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**REPORT No. 125/24**

**PETITION 243-14**

REPORT ON INADMISSIBILITY

CHRISTIAN JOSE TELLEZ MEJIA AND RELATIVES  
COLOMBIA

Approved electronically by the Commission on August 29, 2024.

**Cite as:** IACHR Report No. 125/24. Petition 243-14. Inadmissibility.  
Christian Jose Tellez Mejia and relatives. Colombia. August 29, 2024.



**I. INFORMATION ABOUT THE PETITION**

<b>Petitioner:</b>	Jose Antonio Tellez Quintero et al. <sup>1</sup>
<b>Alleged victims:</b>	Christian Jose Tellez Mejia and relatives <sup>2</sup>
<b>Respondent State:</b>	Colombia <sup>3</sup>
<b>Rights invoked:</b>	Articles 4 (life), 5 (humane treatment), 6 (freedom from slavery), 7 (personal liberty), 8 (judicial guarantees), 11 (honor and dignity), 13 (freedom of thought and expression), 14 (right of correction or reply), 17 (rights of the family), 24 (equal protection) and 25 (judicial protection) of the American Convention on Human Rights <sup>4</sup>

**II. PROCEEDINGS BEFORE THE IACHR<sup>5</sup>**

<b>Filing of the petition:</b>	February 25, 2014.
<b>Additional information received at the review stage:</b>	March 12 and 21, 2014; July 22 and August 25, 2015
<b>Notification of the petition to the State:</b>	September 30, 2019.
<b>State's first response:</b>	June 19, 2020.
<b>Additional comments from the petitioner:</b>	June 15 and October 22, 2020; January 1, January 4 and March 19, 2021
<b>Additional observations from the State:</b>	June 22, 2021.

**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 (ratification 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 admissibility of an objection:</b>	Yes, pursuant to the terms of Section VI
<b>Timeliness of the petition:</b>	Yes, pursuant to the terms of Section VI

<sup>1</sup> Maria Delfina Cristina Mejia Peralta, Jose Maria Tellez Galvis, and Daniel Eduardo Tellez Mejia.

<sup>2</sup> In the initial petition, the following persons are listed as relatives of Christian Jose Tellez Mejia: 1. Jose Antonio Tellez Quintero (father); 2. Maria Delfina Cristina Mejia Peralta (mother); 3. Jose Maria Tellez Galvis (paternal grandfather); 4. Raúl Andrés Tellez Mejia (brother); and 5. Daniel Eduardo Tellez Mejia (brother).

<sup>3</sup> Commissioner Carlos Bernal Pulido, of Colombian nationality, did not participate in the deliberations nor in the decision in this matter, in keeping with the provisions of Article 17(2)(a) of the Rules of Procedure of the Commission.

<sup>4</sup> Hereinafter "the American Convention" or "the Convention."

<sup>5</sup> The observations presented by each party were duly transmitted to the opposing party. In communications dated May 17, 2021, and January 4, 2023, the petitioner expressed its interest in the processing of the petition.

## V. FACTS ALLEGED

### *The petitioner*

1. The petitioner alleges the Colombian State is responsible for the lack of administrative reparations to the next of kin of Christian Jose Tellez Mejia (hereinafter, the "alleged victim"), who was murdered by members of a criminal group that included a member of the National Army.

2. The petitioner states that on July 5, 2000, the alleged victim, who was 20 years old at the time of the facts, left his home located in the municipality of Piedecuesta, Santander department, and at around 8:00 a.m., three armed individuals intercepted his vehicle, kidnapped him, and then murdered him.

3. The information provided by the petitioners indicates that on June 18, 2002, the next of kin of the alleged victim filed suit for direct reparations before the Administrative Court of Santander, alleging the Ministry of Defense was responsible for the death of the alleged victim, emphasizing in their claim that one of the subjects who participated in the murder was an active-duty military officer. However, on September 14, 2007, the court denied the claim on the grounds that State responsibility for the death of the alleged victim was not proven, considering *inter alia* the following:

[...] Although on the day of the facts, Mr. Odazzil Camaño Villalobos had been assigned intelligence work, the mission to which he was assigned by the military has been neither fully nor summarily demonstrated. It is therefore impossible to assert that what Mr. Odazzil Camaño Villalobos did was part of his service or in compliance with a mission he had been given, as the soldier could have deviated from the work he was assigned and acted on his own, rather than in exercise of his duties, thus committing a crime for his own personal motives that are separate from the work assigned by the institution, severing any connection to his government service.

