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**REPORT No. 171/24**  
**PETITION 901-14**  
REPORT ON INADMISSIBILITY

LUIS HERNANDO BAQUERO MENDIETA & FAMILY MEMBERS  
COLOMBIA

Approved electronically by the Commission on October 18, 2024.

**Cite as:** IACHR, Report No. 171/24, Petition 901-14. Inadmissibility. Luis Hernando Baquero Mendieta and Family Members. Colombia. October 18, 2024.

**I. INFORMATION ABOUT THE PETITION**

<b>Petitioner:</b>	José Alberto Leguizamo Velásquez
<b>Alleged victim:</b>	Luis Hernando Baquero Mendieta and family members <sup>1</sup>
<b>Respondent State:</b>	Colombia <sup>2</sup>
<b>Rights invoked:</b>	Articles 4 (life), 5 (humane treatment), 7 (personal liberty), 8 (right to a fair trial), 10 (compensation), 17 (rights of the family), 19 (rights of the child), 21 (right to property), 22 (freedom of movement and residence) and 25 (right to judicial protection) of the American Convention, in relation to its Article 1.1 (obligation to respect rights)

**II. PROCEEDINGS BEFORE THE IACHR<sup>3</sup>**

<b>Filing of the petition:</b>	June 25, 2014
<b>Notification of the petition to the State:</b>	November 18, 2019
<b>Additional observations from the State:</b>	December 29, 2020

**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 (instrument deposited on July 31, 1973)

**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>	None
<b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b>	No
<b>Timeliness of the petition:</b>	No

**V. FACTS ALLEGED***Position of the petitioner<sup>4</sup>*

1. The petitioner complains of the extrajudicial execution of Luis Hernando Baquero Mendieta by paramilitaries, the State's failure to provide security in the region where he was killed, and the lack of fair compensation to his family members.

<sup>1</sup> Dora Blaird Bacca (wife); Lady Fernanda Baquero Bacca, Linda Yesenia Baquero Bacca (daughters).

<sup>2</sup> 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 deliberations or in the decision in this case.

<sup>3</sup> The observations of each party were duly transmitted to the opposing party. On November 9, 2021, the petitioner expressed his interest in continuing with the complaint before the IACHR.

<sup>4</sup> The petitioner's written submissions are very brief; all of the relevant information he provides is presented below.

2. According to the petitioner, on March 8, 2004, Mr. Luis Hernando Baquero Mendieta was executed while in a completely defenseless state in the urban area of Puerto Alvira, department of Meta, by paramilitaries of the United Self-Defense Forces of Colombia (AUC). The petitioner does not explain what he means by “*completely defenseless state*” and presents no further information about the death.

3. The petitioner claims that the State is responsible because it failed to ensure security in the jurisdiction of the municipality of Puerto Alvira.

4. With respect to domestic proceedings, he states, first, that he did not avail himself of the domestic courts because the time limits for filing a complaint had lapsed. Next, he states that the facts were reported to the authorities in Colombia, and he refers to ordinary proceedings that were handled by the Office of the Prosecutor General. He does not present specific information on the complaints or proceedings.

5. The petitioner further indicates that the State of Colombia subsequently opened a case through the Justice and Peace proceedings under Law 975 of 2005, with the aim of obtaining the truth, justice, and reparations; however, none of the three objectives was achieved. He presents no specific information on this case.

6. The petitioner notes in general terms that, as of the June 2014 filing date of his complaint with the IACHR, the transitional justice system had been in place for eight years, during which time judgments had been handed down against only 11 of the 35,200 alleged perpetrators, and only around 5% of the six million victims had received reparations. The petitioner argues that these circumstances forced him to turn to the inter-American system.

7. However, he also says that he exhausted domestic remedies, “*including the Justice and Peace Court of Bogotá*,” but that these remedies failed to ensure due process of law and the protection of the rights alleged to have been violated. He does not present specific information on the lack of due process.

