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REPORT No. 75/24
PETITION 1776-20
REPORT ON ADMISSIBILITY

A.R.H.
COLOMBIA

Approved electronically by the Commission on June 5, 2024.

Cite as: IACHR, Report No. 75/24. Petition 1776-20. Admissibility.
A.R.H. Colombia, June 5, 2024.

I. INFORMATION ABOUT THE PETITION

Petitioning party:	University College London Public International Law Pro Bono Project, Professor Kimberley N. Trapp and Luis F. Viveros-Montoya
Alleged victim::	A.H.R. ¹
Respondent State:	Colombia ²
Rights invoked:	Articles 5 (humane treatment), 7 (personal liberty), 8 (fair trial), 11 (privacy), and 25 (judicial protection) of the American Convention on Human Rights; ³ and Articles 4(b), 4(e) and 7(b) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ⁴

II. PROCESSING BY THE IACHR⁵

Filing of the petition:	August 21, 2020
Additional information received during the initial review stage:	March 8, 2021, January 19, 2022, August 30, 2022, September 29, 2022, November 14, 2022, June 9, 2023, and July 24, 2023
Notification of the petition to the State:	August 17, 2023
State's first response:	December 29, 2023

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, the American Convention (deposit of ratification instrument on July 31, 1973) and the Convention of Belém do Pará (deposit of ratification instrument on November 15, 1996)

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
<i>Rights declared admissible</i>:	Articles 5 (humane treatment), 8 (fair trial), 24 (equal protection), and 25 (judicial protection) of the American Convention, taken in conjunction with Article 1(1) thereof (obligation to respect rights); Article 7 of the Convention of Belém do Pará
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, under the terms of Section VI
Timeliness of the petition:	Yes, under the terms of Section VI

¹ At the request of the petitioning party, the Inter-American Commission will restrict disclosure of the alleged victim's identity to the public in order to avoid her re-victimization and possible harm to her private life.

² Pursuant to Article 17(2)(a) of the Commission's Rules of Procedure, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the discussion or decision in this matter.

³ Hereinafter the "American Convention" or "the Convention."

⁴ Hereinafter "Convention of Belém do Pará".

⁵ Each party's observations were duly forwarded to the opposing party. The petitioning party requested the granting of precautionary measures in favor of the alleged victim. The IACHR initiated the processing of MC-805-20, but decided to reject the request on February 9, 2022.

V. POSITIONS OF THE PARTIES

Petitioning party

1. The petitioning party complains of the failure to investigate the rape suffered by Mrs. A.R.H. on October 21, 2012, allegedly committed by three Wayuu indigenous men in the department of La Guajira, Colombia.

2. The petitioning party states that Mrs. A.R.H. is a British citizen, originally from a city located east of London, who at the time of the facts was twenty-three years old and was working as an English teacher in Chile. After arriving in South America, she decided to embark on a trip with a group of friends, so on August 31, 2012 they arrived in Colombia, and on October 20 they traveled to the department of La Guajira to visit the beaches of Cabo de la Vela.

3. On the night of October 21, A.R.H. and her friends had settled in a van on the beach, where they were spending the night, but she decided to go for a walk alone and leave the group because of a disagreement she had had with her group of friends. The petitioning party states that A.R.H. got lost because the area was desert-like, full of dunes, and had no landmarks. On her way, she arrived at a Wayuu Rancheria, where she asked for directions in her precarious Spanish from some indigenous women she met, but they did not answer her. A.R.H. continued walking, but on the outskirts of the Rancheria three Wayuu men caught up with her.

4. A.R.H. states that she felt insecure at that moment and insisted that the men leave, but they refused and she realized that they did not speak Spanish well, as the Wayuu speak a dialect of the *Arawak* language, called *wayuunaiki*, so she could not understand what they were saying to each other. After walking for a while, the men began to make comments about A.R.H.'s physical appearance in their poor Spanish, until the words turned into physical approaches, and when she tried to repel them and run away, two of them caught up with her, threw her to the ground and between the three of them held her down and beat her, took off her underwear, and raped her. After the event, the petitioning party indicates that she asked for water and to be taken to a populated area, because she feared for her life, but they took her back to their ranchería.

