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**REPORT No. 172/24**  
**PETITION 458-14**  
REPORT ON ADMISSIBILITY

MARÍA FABIOLA LÓPEZ CASTILLO  
MEXICO

Approved electronically by the Commission on October 18, 2024.

**Cite as:** IACHR, Report No. 172/24, Petition 458-14. Admissibility.  
María Fabiola López Castillo. Mexico. October 18, 2024.

**I. INFORMATION ABOUT THE PETITION**

<b>Petitioner:</b>	Patricia López Castillo
<b>Alleged victim:</b>	María Fabiola López Castillo
<b>Respondent State:</b>	Mexico <sup>1</sup>
<b>Rights invoked:</b>	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, <sup>2</sup> in relation to Article 1.1 thereof (obligation to respect rights).

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

<b>Filing of the petition:</b>	March 26, 2014
<b>Additional information received during the initial review stage:</b>	October 5, 2017 <sup>4</sup>
<b>Notification of the petition to the State:</b>	June 22, 2023 <sup>5</sup>
<b>State's first response:</b>	March 11, 2024
<b>Additional observations from the petitioner:</b>	June 8, 2023 and June 10, 2023
<b>Notification of the possible archiving of the petition:</b>	October 18, 2021 and May 16, 2023
<b>Petitioner's response to the notification regarding the possible archiving of the petition:</b>	November 9, 2021 and June 8, 2023

**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 March 24, 1981).

**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>	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, in relation to Article 1.1 thereof (obligation to respect rights).
<b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b>	Yes, under the terms of section VI
<b>Timeliness of the petition:</b>	Yes, under the terms of section VI

<sup>1</sup> Pursuant to Article 17.2(a) of the Commission's Rules of Procedure, Commissioner José Luis Caballero Ochoa, a Mexican national, did not participate in the deliberations or in the decision in this case.

<sup>2</sup> Hereinafter referred to as "the American Convention" or "the Convention."

<sup>3</sup> The observations of each party were duly transmitted to the opposing party.

<sup>4</sup> On March 21, 2016, the IACHR requested additional information from the petitioner. In the absence of a response, the request was reiterated on September 14, 2017.

<sup>5</sup> The IACHR reiterated the request for information on December 13, 2023.

## V. FACTS ALLEGED

### The petitioner

1. The petitioner alleges that Ms. Fabiola López Castillo died as a result of the actions of police officers involved in a chase during an anti-kidnapping operation. In addition to alleging the violation of the right to life, she holds the Mexican State internationally responsible for the lack of an effective investigation of the facts; limited access to information in the case file; and the failure to punish those responsible.

2. Ms. Patricia López Castillo reports that on February 24, 2014, while at her home in Morelia, Michoacán, at around 8:30 p.m., she heard approximately ten gunshots. Moments later her brother-in-law and neighbor, Mr. José López Sandoval, arrived upset, informing her that his wife—the petitioner's sister—Ms. Fabiola López Castillo, 50 years of age, had been shot in the doorway of her home.

3. The petitioner and her brother-in-law rushed to the aid of Ms. Fabiola López Castillo, who was still alive. They called an ambulance, but the wound proved fatal and she died a few minutes later. The petitioner states that days later she learned through a local newspaper that the bullet that killed her sister was fired during a shootout in a police chase related to a kidnapping rescue operation on a street parallel to her home.

4. However, the petitioner maintains that her sister was killed not by a “stray bullet” but rather due to police error. She asserts that a security video of the street where the shooting occurred does not show that the police officers were engaged in a chase.

### *Preliminary investigation and appeals*

5. On February 24, 2014, preliminary investigation 20/2014-III-AEH-I was opened by the Public Prosecution Service (*Ministerio Público*). When she did not receive any updates on the progress of the investigations, the petitioner went to the official in charge, who allegedly denied her access to the file, telling her, contemptuously, “*to do whatever [she] wanted*” because he did not have time to complete the preliminary investigation. The petitioner presents a document dated May 27, 2014, in which the investigating prosecutor refused to give Mr. José López Sandoval copies of the preliminary investigation file, arguing that under the Organic Law of the Office of the Attorney General of the State of Morelos, copies are issued only when requested by a competent authority with a legal basis for the request, or when it is essential to the exercise of a right or obligation. Faced with this denial, the petitioner took the following steps:

(i) On March 31, 2014, the petitioner went to the Michoacán State Human Rights Commission to report the alleged abuses in the Public Prosecution Service, and file MOR/249/2014 was opened. On March 12, 2015, the state commission issued Recommendation 6/2015 to the Attorney General of Michoacán, stating that it identified no violations in the securing of the crime scene, but that it did identify violations related to access to justice: (a) due to the refusal to provide copies of the file to the petitioner. On this point, the state commission requested that an investigation be opened to determine the administrative responsibility of the Public Prosecution Service official who refused to provide information to the alleged victim's family; and (b) for irregularities in the completion of the preliminary investigation, which the state commission requested to be corrected. In particular, it noted the delay in taking statements from some parties who may have been involved and for failing to summon others, as well as the absence of a report on important video recordings for the case.