8. The petitioner states that Mr. Luis Hernando Baquero Mendieta provided financial and emotional support to his family, composed of Dora Blaird Bacca (wife), Lady Fernanda Baquero Bacca (daughter), and Linda Yesenia Baquero Bacca (daughter). His death caused them serious pecuniary and nonpecuniary harm that they have been unable to overcome, and the State has not fairly compensated the victims for these damages.

#### *Position of the State of Colombia*

9. The State asserts that the petition is contradictory, since the petitioner, after explicitly acknowledging that he did not avail himself of domestic remedies, then alleges that he exhausted them. It underscores that the petitioner does not specify which remedies he allegedly exhausted, nor why he considers that the authorities failed to respect due process.

10. With respect to the domestic proceedings, the State notes that Mrs. Dora Blaird Bacca reported the death of Luis Hernando Baquero Mendieta to the Office of the Prosecutor General of the Nation on April 3, 2008, attributing it to the FARC, and not to the AUC, as alleged by the petitioner. The State emphasizes that the complaint does not mention the participation of State agents in the events.

11. Once the complaint filed by Mrs. Dora Blaird Bacca was received, the Thirty-sixth Sectional Prosecutor’s Office assigned to the Circuit Court of General Jurisdiction opened a preliminary investigation on April 4, 2009, and ordered the taking of the following evidence: (i) amendment of Mrs. Dora Blaird Bacca’s complaint; (ii) request to the security agencies for the order of battle of the illegal armed groups that were operating in the district of Puerto Alvira, in the jurisdiction of the municipality of Mapiripán (Meta) in March 2004; (iii) ascertainment and identification of the alleged perpetrators of the crime; (iv) inquiry into the judicial inspection of the body of Luis Hernando Baquero Mendieta and order to submit the autopsy report and the death certificate; and (v) interviews of all persons with knowledge of the facts.

12. Pursuant to the order to take evidence, on June 30, 2009, the Chief of the Police Unit in San José de Guaviare sent a request to the Chief of the Police Unit in Villavicencio, Meta, to take Mrs. Dora Blaird Bacca's amended complaint and to interview all the persons she mentioned and who had knowledge of the facts.

13. In official letter No. 1821 of July 1, 2009, the Chief of the Police Unit requested the Commander of the Twenty-second Jungle Brigade of San José de Guaviare to provide information on the order of battle of the illegal armed groups operating in the district of Puerto Alvira in March 2004.

14. In a letter dated July 8, 2009, the Twenty-second Jungle Brigade of San José de Guaviare reported that the illegal self-defense group Los Buitragueños was operating in the area. The State notes that since this group did not avail itself of the Justice and Peace Law, State authorities have obtained no information during the proceedings carried out under Law 975 of 2005 regarding the events that took place.<sup>5</sup>

15. On September 7, 2009, the municipality of Mapiripán stated that there was no report on Mr. Baquero Mendieta's death. On April 28, 2011, the Prosecutor General's Office issued a declination order closing the proceedings. The State emphasizes that motions for reconsideration and even appeal were available to challenge this order under Article 327 of Law 600 of 2000.<sup>6</sup> However, there is no evidence in the case record to indicate that Mrs. Dora Blaird Bacca had filed the appeals available to her under the law to challenge the Prosecutor's decision to issue a declination order. The State therefore underscores that the Commission is called upon to respect the domestic decision, since its review would require the Commission to act as an international fourth instance.

16. With regard to the just compensation sought by the petitioner, the State reports that the alleged victim's family members did not file a petition for direct reparation at the domestic level, which is the appropriate remedy for obtaining a determination of State responsibility and the respective compensation. On this issue, then, the State maintains that the petitioner failed to exhaust domestic remedies, and therefore the petition does not meet the requirement of Article 46.1(a) of the Convention.