5. The petitioning party points out that, there, the third rapist - whom she describes as the least violent and who even tried to be affectionate with her - left her to sleep alone in his hammock inside a hut, but she relates that beforehand he performed a strange ritual for her, in which he washed her feet, after which A.R.H. pretended to fall asleep. The man also visited her several times to make sure she had not run away and offered to let her sleep with him, which she refused. A.R.H. escaped at dawn and was able to find her friends' camp. The petitioning party emphasizes that she kept her underwear in a plastic bag for preservation for the eventual investigation, and sought emergency contraceptive medicine.

6. The petitioning party states that on October 22, A.R.H. reported the incident to the authorities as soon as she had the opportunity, although the police report indicates that the investigation began on October 23, 2012. They indicate that the Attorney General's Office opened an investigation with two different files, one against two adults and the other, in the children's and adolescents' jurisdiction against an adolescent. The petitioners emphasize that in the span of ten years the case has been reassigned to five different prosecutors and is in the "pre-investigation" stage, according to Colombian domestic law.

7. They indicate that at the request of the British Foreign Office, the Colombian prosecutor's office reported the status of the investigation in 2013, announcing that they had already identified the suspects and that they were about to request a DNA test before a judge to confirm their hypothesis. However, the petitioners point out that this medical examination was not carried out, and seven years after the initiation of the criminal investigation, A.R.H. appointed an attorney as her legal representative in Colombia in order to keep abreast of progress in the case. In May 2019, this lawyer was informed by the prosecutor of the case that it was unlikely that charges would be brought due to obstacles "of a legal and political nature."

8. Accordingly, the petitioning party invokes the exception of unwarranted delay in the resolution of domestic remedies, provided for in Article 46(2)(c) of the American Convention. It also alleges that the investigation has suffered from serious flaws, such as, the fact that the initial interview of the alleged victim was conducted by a male officer, who did not ask clarifying questions. This resulted in a generic and not very detailed account of facts that had to be re-taken years later; and it was not conducted in the presence of an interpreter, despite the fact that the alleged victim's native language is English and the investigation protocol required the presence of a translator. The petitioning party alleges that, in general, the conditions under which the interview was conducted demonstrate the shortcomings of investigative protocols, since it was conducted in a public hospital on the night of October 22, 2012, but was registered the following day, in addition to the fact that the place where it was conducted had poor hygiene, blood stains on the sheets, and the alleged victim had not slept for forty hours. It also points out that Mrs. A.R.H. had a brief conversation in Spanish with a psychologist, which was not recorded in the file.

9. The petitioning party reports another irregularity in the framework of the investigation consisting of the fact that the alleged victim made herself available to the authorities for further information and to identify those responsible by means of photographs, and even to return to Colombia if they asked her to. However, the petitioning party argues that A.R.H. learned that the prosecution considered her absence as "*the main obstacle to progress in the investigation*" through a response to a request for information sent by the British embassy to the investigating agency in January 2013. It claims that the Prosecutor's Office relied on the deficient interview taken on October 23, 2012 for more than three years before stating that it was necessary to re-interview A.R.H.; and it was not until April 24, 2016 that the Prosecutor's Office informed the alleged victim of its need to re-interview her during a meeting at the Colombian Consulate in London, in which officials of that entity, A.R.H., and her lawyer in Colombia participated.

10. This second interview was conducted on June 27, 2018, at the Colombian Consulate in London, again without the presence of an official translator, despite being conducted at the Colombian Consulate, so the alleged victim's lawyer had to translate the interview and psychological/psychiatric evaluation. Moreover, although the interview was supposed to be videotaped, the authorities at the consulate did not have the necessary equipment.

