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**REPORT No. 383/22**  
**PETITION 2276-12**  
REPORT ON ADMISSIBILITY

JUAN LUCAS JUAN  
GUATEMALA

Approved electronically by the Commission on April 30, 2022.

**Cite as:** IACHR, Report No. 383/22. Petition 2276-12. Admissibility. Juan Lucas Juan. Guatemala.  
April 30, 2022.

**I. INFORMATION ABOUT THE PETITION**

<b>Petitioner:</b>	Grupo de Apoyo Mutuo
<b>Alleged victim:</b>	Juan Lucas Juan
<b>Respondent State:</b>	Guatemala <sup>1</sup>
<b>Rights invoked:</b>	Article 5 (humane treatment), 8 (fair trial) y 25 (judicial protection) of the American Convention on Human Rights <sup>2</sup> in relation to article 1.1 thereof; and articles 1 and 2 of the Inter-American Convention to Prevent and Punish Torture <sup>3</sup>

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

<b>Filing of the petition:</b>	December 13, 2012
<b>Additional information received during the study phase:</b>	October 24, 2016
<b>Notification of the petition to the State:</b>	August 8, 2018
<b>State's First Response:</b>	December 4, 2018
<b>Additional observations from the petitioner:</b>	October 3, 2018

**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 (deposit of instrument of ratification on May 25, 1978) and Inter-American Convention against Torture (deposit of instrument of ratification on January 21, 1987)

**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>	Article 5 (humane treatment), 7 (personal liberty), 8 (fair trial) and 25 (judicial protection) of the American Convention in relation to Article 1.1 thereof; and Articles 1, 6 and 8 of the Inter-American Convention against Torture
<b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b>	Yes, in the terms of Section VI
<b>Timeliness of the petition:</b>	Yes, in the terms of Section VI

<sup>1</sup> Pursuant to Article 17.2.a of the IACHR Rules of Procedure, Commissioner Edgar Stuardo Ralón, a Guatemalan national, participated neither in the discussion nor in the decision in this case.

<sup>2</sup> Hereinafter "American Convention".

<sup>3</sup> Hereinafter "Inter-American Convention against Torture."

<sup>4</sup> The observations of each party were duly transmitted to the other party.

## V. FACTS ALLEGED

1. The petitioner claims that Juan Lucas Juan, a 20-year-old farmer (hereinafter "the alleged victim") was detained and subjected to torture and cruel, inhumane and degrading treatment in a military detachment, and that there was no effective investigation of the facts or punishment of those responsible. Petitioner argues that the acts took place in a context in which torture was used as part of the State's policy of repression against the Guatemalan population.

2. The complaint indicates that on July 19, 1982, the alleged victim was summoned by the military commissioner of the detachment located in Santa Eulalia, Huehuetenango, to which he presented himself on July 20 of the same year. Petitioner claims that the alleged victim was immediately subjected to an interrogation about his role as a member of the guerrilla and that, despite his denial, State agents violently tied him to one of the columns of the building, where he remained without access to food or water for 12 days. The alleged victim was beaten daily, including with kicks and with the butt of a rifle on his chest, sides and legs, while he was threatened with death for being a guerrilla fighter. He claims that the alleged victim was detained with approximately 10 other persons in the same conditions; and that all of them were executed by members of the State security forces. The petitioner holds that the alleged victim was released on August 2, 1982, and that at that time a lieutenant told him that he was lucky he had not been killed.

3. On April 19, 2012, the alleged victim filed a complaint before the Public Prosecutor's Office about what happened and explained that he did not do so earlier for fear of reprisals from the security forces themselves, and because his assailants had ties to persons in positions of power. The petitioner also reports that the father of the alleged victim was tortured, extrajudicially executed and buried in a private plot of land after being summoned on October 7, 1982, to report to the village of Chojzunil by a military commissioner and patrol members of the *Autodefensas Civiles* (Civil Self-Defense Forces)<sup>5</sup>. In this regard, petitioner explains that the alleged victim denounced the extrajudicial execution of his father on March 5, 2007, before the National Civil Police and also requested the exhumation of his body in order to recover his remains, with the support of the Forensic Anthropology Foundation. The petitioner argues that more than thirty years after the detention, torture and cruel, inhuman, and degrading treatment to which Juan Lucas Juan was subjected, there have been no positive results in the investigation. The petitioner claims that there have been efforts to identify witnesses to the events, despite which the investigation continues with no indication that it is being conducted diligently or seriously.

4. On its part, the State argues that the investigation concerning the alleged facts is still open and active, as evidenced by the steps taken to identify witnesses. It argues, however, that the results have not been as expected. Finally, the State argues that it is not legally possible to hold it responsible for an act of which it was unaware, considering that the complaint was filed in 2012 for events that occurred in 1982.

