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REPORT No. 211/24
PETITION 1470-14
REPORT ON INADMISSIBILITY

JOSÉ RODRIGO ROBLEDO ZARAGOZA
MEXICO

Approved electronically by the Commission on November 19, 2024.

Cite as: IACHR, Report No. 211/24. Petition 1470-14. Inadmissibility.
José Rodrigo Robledo Zaragoza. Mexico. November 19, 2024.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Leticia López Pardo
Alleged victim:	José Rodrigo Robledo Zaragoza
State denounced:	Mexico ¹
Rights invoked:	Articles 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial), and 25 (right to judicial protection) of the American Convention on Human Rights ²

II. PROCEEDINGS BEFORE THE IACHR³

Filing of the petition⁴:	October 20, 2014
Additional information received at the stage of initial review:	January 6, 2017, February 21, 2017, and July 17, 2017
Notification of the petition to the State:	June 25, 2019
State's first response:	October 28, 2021
Notification of the possible archiving of the petition:	December 21, 2021
Petitioner's response to the notification regarding the possible archiving of the petition:	March 4, 2022

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 instrument of accession on March 24, 1981)

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
Rights declared admissible:	None
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, under the terms provided for in Section VI
Timeliness of the petition:	Yes, under the terms provided for in Section VI

¹ In keeping with the provisions of Article 17(2)(a) of the Rules of Procedure of the Commission, Commissioner José Luis Caballero Ochoa, a Mexican national, did not participate in the debate or the decision on this matter.

² Hereinafter, the "American Convention," or "the Convention."

³ Observations from each party were duly transmitted to the opposing party.

⁴ The petition is a handwritten document without attachments.

V. ALLEGED FACTS

The petitioner

1. The petitioner requests that the State of Mexico be found internationally responsible for a violation of the human rights of Mr. José Rodrigo Robledo Zaragoza (hereinafter, “Mr. Robledo”), for his illegal detention, acts of torture, lack of legal defense, and his conviction handed down without the judicial guarantees of due process.

Detention of Mr. Robledo and alleged acts of torture

2. The petitioner states that on March 6, 2014, between 4:00 and 4:30 PM, hooded police officers detained Mr. José Rodrigo Robledo Zaragoza without an arrest warrant. The petitioner alleges that the police raided his home, which they used to torture him by means of beatings, cruel, inhuman, and degrading treatment, together with 13 other people who had been arrested earlier. The petitioner also alleges that the police stole valuables from his house.

3. Subsequently, the alleged victim was brought before the Ministry of Public Prosecution of Zamora, when in fact he should have been taken to the Ministry in Morelia. On March 8, federal police transported him to the Federal Center for Social Readaptation Number Four “Northwest,” in the municipio of Tepic, Nayarit, where they forced him to sign documents without the assistance of legal counsel. The petitioner notes that he was beaten by three inmates and did not receive proper medical attention for the injuries he suffered.

4. The petitioner goes on to say that in view of his situation, on May 26, 2015, Mr. Robledo contacted the Mexican National Commission on Human Rights (CNDH) so that they could assist him with the irregularities of his arrest and subsequent imprisonment. His complaint was registered as number CNDH/1/215/5465/OD. Nevertheless, the petitioner contends that he was unable to comply with the indications of the CNDH—she does not say or indicate which ones—due to the short time frame of eight days that was established and the lack of access to make calls from the Federal Center. What is more, the CNDH did not want to accept an oral complaint filed by Mr. Robledo’s family. That same year, the alleged victim filed a complaint with the Federal Police Internal Affairs Body, contained in File N° 2016/PF/DE/89, and provided evidence, including a forensic fingerprint and geolocation report of the patrol cars in which he had been transported.

Criminal case 78/2014

5. According to the information provided by the petitioner and the State, Mr. Robledo was prosecuted in criminal case 78/2014 for allegedly committing a crime of possessing ammunition and stockpiling weapons that are for exclusive use of the Army, Navy, and Air Force. Dissatisfied with the decision to initiate proceedings of May 19, 2014, he filed an *amparo* action [petition for a constitutional remedy] against this decision. As part of the criminal case 60/2015-II, the judge of the First Unitary Court of the Eleventh Circuit of Morelia, in a final ruling handed down on May 8, 2015, upheld the decision that had been appealed. Accordingly, on February 3, 2016, the judge issued a formal order of imprisonment of the alleged victim, for his potential responsibility in committing the crime of stockpiling firearms that are for exclusive use of the army, navy, and air force.

