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REPORT No. 126/24

PETITION 834-09

REPORT ON INADMISSIBILITY

MANUEL ANTONIO MEDINA NOVA ET AL.
COLOMBIA

Approved electronically by the Commission on September 2, 2024.

Cite as: IACHR Report No. 126/24. Petition 834-09. Inadmissibility.
Manuel Antonio Medina Nova et al. Colombia. September 2, 2024.

I. INFORMATION ABOUT THE PETITION

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|--------------------------|---|
| Petitioner: | Luis Alirio Torres Barreto |
| Alleged victims: | Manuel Antonio Medina Nova et al. ¹ |
| Respondent State: | Colombia ² |
| Rights invoked: | Articles 4 (life), 5 (humane treatment), 7 (personal liberty), 8 (judicial guarantees), 10 (compensation), 24 (equal protection) and 25 (judicial protection) of the American Convention on Human Rights ³ |

II. PROCEEDINGS BEFORE THE IACHR⁴

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| Filing of the petition: | July 8, 2009 |
| Additional information received at the review stage: | May 23, 2023 |
| Notification of the petition to the State: | August 8, 2023 |
| State's first response: | January 26, 2024 |
| Notification of the possible archiving of the petition: | May 16, 2023 |
| Petitioner's response to the notification regarding the possible archiving of the petition: | May 23, 2023 |

III. COMPETENCE

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| 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 (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

| | |
|--|---------------------------|
| 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, on February 26, 2009 |
| Timeliness of the petition: | Yes, on July 8, 2009 |

¹ The names of the deceased children, as well as those of their relatives, are listed in the annex to the petition.

² 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.

³ Hereinafter "the American Convention" or "the Convention."

⁴ The observations presented by each party were duly transmitted to the opposing party.

V. FACTS ALLEGED

The petitioner

1. The petitioner alleges Colombia is internationally responsible for a failure to provide administrative reparations to the next of kin of Andres Felipe Velez Medina, Manuel Antonio Medina Novoa, and Sulima Medina Novoa, whose deaths were caused by the detonation of an explosive device allegedly belonging to the National Army.

2. The petition states that in March 1998, the National Army allegedly abandoned an explosive device in the village of Tarqui in the municipality of Guatica, department of Risaralda. A local resident subsequently removed it and brought it inside his home. On June 6, 1998, inside the house, an individual took the explosive device and placed it in his waistband, causing it to detonate. The explosion caused the death of Andres Felipe Velez Medina, Manuel Antonio Medina Novoa, and Sulima Medina Novoa (hereinafter, the "deceased children"), all three minors.

3. The petitioner indicates that several villagers informed the police and the army about the presence of the device so that they would come to remove it because of the risk it posed, but they reportedly did not do so. According to the petitioner the device was engraved with the inscription: "*Batallón San Mateo Pereira Contra Guerrilla No. 8 Quimbaya.*"

4. In July 1998, the families of the victims of the explosion filed two lawsuits for direct reparations against the Army and the National Police before the Adversarial Administrative Court of Risaralda. The first lawsuit was filed over the death of child Andrés Felipe Velez Medina under case file 1998-484; and the second was filed over the death of the siblings Manuel Antonio Medina Novoa and Sulima Medina Novoa under case file 1998-485. Both lawsuits were admitted on September 2, 1998, and in an order dated December 16, 1998, the court joined both proceedings. In a judgment of June 30, 2000, the Adversarial Administrative Court of Risaralda denied the claims, arguing, among other things, that it was not possible to prove the causal link between the deaths of the minors and a possible State liability, particularly due to the active or omissive conduct of members of Security Forces.

5. On July 21, 2000, the relatives of the deceased children filed an appeal of the decision before the Council of State. However, on February 26, 2009, the Adversarial-Administrative Chamber, Third Section of the Council of State, upheld the appealed decision, establishing, mainly, the following:

The declarant [...], indicated that he had heard that [...] he took the explosive device and recklessly handed it over to a third party, instead of going to the competent authorities with it, as acknowledged in his voluntary statement. The latter also indicated that his brother recklessly set about showing it to others, causing his own death and that of the three minors. It is therefore possible to conclude that the reckless conduct of a third party caused the damage.

In this context, for the Court, it is clearly impossible to assign blame to the State, since the damage is not attributable to any government conduct because the actions of a third party exempt the State from legal responsibility, pursuant to the terms of an analysis of article 90 of the Political Constitution.

Consequently, from the evidence in the case file, for the Court, there is no question that even when harm has been caused in violation of the law, there is no connection between that harm and the conduct of the agent. It is therefore not attributable to the government, and the government shall not provide monetary compensation for it.

6. In a communication subsequent to the initial petition, the petitioner argues that the object of the petition is precisely the failure to grant compensation to the alleged victims. He confirms this insofar as he argues that the domestic remedies available for securing economic compensation for a failure or lack of public service—especially with respect to the actions of the Colombian National Police and Army—have been exhausted. In addition, as part of the claims in his international petition, he asks that the IACHR order the State to pay US\$100,000 to each of the relatives of the deceased children. In addition, he indicates that the appeals

court judgment was notified on February 26, 2009. He also indicates that the appeals court definitively closed the adversarial-administrative process and that no other remedies can be brought against it.