11. In addition, the petitioning party complains of serious irregularities in the collection and handling of physical evidence, in the complete absence of investigation protocols. It claims that the authorities took two years to conduct the forensic medical examination of the underwear handed over by the alleged victim, and never attempted to cross-check the findings with DNA evidence from the suspects. Likewise, the prosecutor's office lost the photographs taken of A.R.H. at the Colombian Institute of Legal Medicine the day after the sexual assault. The petitioning party also alleges that the prosecutor's office failed to provide protection to two witnesses in the case who requested it, one of whom indicated that he had audiovisual material in which one of the perpetrators talks about the rape of the alleged victim.

12. Furthermore, it denounces several acts of re-victimization during the criminal proceedings. First, the petitioning party points out that during the first hours of investigation, police officers arrived at Cabo de la Vela after being alerted of the sexual assault suffered by A.R.H., and instead of taking her to a hospital immediately, they took her to the Wayuu settlement in order for her to identify the assailants and then interrogated her in a building in the municipality of Uribia, where she felt she was in custody. That interrogation was not recorded, nor was it incorporated into the case file. Only the hospital interview conducted in the evening hours was recorded.

13. The petitioning party also alleges that the prosecutor's office and other Colombian authorities endorsed and accepted re-victimizing accounts of the sexual assault. It contends that, on the one hand, the young policewoman who attended the case told A.R.H. that she had committed "*a stupid thing*" by going out walking alone; and, on the other hand, the indigenous authorities who heard the case dismissed it, asserting that A.R.H. had arrived at the Rancheria intoxicated and drugged and had made advances to the three men, so that the sexual relations had been consensual. The petitioning party claims that this version was accepted by the mayor's office of Uribia, according to a declassified memorandum from a meeting with the British Foreign Office.

14. Additionally, the petitioning party argues that the investigation by the prosecutor's office into the rape suffered by A.R.H. has been suspended at the preliminary stage, due to the lack of legal clarity regarding the competence of the special indigenous or ordinary jurisdiction over a crime committed by indigenous persons in their territory to the detriment of a non-indigenous person. It claims that, for this reason, the prosecutor's office refuses to open a formal investigation. It also states that, since June 2013, the prosecutor's office has refused to provide information on the criminal proceedings to the British mission.

15. In view of this, the petitioning party indicates that in 2015 A.R.H. appointed lawyers to represent her in Colombia. It states that those lawyers filed several requests to the prosecutor's office to issue an arrest warrant against the suspects, and the entity finally ordered it in August 2015, but after the arrest warrant hearing had been scheduled for October of that year, the prosecutor's office withdrew the order "*citing unspecified 'security' issues.*" The petitioning party further maintains that prior to the conduct of the interview at the Consulate in 2016, the prosecutor in the case explained to A.R.H. that in similar cases the Constitutional Court has ruled that the special indigenous jurisdiction is competent. It points out that the Ethnic Affairs Directorate of the Ministry of Justice was subsequently alerted of the investigation in the prosecutor's office and approached that body requesting information on the case. The petitioning party was not informed of any of this, and it assumes that it is because of this that the investigation is paralyzed indefinitely.

16. Consequently, the petitioning party invokes the exception of the absence of an effective judicial remedy that guarantees the impartiality of the judge, provided for in Article 46(1)(a) of the Convention, since it considers that the indigenous jurisdiction is exercising *de facto* jurisdiction over the case. In this regard, it argues that the procedure before the indigenous jurisdiction does not comply with the standards of due diligence and gender perspective, since, on the one hand, it requires that the 'elders' of the alleged victim, that is, her male representatives, file a claim, and with this they could obtain compensation in the form of livestock or jewelry; and, on the other hand, the proceeding has been based on the version that A.R.H. was intoxicated and drugged and consented to sexual intercourse, which in any case would also have been rape, since the state of intoxication does not permit free consent to sexual intercourse. The petitioning party further asserts that it is unclear whether such a proceeding was ever initiated, and it lacks impartiality because the father of one of the suspects is a member of the council of elders that would try the case.

