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**REPORT No. 19/20**  
**PETITION 1520-10**  
REPORT ON ADMISSIBILITY

YENNY PATRICIA GALARRAGA MENESES AND OTHERS  
COLOMBIA

Electronically approved by the Commission on March 25, 2020.

**Cite as:** IACHR, Report No. 19/20. Petición 1520-10. Admissibility. Yenny Patricia Galarraga Meneses, Others and Family. Colombia. March 25, 2020.

**I. INFORMATION ABOUT THE PETITION**

Petitioner	Fundación Nydia Erika Bautista para los Derechos Humanos (“Fundación”) and Asociación para la Promoción Alternativa “Minga”
Alleged victim	Yenny Patricia Galárraga Meneses and others
Respondent State	Colombia
Rights invoked	Articles 3 (juridical personality), 4 (life), 5 (humane treatment), 7 (personal liberty), 8 (due process), 11 (privacy), 17 (rights of the family), 18 (name), 19 (rights of the child) and 25 (judicial protection) of the American Convention on Human Rights <sup>1</sup> in relation to its Articles 1.1 and 2; Articles I, III, IV, V, VI and XII of the Inter-American Convention on Forced Disappearance of Persons <sup>2</sup> ; Articles 1, 6, 8 and 11 of the Inter-American Convention to Prevent and Punish Torture <sup>3</sup> ; and Article 7 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women. <sup>4</sup>

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

Filing of the petition	October 29, 2010
Notification of the petition	May 16, 2016
State’s first response	November 10, 2016
Additional observations from the petitioner	August 15, 2017
Additional observations from the State	October 4, 2018

**III. COMPETENCE**

<i>Ratione personae:</i>	Yes
<i>Ratione loci:</i>	Yes
<i>Ratione temporis:</i>	Yes
<i>Ratione materiae:</i>	Yes, American Convention (instrument of ratification deposited on July 31, 1973); Inter-American Convention to Prevent and Punish Torture (instrument of ratification deposited on January 19, 1999), Inter-American Convention on Forced Disappearance of Persons (instrument of ratification deposited on April 12, 2005); Belém do Pará Convention (instrument of ratification deposited on November 15, 1996).

**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 3 (juridical personality), 4 (life), 5 (humane treatment), 7 (personal liberty), 8 (due process), 11 (privacy), 17 (rights of the family), 19 (rights of the child), 22 (movement and residence), 25 (judicial protection) and 26 (economic, social and cultural rights), in relation to Article 1.1, of the American Convention; Article I of the ICFDP, Articles 1, 6 and 8 of the ICPPT and Article 7 of the Belém do Pará Convention.

<sup>1</sup> Hereinafter “the Convention” or “the American Convention”.

<sup>2</sup> Hereinafter “ICFDP”.

<sup>3</sup> Hereinafter “ICPPT”.

<sup>4</sup> Hereinafter Belém do Pará Convention .

<sup>5</sup> The observations of each party were duly transmitted to the other party.

Exhaustion or exception to the exhaustion of remedies	Yes, the exception of Article 46.2.c of the American Convention of Human Rights is applicable.
Timeliness of the petition	Yes, in the terms of Section VI

## V. SUMMARY OF ALLEGED FACTS

1. The instant petition refers to Yenny Patricia Galárraga Meses<sup>6</sup> (19 years of age), Nelsy Milena Galárraga Meneses, Mónica Liliana Galárraga Menses (twin sister of 18 years of age) and María Nelly Ramírez Meneses (13 years of age) (hereinafter, “the alleged victims” or “the Meneses-Galárraga sisters”), who on January 1, 2001, at Dorada, Department of Putumayo, were forcefully disappeared and later executed by the paramilitary group South Block of Putumayo, being subjected during their captivity to sexual violence, torture, inhuman and degrading treatments. The petitioners allege that, in the framework of the internal armed conflict, the responsible armed groups acted with the acquiescence of the State, given that the latter was aware of the situation of constant risk to which some local populations were subjected to due to the violent conduct of these illegal groups. The petitioners claim that, after the disappearance of the alleged victims, their family members continued to be harassed by the paramilitary group, in addition to being ticked in the town as the relatives of the guerrilla members’ sisters. For this reason, they were forced to internal displacement on several occasions to protect their lives and personal integrity. The petitioners also allege an unwarranted delay and failures in the investigations that were pursued since, more than 16 years after the facts, only four of the alleged responsible individuals have been punished, without all the material and intellectual authors of the facts denounced in the petition being identified, prosecuted and punished.

