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Decided by: Chairman: Helio Bicudo;  
First Vice-Chairman: Claudio Grossman;  
Second Vice-Chairman: Juan E. Mendez;  
Commissioners: Marta Altolaguirre, Robert K. Goldman, Peter Laurie, Julio Prado Vallejo  
Dated: 13 April 2000  
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## I. SUMMARY

1. On May 4, 1992,[FN1] the Inter-American Commission on Human Rights (hereinafter "the Commission") received a petition from the Colectivo de Abogados José Alvear Restrepo (hereinafter "the petitioners") against the Republic of Colombia (hereinafter "the State," "the Colombian State," or "Colombia"), alleging the extrajudicial executions of Alfonso Chilito, José Belisario Dorado Muñoz, Saúl Espinosa, Pastora García, Wilson Gil Velásquez, Hoibar Gómez Mamian, Rubén Darío Joaquín Narváez, Santiago Lasso Bolaños, Adriana López, Hernán Mamian Moreno, Leoncio Mellizo Angulo, Libardo Nieves Dorado, Yenny Prieto Rengifo, Hernando Rosero, Adán Ruano Daza, Alejandro Salazar Paz, and Henry Suárez Villa (hereinafter "the victims") by members of the national army on April 7, 1991, in Los Uvos township, in the department of Cauca.

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[FN1] The original petition was received during the on-site visit to Colombia on May 4–8, 1992.  
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2. The petitioners allege that the State is responsible for violating the right to life (Article 4), the right to humane treatment (Article 5), the right to personal liberty (Article 7) in connection with Article 1(1), the right to a fair trial (Article 8), and the right to judicial protection (Article 25), as set forth in the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"). They also allege that Articles I, XVIII, and XXVI of the American Declaration of the Rights and Duties of Man (hereinafter "the American Declaration") were violated.

3. During the processing of this case, the State accepted its responsibility for the incidents alleged by the petitioners. On September 7, 1995, during the Commission's 90th session, the parties decided to attempt to reach a friendly settlement of the matter. However, despite the efforts of both the State and the petitioners, on October 5, 1998, they agreed to terminate the friendly settlement process, recognizing the partial implementation of a number of agreements and recommendations reached during the negotiations.

4. After analyzing the arguments of fact and law submitted by the parties during the processing of the case and the partial results of their efforts to settle the matter on a friendly basis, the Commission declared the case admissible, issued conclusions regarding the violations of Articles 4, 5, 7, 8, 25, and 1 (1) of the American Convention in light of the State's acceptance of its responsibility, and assessed the extent to which the State had complied with the commitments made regarding the reparations.

## II. PROCESSING BY THE COMMISSION

5. On June 17, 1992, the Commission opened this case under N° 11.020, and transmitted the relevant parts of the complaint to the Colombian State, giving it a period of 90 days to submit information. On March 17, 1993, the petitioners presented additional information regarding the case, which was duly sent to the State.

6. The State submitted its reply on July 7, 1993. The petitioners presented their comments on September 7, 1993. The State submitted additional information on September 27, 1993. The Commission transmitted to the State the additional information provided by the petitioners on September 28, 1993. On November 25, 1993, the State requested a 45-day extension, which was granted on December 3, 1993. On December 29, 1993 and March 7, 1994, the State presented its comments, which were then duly transmitted to the petitioners.

7. On January 17, 1994, during its 85th regular session, the Commission held a hearing on this case. On April 19, 1994, the petitioners sent additional information regarding the status of the criminal and disciplinary proceedings. On May 25, 1994, the State submitted information on the status of the proceedings. The petitioners submitted their comments on July 26, 1994, and in a later document, dated August 1, 1994, they sent additional information. The State presented its comments on August 31, 1994. On September 26, 1994, during its 87th regular session, the Commission held another hearing on this case. The petitioners submitted their comments on October 19, 1994.

8. On September 7, 1995, during the Commission's 90th session, the State and the petitioners held a meeting regarding cases 11.141, 11.101, 11.020, and 11.007. On that occasion, they stated their intent to begin working toward a friendly settlement, pursuant to Article 48(f) of the American Convention. By mutual consent, the parties issued a document of understanding creating a committee charged with promoting justice in these cases. On December 12, 1995, a Commission delegation attended a meeting of the Justice Promotion Committee (hereinafter Comité de Impulso) in Colombia in order to learn about its operation and progress.

