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REPORT No. 186/23
PETITION 1513-13
REPORT ON ADMISSIBILITY

JULIO CÉSAR ROBLEDO QUINTERO
COLOMBIA

Approved by the Commission electronically on September 23, 2023

Cite as: IACHR, Report No. 186/23, Petition 1513-13. Admissibility. Julio César Robledo Quintero. Colombia. September 23, 2023.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Julio César Robledo Quintero
Alleged victim:	Julio César Robledo Quintero
Respondent State:	Colombia ¹
Rights invoked:	Articles 4 (life), 5 (humane treatment), 8 (fair trial), 11 (right to privacy), 15 (right of assembly), 16 (freedom of association), 17 (rights of the family), 19 (rights of the child), 21 (right to property), 22 (right of movement and residence) and 25 (judicial protection) of the American Convention on Human Rights ² , in relation to its Article 1.1 (obligation to respect rights)

II. PROCEEDINGS BEFORE THE IACHR ³

Filing of the petition:	September 18, 2013 ⁴
Notification of the petition to the State:	December 7, 2018
State's first response:	August 24, 2020 ⁵
Additional observations from the petitioner:	November 28, 2021
Additional observations from the State:	August 24, 2023 ⁶
Notification of the possible archiving of the petition:	November 12, 2021
Petitioner's response to the notification regarding the possible archiving of the petition:	November 28, 2021
Precautionary measure granted:	85-99 ⁷

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, American Convention (deposit of instrument of ratification made on July 31, 1973)

¹ Pursuant to Article 17.2.a of the Commission's Rules of Procedure, Commissioner Carlos Bernal Pulido, a Colombian national, participated neither in the debate nor in the decision of the present matter.

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

³ The observations of each party were duly forwarded to the opposing party.

⁴ On May 3, 2017, the IACHR contacted the petitioner to ask whether the grounds for the petition still existed and whether he was still interested in filing the petition; to which on May 4, 2017, the petitioner replied affirmatively. On the other hand, on June 19, 2018, the IACHR communicated with the petitioner regarding the confidentiality of his identity requested in his petition; Mr. Robledo responded on June 26, 2018, authorizing that his identity be known.

⁵ On March 20, 2019, the State requested an extension to send its first observations on admissibility; this was granted by the IACHR with an extension to April 20, 2019. On April 15, 2020, the request for observations was reiterated to the Colombian State.

⁶ The IACHR sent a communication to the State on July 25, 2023, with annexes from the petitioner which had not been forwarded to it, to which the State responded on August 24, 2023.

⁷ With respect to the Precautionary Measure that was filed in September 1999 before the IACHR, the petitioner holds that it was ordered by the Permanent Human Rights Committee of Tuluá to protect the lives of the members of said committee, including his own, for which he was the coordinator at the time. This Commission notes that on September 28, 1999, the IACHR requested the State to adopt effective measures to protect the lives of five members of the Board of Directors of the Permanent Human Rights Committee of Tuluá, including the alleged victim, and to investigate the origins of the intimidating acts to prevent harm to the personal integrity of the protected persons. On June 1, 2012, the parties were informed of the lifting and archiving of the precautionary measures.

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	Articles 4 (life), 5 (humane treatment), 8 (fair trial), 24 (equality before the law) and 25 (judicial protection) of the American Convention, in relation to its article 1.1 (obligation to respect rights)
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, in the terms of Section VI
Timeliness of the petition:	Yes, in the terms of Section VI

V. POSITION OF THE PARTIES

1. Mr. Julio César Robledo Quintero (hereinafter "Mr. Robledo," "the alleged victim," or "the petitioner") requests that the Colombian State be declared internationally responsible for the lack of effective investigation and unjustified delay following his complaints of threats and an attack on his life, which forced him and his family to leave the country and seek refuge in Canada. He also denounces the lack of adequate protection by authorities although they were aware of the danger he was in because of his work as a human rights defender.