(ii) And, on June 20, 2014, the petitioner filed indirect writ of *amparo* [petition for a constitutional remedy] II-595/2014 with the Ninth District Court for the State of Michoacán, which on August 14, 2014, ruled that the denial of access to the file violated the petitioner's right of defense.

6. Thanks to these efforts, the petitioner obtained access to the case file on November 3, 2014 (more than eight months after the events). Upon review, she observed that the investigations focused on the kidnapping and police chase, leaving aside her sister's death. She also found factual errors and contradictions, such as the discrepancy in the time of the events and the incorrect description of the alleged victim's clothing.

7. Considering that the investigation was not progressing and that the relevant evidence had not been examined, on February 26, 2015, Ms. Patricia López Castillo and Mr. José López Sandoval filed writ of *amparo* III-189/2015 with the Second District Court for the State of Michoacán, alleging a delay in the administration of justice. On May 29, 2015, the court granted the protection sought for the following purposes: to examine the evidence offered for the proper advancement and completion of preliminary investigation 020/2014-III-AEH-1; and to gather, *sua sponte*, the evidence considered necessary for the proper completion of the investigation. The court underscored the excessive delay in the taking of evidence since September 10, 2014, when the Public Prosecution Service issued an order to admit evidence offered by the petitioner. It found that this delay violated the petitioner's human rights and guarantees of legality and legal certainty.

8. Despite this *amparo* ruling, the petitioner reported that the investigation into the death of her sister was *suspended*<sup>6</sup> by the State Attorney General's Office on May 15, 2015,<sup>7</sup> on the grounds that the person responsible for firing the shot that killed Ms. Fabiola López Castillo could not be identified. However, the petitioner reports that she was not notified of this decision until two years later, on August 4, 2017.

9. After learning of the suspension of the preliminary investigation, on August 31, 2017, Mr. José López Sandoval filed indirect writ of *amparo* 808/2017 with the Second Court of the Eleventh Judicial District, challenging: (a) the negligence of the Anti-Kidnapping Squad officers involved in the alleged victim's homicide; (b) the lack of diligence of the Public Prosecution Service, including alleged lack of skill and negligence in the performance of their duties; and (c) the suspension of the preliminary investigation, as well as the late notice of this decision. However, on October 6, 2017,<sup>8</sup> the Second Court dismissed the writ of *amparo* as manifestly unfounded. The court considered that any alleged responsibility for the lack of skill and negligence in the performance of the anti-kidnapping operation, as well as the alleged omissions and shoddiness of the preliminary investigation, were not "acts of authority" for purposes of an *amparo* proceeding. It further found that the petitioner had tacitly consented to the suspension of the preliminary investigation because the writ of *amparo* was filed after the 15-day deadline had expired.

10. In response, Mr. José López Sandoval filed motion for review 257/2018 (the date is not available) with the Three-Judge Court for Criminal Matters of the Eleventh Circuit. On February 14, 2019, the court amended the judgment on appeal by changing the ground for dismissal, finding that on the date the writ of *amparo* was filed, the challenged act no longer existed because the suspension order had already been issued, authorizing the prosecutor not to carry out any proceedings or take any action in the preliminary investigation. The Court also reiterated that the suspension of the preliminary investigation had been tacitly consented to since the writ of *amparo* was not timely filed.

#### *Specific arguments of the petitioner*

11. The petitioner alleges that Ms. María Fabiola López Castillo was killed due the negligence of police officers who were conducting a kidnapping rescue operation.

12. The petitioner also cites violations of her procedural rights and guarantees, specifically alleging that the police officers who took part in the operation did not testify, and the officers who did testify only did so much later; a toxicology test was not performed on the police officers in the operation, and was only performed on the alleged victim; the scene was not preserved; the necessary videos were not requested in time to be considered as evidence; and the witnesses testified a year after the events.