9. The Comité de Impulso created by the parties released its final report on February 23, 1996, at a meeting held during the Commission's 91st regular session. This report contained a series of recommendations regarding the case at hand and other general issues. At this meeting, the parties agreed to continue with the friendly settlement proceedings through the creation of a Follow-up Committee (hereinafter Comité de Seguimiento) to monitor the Comité de Impulso's recommendations.

10. On October 8, 1996, during its 93rd regular session, the Commission assessed the progress made toward a friendly settlement. On October 9, 1996, the State submitted a document titled "Report on the Implementation of the Recommendations in the Los Uvos, Caloto, and Villatina Cases." On October 18, 1996, the Commission urged the parties to overcome the problems encountered in following up on the Committee's recommendations. In February 1997, Commissioner Robert K. Goldman, the Rapporteur for Colombia, Ambassador Jorge E. Taiana, the Commission's Executive Secretary, and Denise Gilman, then a Commission Specialist, visited Colombia in order to attend a series of meetings regarding the friendly settlement procedure.

11. On October 7, 1997, at a hearing held during the Commission's 97th session, the Comité de Seguimiento presented a report assessing compliance with the Comité de Impulso's recommendations. In a Resolution dated October 16, 1997, the Commission agreed to continue working toward a friendly settlement in this case until its 98th session.

12. At a hearing held on February 23, 1998, during the Commission's 98th session, the parties stated their intent to end the friendly settlement proceedings and asked the Commission to give a ruling on the merits of the case. On March 3, 1998, the Commission asked the Colombian State for additional information on the status of the domestic criminal proceedings and on the steps taken to investigate and prosecute the perpetrators through the regular criminal courts. On April 20, 1998, the State requested a 30-day extension, which was granted on April 27. On July 31, 1998, the State sent to the Commission a copy of the speech given by the President of the Republic in which he accepted responsibility for the events of the Los Uvos case and other incidents. On October 5, 1998, at the Commission's 100th regular session, a further hearing was held at which the parties again stated that a friendly settlement could not be reached.

### III. POSITIONS OF THE PARTIES AND ATTEMPT TO REACH A FRIENDLY SETTLEMENT

#### A. Position of the petitioners

13. The petitioners allege that on April 7, 1991, members of Eagle Two Platoon, of Company A, Infantry Battalion N° 7 "José Hilario López" of the Colombian army, under the command of 2nd Lt. José Edilberto Cortés Valero, together with another eight soldiers and two civilians, intercepted a rural bus (of the type known locally as chivas) at a checkpoint located at Puente Fierro, between Los Uvos township in La Vega municipality and the municipality of Piedrasentada, in Cauca department. The vehicle was carrying 15 people: Alfonso Chilito (aged 25), José Belisario Dorado Muñoz (41), Saúl Espinosa (42), Wilson Gil Velásquez (17), Hoibar Gómez Mamian (18), Rubén Darío Joaquín Narváez (32), Santiago Lasso Bolaños (28), Adriana

López (18), Hernán Mamian Moreno (31), Leoncio Mellizo Angulo (50), Libardo Nieves Dorado (24), Yenny Prieto Rengifo (28), Hernando Rosero (42), Adán Ruano Daza (55), and Alejandro Salazar Paz (22). The petitioners allege that the State agents boarded the vehicle and forced the driver to return to the Monterredondo road. Once there, after a half-hour's journey, the passengers were made to alight. They were then relieved of their belongings, forced to lie face-down on the road, and then extrajudicially executed with army-issue rifles. Pastora García (aged 42) and Henry Suárez Villa (37), who happened to be passing by on a motorcycle, were intercepted and killed in the same fashion.

14. The petitioners allege that the army patrol painted slogans referring to the Simón Bolívar Guerrilla Coordination unit at the scene of the crime. They also state that in an attempt to obstruct the judicial investigation and escape punishment, Maj. Manuel Rodríguez Diazgranados, the commanding officer of the rearguard command post of Battalion N° 7 "José Hilario López", told the Cali Directorate of Public Order that members of the XXIX front of the Revolutionary Armed Forces of Colombia (FARC) had perpetrated the multiple murders and damage to property.