2. The briefs submitted to this Commission by Mr. Robledo, while they do state his allegations, are ambiguous and cover several situations. However, with the information found in his narrative and in the annexes, it is clear that:

- a) Mr. Robledo worked at the Municipal Personería of Tuluá from October 1992 to November 2000, as a lawyer in criminal and human rights matters, and as coordinator of the Permanent Municipal Committee for the Defense, Protection and Promotion of Human Rights of Tuluá Valle del Cauca (hereinafter "CMP"). As part of his work, he carried out tasks of protection and dissemination of human rights, seizure and destruction of narcotics, as well as elimination of clandestine landing runways. The alleged victim considers that the violations against him were caused by his work in defense of human rights.
- b) The petitioner holds-without providing further details- that he was a victim of threats between 1999 and 2000. In the documents attached to the petition there is an official letter from May 23, 2000, signed by Mr. Robledo and addressed to the National Director of Attention and Complaint Procedures of the National Ombudsman's Office in Bogotá, requesting "*collaboration for the threats*" he received on May 22, 2000, allegedly due to his participation as a representative of the Public Ministry in an operation against drug trafficking in which five hundred kilos of cocaine were destroyed.
- c) In addition, Mr. Robles holds that he suffered an attack on his life on September 15, 1999. In his narrative, the petitioner does not provide details in this regard, and although he sends a copy of his statement submitted to the authorities, most of it is illegible. For said attack, on February 29, 2000, he filed a complaint for the crime of terrorism before the Third Police District of Tuluá and the Administrative Department of Security; in the statement of facts, Mr. Robles stated that peasants in the area informed him that "*he appeared in the fourth (4) line as a military target*" of the United Self-Defense Forces of Colombia.
- d) The Fifth Delegated Prosecutor's Office before the Specialized Criminal Judges of the Circuit of Guadalajara de Buga Valle initiated the investigation with file number 56190 for "*the crime of*

terrorism, with syndicate under investigation (paramilitary groups)" in February 2000; however, the exact date of opening is not known. The petitioner claims that there was no continuation of the criminal investigation and that the perpetrators were never identified. Finally, after an internal distribution of the Attorney General's Office, the Fourth Specialized Prosecutor's Office of Buga declared an inhibiting resolution and archiving of the case on August 23, 2002⁸.

- e) The petitioner holds that the threats and attacks against him occurred in a context of violence in Tuluá⁹ and were directly related to his work as a human rights lawyer. He exemplifies this with the events that occurred on July 31, 1999, when paramilitary groups violently entered the mountainous area of Tuluá, resulting in homicides, intimidation of local peasants, and displacement of several people. The CMP, where the alleged victim worked as coordinator, participated directly in the work of assisting the displaced families¹⁰.
- f) Based on the foregoing, the petitioner infers that after reporting the attack on his life to the authorities, the State should have protected him. Mr. Robledo holds that although the National Police provided him with a surveillance service at his residence as of May 10, 2000, it was not enough, and he had already been without effective protection for more than eight months. He even indicates that the threats continued to the extent that, from November 8, 2000, to March 13, 2001, he had to stay inside his residence with his family, without being able to go out anywhere due to fear of his safety.
- g) In view of the threatening acts against him, Mr. Robledo indicates that he and his family left the country on March 14, 2001, and requested refuge in Canada, where they currently live. Despite being in another country, the petitioner holds that he has sent e-mails and communications to several authorities¹¹ to insist and inquire about the investigation and the actions taken by the State in his case. The petitioner does not indicate whether or not he received a response to these communications but notes that the proceedings continue without progress.
- h) It should be noted that Mr. Robledo mentions in his petition other situations that he considers to be in violation of his rights, but his account is scarce, confusing and does not specify the manner, time and place in sufficient detail so as to analyze them. One of these allegations is that his brother, Mr. Andrés Guillermo Robledo, who presided over a community-based peasant organization, was murdered by a paramilitary group on May 18, 2002. He also holds that there is an unfavorable environment in Colombia against human rights defenders and peasant leaders.