2. To provide context, the petitioners point out that the Putumayo Department, which borders Ecuador and Peru, has been a geostrategic area for armed actors, with historical guerrilla presence and, later, paramilitary presence. Since 1997, the paramilitary group “South Block of Putumayo” ventured into *Bajo Putumayo* and took military, political and territorial control over the life of the inhabitants; starting since their arrival with a series of massacres, forced disappearances and summary executions, activities which were notorious and of public knowledge. They point out that, in said historical framework, violence against women and female children was part of the strategies to control the inhabitants of the region, used by the United Self-Defense Forces of Colombia (AUC) in Putumayo. The petitioners state that, in this context, the State of Colombia is responsible either by action or omission in its duty to prevent the violent, systematic and generalized violent conduct undertaken by the paramilitary group South Block of Putumayo throughout the years, because the Colombian Army itself facilitated and provided the logistics for the paramilitary incursion in that area.

3. They explain that, at the end of September 2000, young Yenny Patricia, Nelsy Milena and Mónica Liliana, were forced to displace internally after receiving death threats from members of the South Block of Putumayo after being pointed out for having romantic relationships with boys who sympathized with the guerrilla. The petitioners describe that the displacement of the young women caused a great deal of suffering to the family. For that reason, their mother – Ms. Nieves Meneses – intervened on their behalf and requested authorization for the young women to return to her and their four small children, to which the paramilitary group “consented”. Nevertheless, four months after, the Galárraga Meneses were forcefully disappeared and murdered by said paramilitary block.

4. According to the testimony of the mother of the young women, on January 1, 2001, members of the paramilitary group showed up at the family house and ordered the children of Yenny Patricia (Yenni Alejandra and Luis Brandon, both Revelo Galárraga); Nelsy Milena and her son (Jhon Janer Valencia Galárraga); Mónica Liliana and her son (Brayan Alexander Melo Galárraga); María Nelly Ramírez Menses and Ms. Nieves Meneses to board a white van while having Yenny Patricia ride a motorcycle. The petitioners point out that the van head down the road to a place called “*El Arco*”, located at approximately 3 kilometers from the urban area. In the road there were approximately 30 paramilitary men that forced the mother to step down from the van with the kids, with the former taking the three young women and their 13-year-old child in a van in an unknown direction. Among the men that were present were the commanders under the aliases of “*El alacrán*”, “*El tomate*”, “*Raúl*”, “*Don Fabián*”, “*El blanco*”, “*El mocho*”, “*Vandam*” and “*Betún*”. “*Don Fabián*” threatened Ms.

<sup>6</sup> Also referred as “Jenny Patricia Galárraga Meneses”

Nieves Menses when she demanded to know the destination of her daughters and the reason for them being separated; to which he said that she had to get lost. She was later driven to the town park in a van together with her grandchildren.

5. The petitioners allege that Ms. Meneses, accompanied by her other daughter, Nancy Yanira Galárraga Menses, resorted on January 2, 2001, and in the days and years after that, to several municipal authorities to file a complaint about what had happened but, both the Mayor, the Municipal Prosecutors and the Police Inspector refused to receive the complaint and did not activate mechanism for the urgent search and rescue of the alleged victims. The petitioners hold that, in light of the inaction of the authorities, the family members of the alleged victims came directly to the paramilitary bosses to demand responses about the whereabouts of the four sisters, but in return received strong threats and orders to leave the town, pointing out that the alleged victims had allegedly been murdered and without revealing their location. The petitioners inform that the family members of the alleged victims look incessantly for them, signaling with sticks and plastic bags the possible locations where they might be buried and asking in and around the region about their whereabouts. The petitioners allege that despite the fact that the family made the events and the participants public since the moment of the crime, the case remained paralyzed for 9 years, without any procedure to search for the alleged victims or to clarify the facts and prosecute the authors in the ordinary justice system.