15. The petitioners allege that there were numerous irregularities in the State agencies' investigation of the facts and prosecution of those responsible. Specifically, they maintain that the Cali Regional Prosecutor's Office acted too slowly in investigating the incident and only established a link between it and members of the "José Hilario López" Battalion two years after it had occurred. The Public Order Court that began the investigation referred the case to the military criminal justice system, in spite of the gravity of the acts. The petitioners also claim that members of the army gave false statements, made false and contradictory allegations, and used false witnesses. They maintain that there were unjustifiable delays in serving the arrest warrants and that, contrary to the regulations, Lt. Cortés Valero was held at military facilities, from which he escaped.

16. Based on this, they claim that the State violated the aforesaid victims' right to life (Article 4), right to humane treatment (Article 5), right of personal liberty (Article 7), right to a fair trial (Article 8), and right to judicial protection (Article 25) in connection with Article 1(1) of the American Convention, together with the provisions of Articles I (right to life), XVIII (right to a fair trial), and XXVI (right to due process) of the Declaration.

17. Regarding the admissibility of this case, they allege that the unwarranted delay in prosecuting and punishing the perpetrators, in spite of the extensive evidence allegedly incriminating State agents, relieves them of the need to exhaust the available domestic remedies. They hold that the domestic remedies have been ineffective.

#### B. Position of the State

18. During the initial stages of the proceedings, the State did not question the version of events submitted by the petitioners. Regarding the alleged violations of the American Convention and Declaration, the State provided information on the status of the many trials conducted through the domestic courts, and it claimed that the decision of the Office of the Delegate Procurator for Human Rights to punish certain members of the armed forces with

dismissal had been taken without unwarranted delay.[FN2] Subsequently, in light of the decisions handed down by the criminal and administrative courts and the conclusions reached by the Comité de Seguimiento created during the attempted friendly settlement procedure, the State accepted its international responsibility in this case.[FN3] Specifically, on July 29, 1998, the President of the Republic accepted the Colombian State's responsibility for the actions or omissions of public employees in the violent incident that occurred at Los Uvos.[FN4]

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[FN2] Communication EE/DH 24666 from the General Directorate for Special Affairs at the Ministry of Foreign Relations, dated August 31, 1994.

[FN3] Final report of the Coordinating Committee for following up on the recommendations of the Comité de Impulso for the incidents of Los Uvos, Caloto, and Villatina, presented at a hearing held during the Inter-American Commission's 97th regular session, p. 19.

[FN4] Speech by the President of the Republic at the ceremony accepting the responsibility of the State in the violent events of Villatina, Caloto, and Los Uvos and in the cases of Roison Mora and Faride Herrera.

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C. The parties' efforts to reach a friendly settlement of the case

1. Creation and work of the Comité de Impulso

19. On September 7, 1995, during the Commission's 90th session, Dr. Carlos Vicente de Roux, representing the State, and María Victoria Fallón, Gustavo Gallón Giraldo, and Juan Carlos Gutiérrez, representing the petitioners in a number of cases being processed by the Commission, met in order to attempt to reach a friendly settlement of a number of those cases, including N° 11.020, in accordance with Article 48(f) of the American Convention. The parties agreed to issue a memorandum of understanding that ordered the creation of a Comité de Impulso.

20. The Comité de Impulso was defined as a body for promoting domestic judicial proceedings, which precluded it from receiving and directly assessing evidence or ruling on the responsibilities of individuals and institutions. The Committee's mandate was the following: (1) work for the enforcement of judicial and disciplinary measures to guarantee prompt judicial proceedings; (2) identify evidence regarding the incidents in question and work for them to be brought before the courts; (3) promote the protection of witnesses and, if appropriate, of the judicial and disciplinary officials conducting the investigations; (4) support both the due exercise of the right of defense of the accused and of the rights and activities of the civil party; (5) when so required by the investigation, work for the reassignment of trials and the creation of special units of the Prosecutors' Offices and the Technical Investigation Corps; (6) work for the reparation of the damage caused by the acts in question; (7) present a report to the next regular session of the IACHR regarding performance of the tasks listed in the above points and the results of the steps taken, indicating the factors that, in its view, influenced their success or failure."[FN5] The committee's membership included representatives of the victims in a number of cases being processed by the Commission: in the Los Uvos case, the José Alvear Restrepo Lawyers' Collective and the Colombian Section of the Andean Commission of Jurists;

representatives of the Ministry of Foreign Relations, the Ministry of National Defense, and the Office of the Presidential Advisor on Human Rights; representatives of the Office of the People's Defender, the Department of Public Prosecutions, and the National Attorney General's Office, representing the agencies of State control; and representatives of the Colombian episcopate.[FN6]

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[FN5] Memorandum of understanding, signed on September 7, 1995, by Carlos Vicente de Roux, Presidential Advisor on Human Rights, representing the State, and by María Victoria Fallón, Gustavo Gallón Giraldo, and the José Alvear Restrepo Lawyers' Collective, representing the petitioners, before the Inter-American Commission on Human Rights. Claudio Grossman and Leo Valladares attended as qualified observers on behalf of the Commission.

