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REPORT No. 222/20
PETITION 821-10
REPORT ON ADMISSIBILITY

OSCAR DARIO SANCHEZ MENDEZ AND OTHERS
COLOMBIA

Approved electronically by the Commission on August 11, 2020.

Cite as: IACHR, Report No. 222/20, Petition 821-10. Admissibility. Oscar Dario Sanchez Mendez and others. Colombia. August 11, 2020.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Identity withheld
Alleged victim:	Oscar Dario Sanchez Mendez and 29 other persons ¹ , along with their families ²
Respondent State:	Colombia
Rights invoked:	Articles 4 (life), 5 (humane treatment), 7 (personal liberty), 8 (fair trial), 19 (rights of the child) and 25 (judicial protection) of the American Convention on Human Rights ³ , in connection with article 1.1 thereof (obligation to respect rights)

II. PROCEEDINGS BEFORE THE IACHR⁴

Filing of the petition:	June 2, 2010
Notification of the petition to the State:	April 21, 2016
State's first response:	November 8, 2018

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 (instrument of ratification deposited on July 31, 1973); and Inter-American Convention on Forced Disappearance of Persons (instrument of ratification deposited on April 12, 2005)

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 (fair trial) and 25 (judicial protection) of the American Convention, in relation to Article 1.1 (obligation to respect rights) thereof; and Article I of the Inter-American Convention on Forced Disappearance of Persons
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, the exception of article 46.2.c) of the American Convention is applicable
Timeliness of the petition:	Yes, in the terms of section VI

¹ The petition identifies the following persons, all of whom disappeared in the municipality of Tierralta (Cordoba) between 1981 and 2004: (1) Oscar Dario Sanchez Mendez, (2) Rafael Antonio Gutierrez Beltran, (3) Jairo Manuel Barrera Gandia, (4) Medardo Enrique Arrieta Corcho, (5) Silfredo Antonio Posso Bravo, (6) Oscar Dario Herrera Casas, (7) Sixta Tulia Echavarria Contreras, (8) Manuel Maria Pineda Ramos, (9) Manuel Enrique Vuelvas Castillo, (10) Orleys de Jesus Graciano Fernandez, (11) Omar de Jesus Matias Yanez, (12) Gil Esteban Vega Mercado, (13) Gabriel Monroy Flores, (14) Daniel Sabino Castillo Gaviria, (15) Elsy del Carmen Sandoval Casarrubia, (16) Argimiro Manuel Cogollo Santos, (17) Edrey Jose Correa Ocampo, (18) Gustavo Enrique Macias Macias, (19) Gustavo Enrique Macias Furnieles, (20) Jose Reinaldo Espinosa Caiaffa, (21) Haroll Valencia Sierra, (22) Jose Anibal Morales Herrera, (23) Francisco Tulio Sanchez Tangarife, (24) Jose Guillermo David Jaramillo, (25) Carlos Alfonso Bello Rojas, (26) Hector Julio Suarez Hernandez, (27) Jose Miguel Argumedo Casarrubia, (28) Juan Nicanor Marmolejo Marquez, (29) Alejandro Marmolejo Marquez, and (30) Luis Fernando Contreras Morales.

² For each of the 30 disappeared persons, petitioners provide information about the members of the respective family group, including parents, spouses, partners, siblings and children, for a total of 127 persons.

³ Hereinafter "the American Convention".

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

V. ALLEGED FACTS

1. The petitioner claims the international responsibility of the Colombian state for the forced disappearance of thirty persons in the municipality of Tierralta (Córdoba) between 1981 and 2004, in several places and circumstances, and at the hands of different private armed actors. The petition argues with regard to all of them, in general terms, that they worked in agricultural activities, that they were apparently retained and disappeared by members of the paramilitary group United Self-Defense Forces of Colombia (*Autodefensas Unidas de Colombia* - AUC), and that their disappearances were perpetrated with the State's acquiescence, collaboration or connivance. However, the petition presents no elements of information on the reasons for which the State allegedly acted as an accomplice, propitiator or enabler of any of the disappearances; the only information provided on this matter, regarding all of the disappeared people, is the following:

The facts took place between the years 1981 and 2004, in an act that is typical of private justice at the hands of the 'paramilitary' groups that operated in the area, facts that were perpetrated with the acquiescence, and impunity on the part of the Colombian state, all of them peasants of the region of the Tierralta municipality, Cordoba department (...).

