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**REPORT No. 99/18**  
**PETITION 1809-10**  
REPORT ON ADMISSIBILITY

ELIDIA SÁNCHEZ RODRÍGUEZ *ET AL.*  
MEXICO

Approved electronically by the Commission on September 8, 2018.

**Cite as:** IACHR, Report No. 99/18, Petition 1809-10. Admissibility. Elidia Sánchez *et al.* Mexico. September 8, 2018.

**I. INFORMATION ABOUT THE PETITION**

<b>Petitioner:</b>	Elidia Sánchez Rodríguez <i>et al.</i>
<b>Alleged victims:</b>	Elidia Sánchez Rodríguez <i>et al.</i> <sup>1</sup>
<b>Respondent State:</b>	Mexico <sup>2</sup>
<b>Rights invoked:</b>	Articles 5 (humane treatment), 7 (personal liberty), 8 (fair trial), 24 (equal treatment) and 25 (Judicial Protection) of the American Convention on Human Rights <sup>3</sup>

**II. PROCEDURE BEFORE THE IACHR<sup>4</sup>**

<b>Filing of the petition:</b>	December 16, 2010
<b>Additional information received at the stage of initial review:</b>	April 1, 2011
<b>Notification of the petition to the State:</b>	December 9, 2015
<b>State's first response:</b>	July 14, 2016

**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, American Convention (deposit of ratification instrument on March 24, 1981)
<b>Competence <i>Ratione materiae</i>:</b>	Yes

**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 5 (humane treatment), 7 (personal liberty), 8 (fair trial) and 25 (judicial protection) of the Convention, in relation to Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects) thereof
<b>Exhaustion of domestic remedies or applicability of an exception to the rule:</b>	Yes, May 6, 2013
<b>Timeliness of the petition:</b>	Yes, December 16, 2010

<sup>1</sup> The instant petition was filed on behalf of Elidia Sánchez Rodríguez, Pedro Sánchez Rodríguez, Román Sánchez Rodríguez, and José Omar Sánchez López.

<sup>2</sup> Pursuant to Article 17.2.a of the IACHR Rules of Procedure, Commissioner Joel Hernández García, a Mexican national, did not partake in the discussion or the decision on this matter.

<sup>3</sup> Hereinafter "Convention" or "American Convention."

<sup>4</sup> The observations submitted by each party were duly transmitted to the opposing party.

## V. ALLEGED FACTS

1. The petitioners claim that they were arbitrarily deprived of their liberty, without an arrest warrant, when they were working at a hotel, being subjected to preventive custody (*arraigo*). They also claim that at the preventive custody centre of the Attorney-General's Office in the Federal District (*Centro de Arraigo de la Procuraduría General*), they were held in chains and did not have the necessary health-care assistance. They add that they were subjected to an extensive legal proceeding on the charges of procuring, human trafficking and criminal association, without the guarantees of due process. They indicate that they worked in different posts at Hotel Oviedo, in Mexico City. At the hotel, Elidia Sánchez Rodríguez was an administrator and the manager, Pedro Sánchez Rodríguez was an administrator, Román Sánchez Rodríguez, an employee and José Omar Sánchez Rodríguez, a chambermaid.

2. They claim that on December 29, 2009 began preliminary investigation FDS/FDS-6/T2/1095/09-12, in the framework of which the Sixteenth Criminal Judge issued, on January 5, 2010, a search warrant of Hotel Oviedo. They argue that the search warrant was exclusively meant to enable finding the persons specifically identified in the warrant as well as obtaining documentation on the property, the business, and the ownership of the hotel. They assert that, however, in the search, on January 6, 2010, the persons specified in the search warrant were not found and, instead, the alleged victims were arbitrarily arrested. They affirm that they were arrested without a warrant or being in the act of breaking the law when they were lawfully working. According to the petitioners, government authorities were interested in taking possession of the hotel without paying anything in return.

3. They allege that following their wrongful arrest they were held in chains at the preventive custody centre of the Attorney-General's Office in the Federal District. They claim that on January 8, 2010 the Sixteenth Criminal Judge ordered their preventive custody for 30 days considering the charges attributed to them. They indicate that they appealed the measure of preventive custody through a constitutional appeal (*amparo*), which was not processed because on January 29, 2010 the Judge ordered their arrest. They submit that on February 4, 2010 the Judge issued an indictment in criminal case 18/2010. They indicate that they appealed said judgment through constitutional appeals, which were rejected on October 20, 2010 by the First District Judge for Amparo Complaints. They claim that at the time the petition was filed an application for judicial review presented against the decision to dismiss the constitutional appeals, was still pending resolution. To conclude, the petitioners allege that their arrest was arbitrary, wrongful and groundless. Likewise, they claim that in the proceeding against them, there was no actual evidence.