The Colombian State

17. The State, for its part, contends that this petition is inadmissible because domestic legal remedies have not been exhausted. In this regard, it argues that the exceptions to exhaustion invoked by the petitioning party are not applicable, since the investigation is within the reasonable time limit, due to the fact that the authorities have acted diligently and the matter is highly complex.

18. With respect to the alleged facts, the State clarifies that as of January 2013 the prosecutor's office ordered investigations to establish the full identity of the persons who sexually abused A.R.H., for which reason on February 18, 2013 the Special Criminal Investigation Unit of Interpol went to the place of the facts, and found that the Wayuu community was not willing to collaborate, since no one provided any information. According to the State, the following day, the investigators interviewed the Mayor (*corregidora*) of Cabo de la Vela, and on March 1, 2013, they received a call that identified one of the alleged perpetrators as C.B.U., an adolescent, son of the traditional authority of the community. The State reports that on September 26, 2013, the Judicial Police unit went to the restaurant and lodge "Refugio" where the alleged victim asked for help to bathe and contact the police, and there the investigators received information about the identity of another of the indigenous persons involved.

19. The State indicates that in October 2013, the prosecutor's office sent an official letter to the British Embassy in Bogotá, indicating that the absence of A.R.H. was not an obstacle to the progress of the investigation, although her presence would be useful for the recognition of those responsible. In January and February 2014, the investigators met with several Wayuu authorities, i.e., representatives of the community, and asked them about the crime. The State recalls that by April of that year, the prosecutor's office already had three genetic profiles identified by the Forensic Medicine unit from the evidence provided by the alleged victim,

as well as the identity of two of the three alleged assailants, which would allow them to compare the results with DNA tests that would be performed on the suspects.

20. Colombia notes that in September 2015 the prosecutor's office managed to identify the third suspect, and all three were summoned for DNA sampling, but none appeared. As a result, the State indicates that in October 2015 the prosecutor's office held a hearing before the Seventh Municipal Criminal Court of judicial control of Barranquilla to request the issuance of an arrest warrant against one of them, which was accepted. In May 2016, days after the alleged victim was interviewed again at the London Consulate, the prosecutor's office requested information from the Ministry of the Interior as to whether the three suspects were based in Venezuela, since the department of La Guajira borders that country. The State points out that in June 2016 the Directorate of Indigenous, ROM and Minority Affairs of the Ministry of the Interior responded to the request emphasizing that the Special Indigenous Jurisdiction had competence in this case because the subjects involved were indigenous, and because the indigenous authority had opted to handle the case.

21. Nevertheless, the State indicates that the prosecutor's office continued to process the investigation for the crime of violent carnal access committed to the detriment of A.R.H., and in June 2018, a psychiatric assessment of the alleged victim was carried out by Forensic Medicine specialists at the Colombian Consulate in London, where she submitted further information to the criminal complaint, and she clarified some of the facts. The State notes that the prosecutor's office requested the creation of a legal technical committee in 2019 in order to prevent annulment of the process, and requested an opinion on its competence in the case of the suspect who was 15 years old at the time of the facts and the use of the jurisdiction of childhood and adolescence or indigenous jurisdiction. On February 13, 2020, the Legal Technical Committee considered that the jurisdiction with competence over the accused adolescent was the special indigenous jurisdiction, taking into account the principle of the best interest of the child and the differential ethnic approach.

22. The State clarifies that this determination was made only with respect to one of the three suspects. Regarding the other two, it reports that on April 28, 2002, the prosecutor's office ordered an interrogation process in coordination with the traditional authorities of the Uchitú community, applying the differentiated ethnic approach. In the same vein, the prosecutor's office decided to seek an intercultural dialogue with the Junta Mayor de Palabrereros (Board of Representatives) of the community to request the collaboration of the members of the indigenous community; otherwise, they could risk being punished for testifying in the criminal proceeding against the will of their traditional authorities. Therefore, the State reports that the investigation is still ongoing in the preliminary investigation stage.