6. The petitioners claim that, due to persistent threats from the South Block of Putumayo paramilitary group to the Meneses-Galárraga family, the mother of the alleged victims -together with their four grandsons and their little child- were forced to abandon the region and displace internally to Sandoná, Nariño. They hold that although Nancy Galárraga continued the search for her disappeared sisters, after receiving a series of telephone threats and attacks on her life and that of her family members, between the months of May and June of 2008, she was forced to move away with her family far from Putumayo.<sup>7</sup> In this context, they claim that the former husband of Nancy Galárraga and father of her first born daughter -Mr. Albeiro Benavides- was also disappeared by paramilitary groups. They inform that, after the displacement of the family and while Nancy Galárraga was visiting her mother, the paramilitary group seized and occupied the residence of Ms. Meneses and her animals, leaving her family (women and children) outdoors.

7. The petitioners explain that, during the year 2006, the Office of the Prosecutor N°50, Puerto Asis Section, Putumayo, approved a resolution of dismissal of the investigation, as it had been unable to identify the authors of the facts; this result in the provisional archiving of the investigation. The petitioners also explain that the family was only made aware of this decision in 2007; and that the judicial file only consists of the complaint of the family and said resolution of dismissal, which evinces the lack of State action in the proceedings.

8. On February 13, 2010, the Justice and Peace Prosecutor N°182 informed the Single Virtual Center of Identification (hereinafter, "SVCI"), created by Lay 975 of 2005, that an exhumation had been carried out in *La Dorada*, Putumayo, in a collective grave with 4 female remains, located in Vereda Nueva Risaralda, Sector Los Mangos. This location was provided by paramilitary men Humberto Sarria Palomares, alias "Chucky" and Leonel Alfredo León Pérez, members of the South Block of Putumayo; which thus confirms the authorship of the crime. They provided the information under the mechanism of "benefits for collaboration" and through it requested to be nominated for the Justice and Peace Law. After the exhumation, the petitioners point out that four undressed female bodies were found in two graves, who only had underwear, accessories and menstrual pads, in poor condition, which were sent to the National Institute of Legal Medicine and Forensic Science

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<sup>7</sup> In August 2009, Nancy Galárraga processed the Registry of Facts Attributable to Illegal Armed Groups, format issued following the Justice and Peace Law for the registration of her sisters as missing victims; and the threats to herself and the forced displacement. According to documentation submitted by the petitioners, in 2008 Nancy Galárraga made the pertinent complaints before the La Dorada Police Inspection, and asked before the National Prosecutor's Office to be included in the system of protection of witnesses and victims of violence; Therefore, on November 24, 2008, she was linked to the Protection Program for Victims and Witnesses of Justice and Peace, of Law 975 of 2005, stipulating the allocation of 3 temporary relocation support and periodic visits of the National Police to her new address. The following year it was decided to refer the case to the Attorney General's Office to implement the final relocation and apply security measures. In view of the consecutive threats, on May 13, 2010, the Nydia Erika Bautista Foundation reported telephone calls made by paramilitary groups and the constant siege suffered by their representatives, through a formal letter addressed to the Office of the Prosecutor 27, Delegate to the District Court. On June 29 of that same year, they were informed that the documentation would be transferred to the Sectional Directorates of Prosecutors of Bogotá and Mocoa, in order to bring it closer to the investigations that may be carried out in this regard, or to start those resulting of the case. On October 8, 2010, the Prosecutor's Office for Crimes Against Public Administration issued a subpoena to conduct interviews within the process that the Sectional Prosecutor's Office 202 advanced for the punishable threats to witnesses, according to the urgent complaint made by the parties

