

**REPORT No. 151/24**

**PETITION 931-14**

REPORT ON INADMISSIBILITY

FAMILY OF CARLOS JULIO CÁRDENAS MARTÍNEZ

COLOMBIA

OEA/Ser.L/V/II

Doc. 159

20 September 2024

Original: Spanish

Adopted electronically by the Commission on September 20, 2024.

**Cite as:** IACHR, Report No. 151/24. Petition 931-14. Inadmissibility. Family of Carlos Julio Cárdenas Martínez. Colombia. September 20, 2024.

**www.cidh.org**



**I. INFORMATION ABOUT THE PETITION**

|  |  |
| --- | --- |
| **Petitioner:** | Identity protected |
| **Alleged victim:** | Family of Carlos Julio Cardenas Martinez[[1]](#footnote-2) |
| **Respondent State:** | Colombia[[2]](#footnote-3) |
| **Rights invoked:** | Article 4 (right to life) of the American Convention on Human Rights[[3]](#footnote-4) |

**II. PROCEEDINGS BEFORE THE IACHR[[4]](#footnote-5)**

|  |  |
| --- | --- |
| **Filing of the petition:** | June 17, 2014 |
| **Additional information received at the stage of initial review:** | October 25, 2016, and May 25, 2017 |
| **Notification of the petition to the State:** | December 2, 2019 |
| **State’s first response:** | February 26, 2021 |
| **Additional observations from the petitioner:** | May 11, 2021, and March 14, 2024 |

**III.**  **COMPETENCE**

|  |  |
| --- | --- |
| **Competence *Ratione personae:*** | Yes |
| **Competence *Ratione loci*:** | Yes |
| **Competence *Ratione temporis*:** | Yes |
| **Competence *Ratione materiae*:** | Yes, American Convention (instrument of ratification deposited on July 31, 1973) |

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

|  |  |
| --- | --- |
| **Duplication of procedures and International *res judicata*:** | No |
| **Rights declared admissible** | None |
| **Exhaustion of domestic remedies or applicability of an exception to the rule:** | No, under the terms of section VI |
| **Timeliness of the petition:** | No, under the terms of section VI |

**V. POSITIONS OF THE PARTIES**

*Petitioner*

1. The petitioner alleges that at 8:00 p.m. on July 31, 2001, armed men intercepted Mr. Cárdenas Martínez while he was working, driving a taxi, and shot him several times, causing his death. The petitioner says that, according to the investigations carried out by the Office of the Attorney General, those facts are attributable to the Autodefensas Campesinas Bloque Centauros (a paramilitary group).
2. In the opinion of the petitioner, this situation engaged the responsibility of the State, since it made a serious omission by not providing security for nighttime workers and by failing to capture those responsible at the time. The petitioner specifies that, while the authorities provided compensation to the alleged victims, the amount of money granted did not redress the seriousness of the harm suffered and, therefore, the IACHR should declare that Colombia had violated the right to life and order it to pay reparations.
3. Lastly, although the Commission made a request for information in order to obtain more details about the alleged facts and the petitioner’s arguments, the petitioner merely requested that the petition proceed to the merits stage and specified the following:

*“I am providing the Commission with a certificate of payment from the Victim Assistance and Comprehensive Reparation Unit, in insignificant amounts considering the seriousness of the harm caused; accordingly, the State of Colombia accepted its responsibility in the acts by omission; consequently, under the Convention, it has the obligation pay fair compensatory damages for the moral and material injuries caused, especially since the two children of the murdered man at were minors at the time that their father was killed.”*