17. The State also reports that it created the Individual Reparation Program administratively for victims of organized illegal armed groups, and that Mrs. Dora Blaird Bacca, along with her daughters Lady Fernanda Baquero Bacca and Linda Yesenia Baquero Bacca, are included in the Single Registry of Victims based on Mr. Luis Hernando Baquero Mendieta's death. In addition, on October 17, 2012, Mrs. Dora Blaird Bacca received compensation in the amount of 11,334,000 pesos (approximately USD\$6,295.62 at the time).<sup>7</sup> The State clarifies that this compensation is not based on State responsibility for the death of Mr. Baquero Mendieta, but rather reflects the State's duty of solidarity with victims of the internal armed conflict.

18. Finally, the State considers that the petition makes manifestly groundless allegations, in the terms of Article 47(c) of the American Convention, given that it fails to show how the alleged facts can be attributed to the State. It also argues that the petitioner broadly and vaguely asserts that on March 8, 2004, Mr. Luis Hernando Baquero Mendieta was killed by illegal self-defense groups while in a defenseless state, without clarifying whether the authorities were aware of any risk to Mr. Baquero Mendieta's life, or explaining why he considers that the murder occurred while the alleged victim was "*in a defenseless state.*" The only argument presented by the petitioner to impute responsibility to the State is that military and police authorities should have been providing security in the place the events occurred, the municipality of Puerto Alvira, department of Meta. According to the State, this reasoning seems to suggest that the murder of a person in Colombia

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<sup>5</sup> Colombia's Law 975 of 2005, known as the "Justice and Peace Law," was enacted to facilitate the demobilization of illegal armed groups, especially the United Self-Defense Forces of Colombia. This law created a legal framework for the reintegration of members of such groups into civilian life, while ensuring the rights of victims to truth, justice, and reparation.

<sup>6</sup> "The Prosecutor General of the Nation or his or her delegate shall refrain from initiating an investigation when it appears that the conduct does not exist, that it is not statutorily defined as a crime, that the criminal action cannot be initiated or pursued, or that grounds for the absence of responsibility have been demonstrated. Such decision shall be made by means of an interlocutory order against which the Public Prosecution Service, the complainant, or plaintiff and the victim or their representatives appearing for such purpose may file motions for reconsideration and appeal."

<sup>7</sup> Estimate calculated at: <https://www.exchange-rates.org/exchange-rate-history/cop-usd-2012-10-17> (accessed July 20, 2024).

automatically gives rise to State responsibility, which is incorrect. Were this argument to be accepted, the State would be internationally responsible every time a person is killed within its jurisdiction, which is disproportionate.

19. In conclusion, Colombia underscores that the petitioner failed to provide evidence of the State's alleged responsibility for the violation of several rights cited in general terms in the initial petition.

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

20. The Inter-American Commission notes that the main issue giving rise to the petition is the extrajudicial execution of Luis Hernando Baquero Mendieta, allegedly by paramilitaries; the State's failure to provide security in the region where he was killed; and the lack of fair compensation to his family members.

21. To analyze the exhaustion of domestic remedies, the IACHR recalls that in cases that allege acts of violence resulting in the death of persons and subsequent impunity, the appropriate remedy to be exhausted at the domestic level is criminal prosecution, through the diligent conduct of investigations at the State's own initiative to determine the perpetrators of the violation of the right to life and to prosecute and punish them in accordance with the American Convention.<sup>8</sup> This burden is to be assumed by the State as its own legal duty, and not as the management of private interests or depending on the initiative of the latter or on their provision of evidence.<sup>9</sup>

22. In this case, according to the State, Mrs. Dora Blaird Bacca reported the death of Luis Hernando Baquero Mendieta to the Office of the Prosecutor General of the Nation on April 3, 2008. On April 4, 2009, the Thirty-sixth Sectional Prosecutor's Office assigned to the Circuit Court of General Jurisdiction opened a preliminary investigation. On April 28, 2011, the Prosecutor's Office closed the investigation due to a lack of information on Mr. Baquero Mendieta's death.