(hereinafter, "NILMFS") for identification. On May 18, 2010, the NILMFS verbally transmitted the results of the forensic and DNA identification analysis, which positively identified the victims as the Meneses-Galárraga sisters. The deaths were characterized as (violent) homicides with blunt and sharp weapons, with a pattern of quartering and dismemberment in the cases of Yenny Patricia, Nelsy Milena and María Nelly; and probably with a blunt element or firearm projectile in the case of Mónica Liliana. In addition, it was concluded that the underwear of the four sisters showed irregular tears, which allows to infer that nudity was forced and for that reason, it is not possible to dismiss the possibility of penetration of other sexual maneuvers. The petitioners point out that on June 28, 2010, the Justice and Peace Prosecutor N° 27 verbally informed the mother of the alleged victims and the Nydia Erika Bautista foundation that, in his testimony, alias "Chucky" said that the paramilitary boss, alias "Alacrán", gave the order to disappear the young women and that it was commander "Raúl" who delivered them to him through a lieutenant. According to this testimony, the paramilitary kept the young women alive for 24 hours and, at 8:00pm on the following day, alias "Alacrán" gave the order to murder them, delivering to the second in command of the paramilitary structure, alias "Cobra". Until September of 2010, this information was not included in the file and the petitioners claim if it was judicialized or remained an informal conversation between demobilized paramilitary and a prosecutor.

9. On July 8, 2010, the Justice and Peace Unit delivered the remains of the alleged victims to the family. Petitioners claim that this was a quasi-administrative proceeding, as it did not entail judicial consequences despite the confirmation of the serious offenses that had been committed, and without any judicial actions being promoted, such as arrest warrants for those who ordered and executed the facts.

10. On September of 2011, Nancy Galárraga appeared before Office of the Prosecutor N°27, attached to the Justice and Peace Unit, to once again file a complaint over the facts. According to the petitioners, the Office of the Prosecutor N°50, La Hormiga-Putumayo section, did not fulfill its duty to investigate seriously and with due diligence what had happened to the Meneses-Galárraga sisters, and did not carry out judicial inspections or gather police reports. The petitioners allege that, replying to their requests and to the elements of proof, names and identification of the authors of the crimes that they submitted, the Office of the Prosecutor N°50, La Hormiga section, informed through Note No. 079 dated February 23, 2011, that it did not have personnel, equipment, transportation or security to conduct this type of investigations.

11. On July 7, 2012, the family members of the alleged victims filed an administrative litigation appeal before the Single Administrative Court of Mocoa, seeking direct reparation against the Office of the Attorney General of the Nation, the Municipality and the Ministry of Defense - Army of Colombia. The petitioners report that the appeal has still not been decided.

12. For its part, the State considers that this petition must be declared inadmissible in light of the fact that domestic remedies have not been exhausted; in addition to considering that the petition does not report facts that constitute human rights violations that are attributable to the State. It alleges that that the petition introduces facts that were already heard by domestic judicial bodies and, for that reason, it considers that if the Commission heard this petition it would be acting as an appeals tribunal, which would configure the international fourth instance formula. In relation to the judicial proceedings that were initiated, the State points out that, at the beginning of 2010, the National Human Rights and International Humanitarian Law Unit of the Office of the Attorney General of the Nation promoted a criminal inquiry for the crimes of aggravated forced disappearance, aggravated homicide, aggravated conspiracy, terrorism, kidnapping, aggravated violent sexual acts and forced displacement, for the facts that took place on January 1, 2001, at La Dorada, Putumayo. In February of that same year an exhumation procedure was performed, in which the bodies of the four sisters were recovered. The remains were handed over to the family on July 8, 2010.