4. In response to this decision, on September 26, 2007, the relatives of the alleged victim filed an appeal before the Council of State. However, in an order dated June 24, 2015, its Administrative Disputes Chamber, Third Section, Subsection A upheld the appealed judgment, finding that the damage caused by the death of the alleged victim was not attributable to State entities, since: "[...] the conduct of Odazzil Camaño Villalobos was not contingent on his status as a public servant, and in addition to this, it has not been proven that the shots that caused the death of Cristian Jose Tellez Mejia were fired from an official service weapon."

5. The petitioner essentially alleges a failure to provide administrative reparations to the alleged victim's next of kin, arguing that the homicide was committed by a member of the national army who also belonged to a criminal gang. In addition, as part of the claims in his international petition, he asks that the IACHR order the State to pay US\$900,000 to each of the relatives listed in the petition.

6. In his subsequent response to the State's position, the petitioner insists there is a causal link between the alleged victim's homicide and the State entities, because one of the individuals who participated in his murder had military training and used a firearm. Therefore, in view of the failure to grant administrative reparations, he alleges violation of the rights enshrined in the American Convention of the alleged victim and his next of kin.

### *The Colombian State*

7. For its part, the State indicates that those responsible for the death of Christian Jose Tellez Mejia were convicted of the crime of aggravated homicide combined with kidnapping. In this regard, it states that on January 6, 2004, the First Criminal Court of the Specialized Circuit of Bucaramanga sentenced Odazzil Camaño Villalobos and Milan Nieto Carreño to 30 years and 9 months in prison; and that on October 10, 2005, the Superior Court of the Judicial District of Bucaramanga upheld the aforementioned sentence.

8. Additionally, it indicates that in an order issued February 15, 2005, the Disciplinary Prosecutor's Office for the Defense of Human Rights suspended Odazzil Camaño Villalobos from his post. At the time of the facts, he had been under Counter-guerrilla Battalion No. 5 Guanes.

9. Colombia then asks the IACHR to declare the present petition inadmissible based on two considerations: (a) the petitioner seeks to have the Commission act as a court of appeal or a "fourth international instance"; and (b) the petition makes manifestly groundless claims that do not constitute human rights violations.

10. Regarding point (a), related to the fourth instance, it indicates that the petitioners' claim that the judgment that put an end to the adversarial-administrative process did not consider the fact that a public servant was criminally convicted for the death of the alleged victim, arguing that therefore, the State must be held liable for providing compensation. In this regard, it notes that domestic case law establishes that: "[...] a failure in service that leads to criminal conduct by a public servant that has been punished criminally does not automatically mean that the State is responsible adversarial-administratively, as the criminal conduct's connection to the individual's provision of the service must be verified."

11. However, it argues that in the adversarial-administrative process, the criminal and disciplinary decisions issued were taken into account, particularly when resolving the appeal. Therefore, it argues that the petitioners are seeking for the IACHR to act as a court of appeal to review the decisions made in the domestic sphere, which were duly grounded and in compliance with the provisions of domestic law, whose judges acted independently and impartially in observance of the Convention's guarantees.

12. Colombia emphasizes that, as concluded by the Administrative Court of Santander, the lower court that ruled on the suit for reparation, Odazzil Camaño Villalobos's did not act in the course of his service, nor to carry out a mission assigned by a superior. It indicates as well that it was not proven that the weapon used in the murder belonged to the National Army or supplied by it, meaning that the causal relationship needed to declare the State responsible for providing reparations was not proven.

13. Regarding point (b), it notes that the central object of the petition consists of a failure to provide administrative reparations for the death of the alleged victim. In this regard, it notes that the petitioners did not object to or challenge the decisions adopted in the criminal proceedings. In this regard, it argues that the petitioners' claims indicate they disagree with how the domestic administrative judges assessed the evidence, with no assertions that the rights of the relatives of the alleged victim protected by the Convention were violated.

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

14. The IACHR observes that the central object of the petition consists, specifically, of the claim of a failure to provide relatives with administrative reparations for the death of Christian Jose Tellez Mejia. The argument is that the State bears responsibility for his murder because one of the members of the criminal group that carried it out was a member of the National Army.

15. In this regard, the case file indicates that on June 18, 2002, the alleged victim's relatives filed a lawsuit for direct reparations alleging the Colombian State was responsible. The judgment of September 14, 2007, denied the claims in the suit on the grounds that State responsibility for the death of the alleged victim was not proven. This decision was appealed, and on June 24, 2015, the Adversarial Administrative Chamber, Section A of the Council of State, upheld it.