The aforementioned facts took place in the jurisdiction of the municipality of Tierralta, department of Córdoba, Republic of Colombia, the aforementioned persons, who worked in agricultural activities, were subjected to detention and forced disappearance, by illegal groups, presumably paramilitaries belonging to the United Self-Defense Forces of Colombia (AUC), who apparently acted with the assent of the authorities, according to the versions and the claims made by the relatives of the victims and corroborated by the other claimants, according to the facts reported in the corresponding claims filed before the different state organisms, copies of which are attached hereto.

According to our clients' versions, some of the relatives of the aforementioned victims have been subjected to forced displacement by illegal groups, which motivated them, once the generalized state of fear was mitigated, to file criminal complaints for the facts occurred before the respective Prosecutorial offices, with no positive results as of this date.

As for the reported facts, days or weeks before each one it was always rumored that attacks such as these were going to happen, and in the neighborhoods, shires, roads, as well as in public places, the community would say and know that these crimes were going to happen, homicides, disappearances, forced displacements, and attacks on people's property, all of which was known by State authorities, among them the police, army, mayors and other public servants, and State agents were indifferent or failed to provide aid or to request it in order to prevent the occurrence of these crimes. All of the officials of these aforementioned entities would find out about these rumors, or sometimes several of them, there was always some public official who was informed about these acts before and after they happened.

2. Next, the petitioner indicates the place and date of disappearance of each one of the victims - without providing specific information on each case-, and requests the IACHR to examine by itself the copies of the corresponding criminal complaints provided along with the petition in order to complete the factual panorama of the case. The information provided by the petitioner is described in the following table, made by the IACHR after a detailed examination of the casefile:

Name of the victim of disappearance	Place and date of the disappearance, as reported by the petitioner	Date and of the criminal complaint and authority who received it	Alleged perpetrator according to the criminal complaint	Did the petitioner provide a copy of the criminal report, or other evidence of State responsibility for action or omission?
Oscar Dario Sanchez Mendez	January 24, 2004, Tierralta-Urra road	June 14, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta.	Unknown - possibly AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Rafael Gutierrez Beltran	February 6, 1998, La Sierpe ward - Batatas shire (Tierralta)	August 17, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility.

		Valencia and Tierralta.		No additional evidence was provided.
Jairo Manuel Barrera Gandia	March 17, 1999, Alto Juy – Palmira shire (Tierralta)	June 6, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta.	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. There is a certificate issued by the Tierralta Municipal Ombudsman’s Office on February 5, 2008, stating that Mr. Barrera Gandia was the victim of forced disappearance “for ideological and political motives, in the framework of the internal armed conflict”. No additional evidence was provided.
Medardo Arrieta Corcho	March 23, 1995, Patagonia farm – Callejas shire (Tierralta)	March 25, 1995, before Prosecutor 18 – Immediate Reaction Unit	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Silfredo Posso Bravo	July 5, 2003, El Venado shire (Tierralta)	June 21, 2006, before Delegate Prosecutor 22 – Tierralta Local Unit	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Oscar Dario Herrera Casas	May 22, 1996, Batata ward (Tierralta)	September 7, 2006, before the Tierralta Central Police Inspectorate	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Sixta Echeverria Contreras	February 19, 1987, Murmullo Medio ward – Batata (Tierralta)	September 8, 2006, before Delegate Prosecutor 22 – Tierralta Local Unit	Unknown, possibly AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Manuel Pineda Ramos	February 28, 1997, La Florida farm – El Venado Ward, Batata shire (Tierralta)	June 9, 2006, before Delegate Prosecutor 22 – Tierralta Local Unit	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Manuel Buelvas Castillo	November 11, 1994, Volador shire (Tierralta)	July 4, 2006, before Delegate Prosecutor 22 – Tierralta Local Unit	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.

