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REPORT No. 19/18
PETITION 139-07
INADMISSIBILITY REPORT

JUAN LOME RODRÍGUEZ
MEXICO

Approved by the Commission at its session No. 2115 held on February 24, 2018.
167th Special Period of Sessions.

Cite as: IACHR, Report No. 19/18. Inadmissibility. Juan Lome Rodríguez. Mexico.
February 24, 2018.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Juan Lome Rodríguez
Alleged victim:	Juan Lome Rodríguez
Respondent State:	Mexico ¹
Rights invoked:	Articles 7 (personal liberty), 8 (fair trial) 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 IACHR³

Filing of the petition:	February 8, 2007
Additional information received at the stage of initial review:	September 14, 2007; April 1, 2010; August 30, 2011 and February 7, 2012
Notification of the petition to the State:	May 10, 2013
State's first response:	October 23, 2013
Additional observations from the petitioner:	January 30 and March 2, 2015
Additional observations from the State:	July 1 and August 28, 2015

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 ratification instrument 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, under the terms of section VI
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, May 18, 2006
Timeliness of the petition:	No; under the terms of section VI

V. ALLEGED FACTS

1. Mr. Juan Lome Rodríguez, the petitioner and alleged victim, alleges the State's responsibility for his arbitrary deprivation of liberty in view of his wrongful conviction on a charge of repeated statutory rape of a girl aged 12, due to false accusations and proceedings where legal safeguards not respected. He asserts that on May 9, 2001 the First Criminal Trial Court of the Judicial District of Hidalgo issued an arrest warrant against him. He submits that on January 28, 2002 he appeared before the judicial authorities and was

¹ In accordance with Article 17.2.a of the IACHR Rules of Procedure, Commissioner Joel Hernández García, a Mexican national, did not participate in the discussion or the decision on this matter.

² Hereinafter "Convention" or "American Convention."

³ The observations submitted by each party were duly transmitted to the opposing party.

deprived of his liberty. He claims that he was subjected to a criminal trial characterized by its several irregularities, particularly by the fact that exculpatory evidence was disregarded whereas incriminating evidence, though clearly contradictory, was examined, all of which led to his wrongful conviction.

2. The petitioner challenged the arrest warrant through an indirect amparo, which was later denied, as was a subsequent appeal for review. On February 11, 2002, the First Criminal Judge declined to continue hearing the case and forwarded the criminal record to the Second Criminal Judge, which sentenced the petitioner to 12 years in prison on October 2, 2002. The petitioner asserts that he lodged an appeal before the Third Criminal Chamber of the Superior Court of Justice of Guerrero, which rejected the remedy on December 2, 2002. Then, the petitioner filed direct amparo proceedings, and on March 19, 2003 the Second Collegiate Court of the Twenty-First Circuit ruled in his favor, as it considered the rejection of the appeal groundless. On March 31, 2003, the Third Chamber issued a new well-founded resolution upholding its previous judgment.

3. The petitioner challenged the new confirmation of his sentence by filing a direct amparo before the Twenty-First Circuit Second Collegiate Court, which admitted it on June 13, 2003 on grounds of inconsistent resolutions concerning evidentiary procedures requested by the petitioner. An appeal for reversal was filed before the Second Trial Judge. The proceedings finished on July 11, 2003, the petitioner being convicted to 12 years in prison. This resolution was challenged only by the Prosecutor's Office and confirmed by the Third Criminal Chamber, and became final on January 22, 2004.

4. The petitioner submits that he challenged his conviction by filing a direct amparo before the Second Collegiate Court, who alleged lack of competence because they considered that the appropriate remedy was an indirect amparo; therefore, said court forwarded the criminal records to the District Fifth Court, which flatly rejected them. Subsequently, on October 12, 2005, he filed an appeal for the annulment of his conviction before the Superior Court's Third Chamber, by which he alleged his innocence and the falsehood of the statements borne by the girl, her mother and the witnesses. On December 1, 2005, said court declared the appeal groundless since it failed to provide new information to disprove the incriminating evidence leading to his conviction, and was meant to obtain a reassessment of proof. The petitioner challenged this resolution by filing direct amparo proceedings before the District Fifth Judge, who on May 17, 2006 refused to rule in favor of the petitioner since he considered that the judgment issued by the Third Chamber of the Superior Court was appropriate and lawful. On April 5, 2007, the General Office for Social Rehabilitation granted the petitioner the benefit of early release.

5. For its part, the State claims that the petition was presented beyond the six-month period, considering that the final judgment, issued on December 1, 2005, was notified to the petitioner on December 9, 2005. It also asserts that the nature of the invoked facts do not lead to an exception to the requirement concerning its timely submission.

6. Moreover, it affirms that the petitioner intends to have the Commission work as a court of fourth-instance since the petition portrays domestic courts' decisions as alleged human rights violations for the sole reason that these were unfavorable to him. It asserts that the petitioner's legal safeguards were respected throughout the proceedings, and that he was therefore able to pursue all the available domestic remedies, which, it says, are appropriate and effective. It also stresses that all the evidence was analyzed before reaching the well-founded guilty verdict.

7. As a result, the State requests the Commission to declare this petition inadmissible in light of its untimely submission and the absence of facts establishing violations, for otherwise, the IACHR would act a court of fourth instance.

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

8. Based on the available information, the punishing judgment of July 11, 2003 was confirmed by the Third Criminal Chamber of Guerrero Superior Court of Justice, before which the petitioner filed an

appeal for reversal of the conviction, which was denied on December 1, 2005. As a result, the petitioner lodged amparo proceedings but these were dismissed by the District Fifth Court of the State of Guerrero on May 17, 2006. Therefore, the Commission notes that domestic remedies concerning the criminal action against the alleged victim were exhausted by the issue of the resolution in said amparo proceedings; and that the petition thus meets the requirement established in Article 46.1.a of the American Convention.

9. With regard to the date of submission, the petition was filed on February 8, 2007; thus, the Commission notes that it was not lodged within the six-month period following the dismissal of amparo proceedings issued by the District Fifth Court on May 17, 2006, notified to the petitioner on May 18, 2006. Consequently, the petition is declared untimely in view of the failure to meet the requirement set forth in Article 46.1.b of the American Convention.

10. In light of the foregoing, the Commission refrains from ruling on the colorable claim, as the petition does not meet the admissibility requirements in accordance with Article 47.a of the American Convention.

VII. DECISION

1. To find the instant petition inadmissible; and
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.