<sup>6</sup> According to the *Suspension Consultation* document sent by the Third Office of the Investigative Public Prosecutor Specializing in Homicides to the Office of the Attorney General of the State of Michoacán, dated May 8, 2015, the petitioner's case was found to fall under the Code of Criminal Procedure of the State of Michoacán, Article 7—Powers of the Public Prosecution Service. IV.—A suspension order shall be issued, with the express authorization of the Deputy Prosecutor, when the following legal criteria are met: [...] (c) When, in the same case as in the preceding paragraph, the likely perpetrator is not fully identified; and (d) When it is impossible to examine any evidence and the existing evidence is insufficient to determine whether to prosecute.

<sup>7</sup> According to official letter number 4888 of the Attorney General's Office of the State of Michoacán, the consultation for the suspension of file 20/2014-III-AEH-1 was requested on May 8, 2015, by the Third Office of the Investigative Public Prosecutor Specializing in Homicides.

<sup>8</sup> According to the State, this occurred on June 15, 2018. The petitioner submitted a copy of the decision dated May 15, 2015.

13. She additionally contends that the Public Prosecution Service unduly delayed the investigation, and she questions the suspension of the preliminary investigation as well as the delay in the notice of this decision.

14. The petitioner also reports threats and harassment against her family. She states that on June 19, 2014, the homes of the sisters-in-law of Ms. Fabiola López Castillo were violently searched by police officers, who intimidated them with firearms. Days later, these same officers returned to apologize. The sisters-in-law decided not to file a complaint, fearing reprisals. The petitioner expresses fear for her personal integrity and that of her family in the face of possible retaliation by State agents, especially since her sister was shot and killed by active-duty police officers.

### **The Mexican State**

15. The State presents a brief summary of the process followed by the alleged victims in the domestic legal system and argues that the IACHR should declare the petition inadmissible for failure to exhaust domestic remedies.

16. It explains that the suspension order was issued before the formal proceedings began, during the phase in which the prosecution is gathering information to establish the commission of a crime and identify the perpetrator. In this case, it indicates that the preliminary investigation ended with a suspension order and that the failure to timely challenge that order prevented a review of possible violations.

17. The State emphasizes that the petitioner's writ of *amparo* 189/2015 was granted, in recognition of the excessive delay and the lack of measures to expedite the homicide investigation. It added that on August 31, 2015, the *amparo* ruling was complied with, as the evidence offered by the parties and other evidence gathered by the prosecution had been examined. Nevertheless, the prosecution was unable to prove the criminal responsibility of a specific person and issued a suspension order in preliminary investigation 20/2014-III-AEH-1.

18. It also asserts that the Judicial Branch of the State of Michoacán<sup>9</sup> conducted a search in the Adversarial Criminal Justice System and found no record of Ms. María Fabiola Castillo to indicate the existence of any pending cases.

19. Mexico concludes that it has not had the opportunity to render a decision through its domestic judicial remedies and asks the IACHR, in view of its complementary nature, to find the petition inadmissible to allow the State to continue with the pertinent investigations.

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

20. The IACHR recalls that, in keeping with its long-standing practice, the first methodological step in identifying the appropriate remedies that a petitioner should have exhausted before turning to the inter-American system is to identify the different claims made in the petition in order to examine them individually.<sup>10</sup> In this petition, the petitioner alleges: (i) violation of the alleged victim's right to life by police officers; (ii) violations of due process, judicial protection, and access to justice, due to a flawed, fruitless, and excessively long investigation of the crime and to the lack of access to the information in the case file; (iii) the suspension

<sup>9</sup> Pursuant to official letter PDCIA/221/2023 dated July 14, 2023.

<sup>10</sup> See the following IACHR admissibility reports for illustrative purposes: Report No. 117/19. Petition 833-11. Admissibility. Freed Workers of the Boa-Fé Caru Farm. Brazil. June 7, 2019, paras. 11-12; Report No. 4/19. Petition 673-11. Admissibility. Fernando Alcântara de Figueiredo and Laci Marinho de Araújo. Brazil. January 3, 2019, paras. 19 et seq.; Report No. 164/17. Admissibility. Santiago Adolfo Villegas Delgado. Venezuela. November 30, 2017, para. 12; Report No. 57/17. Petition 406-04. Admissibility. Washington David Espino Muñoz. Dominican Republic. June 5, 2017, paras. 26-27; Report No. 168/17. Admissibility. Miguel Ángel Morales Morales. Peru. December 1, 2017, paras. 15-16; Report No. 122/17. Petition 156-08. Admissibility. Williams Mariano Paría Tapia. Peru. September 7, 2017, paras. 12 et seq.; Report No. 167/17. Admissibility. Alberto Patishtán Gómez. Mexico. December 1, 2017, paras. 13 et seq.; Report No. 114/19. Petition 1403-09. Admissibility. Carlos Pizarro Leongómez, María José Pizarro Rodríguez and their family members. Colombia. June 7, 2019, paras. 20 et seq.

of the preliminary investigation and a two-year delay in notifying them of this decision, meaning that Ms. María Fabiola López Castillo's homicide remains unpunished to this day; and (iv) harassment of the alleged victim's family members by police officers during searches of their homes.