6. Subsequently, on September 22, 2016, the Court notified the alleged victim of the order of September 13, 2016, which ruled that the investigative stage had been exhausted; and on November 15, 2017, the judge in charge of the proceedings handed down Mr. Robledo’s conviction for committing the crime of stockpiling firearms that are for exclusive use of the Army, Navy, and Air Force. For this crime, the judge imposed a 5-year sentence and a 100-day fine, equivalent to the amount of \$ 6,377.00 Mexican pesos.

Final considerations

7. The petitioner states that as of the date of her communication of February 21, 2017, Mr. Robledo was still deprived of his liberty. She contends that during his time in prison, he has been unable to contact his public defender and that the judicial notifications that he receives are incomplete, making it impossible for him to know the status of his criminal proceedings. The petitioner claims that every time he tries to file an *amparo* action, the prison guards beat him and transfer him to a different prison as retaliation. However, she does not provide details about the situation, and only speaks in general terms about it. Additionally, the petitioner denounces the legality of the criminal proceedings inasmuch as there was insufficient evidence to find the alleged victim guilty. She points out that he was accused of possessing firearms and rounds of ammunition; however, these were brought into his home by the federal agents who arrested him. What is more, his fingerprints were not found on the weapons. As of the day of her last communication, he had not received any assistance from the CNDH.

The Mexican State

8. The State requests that the IACHR find the petition inadmissible for failure to exhaust domestic remedies inasmuch as the investigation into alleged acts of torture is currently being conducted by the Ministry of Public Prosecution.

9. On March 6, 2014, in response to Mr. Robledo's statements regarding alleged beatings during his detention, an order was issued to have a forensic medical expert from the Office of the Prosecutor General draw up a report on Mr. Robledo's physical condition. The report concluded that Mr. Robledo was conscious, calm, cooperative, and showed no signs of physical injuries. The State adds that on August 22, 2016, the Office of the Special Prosecutor to Investigate the Crime of Torture opened investigation file FED/SIEDF/UNAI MICH/0001214/2016 regarding the alleged victim and 11 additional individuals. The State notes that the investigation was the responsibility of the Tenth Investigative Agency of the Investigation and Litigation Unit of the Office of the Special Prosecutor to Investigate the Crime of Torture, which is taking different steps to substantiate the events. However, the Office of the Special Prosecutor does not have the consent of the potential victims to conduct a specialized medical/psychological exam for cases of alleged torture, cruel, inhuman, and degrading treatment, or punishments. In light of these arguments, the State indicates that the IACHR cannot find a petition admissible without a final decision in the proceedings aimed at proving a potential violation of human rights at a domestic level and providing redress for said violation.

10. Finally, with respect to the alleged illegality of Mr. Robledo's arrest, the State notes that said arrest was made in keeping with the law inasmuch as the police caught him red handed. Subsequently, Mr. Robledo was brought before the Judge of the First Unitary Court of the Eleventh Circuit of Morelia, who found the arrest to be legal. Accordingly, criminal case 78/2014 was opened, which concluded with Mr. Robledo being found liable for the crime he was accused of by means of a conviction on November 15, 2017, which subsequently acquired the authority of *res judicata*.

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

11. In order to identify the appropriate remedies that should have been exhausted by a petitioner before resorting to the inter-American system, the first methodological step in the analysis consists of pinpointing the different claims made in the instant petition to proceed to their individual review.⁵ In this case,

⁵ For illustrative purposes, the following report of the IACHR may be consulted: Report No. 117/19. Petition 833-11. Admissibility. Freed Workers of the Boa-Fé Caru Plantation. 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 Patistán Gómez. Mexico. December 1, 2017, paras. 13 et

the petitioner has presented two claims to the Commission: (i) violation of Mr. Robledo's personal integrity, insofar as he was the victim of beatings and physical torture by his captors during his initial detention in March 2014; and (ii) violation of his rights to personal liberty and a fair trial, for allegedly having been detained without a warrant, criminally prosecuted without initially having access to defense counsel, and convicted without adequate evidence.

12. With respect to claim (i), the IACHR recalls that when there are serious allegations of human rights that can be prosecuted by operation of law, such as torture, the appropriate and effective remedy is an effective criminal investigation that can shed light on the facts and determine the corresponding responsibilities.⁶ In the matter at hand, the information provided by the State indicates that there is a criminal investigation that has been ongoing since 2016; however, it cannot move forward because the alleged victim has not provided his consent to conduct a specialized medical/psychological exam, which is the suitable and necessary means of evidence to prove the facts that constitute a crime.