23. Regarding the failure to exhaust domestic remedies, the Colombian State argues that the petitioner has not exhausted the criminal proceedings initiated in the prosecutor's office to investigate and punish those responsible for the rape committed to the detriment of A.R.H. In response to the allegations of the petitioner regarding the lack of protocols for the interview and collection of physical evidence, Colombia reports that the prosecutor's office has adopted a Protocol for the Investigation of Sexual Violence that is currently in use, and for that reason, since 2016 the prosecutor in the case gave instructions to adopt a gender approach and prevent the interview of A.R.H. from leading to a scenario of revictimization.

24. The State claims that the prosecutor's office has carried out more than two hundred investigative procedures with the objective of individualizing and identifying those responsible for the act and proceeding with the indictment, guaranteeing due process and the right of access to justice. In this regard, it asserts that in this case one of the suspects was under eighteen years of age at the time of the facts, for which reason, in application of the principle of the best interest of the child, the indigenous jurisdiction has jurisdiction over that defendant, but with respect to the other two, the prosecutor's office maintains its jurisdiction.

25. With respect to the allegation of unwarranted delay in the criminal proceedings, the State contends that the investigation by the prosecution is being conducted within a reasonable period of time. In this regard, it recalls that such an assessment depends on four factors : (i) the complexity of the matter; (ii) the procedural activity of the interested party; (iii) the conduct of the judicial authorities, and (iv) the general

effects on the legal situation of the person involved in the proceeding. Colombia asserts that the complexity of the criminal process has been due to the reluctance of the community to cooperate with state authorities, in addition to the lack of information on the whereabouts of the suspects, who, according to information received by the prosecutor's office, have been banished from the community for the crime committed. It also argues that the possible participation of a teenager in the facts has made the process more complex.

26. In relation to the second and third elements of the reasonable time period, the State recognizes that the alleged victim has maintained communication and has collaborated with the authorities, but also emphasizes that the latter have acted with due diligence and have not suspended or paralyzed the investigation. It sets forth that, although the petitioner mentions the existence of political obstacles that have caused the passivity of the prosecutor's office, this is not supported by the record of the activity carried out by the prosecutor in charge, which shows that steps have constantly been taken to overcome the complexity of the case and to continue guaranteeing access to justice and procedural guarantees for the victim and the defendants. Consequently, Colombia requests the Inter-American Commission to declare the present petition inadmissible for failure to exhaust domestic remedies.

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

27. The Commission notes that the petitioning party denounces the impunity surrounding the rape suffered by Mrs. A.R.H. on October 21, 2012. In addition, it alleges an unwarranted delay in the investigation stage of the criminal proceeding, which has been under preliminary investigation for twelve years. The State replies that the petitioner has not exhausted domestic remedies, particularly inasmuch as the criminal investigation is being conducted within a reasonable period of time, has been conducted with due diligence, and remains active.

28. For admissibility purposes, the Commission must evaluate whether domestic remedies are adequate and effective, that is, whether they provide a real opportunity for the alleged human rights violation to be remedied and resolved by the national authorities before resorting to the Inter-American System.⁶ The exceptions to the rule of exhaustion of domestic remedies provided for in Article 46(2) of the Convention American are closely linked to the determination of possible violations of certain rights set forth therein, such as guarantees of access to justice and the right to effective judicial protection. However, Article 46(2), by its nature and purpose, is a self-contained provision separate from the substantive provisions contained in the American Convention. Therefore, determining whether or not the exceptions to the rule of exhaustion of domestic remedies provided in said provision are applicable to a particular case requires an examination carried out in advance of and separate from the analysis of the merits of the case, since it depends on a different standard of assessment to that used to establish whether or not there has been a violation of Articles 8 and 25 of the Convention.⁷