3. For its part, the State requests the inadmissibility of the petition on two grounds: (i) the existence of a fourth instance; and (ii) that in light of Article 47.c of the American Convention, the petition is

⁸ In the document found in the annexes sent by the petitioner, of February 2, 2012, issued by the Fifth Delegate Prosecutor of the Specialized Circuit of Guadalajara de Buga Valle, it is stated that preliminary investigation 56190 was conducted and that *"on August 23, 2002, the Fourth Specialized Prosecutor's Office of Buga issued interlocutory resolution No. 92, by which it decided to inhibit the case, sending the proceedings to the Central Archive of the Prosecutor's Office. It is to be noted that this case is provisionally shelved, once new evidence arises, the appropriate legal decision will be made"*.

⁹ For contextual purposes, in the annexes to the petition, the alleged victim provides a document of December 9, 1998 sent by the Permanent Committee for the Defense of Human Rights to the Office of the Attorney General of the Nation in which he expresses his concern over the events of November 8, 1998, in which five persons lost their lives at the *"El Carmen"* farm at the hands of guerrillas, assisted by members of the security forces. In the same sense, in the annexes there is Official Letter 231049 of December 9, 1998 of the Permanent Committee of Human Rights addressed to the Delegate Attorney for the Military Forces of the Attorney General's Office, where it is stated that peasants of the area notified the Human Rights Office of Tuluá about the harassment suffered at the hands of the police authorities of the Municipality, as well as cases of undue use of weapons of the army against peasants of the mountainous zone of Tuluá.

¹⁰ Among the annexes submitted by the petitioner and regarding the same facts, there is a copy of the report of August 26, 1999, of the Joint Humanitarian Verification Commission submitted to the Governor of Valle del Cauca, which refers to the violent events of July 31, 1999 in Buga, San Pedro, Tuluá and Bugalagrande, due to the presence of an armed group operating outside the law; they hold that in said attack lives were lost, property was destroyed and many peasants were displaced to temporary shelters.

¹¹ He holds that on February 12, 2012, he sent from Canada to the National Protection Unit along with the official letter 12-0033186-DDH-2400, copies of documents with which his follow-up scheme was ordered. In addition, that on July 11, 2012 he sent an email to the Specialized Prosecutor's Office 2, National Unit against Disappearance and Forced Displacement; on November 12, 2012 he sent an email to the National Director of Prosecutor's Offices in Bogotá and on November 28, 2012 he sent another communication to the Attorney General of the Nation in Bogotá, Colombia. The petitioner sent a copy of the aforementioned e-mails.

manifestly unfounded and there is no proof or evidence to attest that the facts of the complaint were perpetrated by State agents or with their assistance or tolerance.

4. With regard to the fourth instance, the State considers that the IACHR should not dispute the analysis and legal qualification made by the national courts and that it should only verify due diligence in the fulfillment of international obligations, without analyzing the appropriateness of the measures of investigation and prosecution taken by the State.

5. The State informs that the Office of the Prosecutor General opened an investigation in February 2000 (file number 56190) in the Valle de Cauca Regional Office, for the attack on the life of Mr. Robledo, in which all possible steps were taken to clarify the facts and find those responsible. Specifically, it reports that testimonies, judicial inspections and field work were conducted by the investigators, but that the results did not have the necessary evidentiary force to support the opening of an investigation. Therefore, it considers that the authorities were diligent in their investigative work.

6. Likewise, it holds that Mr. Robledo had protection from the authorities, and that even on April 28, 2000, the Attorney General's Office interviewed the alleged victim, who indicated that he had an escort provided by the National Police. It also states that Mr. Robledo pointed out that he had not seen his assailants again and that he had not observed having been followed¹². The State specifies that an order was issued by the Attorney General's Office on June 16, 2000, to initiate investigations and identify the perpetrator of the threats and attacks. When no precise information was found to clarify the facts, on August 29, 2000, a new order was issued to investigate the facts.