## VI. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS

5. The Inter-American Commission reiterates that in situations such as the one in question, in which crimes against life and integrity are denounced, criminal proceedings are the appropriate and effective remedy for clarifying the facts, prosecuting those responsible, and establishing the corresponding criminal punishments, in addition to enabling other forms of reparation<sup>6</sup>. Criminal investigations must be conducted and promoted in an informal and diligent manner by criminal justice authorities, a burden that must be

<sup>5</sup> When referring to the human rights situation in Guatemala, the IACHR has explained that "the Voluntary Civil Self-Defense Committees, better known by their former name of Civil Self-Defense Patrols (PAC), were created by the de facto military regime headed by Gen. Efraín Ríos Montt, at the end of 1981, as part of his policy of extermination of the guerrilla through the relocation of the indigenous population and the eradication or death of any person or community of suspected persons, through procedures that violated human rights". IACHR, [Fourth report on the situation of human rights in Guatemala](#). OAS/Ser.L/V/II.83, Doc. 16 rev., June 1, 1993, Cap. VI – Voluntary Civil Self-Defense Committees.

<sup>6</sup> IACHR, Report No. 156/17, Petition 585-08. Admissibility. Carlos Alfonso Fonseca Murillo. Ecuador. November 30, 2017, para. 13.

assumed by the State as its own legal duty, and not as a management of private interests or depending on the initiative or the provision of evidence by the latter<sup>7</sup>.

6. The Inter-American Commission observes that the alleged victim filed a criminal complaint with the Public Prosecutor's Office on April 19, 2012, by virtue of which a criminal investigation was initiated to investigate the facts and determine responsibilities. In this regard, the IACHR notes that the State has not provided information on the outcome of that investigation, which, according to the information provided by both parties, remains open. According to the case file, almost 10 years after the complaint was filed and almost 40 years after the alleged facts, there is no evidence of progress in the investigative process to determine the circumstances in which the events occurred and to identify and, if applicable, punish the possible perpetrators.

7. In its response of December 4, 2018, the State generically refers to the criminal proceeding without providing further information or submitting annexes. In this regard, the State explains that it will present the necessary information "to accredit the investigative proceedings carried out, their objective and results" and to demonstrate that an exception to the exhaustion of domestic remedies is not present. However, to date, the State has not submitted additional information. Should it do so, it will be taken into account in the merits stage of this case.

8. Consequently, the exception to the exhaustion of domestic remedies provided for in Article 46.2(c) of the American Convention is applicable.

9. In addition, the IACHR observes that the petition was received on December 13, 2012, and that the facts that are the subject of the complaint are said to have occurred as of July 20, 1982 and would extend to the present. Therefore, in view of the context and the characteristics of the present case, the Inter-American Commission considers that the petition was filed within a reasonable period and that the admissibility requirement regarding the period for submission must be considered met.

## **VII. COLORABLE CLAIM**

10. The petitioner claims detention, torture, and inhumane, cruel and degrading treatment to the detriment of the alleged victim, as well as the lack of judicial protection, and the continuing lack of investigation of the facts. After examining the arguments of the parties, the Inter-American Commission considers that the petitioner's allegations are not manifestly unfounded and require a study of the merits since, if corroborated as true, the facts may constitute violations of the rights recognized in Articles 5 (humane treatment), 7 (personal liberty), 8 (fair trial) and 25 (judicial protection) of the American Convention in relation to its Article 1.1; as well as Articles 1, 6 and 8 of the Inter-American Convention against Torture, due to the alleged lack of investigation since the entry into force of said treaty<sup>8</sup>.

## **VIII. DECISION**

1. To declare the present petition admissible in connection to Articles 5, 7, 8 and 25 of the American Convention in relation to its Article 1.1; as well as Articles 1, 6 and 8 of the Inter-American Convention against Torture.

2. To notify the parties of this decision; to continue with the analysis on the merits; and to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

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<sup>7</sup> IACHR, Report No. 159/17, Petition 712-08, Admissibility, Sebastián Larroza Velázquez and family, Paraguay, November 30, 2017, para. 14; IACHR, Report No. 108/19, Petition 81-09, Admissibility, Anael Fidel Sanjuanelo Polo and family, Colombia, July 28, 2019, paras. 17-19.

<sup>8</sup> IACHR, Report No. 39/18, Petition 196-07. Admissibility. José Ricardo Parra Hurtado, Félix Alberto Páez Suárez and families. Colombia. May 4, 2018, para. 15.

Approved by the Inter-American Commission on Human Rights on the 30<sup>th</sup> day of the month of April, 2022. (Signed:) Julissa Mantilla Falcón, President; Margarette May Macaulay, Second Vice President; Roberta Clarke and Carlos Bernal, Commissioners.