*State*

1. The State, for its part, replies that the petition is inadmissible, since the petitioner did not exhaust domestic remedies. It notes that, despite the fact that the petitioner claims that the authorities did not provide adequate reparation to the alleged victims for what happened to Mr. Cárdenas Martínez, he did not activate mechanisms at the domestic level to obtain compensation, even though he had the possibility of being granted direct reparations in the administrative jurisdiction. The State argues that this mechanism was suitable and effective for that purpose, since it enables payment of full reparations to be ordered should the liability of the authorities, whether by action or by omission of their duties, be proven.
2. The State also says that the criminal proceeding to investigate the death of Mr. Cárdenas Martínez remains ongoing and is being processed within a reasonable time. It explains that the Prosecutor’s Office opened the preliminary investigation on August 3, 2001, and, by virtue of the proceedings carried out to date, it has determined that the acts are attributable to the Autodefensas Campesinas-Bloque Centauros, based on a confession made by a paramilitary who admitted to having murdered Mr. Cárdenas Martínez. In addition, as a result of steps taken under the Justice and Peace Law, the Prosecutor’s Office has also charged five members of the Centauros Bloc, Villavicencio Special Front. It explains that the hearing with a view to the issuance of a final judgment began on June 4, 2020, and that a new date for its continuation has yet to be scheduled.
3. In the opinion of the State, this is evidence that the criminal proceeding under way at the domestic level within the framework of the Justice and Peace Law has already identified those responsible for the act, and that the broader investigation to clarify what happened in judicial terms is drawing to a conclusion. In light of that progress and bearing in mind the complexities of conducting an investigation as part of a transitional justice policy, it considers that there has been no unwarranted delay on the part of the State and that, to the contrary, everything is being dealt with in accordance with the reasonable-time principle. Therefore, it requests that the IACHR declare this case inadmissible for failure to comply with the requirement contained in Article 46(1)(a) of the Convention.
4. Without prejudice to the foregoing, it points out that the facts described in the petition do not constitute, even prima facie, possible violations of rights recognized in the American Convention or other inter-American treaties. It emphasizes that, although the petitioner may claim that Colombia bears international responsibility for the killing of Mr. Cárdenas Martínez committed by the Centauros Bloc of the Autodefensas Campesinas, he does not offer any factual or evidentiary basis to show that State authorities committed that violation of the right to life. Indeed, to the contrary, there is no document to show that any state agent had knowledge of a specific risk to Mr. Cárdenas Martínez at the time of the facts.
5. Lastly, it notes that the reparation provided by the UARIV to the alleged victims under on Law 418 of 1997 was based on the principle of solidarity and not on the principle of international responsibility, and therefore, it is reasonable that the amount money should be lower. Thus, it holds that the fact that the petitioner is dissatisfied with said compensation because he considers it “unjust,” as it “is not commensurate with the seriousness of the harm suffered,” cannot imply that the State might be responsible for the alleged acts, much less that it should make reparations for them, since they do not amount to a violation of any right.

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

1. In the instant case, the Inter-American Commission notes that the Colombian State has advanced a series of legal arguments regarding the inadmissibility of the petition, as well as information on the domestic judicial proceedings. The petitioner, for his part, has not presented even a minimum of submissions regarding exhaustion of domestic judicial remedies or the applicability of any exception to that requirement.
2. In view of the lack of concrete information in the petition, on August 3, 2015, the IACHR sent the petitioner a wide-ranging request for information in accordance with Article 28 of its Rules of Procedure; however, on October 25 that year, the petitioner merely requested that the petition proceed to the merits stage, without offering any explanation or arguments.
3. In that regard, the Inter-American Commission finds that the petitioner has not met his duty to set out, even minimally, his legal position with respect to the rule of exhaustion of domestic remedies or the applicability of an exception to that requirement in the terms of Article 46 of the American Convention. The mere submission of photocopies of documents pertaining to domestic proceedings does not satisfy that requirement if the petitioner offers no explanation in relation to such documents. It is not up to the Commission to decipher the meaning of documents submitted with a petition without any additional explanation; rather, it is incumbent on the petitioner to develop specific arguments in the case and indicate what they wish to prove or support with the documents they submit.
4. Subsequently, during the processing of the petition, in view of the petitioner’s negligence in following up on the progress of the petition and informing the IACHR about it, the alleged victims themselves contacted the Executive Secretariat of the IACHR to request information on the processing of the petition. The Executive Secretariat replied, providing specific information about the status of the petition. However, to date, those individuals, too, have not submitted any additional information about their case.
5. Therefore, the Inter-American Commission considers that it does not have sufficient information to verify compliance with the rule of exhaustion of domestic remedies established in Article 46(1)(a) of the American Convention, or with the requirement as to timeliness set forth in Article 46(1)(b) of the same instrument.
6. Lastly, the Inter-American Commission recalls that although the exercise of filing contentious cases with the organs of the inter-American human rights system is not overly formalistic in nature, compared to other legal proceedings at the domestic level, it does require that a series of minimum requirements and conditions be met, and it demands a level of commitment and ethics on the part of petitioners towards the organs of the inter-American system and, most particularly, towards the victims themselves, who are ultimately the object and raison d’être of international human rights law.

**VII.**  **DECISION**

1. To declare the instant petition inadmissible.
2. To notify the parties of this decision, publish it, 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 20th day of the month of September, 2024. (Signed:) Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice President; Arif Bulkan, and Gloria Monique de Mees, Commissioners.

1. Specifically, Anatilde Torres Rodríguez (wife), Carlos Andrés Cárdenas Torres (son), and Eduar Estiben Cárdenas Torres (son). [↑](#footnote-ref-2)
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. [↑](#footnote-ref-3)
3. Hereinafter the “American Convention” or “Convention.” [↑](#footnote-ref-4)
4. The observations of either party were duly forwarded to the opposing party. [↑](#footnote-ref-5)