[FN6] The Committee also included the Interior Ministry's Directorate of Indigenous Affairs, the Cauca Regional Indigenous Council (CRIC), and the mothers of Villatina, as observers.

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21. The Comité de Impulso was formally established on September 29, 1995, at a public ceremony in the city of Bogotá, and it submitted its final report in February 1996 during the Commission's 91st regular session. The report contains recommendations on general issues and on each of the cases the Committee studied. Specifically, it states that:

The Committee as a whole has noted that, theoretically, comprehensive reparations for the victims of serious human rights violations should involve the following: (1) Prevention of the violations; investigation of the facts; identification, prosecution, and punishment of the perpetrators. (2) Restoration, if possible, of the violated right. (3) Compensation for the victims in the broadest sense, to make amends for both material and moral damages. (4) Reparation of the impact of the violation on the victims' communities, through economic, social, and cultural measures.[FN7]

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[FN7] Final Report of the Comité de Impulso for the Cases of Los Uvos, Caloto, and Villatina, presented at the hearing held during the Inter-American Commission's 91st regular session.

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Given the consensus regarding the importance of the Comité de Impulso's work, the Commission will keep its conclusions and recommendations in mind throughout the present analysis.

22. The recommendations for the case at hand refer to the promotional measures to be implemented in the criminal, disciplinary and administrative proceedings in order to determine the corresponding responsibilities. The Comité de Impulso recommended that the State acknowledge its responsibility before the Commission.[FN8] It also agreed on the need to implement a series of social reparation measures through the Office of the Presidential Advisor on Human Rights.[FN9]

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[FN8] (a) Promote and coordinate care for the families and individuals displaced from the township on the occasion of the massacre or on its account, through the Interior Ministry's program for people displaced by violence. (b) Design, submit, and promote, before the competent bodies and with a view to its processing by the National Joint Financing System, an infrastructure project to provide better coverage or improved services to the population of the township in the fields of health, education, electric power, and roads--specifically, in this last instance, for improving and maintaining the Piedrasentada--Los Uvos road. Adequate service shall be guaranteed for a minimum period of one year. (c) Design, submit and promote, before the competent public agencies, a job creation project for the inhabitants of the township, along with a feasibility study. (d) By agreement with the victims' families and representatives, the Government will work to ensure that one or several of the projects undertaken are named in memory of the victims. Said name and those of the victims shall be duly recorded on a clearly visible commemorative plaque. Ibid.

[FN9] Ibid.

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## 2. Creation and work of the Comité de Seguimiento on the Comité de Impulso's Recommendations

23. In February 1996, during the Commission's 91st regular session, the parties agreed to create a Comité de Seguimiento on the Comité de Impulso's recommendations. The Comité de Seguimiento's mandate was the following: (a) to seek out, collect, centralize, and transmit to the Inter-American Commission on Human Rights information on the promotional measures adopted [...]; (b) to submit regular reports to the Inter-American Commission on Human Rights on the performance of its duties and the results thereof; (c) to report to the Inter-American Commission on Human Rights, when necessary, on the obstacles encountered in the performance of its duties; (d) to submit a report to the Inter-American Commission on Human Rights at its next regular session regarding its performance of its assigned duties and on the results of the steps taken, indicating the factors that, in the Committee's opinion, influenced their success or failure.[FN10]

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[FN10] Memorandum of understanding that created the Coordinating Committee for following up on the recommendations of the Comité de Impulso for the incidents of Los Uvos, Caloto, and Villatina.