13. The State expresses that, in August 2010, the 50th Sectional Prosecutor's Office of La Hormiga, Putumayo, opened an investigation into the facts, in order to establish the criminal responsibility of its perpetrators and participants; and a civil action lawsuit was also admitted. The facts investigated in the criminal stage were typified as aggravated forced disappearance, aggravated homicide, aggravated conspiracy to commit a crime, terrorism, simple kidnapping, aggravated violent sexual act and forced displacement. It adds that, during 2014 and 2015, the process continued to be promoted; linking in it to new possible responsible participants and appointing a special agent of the Public Ministry to follow the investigation. Within the framework of the criminal proceedings carried out by the Specialized Directorate of Human Rights of the Office

of the Attorney General, the State makes reference to different resolutions of evidence, testimonies, inspections and judicial police reports, indicating that the ordinary justice was diligent in driving the investigation.

14. In this regard, the State indicates that it has fulfilled its duty to investigate, since convictions have been handed down between 2017 and 2018 against four former members of the illegal self-defense groups – South Block of Putumayo- as a result of their participation in the facts.<sup>8</sup> In addition, it argues that the petition does not contain events attributable to the State, since the facts were committed by members of the Putumayo South Bloc, illegal self-defense groups operating outside the margins of the State. Therefore, there are no elements that configure forced disappearance as an international crime attributable to the Colombian State, since it has not been carried out by state agents or with their acquiescence, an essential requirement to consider forced disappearance as a violation of the Inter-American Human Rights System. Finally, the State alleges lack of exhaustion of the domestic remedies in the reparation process, given that it is still in the process of resolution.

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

15. The petitioner maintains that even after having made complaints about the crimes against the Meneses-Galárraga sisters and the threats, forced displacement and request for reparation of their relatives before different state authorities, and promoted different criminal, civil and administrative actions, impunity and an unjustified delay of justice persists. They affirm that there is sufficient documented evidence of the responsibility of the Colombian State regarding the emergence and support of the paramilitary groups and their inaction when the facts were reported. For its part, the State alleges that the remedies were not exhausted, since the contentious administrative process is ongoing and considering of the complexity of the case, they affirm there is no unjustified delay in the criminal investigations. The State also refers that the petitioners do not present facts that would configure the forced disappearance as an international crime attributable to the Colombian State, and therefore do not characterize a violation of the American Convention.

16. The Commission notes that, as of October 29, 2010, the date on which this petition was filed, there were no convictions or conducive investigations. It also notes that the sentences handed down by the Colombian State were made between 2017 and 2018; that is, 16 years after the events occurred; judicial proceedings and investigations that clarify the facts and establish responsibility of all material and intellectual authors are still pending. Therefore, given the characteristics of the petition and the time elapsed since the events covered by the complaint, the Commission considers that the exception provided for in Article 46.2.c of the Convention is applicable. The Commission also considers that the petition was presented within a reasonable period of time and that the admissibility requirement regarding the submission period is satisfied.

17. On the other hand, the IACHR recalls that, in order to determine the admissibility of a claim of a nature such as the present one, the reparation action is not an adequate route and, hence, its exhaustion is not necessary, since it is not an adequate route to provide an integral reparation that includes clarification and justice for family members.<sup>9</sup>

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<sup>8</sup> On February 20, 2017, an Advanced Judgment was issued by the Single Criminal Court of the Circuit of Puerto Asís, Putumayo, against Albej Francisco Hoyos Pitalua, aka "Blanco" or "El Político", and Diego Hernán Guerra Vásquez, aka "Cocoliso". The ruling condemns Diego Hernán Guerra Vásquez, as the author of the aggravated conspiracy to commit a crime, in the form of the assembly of illegal armed groups, to 45 months in prison and a fine of 3,250 Current Legal Minimum Minimum Wages (hereinafter: "SMMLV"). The ruling also condemns Albej Francisco Hoyos Pitalua, as co-author of the punishable conduct composed of the crimes of aggravated forced disappearance, aggravated homicide in a crime spree, aggravated conspiracy to commit a crime, aggravated simple kidnapping and forced displacement, with a penalty of 240 months in prison and fine of 1,686 SMMLV. Finally, he is condemned to the payment for compensation of 250 S.M.M.L.V. to those who have the right to inherit the extinct Menesian sisters. The aforementioned judgment was executed on July 14, 2017. Likewise, on January 12, 2018, a conviction was issued by the Single Criminal Court of the Specialized Circuit of Mocoa (Putumayo), against José Humberto Sarria Palomares, alias "Chuky". Through said ruling, he was held liable for the crimes of aggravated homicide, aggravated kidnapping, forced disappearance, forced displacement and aggravated conspiracy to commit a crime, and is sentenced to 20 years in prison and a fine of 4,555 S.M.M.L.V. The sentence was executed on February 14, 2018. On February 23, 2018, a conviction was issued by the Single Criminal Court of the Specialized Circuit of Mocoa (Putumayo) against Jorge Luis Altamar Rodríguez aka "cobra", for the crimes of aggravated homicide, aggravated kidnapping, forced disappearance, aggravated forced displacement and conspiracy to commit a crime. The ruling imposes the sentence of 480 months in prison and a fine of 13,137 S.M.M.L.V.