13. Thus, it is incumbent on the IACHR to clarify whether the exception provided for in Article 46(2)(c) of the Convention is applicable, given that the above-mentioned remedy has yet to be decided. In that respect the Commission recalls that Article 46(2) of the Convention, due to its nature and purpose, is a provision whose content is standalone with respect to the substantive provisions of the American Convention. Therefore, the decision as to whether the exceptions to the rule of exhaustion of domestic remedies are applicable to the case at hand must be made prior to and separately from the analysis of the merits of the case, since it relies on a standard of evaluation different from that used to determine the potential violation of Articles 8 and 25 of the Convention.

14. In light of the foregoing, the Commission notes that although six years have passed since the State became aware of the allegations of torture, this delay is due to the fact that the alleged victim did not give his consent, making it impossible for the Ministry of Public Prosecution to carry out the relevant procedures. The IACHR observes that the petitioner does not dispute this fact and fails to provide information that would demonstrate that he did in fact cooperate with the investigations or to explain the reasons why he did not agree to undergo the corresponding examinations. In this regard, the Commission considers that it does not have sufficient information to establish that the requirement of exhaustion of domestic remedies has been met with respect to this matter.⁷

15. With respect to claim (ii), the IACHR notes that the State does not formally question whether the alleged victim has exhausted domestic remedies. On the contrary, in keeping with the information provided by the petitioner, Mr. Robledo tried to challenge the irregularities regarding the deprivation of his liberty and the lack of a fair trial, using the remedies he had available to him; these efforts, however, have not led to any effective result. Therefore, inasmuch as the conviction of November 15, 2017, acquired the authority of *res judicata*, the Commission concludes that this petition complies with Article 46(1)(a) of the American Convention.

VII. ANALYSIS OF COLORABLE CLAIMS

16. The Commission recalls that for purposes of admissibility, it must decide whether the facts alleged tend to establish a violation of rights, pursuant to the provisions of Article 47(b) of the American Convention, or whether the petition is "manifestly groundless" or "obviously out of order," in accordance with subparagraph (c) of the same Article. The criterion for evaluating these requirements differs from that used to decide on the merits of the petition. Furthermore, within the framework of the Commission's authority, it is competent to find a petition admissible when such a petition refers to domestic proceedings that may violate the rights guaranteed by the American Convention. In other words, in accordance with the aforementioned

seq.; or 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.

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

⁷ IACHR, Report No. 168/17, Petition 1502-07. Admissibility. Miguel Ángel Morales Morales. Peru. December 1, 2017, para. 18.

provisions of the Convention, and in line with Article 34 of the Commission's Rules of Procedure, the analysis of admissibility focuses on verifying such requirements, which refer to the existence of elements that, if true, could constitute *prima facie* violations of the American Convention.⁸

17. In this case, the petitioner alleges that Mr. Robledo was convicted in criminal proceedings of the crime of stockpiling firearms given that weapons were found at his home, which, according to the petitioner, were planted there by federal agents. The petitioner further alleges that during the proceedings in the case, Mr. Robledo did not have legal counsel and that court notifications did not arrive in full at the federal prison where he was housed. The petitioner also highlights that he was deprived of liberty without a final judgement.

18. Nevertheless, the Commission notes that the petitioner does not present any convincing evidence that would substantiate such claims. The Commission has no information that would allow it to ascertain the grounds for the alleged victim's conviction, nor the manner in which the criminal proceedings were conducted. The petitioner also fails to explain why it is not possible to provide these documents or other evidence. For this reason, the Commission deems that it does not have the information to be able to identify, even *prima facie*, a potential violation of Mr. Robledo's rights.

19. Based on the arguments above, the Commission deems that the facts laid out by the petitioner fail to show, *prima facie*, a potential violation of rights. Thus, in keeping with Article 47(b) of the Convention, the petition is inadmissible.

20. Finally, the Commission recalls that the presentation of contentious cases before the bodies of the inter-American system of human rights, although not a very formal exercise by its nature as compared to what other domestic legal procedures may be like, does demand compliance with a series of minimum requirements and conditions that must be met. It also demands a level of commitment and ethics from the petitioners with respect to the bodies of the system, and above all to the victims themselves, who are ultimately the subject and the *raison d'être* of international human rights law itself.⁹

VIII. DECISION

1. To find the instant petition inadmissible in relation to Articles 5, 7, 8, and 25 of the American Convention.

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 19th day of the month of November, 2024. (Signed:) Roberta Clarke, President; Arif Bulkan, Andrea Pochak, and Gloria Monique de Mees, Commissioners.

⁸ IACHR, Report No. 14/18, Petition 1057-07. Admissibility. Thelmo Reyes Palacios. Mexico. February 24, 2018, para. 11.

⁹ IACHR, Report No. 193/22. Petition 1153-12 Inadmissibility. Luis Alejandro Cárdenas Tafur y Familia. Colombia. August 3, 2022, para. 15.