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24. The Comité de Seguimiento presented its assessment of compliance with the Comité de Impulso's recommendations on October 7, 1997,[FN11] during the Commission's 97th regular session. Regarding the Los Uvos case, the Comité de Seguimiento recognized that the State had complied with its commitment to acknowledge its international responsibility.[FN12] As regards the other commitments, the Committee recommended that the friendly settlement proceedings should continue in connection with recommendations being implemented or awaiting additional administrative steps. It recommended "formulating or implementing, as appropriate, the pending social compensation projects for attending to the displaced families and individuals, health, education, electric power, the Piedrasentada – Los Uvos road, and job creation." In order to

monitor compliance with this recommendation, it was agreed to extend the Comité de Seguimiento's mandate until the Commission's 98th regular session.[FN13]

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[FN11] Because of internal organizational issues, the Comité de Seguimiento did not submit its report to the Inter-American Commission on Human Rights on the agreed date. In addition, it encountered operational obstacles, such as budgetary problems, confidentiality in criminal and disciplinary cases, and failing to reach agreement on the election of its chairman. These problems were later overcome. An IACHR delegation visited Colombia in order to support the Comité de Seguimiento's efforts.

[FN12] The report states that: "In light of the final criminal judgments and rulings in the Los Uvos incident, the administrative conciliations, and the conclusions of the Comité de Seguimiento, the Colombian State believes the conditions exist for it to accept international responsibility in the Los Uvos and Caloto cases; thus, before the IACHR and pursuant to the American Convention on Human Rights, it assumes its responsibility for these lamentable events. In order to express this admission of responsibility, in addition to the terms set forth above, the Executive shall organize a ceremony with the victims, their relatives, and their representatives, and it shall take other steps it deems appropriate to underscore this admission and to reiterate the State's commitment to complying with the international recommendations assumed before the IACHR." Report of the Coordinating Committee for following up on the recommendations of the Comité de Impulso for the incidents of Los Uvos, Caloto, and Villatina, presented at the Inter-American Commission's 97th regular session.

[FN13] Report of the Coordinating Committee for following up on the recommendations of the Comité de Impulso for the incidents of Los Uvos, Caloto, and Villatina, presented at the Inter-American Commission's 97th regular session.

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25. On October 16, 1997, the Commission issued a resolution recognizing the parties' efforts to reach a friendly settlement in this case and expressing its appreciation of the State's decision to accept its international responsibility. The Commission also recommended that in compliance with Law 288,[FN14] the State should give monetary compensation to the victims' relatives who had not yet received indemnification. It also decided to continue with the friendly settlement procedure until the following regular session, after which it would take a decision regarding the final measures to be adopted in this case and, to this end, it asked the parties to submit additional information on the progress made.

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[FN14] Act N° 288/96 establishes a mechanism for implementing the compensation provisions of decisions handed down by intergovernmental agencies as regards the State's responsibility for human rights violations.

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3. Breakdown of the friendly settlement process and extent of compliance with Commitments made

26. Since a friendly settlement could not be reached within the allotted time frames, on October 5, 1998, at the hearing held during the Commission's 100th regular session, the friendly settlement procedure was terminated. The parties asked the Commission to rule on the merits of the case, giving due consideration to the fact that the recommendations made by the committees set up by the friendly settlement process had been partially implemented and to the fact that the victims' relatives who had not yet received compensation had been granted access to the mechanism set forth in Law 288/96.

27. On March 2, 1999, at a hearing held during the Commission's 102nd session, the petitioners reported that the regular criminal courts had sentenced 2nd Lt. Cortés Valero but that he had escaped from the military garrison where he was being held. In addition, they said that Corporal Mora Parra had also been convicted but had never been arrested, and that only some of the convicted soldiers were serving sentences. They also reported that Col. Briceño Lovera was being tried by the military criminal justice system and that a decision had not yet been reached regarding the conflict of jurisdictions in the trial of Major Saavedra Padilla. Regarding the disciplinary proceedings, they reported that the army officers and NCOs involved had been punished. As for the monetary compensation owed to the victims' families, they reported that reparations had been made to some families through administrative proceedings. The social reparations commitments, the petitioners said, were still being implemented. The State itself acknowledged that some commitments were still being implemented or were pending implementation.

#### IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

##### A. Competence

28. The Commission is, prima facie, competent to examine the petitioners' claims. The incidents described in the petition occurred when the obligation of respecting and guaranteeing the rights set forth in the Convention was in force for the Colombian State.[FN15] The Commission will therefore proceed to analyze whether the case at hand satisfies the requirements contained in Articles 46 and 47 of the American Convention.