Orley Graciano Fernandez	April 26, 2004, La Mina ward (Tierralta)	August 31, 2006, before the Tierralta Central Police Inspectorate	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Omar Matias Yanez	November 18, 1996, Las Delicias resettlement (Tierralta)	September 18, 2006, before Delegate Prosecutor 22 – Tierralta Local Unit	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Gil Esteban Vega Mercado	May 27, 1998, Macarena farm, Tierralta-Monteria road	September 4, 2006, before the Tierralta Central Police Inspectorate	Unknown, possibly AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Gabriel Monroy Florez	March 18, 1997, Tierralta municipality	August 31, 2006, Tierralta Central Police Inspectorate	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Daniel Sabino Castillo Gaviria	September 27, 1999, Las Pailas ward	June 20, 2006, before Delegate Prosecutor 22 – Tierralta Local Unit	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. There is a certificate issued by the Tierralta Municipal Ombudsman's Office on April 17, 2008, stating that Mr. Castillo was the victim of forced disappearance "for ideological and political motives, in the framework of the internal armed conflict". No additional evidence was provided.
Elsy Sandoval Casarrubia	September 20, 2000, Florez ward (Tierralta)	August 17, 2006, before Delegate Prosecutor 22 – Tierralta Local Unit	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Argemiro Cogollo Santos	January 22, 2000, El Toro ward (Tierralta)	June 13, 2000, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.

Edrey Jose Correa Ocampo	June 23, 2003, Mieles ward – Batata (Tierralta)	June 21, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. There is a certificate issued by the Tierralta Municipal Ombudsman’s Office on March 25, 2008, stating that Mr. Correa was the victim of forced disappearance “for ideological and political motives, in the framework of the internal armed conflict”. No additional evidence was provided.
Gustavo Macias Macias	July 16, 2001, Nuevo Tay ward (Tierralta)	June 5, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	Unknown, possibly paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. There is a certificate issued by the Tierralta Municipal Ombudsman’s Office on February 22, 2008, stating that Mr. Macias was the victim of forced disappearance “for ideological and political motives, in the framework of the internal armed conflict”. No additional evidence was provided.
Gustavo Macias Furnieles	July 16, 2001, Nuevo Tay ward (Tierralta)	June 5, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	Unknown, possibly paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Jose Espinosa Caiaffa	August 31, 1989, Chapinero stream bridge, Tierralta-Urra road	July 12, 2007, before the Tierralta Local Prosecutor	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Harold Valencia Sierra	January 2, 2004, Tierralta municipality	June 8, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. There is a certificate issued by the Tierralta Municipal Ombudsman’s Office on January 14, 2008, stating that Mr. Valencia was the victim of forced disappearance “for ideological and political motives, in the framework of the internal armed conflict”.

				No additional evidence was provided.
Jose Anibal Morales Herrera	March 14, 2004, Frasquillo shire (Tierralta)	June 13, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Francisco Sanchez Tangarife	April 5, 1996, El Molino ice cream shop – Tierralta municipality	September 28, 2006, before the Tierralta Central Police Inspectorate	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Jose Guillermo David Jaramillo	March 19, 1999, El Diamante ward – Palmira shire (Tierralta)	June 6, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Carlos Alfonso Bello Rojas	March 7, 2001, Frasquillo ward (Tierralta)	August 17, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	Unknown, possibly AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Hector Suarez Hernandez	October 20, 1998, Toloba region – El Diamante shire (Tierralta)	June 29, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	Unknown, possibly AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Jose Argumedo Casarrubia	May 10, 2001, Hawasli farm (Tierralta)	October 17, 2006, before the Tierralta Central Police Inspectorate	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Juan Nicanor Marmolejo Marquez	February 11, 1996, Santa Marta ward (Tierralta)	June 5, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
Alejandro Marmolejo Marquez	August 27, 1996, Santa Marta ward (Tierralta)	June 5, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	AUC paramilitaries	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.

Luis Contreras Morales	February 27, 1998, Callejas-Valencia road (Tierralta)	June 12, 2006, before Delegate Prosecutor 22 acting before the Municipal Judges of Valencia and Tierralta	Unknown	Yes, a copy of the criminal complaint was provided. The complaint makes no accusations of State participation or responsibility. No additional evidence was provided.
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As for those responsible for these crimes, the petitioner holds in general terms that “*according to the accounts of the facts made by the petitioners and recorded in their complaints and corroborated by their families and the witnesses of the violations, they were committed by members of the Self-Defense Forces AUC or group of paramilitaries who operated in the area with the assent and acquiescence of the Colombian State*”. However, beyond this generic statement no further elements are provided.

