposes are those related to the investigation and punishment of those responsible since, under domestic law, this is a criminal offense liable to *ex officio* prosecution.⁴ This criterion applies to a petition such as the present because the petitioners' main claim is about a failure to adequately investigate and punish the violations of the right to life. Moreover, these crimes are liable to *ex officio* prosecution and, as a general rule, a criminal investigation must be conducted promptly to protect the interests of the victims, preserve the evidence, and also safeguard the rights of anyone deemed a suspect in the framework of the investigation.⁵

13. In this case and according to the information submitted by the parties, the Commission notes that following the alleged victim's death, a criminal investigation was filed *ex officio* on May 7, 2018, that resulted in the conviction and subsequent amnesty of Mr. Lovo and Mr. Slate. For its part, the State has not disputed the exhaustion of domestic remedies or the timeliness of the petition. Therefore and considering the context of the repression of civilians, including journalists, by the Nicaraguan police in April 2018, and the fact that although it has been over five years since the alleged victim's death, the facts have not been clarified, those responsible have not been punished, and the family members have not been granted reparations, the IACHR believes that the exception to the requirement to exhaust domestic remedies is applicable under Article 46.2.c of the American Convention.

14. However, the Commission takes note of the claims presented by the State regarding the procedures carried out in the investigation of the facts reported, as these will be considered in the merits stage of this case. In that stage, it is to the petitioners to demonstrate their allegations against how the State conducted and concluded the investigations of the facts reported.⁶

15. Concerning the timeliness of the petition, the Commission takes into consideration that the murder of the alleged victim was committed on April 21, 2018, that it received this petition on May 19, 2018, and that some of the consequences appear to persist to date. Therefore, it concludes that this petition was filed within a reasonable time under the terms of Article 32.2 of its Rules of Procedure.

VII. ANALYSIS OF COLORABLE CLAIM

16. The IACHR is aware that in mid-April 2018 young people and environmentalists demonstrated against allegedly ineffective measures by the State to combat the large fire in the forest of Indio-Maíz Biological Reserve. A few days later, massive protests were held across Nicaragua against the approval of reforms to the Law on Social Security that increased workers' and employers' contributions and cut pensioners'

³ In connection with this, see for instance: Newspaper Confidencial, *Padres de Ángel Gahona regresan a exigir justicia por asesinato* (Ángel Gahona's parents return to demand justice for his murder), February 1, 2020. Available (in Spanish) at: <https://www.confidencial.com.ni/nacion/padres-de-angel-gahona-regresan-a-exigir-justicia-por-asesinato/>

⁴ IACHR, Report No. 97/18. Petition 1071/07. Admissibility. Naudin José Fajardo Martínez *et al.* (Massacre in Los Kativos Farm). Colombia. September 6, 2018, par. 9.

⁵ IACHR, Report No. 44/18, Petition 840-07. Admissibility. Pijiguay Massacre. Colombia. May 4, 2018, par. 11.

⁶ IACHR, Report No. 14/17. Admissibility. José Rubián Gómez Martínez, Rolfe Arialdo Figueredo Martínez, Miguel Novoa Martínez, Alcira Martínez Álvarez and Families. Colombia. January 27, 2017.

pay by an additional five percent. Although a few days later the government withdrew those reforms, the protests continued and included other complaints to the government.

17. In this regard, in its preliminary observations on its working visit to Nicaragua, from May 17 to 21, 2018, the Inter-American Commission reported that from April 18 to May 21, at least 76 people were killed and 868 were wounded, the vast majority in the context of the protests. In addition, 438 people were detained, including students, human rights defenders, journalists, and other members of the civilian population. Thus, in its preliminary observations on its working visit to Nicaragua, the IACHR *“emphatically [condemned] the deaths, attacks and arbitrary detention of students, demonstrators, journalists, and other citizens that have occurred in Nicaragua since the beginning of the protests, and which have continued to date.”*⁷