7. The State holds that, due to an internal distribution, the Fourth Specialized Prosecutor's Office of Buga took over the investigation and declared that it was not authorized to initiate a formal investigation on August 23, 2002. The decision was taken because, despite the investigations, the origin of the threats and intimidating acts, the motives and the perpetrators were never clarified. In the inhibitory resolution it is stated that *"the facts denounced are unclear and the persons accused have not been fully identified"*; this resolution also notes that if subsequent evidence were to emerge that would allow full identification, the proceedings could be reinitiated. The above was based on article 325 of the Criminal Procedural Code, where it is established that the preliminary investigation will be carried out within a maximum period of six months, after which the resolution to open the investigation or the resolution of inhibition will be issued. In addition, under Article 327¹³ of the same code, the State holds that the Prosecutor General's Office refrains from initiating an investigation when it appears that the criminal action cannot be initiated or continued.

8. On the other hand, the State considers that the instant petition is manifestly unfounded, because the alleged threats and attack could not be attributed to the State since there is no factual or evidentiary basis that would lead to the conclusion that it was State agents who perpetrated the acts; nor are there elements that would lead to the conclusion that there was tolerance or acquiescence on the part of the State in their commission. Such arguments are supported by highlighting that, in the petition, Mr. Robledo held that on August 29, 1998, he learned from peasants that persons belonging to the United Self-Defense Forces of Colombia were looking for him.

9. In addition, the State holds that there is no evidence of lack of diligence on the part of the national authorities to prevent these events from occurring; on the contrary, it considers that all the tools at its disposal were offered to provide security to the petitioner. Therefore, they hold that it is not possible to verify that there was a failure in the duty of prevention and protection. The State specifies that when it became

¹² The State holds that the foregoing can be found in File 56190, provided by the Office of the Attorney General of the Nation.

¹³ Law 600 of 2000 of July 24, 2000, whereby the Code of Criminal Procedure is issued. Article 327. *Inhibitory Resolution*: The Attorney General of the Nation or his delegate shall refrain from initiating an investigation when it appears that the conduct has not existed, that it is atypical, that the criminal action cannot be initiated or pursued, or that a cause of absence of responsibility has been demonstrated. Such decision shall be made by means of an interlocutory resolution against which the Public Ministry, the complainant or plaintiff and the injured party or their representatives constituted for such purpose may file remedies of reconsideration and appeal. The person in whose favor an interlocutory resolution has been issued and the claimant or plaintiff may appoint an attorney to represent them in the processing of the appeals that have been filed, who shall have the right to know the proceedings that have been conducted.

aware of the risk in which Mr. Robledo found himself, it proceeded to provide him with security, for which reason on May 16, 2000, an escort and surveillance was assigned to his residence; in addition, a portable radio was set up for him on the support network frequency, with direct contact with the Tuluá police station.

10. Likewise, the State claims that the facts were known by the competent domestic judicial authorities and that, through suitable judicial mechanisms, the investigation was conducted in observance of the guarantees of due process and without violating the rights contemplated in the American Convention.

11. With regard to the death of the alleged victim's brother, the State understands that the arguments outlined by the petitioner are only described as a circumstance of Mr. Robledo's alleged violations.

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

12. The Inter-American Commission observes that the main subject of the instant petition concerns the alleged lack of effective protection, delays in the investigation, and failure to punish the perpetrators, as a result of the threats and attacks on Mr. Robledo's life, arising from his work in defense of human rights. On the other hand, in the petition, the alleged victim refers to the homicide of his brother as a consequence of his work as a defender of the rights of peasants in Tuluá; however, the Commission concludes that there are not enough elements in the petition to be able to analyze said complaint, and therefore it is excluded from the present decision.