3. The petitioner informs that he requested an extrajudicial settlement with the Interior and Justice Ministry in December 2009, before the Judicial General Attorney II No. 33 of Montería (Córdoba), by virtue of the above-listed disappearances and for the purpose of obtaining a recognition of responsibility by the State. However, that Ministry expressed its unwillingness to settle due to a lack of *locus standi* as a respondent –since the deaths had been caused by third parties, not State agents–, and thus a non-settlement record was signed on December 14, 2009, a copy of which is attached to the petition.

4. Regarding the criminal investigations, the petitioner holds that the victims’ relatives had to wait for the paramilitary groups that operated in the region to demobilize under Law 975 of 2005 before filing the corresponding criminal complaints, given the climate of terror prevailing in the region. And although the criminal complaints were effectively presented –the large majority of them in 2006–, the petitioner states in general terms that they have not produced results, since it has not been established who was responsible for each death, nor has anyone been convicted for the crimes. The petitioner does not provide specific information about any of these criminal investigations, other than providing copies of the complaints. The petitioner also reports that the relatives of the victims refrained from filing compensation lawsuits before the administrative jurisdiction due to the generalized fear that prevailed in Córdoba until the demobilization of the paramilitary groups.

5. The petitioner also announces that he is willing to provide copies of press articles and notes which, he says, “*record public and evident facts related to the reported cases since they took place in an armed conflict area that is nationally and internationally known as such*”. He considers that the disappearances referred to in the petition are all well-known facts that entail State responsibility by tolerance or omission, and that they require no additional evidence for they are known by the public.

6. In the same line, the petitioner requests that several reports by UN rapporteurs and agencies about the Colombian armed conflict be incorporated into the casefile, as well as the Inter-American Court on Human Rights’ judgment in the case of the Pueblo Bello massacre, and a series of domestic legal and regulatory provisions. The petitioner does not explain what the evidentiary usefulness of such elements would be for his petition, merely enunciating them.

7. The State, in its response, holds that the petition must be declared inadmissible; and also requests that it be divided into separate procedures that deal with different victims, since the State would otherwise deem itself to be in a situation of defenselessness.

8. The State claims that the petition does not provide evidentiary elements on either the AUC paramilitaries’ responsibility for the disappearances, or on any alleged State connivance or complicity which would make it responsible for them. The State emphasizes that even though the petitioner has announced several press articles which allegedly recorded such events as publicly-known facts, no news clips or reports whatsoever were attached to the petition. It considers that the petitioners’ statements and accusations are not supported by even minimal evidence. Likewise, the State claims that the statements contained in the petition

about the terror that prevailed in the region, which allegedly precluded a timely presentation of the criminal complaints, are formulated in an abstract manner, and are not related to any specific facts; and it notes that in some cases the disappearances were reported on the same day that they happened, or within the space of a few months.

9. As for the need to divide the petition into separate proceedings, the State holds that the different disappearances included therein do not have, with regard to each other, the minimum necessary connection required for them to be accumulated in a single claim before the IACHR; for which reason their joint processing would, in its opinion, breach the principles of legal certainty and procedural balance, to the detriment of the State. The State considers that although the stated facts may have some type of spatial relationship, there is no other common element between them, not even in terms of their timing or of the alleged perpetrators; for which reason their joint processing would entail impinging upon the defense of the Colombian State in these proceedings.

10. In general terms, the State argues that the petition must be declared inadmissible for lack of characterization of human rights violations in the sense of Article 47 of the American Convention, insofar as the minimum argumentative and evidentiary charge of justifying the serious accusations made against Colombia has not been met by the petitioner, for which reason the petition is, in its opinion, manifestly unfounded.

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

11. The Inter-American Commission has repeatedly established that in cases where the forced disappearance of persons is claimed, the suitable domestic remedy to be exhausted is the initiation of criminal judicial proceedings by means of a criminal complaint, in order for the authorities to carry out, in a diligent and ex officio manner, the corresponding investigations, to prosecute and punish those responsible, to identify the whereabouts of the disappeared persons, and to provide full reparations to the surviving victims.⁵ This investigative charge is to be assumed by the State as a legal duty of its own, and not as the management of private interests or one that depends on private initiative or on their provision of evidence by the victims⁶.