18. On June 21, 2018, the IACHR issued its Final Report: “Gross Human Rights Violations in the Context of Social Protests in Nicaragua,” where it concludes that the violent measures adopted by the State were always aimed at discouraging participation in the protests. Following the recommendations proposed, on June 24, 2018, the Commission launched the Special Monitoring Mechanism for Nicaragua (MESENI, by its acronym in Spanish) and, subsequently, on July 2, 2018, it announced the creation of an Interdisciplinary Group of Independent Experts (GIEI) to assist and support the investigations into the deaths perpetrated in the context of the violent events in Nicaragua, including the death of Mr. Ángel Gahona.⁸ On December 21, 2018, the GIEI presented its “Report on the Violent Events that Took Place in Nicaragua between April 18 and May 30, 2018,” where it states that the serious deficiencies in the investigation of the case “lead to infer that the judicial proceedings had no purpose other than to hastily produce results regarding a death that had achieved national and international notoriety.”⁹

19. Finally, on November 30, 2020, in its report “Persons Deprived of Liberty in Nicaragua in connection with the Human Rights Crisis that Began on April 18, 2018,” the IACHR noticed that from the beginning of the social protests, the State of Nicaragua has used the practices of arbitrary detention and deprivation of liberty with the main objective of suppressing any political dissent from the current regime and intimidating and manipulating the population. In addition, the IACHR determined that at least 1614 people had been subjected to arbitrary detention in that context.¹⁰

20. Thus, due to the foregoing, the Commission considers that the claims filed by the petitioners are not manifestly groundless and require an analysis on the merits by the IACHR, in the light of the rights established in Articles 4 (life), 5 (humane treatment), 8 (fair trial), and 25 (judicial protection) of the American Convention, in connection with Article 1.1 (obligation to respect rights) thereof, to the detriment of the alleged victim, according to this report. Particularly, regarding the alleged failure to investigate and punish those responsible for the death of journalist Ángel Eduardo Gahona López.

21. Moreover, in the merits stage of this case, the Commission will analyze the possible applicability of Article 13 (Freedom of expression) of the American Convention concerning the alleged victim. The IACHR has previously established that in cases of violence against journalists and media workers, failure to comply with the obligation to protect journalists at special risk and to criminally investigate and punish such events may also entail a failure to comply with the obligation to guarantee the right to freedom of thought and expression of the victims.¹¹

⁷ IACHR. Preliminary observations on the IACHR working visit to Nicaragua. May 21, 2018. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2018/113.asp

⁸ IACHR, Press Release 121/2018, [IACHR to Create Interdisciplinary Group of Independent Experts to Help Investigate Recent Violence in Nicaragua](https://www.oas.org/en/iachr/press_releases/2018/121.asp), Washington DC, May 30, 2018.

⁹ GIEI, Report on the Violent Events that Took Place in Nicaragua between April 18 and May 30, 2018. December 21, 2018. Available (in Spanish) at: https://gieinicaragua.org/giei-content/uploads/2019/02/GIEI_INFORME_DIGITAL_07_02_2019_VF.pdf

¹⁰ IACHR, Persons Deprived of Liberty in Nicaragua in connection with the Human Rights Crisis Began on April 18, 2018. OEA/Ser.L/V/II. Doc. 287, October 5, 2020. Available at: <http://www.oas.org/en/iachr/reports/pdfs/Nicaragua-PPL-en.pdf>

¹¹ IACHR. Report No. 21/15. Case No. 12.462 Nelson Carvajal Carvajal and Family (Colombia). March 26, 2015. Par. 120; IACHR. Report No. 50/99. Case 11.739. Héctor Félix Miranda (Mexico). April 13, 1999. Par. 52; IACHR. Report No. 130/99. Case No. 11.740. Victor Manuel Guisa Cruz (Mexico). November 19, 1999. Par. 58.

VIII. DECISION

1. To declare the instant petition admissible in relation to Articles 4, 5, 8, 13, and 25 of the American Convention, in connection with Article 1.1 thereof;
2. To notify the parties of this decision; proceed to the analysis of the merits; 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 9th day of the month of October, 2021. (Signed:) Antonia Urrejola, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarete May Macaulay, Esmeralda E. Arosemena Bernal de Troitiño, Joel Hernández, and Stuardo Ralón Orellana, Commissioners.