<sup>9</sup> IACHR, Report N. 72/16. Petition 694-06. Admissibility. Onofre Antonio de La Hoz Montero and family. Colombia. December 6, 2016, par. 32.

## VII. ANALYSIS OF COLOURABLE CLAIM

18. In view of the factual and legal elements set forth by the parties and the nature of the matter that brought to their attention, the Commission considers that the present petition is not manifestly unfounded or inadmissible and requires a study of merits, because if proven, the alleged forced disappearance, extrajudicial executions of the alleged victims committed by paramilitary groups operating in the region and with the alleged knowledge of state authorities, the alleged lack of state protection against threats to their families, lack of judicial protection and lack of reparation to the family members, as well as internal displacement, whose multiple, complex and continuous nature would have caused direct effects among others on the right to housing and uprooting in social and cultural terms, could amount to possible violations of the rights protected in Articles 3 (right to juridical personality), 4 (life), 5 (personal integrity), 7 (personal liberty), 8 (fair trial), 11 (privacy), 17 (rights of the family), 22 (freedom of movement and residence), and 25 (judicial protection) and 26 (economic rights, social and cultural), in relation to Article 1.1 of the American Convention, as well as Article I of the Inter-American Convention on Forced Disappearance of Persons, and Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture. Likewise, the IACHR considers that the allegations concerning the alleged sexual violation of the Galarraga-Meneses sisters may constitute a violation of Article 7 of the Belém do Pará Convention. On the other hand, given that María Nelly Ramírez Meneses was allegedly 13 years old at the time of the events, a violation of Article 19 (rights of the child) of the American Convention could also be characterized.

19. Regarding the claim on the alleged violation of Article 18 (right to a name) of the American Convention, the Commission observes that the petitioners have not offered allegations or sufficient support to consider its possible *prima facie* violation.

20. With respect to the State's allegations regarding the fourth instance formula, the Commission reiterates that within the framework of its mandate it is competent to declare a petition and to rule on the merits when it refers to internal processes that could be violations of rights guaranteed by the American Convention.

## VIII. DECISIÓN

1. To find the instant petition admissible in relation to Articles 3, 4, 5, 7, 8, 11, 17, 19, 22, 25 and 26 of the American Convention on Human Rights in accordance with its Article 1.1; as well as Article I of the Inter-American Convention on Forced Disappearance of Persons, and Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture;

2. To find admissible the instant petition in relation to the alleged violations of Article 7 of the Belém do Pará Convention;

3. To declare inadmissible the instant petition in relation to Article 18 of the American Convention;

4. To notify the parties of the decision; to continue with the analysis on the merits and to publish this decision and to 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 25<sup>th</sup> day of the month of March, 2020. (Signed): Joel Hernández, President; Antonia Urrrejola, First Vice President; Flávia Piovesan, Second Vice President; Esmeralda E. Arosemena Bernal de Troitiño, Margarette May Macaulay, Julissa Mantilla Falcón, and Stuardo Ralón Orellana, Commissioners.