13. The State holds that the Office of the Prosecutor General deployed all investigative activities aimed at clarifying the threats and attack against Mr. Robledo, but that the results did not have the necessary evidentiary force to generate the opening of an investigation. In addition, it pointed out a series of actions it took as part of the protection of Mr. Robledo and the investigation, as described in section V of this report. Thus, it considers that the authorities did not fail to comply in any way and that, on the contrary, the petitioner is using the IACHR as a fourth instance because he is dissatisfied with what the State has done. It also claims that the petition is unfounded since there was no violation attributable to the State, nor was it due to the participation of State agents, or tolerance or acquiescence on the part of the State.

14. The Inter-American Commission has consistently held that in cases in which violations of the right to life and impunity for such violations are alleged, the appropriate remedy to be exhausted at the domestic level is the criminal justice system, through the *ex officio* and diligent execution of investigations to determine those responsible for the violation and subject them to prosecution and punishment in accordance with the American Convention¹⁴. This burden is to be assumed by the State as its own legal duty, and not as a management of private interests or depending on the initiative of the latter or on their provision of evidence¹⁵. Thus, when faced with an alleged crime that can be prosecuted *ex officio*, the State has the obligation to initiate and promote the respective criminal proceeding, which is the ideal way to clarify the facts, prosecute those responsible and establish the corresponding punishments¹⁶.

15. In the facts narrated in the instant petition, the criminal investigation was opened in February 2000 before the Fifth Specialized Prosecutor's Office of Buga, under file number 56190. Subsequently, on August 23, 2002, the Fourth Specialized Prosecutor's Office of Buga issued an inhibitory resolution and archived the case. The State argues that the decision of inhibitory resolution is based on the Criminal

¹⁴ 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 and others. July 25, 2014, para. 18; Report No. 3/12, Petition 12.224, Admissibility, Santiago Antezana Cueto and others, Peru, January 27, 2012, para. 24; Report No. 124/17, Petition 21-08, Admissibility, Fernanda López Medina and others, Peru, September 7, 2017, paras. 3, 9-11.

¹⁵ IACHR, Report No. 159/17, Petition 712-08. Admissibility. Sebastián Larroza Velázquez and family. Paraguay. November 30, 2017, para. 14.

¹⁶ IACHR, Report No. 105/17. Petition 798-07. Admissibility. David Valderrama Opazo and others. Chile. September 7, 2017; IACHR, Report No. 129/21. Petition 894-09. Admissibility. Alcira Pérez Melgar and others. Peru. June 14, 2021, para. 9.

Procedural Code and is therefore legitimate. The petitioner, for his part, considers that there was no real and effective investigation by State agents and that to date there are still no concrete results.

16. In this regard, taking into account that the reported threats against the alleged victim occurred between 1999 and 2000, with an attack against him on September 15, 1999, the IACHR observes that more than two decades have passed and it has still not been possible to clarify the facts and identify, prosecute and punish those responsible for the threats and the attack against Mr. Robledo. The IACHR has previously determined that when there are concrete elements of impunity in cases of serious human rights violations, as in the present case, the exception to the exhaustion of domestic remedies provided for in Article 46.2(c) of the American Convention¹⁷ and 31.2(c) of the Commission's Rules of Procedure is applicable.

17. Likewise, what happened to Mr. Robledo occurred in a context of armed conflict when the area of Tuluá had violent acts by paramilitary groups, which is important because the alleged victim worked for a human rights committee of the area and participated in activities which put him at risk.

18. Thus, the IACHR observes that the facts that are the subject of the present complaint occurred beginning in 1999 and that to date there has been no investigation with clear results, nor have the perpetrators been found. Considering that the petition was filed on September 18, 2013, and that the consequences of the alleged facts would endure to the present, the IACHR considers that the petition was filed within a reasonable time in the terms of Article 32.2 of its Rules of Procedure.

VII. ANALYSIS OF COLORABLE CLAIM

19. The State has raised two main arguments: the first is that it considers the complaint as a fourth instance and the second is that the petition is manifestly unfounded, since there is no evidence that the facts of the complaint were perpetrated by State agents or in conjunction with them.