29. There are no conventional or regulatory provisions that specifically regulate the period of time that constitutes 'unjustified delay', so that the Commission needs to evaluate on a case-by-case basis to establish whether the delay is justified.⁸ Along these lines, the Inter-American Court has established as a guiding principle for the analysis of possible unwarranted delay as an exception to the rule of exhaustion of domestic remedies, that "*The rule of prior exhaustion must never lead to a halt or delay that would render international action in support of the defenseless victim ineffective.*"⁹ In other words, in the Commission's opinion, 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 may have some kind of useful effect in the protection of the rights of the alleged victims.

⁶ IACHR, Report No. 89/21, Petition 5-12, Cananea Mine Workers and their families. Mexico, March 28, 2021, par. 32; IACHR, Report No. 317/21, Petition 1841-14. Admissibility. M and C. Costa Rica. November 4, 2021, par. 25.

⁷ IACHR, Report No. 317/21, Petition 1841-14. Admissibility. M and C. Costa Rica. November 4, 2021, par. 25.

⁸ IACHR, Report No. 14/08, Petition 652-04. Admissibility. Hugo Humberto Ruíz Fuentes. Guatemala. March 5, 2008, par. 68

⁹ *Ibid.*

30. In this regard, the Commission recalls that in cases of serious human rights violations, such as sexual violence, the domestic remedies that must be taken into account for the admissibility of a petition are those related to criminal proceedings, since this is the ideal way to clarify the facts and establish the corresponding criminal sanctions, in addition to making possible other forms of pecuniary reparation.¹⁰

31. In the instant case, the petitioning party invokes the exceptions to the exhaustion of remedies of non-existence of due process of law before the indigenous jurisdiction, and unwarranted delay in filing criminal charges against the alleged perpetrators of rape. The State replies that the investigation in the prosecutor's office with respect to two of the alleged perpetrators is still ongoing, and therefore the alleged victim has not exhausted this domestic remedy.

32. Regardless of the merits' analysis of the case, regarding the factors for determining reasonable time in the analysis of a violation of Articles 8(1) and 25(1) of the American Convention, the Commission notes that twelve years have elapsed since the occurrence of the events denounced and the initiation of the investigation, and notes that the alleged perpetrators have already been fully identified by the prosecutor's office, without it having initiated a trial against them. Although the State argued that the lack of collaboration of the indigenous community and the failure to locate the alleged perpetrators has impeded progress, the IACHR considers that these elements should be evaluated in the merits stage and do not correspond to the *prima facie* analysis of admissibility.

33. Consequently, the IACHR considers that the exception invoked by the petitioner of unwarranted delay in the resolution of domestic remedies, provided for in Article 46(2)(c) of the American Convention, is applicable. Likewise, given that the facts denounced allegedly occurred in 2013; the petition was filed on August 21, 2020; the impunity denounced remains in force due to the lack of indictment of the crime and punishment of those responsible; and the alleged victim has demonstrated her interest in the promotion of domestic judicial proceedings; the Commission concludes that the petition was filed within a reasonable period of time, in the terms of Article 32.2 of its Rules of Procedure.

VII. ANALYSIS OF COLORABLE CLAIM

34. The IACHR notes that the main object of the petition is the impunity of the rape committed against A.R.H., and takes note of the allegations of the petitioning party regarding the lack of due diligence in the investigation of the rape of the alleged victim, the existence of irregularities in the handling of the evidence, the lack of a translator for the alleged victim, and specific facts of re-victimization during the denunciation of the incident.