The Colombian State

7. For its part, Colombia confirms how the adversarial-administrative process launched with regard to the deaths of the minors took place, corroborated in the rulings issued in the trial and appeals courts in the framework of the contentious-administrative process.

8. It then argues that the petitioner is trying to use the IACHR as a court of appeal, given that the contentious-administrative process took place with full respect for the rights to judicial guarantees and judicial protection. In the State's opinion, the petitioner's claims for reparations brought before the inter-American system were already heard and ruled upon definitively at the domestic level. Colombia maintains that the petitioner has not identified violations of international treaties during the contentious-administrative process, and that he simply seeks for the Commission to reevaluate the evidence because he disagrees with the judgments made by domestic authorities.

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

9. The IACHR notes that the central object of the petition is the failure to provide pecuniary reparations to the relatives of the three deceased children whose deaths were caused by the detonation of an explosive device on June 6, 1998.

10. In this regard, the case file indicates that the children's relatives filed two lawsuits for direct reparations alleging the Colombian State was responsible for their deaths. The two cases were joined by an order dated December 16, 1998. In a judgment of June 30, 2000, the Adversarial Administrative Court of Risaralda denied the claims on the grounds that it was not possible to prove the causal link between the deaths of the minors and a possible State liability, particularly due to the active or omissive conduct of members of Security Forces. This decision was appealed, and on February 26, 2009, the Adversarial Administrative Chamber, Third Section of the Council of State, upheld it.

11. 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.⁵ In this case, the main object of the petition is the claim over the failure to provide compensation for the deaths of three children due to the detonation of an explosive device; 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 that definitively closed the ordinary domestic adversarial-administrative remedy by upholding the rejection of the claim for direct reparations.

12. Regarding the deadline for filing the petition, the petitioner has indicated that the final decision of the Administrative Chamber of the Council of State was notified to the relatives of the deceased children on February 26, 2009. Thus, taking into account that the petition was received at the IACHR on July 8, 2009, the Commission concludes that it complies with the deadline established in Article 46(1)(b) of the American Convention. The State does not question the exhaustion of domestic remedies or compliance with the filing deadline requirement.

VII. ANALYSIS DE COLORABLE CLAIM

13. The object of the petition is the failure of the adversarial-administrative process to grant compensation for the unfortunate death of children Andres Felipe Velez Medina, Manuel Antonio Medina Novoa

⁵ 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.

and Sulima Medina Novoa. The plaintiff fundamentally argued that the device was for the exclusive use of the armed forces, meaning, in his opinion, the State was responsible. Colombia argues that the petitioner intends 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.

14. 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. Therefore, it asks the Commission to review this process and order the Colombian State to pay the corresponding compensation, suggesting that it should amount to one hundred thousand US dollars 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. In fact, considering the domestic process as a whole, and without entering into considerations of substance, the Commission notes that the domestic courts analyzed the claim brought by the victims' relatives by means of reasoned judgments, in which it was established that the explosion of the device was due to the reckless action of third parties who handled the device clumsily and on their own initiative.

15. 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.

16. 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 be performed by the IACHR.⁶ 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.⁷

17. Therefore, the Commission concludes, as it has in similar precedents,⁸ —including inadmissibility report 241/22 regarding a petition filed by the same petitioner with respect to the material damages caused by the detonation of the aforementioned device in March 1998—that this petition is inadmissible based on Article 47(b) of the American Convention.

VIII. DECISION

1. To declare this petition inadmissible based on Articles 47(b) of the American Convention and 34(b) of the Commission's Rules of Procedure.

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 2nd 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.

⁶ IACHR Report No. 83/05. Petition 644-00. Inadmissibility. Carlos Alberto López Urquía. Honduras. October 24, 2005, para. 72.

⁷ IACHR Report No. 70/08. Petition 12,242. Admissibility. Pediatric Clinic of the Lake Region. Brazil. October 16, 2008, para. 47.

⁸ IACHR Report No. 428/21. Petition 419-12. Inadmissibility. Wilder González Ocampo and family. Colombia. December 19, 2021; IACHR, Report 365/21. Petition 125-12. Inadmissibility. Relatives of José Ancizar Ferreira Cedeño. Colombia. December 2, 2021.

ANNEX

List of the alleged victims.

1. Andrés Felipe Vélez Medina (deceased as a result of the explosion, 1 year old at the time of the facts)
2. Manuel Antonio Medina Novoa (deceased as a result of the explosion, 17 years old at the time of the facts)
3. Andrés Felipe Vélez Medina (deceased as a result of the explosion, 12 year old at the time of the facts)
4. Kelly Yohana Medina Nova
5. María Stella Nova Molina
6. Rigoberto Medina Hoyos
7. Angela María Medina Nova
8. Jacquelin Medina Nova
9. César Augusto Vélez Espinosa
10. Cecilia Espinosa de Vélez
11. Jorge Luis Vélez Vargas
12. María Francisca Hoyos de Medina.