20. Regarding the State's allegation that there is no evidence to indicate that the threats and attacks against Mr. Robledo were committed by State agents and that they were not perpetrated with the acquiescence and tolerance of the authorities, the IACHR notes that the petitioner did not present arguments to that effect, and only focused on the lack of investigation and punishment in the criminal proceedings, as well as the lack of effective protection by the State for his integrity and that of his family.

21. With respect to the State's allegations regarding the fourth instance formula, the Commission reiterates that, for the purposes of admissibility, the Commission must decide whether the alleged facts can be characterized as a violation of rights, as stipulated in Article 47.b of the American Convention, or whether the petition is "manifestly unfounded" or "obviously out of order", in accordance with paragraph (c) of said article. The criterion for evaluating these requirements differs from that used to rule on the merits of a petition. Likewise, within the framework of its mandate, it is competent to declare a petition admissible when it refers to domestic proceedings that could violate rights guaranteed by the American Convention. That is to say that, in accordance with the aforementioned conventional norms, pursuant to Article 34 of its Rules of Procedure, the admissibility analysis is centered on the verification of such requirements, which refer to the existence of elements. It is therefore clarified that the criterion for the assessment of the above is different from that required to rule on the merits of a petition.

22. On the other hand, this Commission notes that Mr. Robledo's professional activities focused on the dissemination and defense of human rights in the Tuluá area, which is important in that the IACHR has established in previous reports that attacks against human rights defenders have a special impact, since they have an effect that goes beyond the direct victims. In this regard, such acts or crimes also have an intimidating

¹⁷ IACHR, Report No. 129/21. Petition 894-09. Admissibility. Alcira Pérez Melgar and others. Peru. June 14, 2021, para. 9; IACHR, Report No. 240/20. Petition 399-11. Admissibility. Over José Quila and others (Rejoya Massacre). Colombia. September 6, 2020, para. 12; Report No. 129/18, Petition 1256/07, Admissibility. Cornelio Antonio Isaza Arango and others (El Retiro Sawmills Massacre), Colombia, November 20, 2018; and Report No. 104/18, Petition 221/08, Admissibility. Delis Palacio Herrón and others (Bojayá Massacre), Colombia, September 20, 2018.

effect, which spreads to other defenders, directly diminishing their possibilities of exercising their right to defend human rights¹⁸.

23. In view of these considerations and after examining the elements of fact and law presented by the parties, the Commission considers that the petitioner's allegations regarding the lack of adequate protection, effective investigation and punishment for the threats against him as a result of his work as a human rights lawyer, as well as the alleged attempt on his life, are not manifestly unfounded and require a study of the merits since the alleged facts, if corroborated as true, could characterize violations of Articles 4 (life), 5 (humane treatment), 8 (fair trial), 24 (equality before the law) and 25 (judicial protection) of the American Convention, in relation to its Article 1. 1 (obligation to respect rights), to the detriment of Mr. Julio César Robledo Quintero.

24. As for the claim for alleged violation of Articles 11 (right to privacy), 15 (right of assembly), 16 (freedom of association), 17 (rights of the family), 19 (rights of the child), 21 (right to property), 22 (right of movement and residence) of the American Convention, the Commission notes that the petitioner has not offered sufficient allegations or support for a *prima facie* case of a possible violation.

VIII. DECISION

1. Declare the present petition admissible in relation to Articles 4, 5, 8, 24 and 25 of the American Convention, in connection with its article 1.1;
2. To declare the present petition inadmissible with regard to articles 11, 15, 16, 17, 19, 21 and 22; and
3. To notify the parties of this decision; to continue with the analysis on 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 23rd day of the month of September 2023. (Signed:) Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice president; Roberta Clarke, Second Vice President; Julissa Mantilla Falcón and Stuardo Ralón Orellana, Commissioners.

¹⁸ IACHR, Report No. 09/08, Petition 12.332. Admissibility. Margarida Maria Alves. Brazil. March 5, 2008, para. 53.