21. Regarding points (i), (ii), and (iii), the petitioner claims that they repeatedly raised questions about the progress of the preliminary investigation and the examination of evidence with the Public Prosecution Service and with the Michoacán State Human Rights Commission. This Commission notes that the order to suspend the preliminary investigation was issued by the State Attorney General's Office on May 15, 2015, but the petitioner asserts that she was not informed until August 2017, nearly two years later. This prompted her to file indirect writ of *amparo* 808/2017 with the Second District Court for the state of Michoacán, challenging the prosecution's inaction and the suspension decision. On July 15, 2018, the *amparo* was dismissed, but after adjudicating the petitioner's motion for review on February 14, 2019, the Three-Judge Court for Criminal Matters of the Eleventh Circuit amended the dismissal of the challenged act. The State indicates that domestic remedies have not been exhausted but does not specify which ones remain to be exhausted, saying only that the State is still studying the matter.

22. With regard to these three points, the Commission concludes that the petition meets the requirement set forth in Article 46.1(a) of the American Convention, in light of decision 257/2018 on the motion for review, issued on February 14, 2019, by the Three-Judge Court for Criminal Matters of the Eleventh Circuit. Given that the decision on this matter became final while the petition was under admissibility review, the Commission finds that the requirement set forth in Article 46.1(b) of the Convention has also been met.

23. Finally, on point (iv) regarding the allegations of threats against the alleged victim's family, this Commission notes that neither the petitioner nor the State mentions whether remedies were pursued to address these allegations. Since the parties failed to submit sufficient information regarding the exhaustion of domestic remedies, the Inter-American Commission considers that it lacks the evidence to verify compliance with the requirement of exhaustion of domestic remedies established in Article 46.1(a) of the American Convention and the timely filing requirement established in Article 46.1(b). Therefore, those claims raised by the petitioner that specifically allege threats and retaliation by police officers will not be included in the facts of this case.

## VII. ANALYSIS OF COLORABLE CLAIM

24. First, the Commission reiterates that the evaluation criterion for the admissibility phase differs from that used to decide on the merits of a petition; the IACHR must make a *prima facie* assessment at this stage to determine whether the petition establishes the basis for a possible or potential violation of a right guaranteed by the Convention, but not to establish the existence of such violation. This determination on the characterization of violations of the American Convention is a primary analysis, which does not entail prejudging the merits of the case. For the purposes of admissibility, it must decide whether the alleged facts may constitute a violation of rights, as stipulated in Article 47(b) of the American Convention, or whether the petition is "manifestly groundless" or "obviously out of order" under Article 47(c).

25. In this case, the petitioner alleges that the State violated Ms. María Fabiola López Castillo's right to life through the actions of its police officers and the failure to punish those responsible. She further alleges violations of due process and judicial protection for the following reasons: (a) unreasonable delay in the investigations; (b) defects and errors in the preliminary investigation; (c) lack of access to information in the criminal case file; and (d) the suspension of the preliminary investigation and late notice of that suspension.

26. The record clearly reflects, *prima facie*, the objective fact that Ms. María Fabiola López Castillo died in a police incident, and that the lack of progress in the investigations and alleged barriers to access to justice were at the time acknowledged or verified both by the domestic courts handling the complaints filed, and by the respective state human rights commission. Therefore, this petition is not manifestly groundless.

27. In view of the factual and legal elements presented by the parties and the nature of the matter before it, the IACHR reasons that, if proven, the alleged responsibility of the State for Ms. María Fabiola López

Castillo's death at the hands of police officers, the violations of right to a fair trial and judicial protection, and the failure to investigate the killing and punish the perpetrators, could constitute violations of the rights protected in 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, in relation to Article 1.1 thereof (obligation to respect rights), to the detriment of María Fabiola López Castillo and her next of kin identified in this report.

#### **VIII. DECISION**

1. To find the instant petition admissible in relation to Articles 4, 5, 8, and 25 of the American Convention, in accordance with Article 1.1 thereof.

2. To notify the parties of this decision; to continue with 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 18<sup>th</sup> day of the month of October, 2024. (Signed:) Roberta Clarke, President; Arif Bulkan, Andrea Pochak, and Gloria Monique de Mees, Commissioners.