35. With regard to investigation and punishment of sexual violence, the Commission recalls that the general obligations of Articles 8(1) and 25 of the American Convention are reinforced by the provisions of the Convention of Belém do Pará, Article 7(b), which imposes a specific duty to use due diligence to prevent, punish, and eradicate violence against women.¹¹ Indeed, the duty to investigate is reinforced when it concerns a woman who suffers a violent death, mistreatment, or violation of her personal liberty, since the State is required to clarify whether the act was perpetrated because of her gender.¹²

36. Likewise, enhanced due diligence in investigations of sexual violence against women also implies the incorporation of a gender perspective in the analysis of the facts, in the collection of evidence, and in the conduct of the trial.¹³ The investigation must be conducted by persons trained in the matter, and, among

¹⁰ IACHR, Report No. 179/21. Petition 1319-11. Admissibility. M.P.M. and N.E.M. Ecuador. August 13, 2021, par. 17.

¹¹ I/A Court H.R. Case of Velásquez Paiz et al. v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 19, 2015. Series C No. 307, par. 145.

¹² I/A Court H.R. Case of Velásquez Paiz et al. v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 19, 2015. Series C No. 307, par. 146.

¹³ I/A Court H.R. Case of González et al. ("Cotton Field") v. Mexico. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009. Series C No. 205, par. 455. Case of Fernández Ortega et al. v. Mexico, supra, paras. 194, 251, and 252; Case of the Espinoza Gonzáles v. Peru. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 20, 2014. Series C No. 289, paras. 242 and 252; Case Favela Nova Brasília v. Brazil. Preliminary Objections, Merits, Reparations, and Costs. Judgment of February 16,

[continúa...]

other duties, involves documenting and coordinating the investigative actions and diligently handling the evidence, taking sufficient samples, conducting studies to determine the possible authorship of the act, securing other evidence such as the victim's clothing, immediately investigating the scene of the crime, and ensuring the correct chain of custody.¹⁴

37. In view of these considerations, and after examining the elements of fact and law presented by the parties, the Commission considers that the petitioning party's allegations are not manifestly unfounded and require a study of the merits, since the alleged facts, if corroborated as true, could constitute violations of the rights recognized in Articles 5 (right to humane treatment/personal integrity), 8 (judicial guarantees), 24 (equality before the law), and 25 (judicial protection) of the American Convention, in conjunction with Article 1.1 of the same treaty, to the detriment of Mrs. A.R.H. in accordance with this report.

38. Regarding the allegations of violation of Article 4 of the Convention of Belém do Pará, the IACHR notes that the competence provided for under Article 12 of said treaty to establish violations in the context of an individual case is limited to Article 7. With respect to the other articles, in accordance with Article 29 of the American Convention, the Commission may take them into account in interpreting and applying the American Convention and other applicable instruments.

VIII. DECISION

1. To find the instant petition admissible in relation to Articles 5, 8, 24, and 25 of the American Convention; and Article 7 of the Convention of Belém do Pará.

2. To notify the parties of this decision; continue with the analysis of the merits, and 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 5th day of the month of June, 2024. (Signed:) Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice President; Arif Bulkan, and Gloria Monique de Mees, Commissioners.

2017. Series C No. 333, par. 254; and Case of Azul Rojas Marín et al v. Peru. Preliminary Objections, Merits, Reparations, and Costs. Judgment of March 12, 2020. Series C No. 402, par. 180 be observed.

¹⁴ I/A Court H.R. Case of González et al. ("Cotton Field") v. Mexico. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 16, 2009. Series C No. 205, par. 455. Case of Fernández Ortega et al. v. Mexico, supra, paras. 194, 251, and 252; Case of the Espinoza Gonzáles v. Peru. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 20, 2014. Series C No. 289, paras. 242 and 252; Case Favela Nova Brasilia v. Brazil. Preliminary Objections, Merits, Reparations, and Costs. Judgment of February 16, 2017. Series C No. 333, par. 254; and Case of Azul Rojas Marín et al v. Peru. Preliminary Objections, Merits, Reparations, and Costs. Judgment of March 12, 2020. Series C No. 402, par. 180.