16. For the purposes of assessing the suitability of the remedies available in the domestic legal system, the Commission usually establishes the specific claim that has been made and then identifies the judicial remedies provided by the domestic legal system that were available and adequate to air that particular

claim.<sup>6</sup> In this case, as indicated, the main object of the petition is the claim over the failure to provide compensation for the murder of the alleged victim. In this regard, the Commission considers that the requirement established in Article 46(1)(a) of the American Convention was fulfilled with the decision of the Council of State handed down on June 24, 2015, which definitively concluded the domestic adversarial-administrative process. That decision upheld the denial of the suit for direct reparations. This is also not disputed by the State.

17. Regarding the deadline for filing the petition, as established in this section, the final decision under the contentious-administrative process was issued on June 24, 2015, and the petition was received at the IACHR Executive Secretariat on February 25, 2014. Thus, given that the exhaustion of domestic remedies occurred while the petition was under consideration, the requirement of Article 46(1)(b) of the Convention is also met.

## VII. ANALYSIS OF COLORABLE CLAIM

18. As indicated above, the object of the petition is the failure of the adversarial-administrative process to grant compensation for the murder of Christian Jose Tellez Mejia on the grounds that one of those responsible was a member of the Army. The State argues that the petitioners intend to use the IACHR as an international court of appeal to review the decisions adopted in the framework of the adversarial-administrative process, despite the fact that its decisions were adopted in observance of the judicial guarantees enshrined in the American Convention. Those decisions concluded that the individual—who was a member of the armed forces at the time of the facts—did not act with the awareness or acquiescence of the State, nor in exercise of his duties, arguing that he acted on his own accord.

19. Along these lines, the IACHR notes that the petitioner has argued that the grounds or rationale given by the domestic judges were incorrect in light of the evidence presented in these proceedings. It therefore asks the Commission to review the case and order the Colombian State to pay the corresponding compensation, putting the amount at US\$900,000 per family member. Beyond these assertions, the Commission notes that the petitioner has not presented real arguments or evidence aimed at showing the State may have violated the provisions of the American Convention in the framework of this adversarial-administrative proceeding.

20. The Commission reiterates that, for purposes of admissibility, it must decide whether the facts alleged tend to establish a violation of rights, as provided for in Article 47(b) of the American Convention, or whether the petition is “manifestly groundless” or “obviously out of order,” as per Article 47(c). The criterion for the evaluation of these requirements differs from those used to issue an opinion on the merits of a case. In this regard, the Commission reiterates that it is not competent to review judgments handed down by national courts acting within the sphere of their competence and apply due process and judicial guarantees.

21. In this sense, the IACHR observes that the adversarial-administrative courts analyzed the suit filed by the victim’s relatives and ruled in well-founded judgments that respect applicable precedents and that were produced through a regular process. The core of the petitioner’s arguments is specifically a disagreement with the reasoning of domestic courts. In this respect, the IACHR does not find that the petitioner provides evidence that would make it possible to establish, even *prima facie*, that the Colombian State is internationally responsible for the facts that led to the death of Christian Jose Tellez Mejia. In addition to these considerations, it should be noted that Odazzil Camaño Villalobos was criminally convicted and sentenced to 30 years and 9 months in prison for the homicide of Mr. Tellez Mejia, and was also administratively sanctioned with dismissal from his position. These facts are not disputed by the petitioners.

22. In this regard, the Commission recalls that just because petitioners disagree with an interpretation that the domestic courts have made of the relevant legal norms is not sufficient to establish violations of the Convention. The interpretation of the law, the relevant procedure, and the weighing of evidence are, among other things, the exercise of a function that falls to domestic jurisdictions and they cannot

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<sup>6</sup> IACHR Report No. 279/21. Petition 2106-12. Admissibility. Huitosachi, Mogótavo and Bacajípare communities of the Rarámuri indigenous people. Mexico. October 29, 2021, para. 29.

be performed by the IACHR.<sup>7</sup> In this sense, the Commission's role is to ensure compliance with the obligations assumed by the States parties to the American Convention, but it cannot act as a court of appeal to examine alleged errors of law or fact that may have been committed by national courts acting within the limits of their competence.<sup>8</sup>

23. Therefore, the Commission concludes that the petition is inadmissible under the terms of Article 47(b) of the American Convention.

#### **VIII. DECISION**

1. To declare this petition inadmissible based on Articles 47(b) 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 29<sup>th</sup> day of the month of August, 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>7</sup> IACHR Report No. 83/05. Petition 644-00. Inadmissibility. Carlos Alberto López Urquía. *Honduras*. October 24, 2005, para. 72.

<sup>8</sup> IACHR Report No. 70/08. Petition 12,242. Admissibility. Pediatric Clinic of the Lake Region. Brazil. October 16, 2008, para. 47.