4. For its part, the State alleges that the matter of the petition is moot; for the alleged victims were convicted to 26 years in prison by the trial court, and on filing an appeal, the Fourth Chamber of the Higher Court of Justice of the Federal District acquitted them in view of the lack of evidence. It indicates that after being acquitted, Ms. Sánchez Rodríguez and Mr. Pedro Sánchez Rodríguez were released from prison on March 5, 2013 and that so were Román Sánchez Rodríguez and José Omar Sánchez López on May 6 that year. The State affirms that the court of appeals is responsible for studying and repairing any violation; thus, the facts described by the petitioners in their initial petition do not present human rights violations.

5. Moreover, the State alleges that at the time the petition was filed, domestic remedies had not been exhausted because the criminal proceeding was still underway and the petitioners continued presenting several remedies in the framework of said legal action. As for the petitioners' allegations that legal action against them was based on the Federal District government's interest in seizing Hotel Oviedo, the State argues that the petitioners did not lodge any remedy to challenge the seizure of real estate.

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

6. In the instant matter, the IACHR observes that the State claimed that the alleged victims had not exhausted domestic remedies by the time they resorted to the IACHR. For their part, the alleged victims argue that, as for the pretrial detention and the wrongful detention, they filed all the available remedies, which were dismissed.

7. Based on the information and documents submitted by the parties, the IACHR observes that the alleged victims filed several remedies at different times to challenge the measures concerning their deprivation of liberty. They appealed the preventive custody order of January 8, 2010 through a constitutional appeal, which the authorities did not analyze because, before it was heard, arrest orders were issued against the alleged victims. Likewise, the Commission notes that on March 30, 2010 they challenged their indictment through a constitutional appeal, dismissed on October 20, 2010 by the District First District Judge for Amparo Complaints in Criminal Matters of the Federal District. According to the information submitted by the State, this decision was challenged through several remedies until the alleged victims were convicted by the trial court, and then these were acquitted by the appeals court, which ordered their release, being released from prison on May 6, 2013. Therefore, the Commission finds that, in the framework of the criminal proceeding, domestic remedies were exhausted, thus the petition meets the requirement the requirement established in Article 46.1.a of the Convention.

8. In relation to the requirement of timeliness, the petition was filed on December 16, 2010 and domestic remedies were exhausted on May 6, 2013, the final resolution of acquittal being issued by the Fourth Chamber of the Higher Court of Justice of the Federal District—which settled the petitioners’ appeal in their own favor. Consequently, remedies were exhausted while the case was under the admissibility study. Under these circumstances, the Commission has consistently held that compliance with the requirement of timely presentation is intrinsically linked to the exhaustion of domestic remedies; thus it must be declared met.<sup>5</sup>

9. As for the allegations of the State concerning the lack of exhaustion of domestic remedies in relation to the alleged interest of the District Government authorities in seizing Hotel Oviedo, the Commission notes that this claim by the petitioners was by way of context and is not part of the facts reported by the alleged victims. In view of the foregoing, the Commission refrains from ruling on the lack of exhaustion of domestic remedies alleged by the State.

## VII. ANALYSIS OF COLORABLE CLAIM

10. In view of the elements of fact and law presented by the parties, and the nature of the matter brought to its attention, the Commission believes that, if proved, the facts alleged by the petitioners concerning their wrongful arrest and preventive custody, as a result of which they allegedly were held in chains and without access to health care, along with the possible effect of this in the criminal proceeding all could establish possible violations of rights protected through Articles 5 (humane treatment), 7 (personal liberty), 8 (fair trial) and 25 (judicial protection) of the American Convention, in connection with Articles 1.1 and 2 thereof.

11. In regard to the claim about the purported violation of Article 24 (equal protection) of the American Convention, the Commission observes that the petitioners do not submit allegations or evidence concerning its possible violation; therefore, this claim must be declared inadmissible.

## VIII. DECISION

1. To find the instant petition admissible in relation to Articles 7, 8 and 25 of the American Convention, in connection with Articles 1.1 and 2 thereof;

2. To find the instant petition inadmissible in relation to Article 24 of the American Convention; 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.

<sup>5</sup> IACHR, Report No. 67/15, Petition 211-07. Jorge Marcial Tzompaxtle Tecpile *et al.* Mexico. October 27, 2015; par. 32.

Approved by the Inter-American Commission on Human Rights on the 8th day of the month of September, 2018. (Signed): Margarette May Macaulay, President; Esmeralda E. Arosemena Bernal de Troitiño, First Vice President; Luis Ernesto Vargas Silva, Second Vice President; Francisco José Eguiguren Praeli, Antonia Urrejola, and Flávia Piovesan, Commissioners.