12. In this sense, the petitioner argues that the corresponding criminal complaint was filed for each one of those cases, and that the respective investigation was initiated, with no significant progress or developments as of the date of filing of the petition. The State, for its part, does not question the exhaustion or domestic remedies, nor does it provide any information about the current status of those 30 criminal investigations or proceedings. Therefore, the Commission considers that for each one of these disappearances, suitable domestic remedies were initiated; to this date, it has not been reported that any of these remedies has been exhausted, or advanced to any extent. For this reason, given that in most of the cases nearly fourteen years have gone by with no significant developments reported in the corresponding criminal investigations, and with no determination of those responsible for those 30 forced disappearances, the IACHR considers that the exception of unjustified delay in the decision of the domestic remedies, established in article 46.2.c) of the American Convention, is applicable.

13. On the other hand, the State has challenged the timeliness of the presentation of the criminal complaints for most of the thirty cases, given that between the moment of the disappearances and the time of the filing of the corresponding criminal complaints, periods of several years went by, in some cases of over two decades in length. In spite of this, the petitioner has provided a plausible explanation for the delay in the presentation of these claims, namely, the terror that prevailed among the civilian population of Tierralta during the most active stage of the armed conflict in that region, which prevented the families of those murdered from reporting what had happened. A fear which allegedly ceased or diminished when the paramilitary groups who operated there demobilized under Law 975 of 2005. The IACHR notes in this regard that the great majority of

⁵ IACHR, Report No. 78/16, Petition 1170-09. Admissibility. Almir Muniz Da Silva. Brasil. December 30, 2016, par. 31; Report No. 161/17. Admissibility. Andy Williams Garces Suarez and family. Peru. November 30, 2017, par. 12.

⁶ IACHR, Report No. 159/17, Petition 712-08. Admissibility. Sebastián Larroza Velázquez and family. Paraguay. November 30, 2017, par. 14.

the criminal complaints for these individual cases was filed during the year 2006, which coincides with the date at which the demobilization process was undertaken by these illegal armed groups in Colombia. In this sense, it is not unreasonable, and has been sufficiently explained, that such long periods of time elapsed between the facts and their reporting to the authorities. Considering the above, as well as the fact that the criminal complaints were filed mainly in the year 2006, and that the petition was received at the Executive Secretariat of the IACHR on June 2, 2010, the Commission concludes that it was filed within a reasonable period of time, in light of Article 32.2 of the Rules of Procedure.

VII. ANALYSIS OF COLORABLE CLAIM

14. The petitioner has presented to the IACHR 30 cases of forced disappearances which have, as a common denominator, the fact of having occurred somewhere in the municipality of Tierralta during the decades in which the armed conflict ravished that region of the country. The petitioner does not explain why said disappearances -whose material perpetration he attributes to paramilitary groups, guerrillas, or unknown actors- may have taken place with the assent, acquiescence or participation of State agents;⁷ he simply describes these events as “public and notorious”, and thus exempted, in his view, from having to be proven. The petitioner has also argued that the State’s responsibility for its assent to the disappearances shall be evinced by the claims and testimonies made by the victims in their corresponding criminal complaints. However, a careful reading of each one of said criminal complaints by the IACHR has confirmed that there is no indication whatsoever in them of State responsibility in any of these disappearances, nor did the complainants attribute the crimes, by action or omission, to the State.

15. Notwithstanding the above, the IACHR notes that in all of the cases described in the petition, it was claimed before the criminal justice authorities that the disappearances had been caused by unknown persons, in some cases apparently associated to the paramilitary or guerrilla groups that operated in the region of Tierralta, or in other cases without any information about the private armed group that may have committed the crime, but with a description of individuals wearing uniforms or bearing weapons who had taken the victim with them. What comes into focus, for the IACHR, is that in every one of these events the victims were civilians -non-combatants- and they were unprotected on the face of the threat and danger of the violent groups that were active in the Tierralta region in the framework of the armed conflict. In this line, the IACHR has pointed out in its annual and country reports that the Department of Cordoba has been one of the most hardly hit by armed violence in Colombia, with high levels of victimization of the non-combatant civilian population,⁸ a characterization which is directly relevant for the assessment of the facts described in the instant petition.

16. In view of the above considerations, and after an examination of the information provided by the parties, the Commission notes that, indeed, nearly 14 years have gone by between the presentation of most of the criminal complaints in 2006 and the date of adoption of the present report, without the State having reported any advancements in these criminal proceedings, in a duly proven context of violence in the region. Therefore, without advancing any conclusions on the merits of the present petition, the Commission considers *prima facie* that the facts related to an alleged lack of investigation and punishment of the reported events may characterize violations of Articles 3 (juridical personality), 4 (right to life), 5 (personal integrity), 7 (personal liberty), 8 (due process) and 25 (judicial protection) of the American Convention, in relation to Article 1.1 (obligation to respect rights) thereof; as well as of Article I of the Inter-American Convention on Forced Disappearance of Persons.