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[FN15] Colombia ratified the American Convention on Human Rights on July 31, 1973.  
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##### B. Requirements for admissibility

###### 1. Exhaustion of domestic remedies and deadline for lodging a petition

29. The rule requiring the prior exhaustion of domestic remedies was established in the interests of the State and for its benefit; it can therefore be tacitly waived.[FN16] In this case the State has made no objections to the petitioners' stance that the exceptions to the rule requiring the exhaustion of domestic remedies should be applied. In addition, the State has expressly recognized its responsibility in the facts of this case.

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[FN16] I/A Court H.R., In the Matter of Viviana Gallardo et al., November 13, 1981, paragraph 26; Velásquez Rodríguez Case, Preliminary Objections, paragraph 88; Fairén Garbi and Solís Corrales Case, Preliminary Objections, paragraph 87; and Godínez Cruz Case, Preliminary Objections, paragraph 90.

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30. Compliance with the requirement for the petition to be presented within a period of six months following notification of the domestic courts' final judgment is dependent on the exhaustion of domestic remedies and is therefore not applicable in the case at hand.

2. Duplication of proceedings and res judicata

31. The case file does not indicate that the subject of this petition is pending in any other international proceeding for settlement or that it is substantially the same as one previously studied by this or any other international organization. Thus, the requirements set forth in Articles 46(1)(c) and 47(d) of the Convention have been satisfied.

3. Nature of the alleged incidents

32. The Commission believes that the petitioners' claims regarding the alleged violation of the right to life, to humane treatment, and to personal liberty, in conjunction with the delay in the investigation and the failure to effectively prosecute and punish the guilty, could constitute a violation of the rights set forth in Articles 4, 5, 7, 8, 25, and 1(1) of the American Convention. Since they are not manifestly groundless or obviously out of order, particularly since the State has expressly acknowledged its responsibility, the Commission believes that the requirements established in Article 47(b) and (c) of the American Convention have been satisfied.

4. Conclusions on competence and admissibility

33. The Commission believes it has jurisdiction to examine the merits of the present petition and that, in principle, it is admissible according to the requirements contained in Articles 46 and 47 of the American Convention.

## V. ANALYSIS OF THE MERITS IN LIGHT OF THE ACCEPTANCE OF RESPONSIBILITY BY THE STATE

34. Before analyzing the merits of the case, the issue of the alleged application of the standards of the American Declaration in this case should be addressed. The American Convention came into force for Colombia on July 18, 1978. Since then, the Convention and not the Declaration has been the Commission's source of applicable law,[FN17] provided that the petitions dealt with alleged violations of rights that were substantially the same in both instruments and did not involve a situation of continuous violation.[FN18] In this case, the rights covered by the Declaration that the Colombian State allegedly violated are also protected by the Convention, and the incident that led to the petitioners' complaint occurred after Colombia's

acceptance of the American Convention. Hence, the Commission will address only the alleged violations of the latter treaty and not of the Declaration.

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[FN17] In ruling on the legal status of the American Declaration, the Court confirmed that, in principle, for states parties to the Convention, the specific source of obligations with respect to the protection of human rights was the Convention itself. Inter-Am. Ct. H.R., Advisory Opinion OC-10/89 (Interpretation of the American Declaration of the Rights and Duties of Man), July 14, 1989, paragraph 46. The Inter-American Commission has ruled in a similar fashion; see Report 38/99, Argentina, Annual Report of the IACHR 1998, paragraph 13.

[FN18] The Commission has ruled that it is competent to examine violations of the Declaration and of the Convention provided that they involve a continuous violation of rights protected by those instruments; such as, for example, the situation that would arise from a denial of justice originating before the State ratified the Convention and enduring after the State's acceptance of said instrument and its coming into force. See, for example, Resolution 26/88, Case 10.190, Argentina, IACHR Annual Report 1987-1988.

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A. The right to life, liberty, and humane treatment

35. The petitioners claim that agents of the State deprived the victims of their freedom, treated them inhumanely, and executed them extrajudicially. Then, in light of the criminal judgments, the administrative conciliations, and the factual conclusions reached during the attempts to reach a friendly settlement, the State accepted its international responsibility for the violations committed in this case and, to this end, issued a formal acknowledgement thereof.[FN19]

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[FN19] Final report of the Coordinating Committee for following up on the recommendations of the Comité de Impulso for the incidents of Los Uvos, Caloto, and Villatina, presented at the hearing held during the Inter-American Commission's 97th regular session, p. 19; speech by the President of the Republic at the ceremony accepting the State's responsibility in the violent events of Villatina, Caloto, and Los Uvos and in the cases of Roison Mora and Faride Herrera.