23. The Commission notes that the State questions the exhaustion of domestic remedies, asserting that the petitioner could still file an action for direct reparation. However, the Commission is of the opinion that this mechanism is not suitable in this case to satisfy the alleged victims' claims, inasmuch as they seek to have the State investigate, identify, and punish the perpetrators of the alleged rights violations. Therefore, the petitioner need not avail himself of that mechanism in order to comply with Article 46.1(a) of the Convention.<sup>10</sup>

24. In this case, the alleged victims pursued criminal proceedings, which was the ordinary mechanism for asserting their claims, so it was unnecessary to initiate additional proceedings before turning to the inter-American system. The State reported that, following the complaint filed by Mrs. Dora Blaird Bacca, the Thirty-sixth Sectional Prosecutor's Office assigned to the Circuit Court of General Jurisdiction opened a preliminary investigation on April 4, 2009, and ordered the taking of evidence. However, on April 28, 2011, the Prosecutor's Office concluded the investigation and closed it for lack of evidence.

25. The State indicates that Mrs. Dora Blaird Bacca did not appeal the decision to close the case. For his part, the petitioner provides no specific information on the criminal investigation, nor does he question

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<sup>8</sup> IACHR, Report No. 13/22. Petition 1332-11. Admissibility. Orlando Hernández Ramírez and family members. Colombia. February 9, 2022, para. 7; IACHR, Report No. 72/18, Petition 1131-08. Admissibility. Moisés de Jesús Hernández Pinto and family. Guatemala. June 20, 2018, para. 10; IACHR, Report No. 70/14. Petition 1453-06. Admissibility. Maicon de Souza Silva. Renato da Silva Paixão et al., Brazil, July 25, 2014, para. 18; Report No. 3/12, Petition 12,224, Admissibility, Santiago Antezana Cueto et al., Peru, January 27, 2012, para. 24; Report No. 124/17, Petition 21-08, Admissibility, Fernanda López Medina et al., Peru, September 7, 2017, paras. 3, 9-11.

<sup>9</sup> IACHR, Report No. 13/22. Petition 1332-11. Admissibility. Orlando Hernández Ramírez and family members. Colombia. February 9, 2022, para. 7; IACHR, Report No. 159/17, Petition 712-08. Admissibility. Sebastián Larroza Velázquez and family. Paraguay. November 30, 2017, para. 14.

<sup>10</sup> IACHR, Report No. 127/23. Petition 1206-12. Admissibility. Maria Torcorma Prince Navarro and family members. Colombia. August 2, 2023, para. 21.

the information provided by the State regarding the failure to appeal that decision. He presents no arguments regarding the prosecutor's closure of the investigation.

26. In view of the foregoing, the Commission finds that in this case it lacks concrete information and arguments from the petitioner to clearly establish that the exhaustion of domestic remedies requirement set forth in Article 46.1(a) of the American Convention has been met.<sup>11</sup> Similarly, with respect to the filing deadline established in Article 46.1(b) of the Convention, the IACHR notes that the only specific information it has for verifying compliance is the date on which the investigations were closed, which was reportedly April 28, 2011; and this petition was lodged on June 25, 2014, more than three years later.<sup>12</sup>

27. Thus, the Commission cannot find that the requirements of Articles 46.1(a) and 46.1(b) of the American Convention have been met.

## **VII. DECISION**

1. To find the instant petition inadmissible.
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 18<sup>th</sup> day of the month of October, 2024. (Signed:) Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice President; Arif Bulkan, and Gloria Monique de Mees, Commissioners.

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<sup>11</sup> Similarly: IACHR, Report No. 127/23. Petition 1206-12. Admissibility. Maria Torcorma Prince Navarro and family members. Colombia. August 2, 2023, paragraph 22.

<sup>12</sup> Furthermore, in accordance with Article 28 of the Rules of Procedure of the IACHR, the petitioning party has the duty to provide basic information that allows verification of compliance with the admissibility requirements of the petition.