⁷ With regard to the minimum evidentiary and argumentative support required of the petitioners’ allegations in order to declare a claim admissible, see among others: IACHR, Report No. 76/19. Admissibility. Hugo Eduardo Ibarbuden. Argentina. May 21, 2019, par. 9; Report No. 70/19. Petition 858-09. Admissibility. Luiz José da Cunha “Crioulo” and family. Brazil. May 5, 2019, par. 14; Report No. 164/17. Admissibility. Santiago Adolfo Villegas Delgado. Venezuela. November 30, 2017, par. 14; Report No. 57/17. Petition 406-04. Admissibility. Washington David Espino Muñoz. Dominican Republic. June 5, 2017, par. 36; Report No. 149/17. Admissibility. Samuel Walter Romero Aparco. Peru. October 26, 2017, par. 14.

⁸ See, *inter alia*: (1) IACHR, Third Report on the Situation of Human Rights in Colombia, 1999, Chapter I - par. 45; Chapter IV - par. 61; (2) IACHR, 1996 Annual Report, Chapter V - Colombia, par. 73; (3) IACHR, 1999 Annual Report, Chapter V - Colombia, pars. 82, 146; (4) IACHR, 2002 Annual Report, Chapter IV - Colombia, pars. 35, 36; (5) IACHR, 2004 Annual Report, Chapter IV - Colombia, pars. 12, 16, 17; (6) IACHR, 2005 Annual Report, Chapter IV - Colombia, Footnote No. 7; (7) IACHR, 2007 Annual Report, Chapter IV - Colombia, pars. 29, 37, 59; (8) IACHR, 2008 Annual Report, Chapter IV - Colombia, pars. 19, 20, 22, 23, 42, 93; (9) IACHR, 2009 Annual Report, Chapter IV - Colombia, pars. 56, 68, 158; (10) IACHR, 2010 Annual Report, Chapter IV - Colombia, pars. 36, 52, 106, 228, 236.

17. Finally, as for the State's request to divide the petition, the Commission recalls that according to Article 29.4 of its Rules of Procedure, the IACHR may divide a petition if it "*sets forth distinct facts, or if it refers to more than one person or to alleged violations not interconnected in time and place*". The interpretation of this article does not require that the facts, the victims or the violations presented in a petition strictly coincide in time and place in order for them to be processed as a single case.⁹ The Commission has processed individual cases related to numerous alleged victims who claim violations that occurred in different moments and places, but which allegedly had one same source, such as the application of legal provisions or the existence of one single scheme or practice, or in which there were similarities between the alleged facts. Even though the petitioner has not argued in detail why there may be a link between the 30 disappearances, the IACHR notes that they all took place in one same municipality (Tierralta), which is located in a region that was particularly affected by the violence of the armed conflict, and *prima facie* in the absence of any measures of protection by the State to safeguard the rights of the civilian population. Therefore, there exists a possible connection between the 30 reported cases, which must be studied at the merits stage of the present case, and which makes the division of the petition impertinent.

VIII. DECISION

1. To find the instant petition admissible in relation to Articles 3, 4, 5, 7, 8 and 25 of the American Convention, in connection with Article 1.1 thereof; and to Article I of the Inter-American Convention on Forced Disappearance of Persons; and

2. To notify the parties of this decision; to continue with the analysis on the merits of the matter; 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 11th day of the month of August, 2020. (Signed): Joel Hernández, President; Antonia Urrejola, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay, Esmeralda E. Arosemena Bernal de Troitiño, and Stuardo Ralón Orellana, Commissioners.

⁹ IACHR, Report N°5/97. Admissibility. Petition 11.227, Unión Patriótica Nacional, Colombia, March 12, 1997, pars. 39- 42; Report N°61/16, Petition 12.325. Admissibility. Comunidad de Paz San José de Apartadó. Colombia. December 6, 2016; Report No. 113/17. Petition 1141-07. Admissibility. Alfredo Manuel Martínez Meza and others. Colombia. September 7, 2017, par. 3.