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36. Based on the above legal and factual considerations and the State's acceptance of its responsibility, the Commission concludes that on April 7, 1991, on the Los Uvos road in Cauca department, agents of the Colombian national army arbitrarily deprived Alfonso Chilito, José Belisario Dorado Muñoz, Saúl Espinosa, Wilson Gil Velásquez, Hoibar Gómez Mamian, Rubén Darío Joaquín Narváez, Santiago Lasso Bolaños, Adriana López, Hernán Mamian Moreno, Leoncio Mellizo Angulo, Libardo Nieves Dorado, Yenny Prieto Rengifo, Hernando Rosero, Adán Ruano Daza, and Alejandro Salazar of their liberty, in violation of Article 7 of the American Convention. They held them in circumstances that affronted the right of freedom from inhumane treatment set forth in Article 5(2), and they deprived them, Pastora García, and Henry Suárez Villa of their lives in violation of the right enshrined in Article 4(1) of the Convention.

B. The right to judicial protection and the State's obligation to respect and ensure the rights protected by the Convention

37. The petitioners allege that the State has not duly complied with its obligation of investigating the facts of this case and punishing the guilty pursuant to Articles 8 and 25 of the American Convention in conjunction with Article 1(1) thereof. The State took a series of steps aimed at establishing the facts and compensating the victims' families within the negotiations toward a friendly settlement in this matter. The Commission must determine whether guarantees established in the Convention were really violated and whether the State has made due amends for those violations.

1. Issues of fact

38. As indicated by the information provided by the parties and by the Committees set up during the friendly settlement process, the investigation and criminal trial involved many different proceedings and conflicts of competence between the civilian courts and the military criminal justice system. Additionally, disciplinary proceedings were launched in connection with both the massacre and the irregularities committed in the investigation, and the results of these were only partially consistent with those of the military courts. The following is a description of the proceedings and of the administrative suits filed by the victims' families, according to information received from the parties.

a. Investigation and prosecution of the allegedly responsible

39. On July 18, 1991, the Section Subdirectorate of the Judicial Police Technical Corps sent the Section Director for Public Order a complaint filed by Juan Carlos Córdoba, a deserter from the army. The Public Order Judge, by means of a document dated August 6, 1991, then opened an investigation by ordering the investigation, inter alia, of Lt. José Edilberto Cortés Valero and Cpl. Pedro López Gamboa. This was carried out by the 14th Criminal Preparatory Court of Cauca, based in Popayán. On September 2, 1991, the investigation was referred to the commanding officer of Infantry Battalion N° 7 "José Hilario López" on account of issues of functional and territorial jurisdiction. On June 27, 1991, the 19th Military Criminal Court took over the investigation. On May 29, 1992, the Third Brigade filed a negative conflict of competence alleging that it was incumbent upon the civilian courts to continue the investigation since, in its opinion, there was no evidence to tie members of the army on active service to the incident. In light of this military ruling, the Superior Court of the Judicature referred the investigation to civilian jurisdiction in October 1992.

40. By means of Resolution 255 of May 25, 1993, the Regional Directorate of Prosecutors' Offices embarked on an investigation based on evidence collected by the Office of the National Attorney General and on new evidence it gathered. In July 1993 a warrant was issued for the preventive arrest of Lt. Cortés Valero for multiple homicide, arson, destroying public documents, theft, and violations of Decree 3664 of 1986. Similarly, warrants for the arrest of other army members were issued on suspicion of their involvement in the incident. In August 1993, two civilians were also subpoenaed. In April 1994, the Regional Prosecutor's Office judged the merits of the summary proceedings begun against some of the soldiers under investigation. In

June 1995, the accusatory resolution was upheld. On November 25, 1996, the regional court in Cali handed down a first-instance conviction against 2nd Lt. José Edilberto Cortés Valero as the instigator, against soldiers John Jairo Castillo Vélez and Wilson Certuche Hernández as joint perpetrators, and against soldier Luis Edgar Enrique Ledesma as an accomplice.[FN20]

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[FN20] See the decision of August 3, 1998, handed down by the First Instance Court of the Third Brigade of the National Army, Cali.

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41. On December 12, 1996, the Third Brigade in Cali filed a conflict of competence in favor of José Edilberto Cortés Valero, Gustavo Mora Parra, Miguel Angel Gil Orozco, José A. Cañón González, and Pedro López Gamboa. The Superior Council of the Judicature upheld the competence of the civilian courts. The trial of Cpl. José Gustavo Mora Parra was referred to the regional judges in Cali on April 28, 1997. In the cases of Miguel Angel Gil Orozco, José A. Cañón González, and Pedro López Gamboa, the National Unit of Human Rights Prosecutors continued with the investigation, which was recorded as N° 220. This decision was appealed and resolved, upholding the competence of the civilian courts. On March 21, 1997, the proceedings initiated against the civilians Asmed Ordóñez Burbano and Juan Carlos Muñoz were referred to the regional judges in Cali.

42. At the hearing held during the Commission's 102nd session, the petitioners reported that only some of the convicted soldiers were serving sentences. Although he was tried by the regional courts, Lt. Cortés Valero was placed in preventive custody at the facilities of the Bolívar Battalion, from which he subsequently escaped. Final decisions were still pending in the trial of Cpl. Mora Parra, who was never arrested, and in those of the civilians Asmed Ordóñez Burbano and Juan Carlos Muñoz.

43. Regarding those who planned the violations, on August 6, 1991, the preparatory court in Cali filed charges against César Augusto Saavedra Padilla, who was serving as operations officer and commanding officer of the command post. On December 10, 1993, after the investigation had been conducted, the Cali Regional Prosecutor decided to impose preventive cautionary measures on account of his suspected involvement in the crime of concealment. On March 17, 1995, an arrest warrant was issued for the crime of multiple aggravated homicide, supposedly for having given orders to his subordinates and the two civilians involved to carry out the killings. This warrant was served on March 25, 1995. On October 22, 1996, the Third Brigade in Cali filed a conflict of competence regarding his legal situation. On March 6, 1997, the Superior Council of the Judicature resolved the conflict in favor of the military courts and, on April 21, the proceedings were referred to military justice. Following these conflicts of competence the unity of the proceedings broke down, with a separate trial being convened for the same events as well as for the illegal supply of uniforms and restricted weapons and for concealment against Pablo Briceño Lovera and César Augusto Saavedra Padilla. This trial dealt with the ties between these members of the army and the civilians who participated in the massacre.

44. On August 3, 1998, the first instance military criminal judge, Maj. Jaime Ernesto Canal Albán of the Third Brigade, ruled on the merits of the summary proceedings against Lt. Col.

César Augusto Saavedra Padilla (ret.) for multiple homicide. The judge resolved to terminate all the proceedings and to revoke the cautionary measure placed on him by the Cali regional prosecutor.[FN21]

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[FN21] Decision of August 3, 1998, handed down by the First Instance Court of the Third Brigade of the National Army, Cali.

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45. With regard to the ties between these members of the army and the civilians who participated in the killings, on February 25, 1998, the Court Martial President acquitted Lt. Col. Pablo Briceño Lovera and Lt. Col. César Augusto Saavedra Padilla of the crime of fabrication and supplying restricted arms and munitions and ordered all proceedings against them to be stopped.[FN22] The Commission notes that this decision was upheld on April 19, 1999, on an appeal filed by the civil party.[FN23]

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[FN22] Decision of Brig. Gen. Jaime Ernesto Canal Albán, First Instance Judge, President of the Court Martial, taken at Cali on February 25, 1998, Third Brigade, Court Martial, National Army, Military Forces of Colombia.

[FN23] Decision of magistrates Col. Gabriel Alonso González Reyes, Gustavo Piraban Cuesto, and María Isabel Barboza Ramírez, taken in Santafé de Bogotá on April 19, 1999, (067-136207-8129) Superior Military Court, Armed Forces of Colombia.

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46. The Comité de Impulso and the Comité de Seguimiento for the Comité de Impulso's recommendations, created as a part of the attempt to reach a friendly settlement in this case, recommended a series of measures to satisfy the right of judicial protection in it. They recommended, first, that the prosecutor in charge closely investigate the alleged participation of Lt. Col. Pablo Alfonso Briceño Lovera in the incident. With regard to this point, the Comité de Seguimiento's report notes that this recommendation was not implemented because the Prosecutor's Office had lost its competence over the case.

47. Second, they recommended investigating the possible responsibility in the crime of concealment of Gen. Víctor Arévalo Pinilla (ret.). This recommendation was not implemented. Third, they recommended that warrants for the arrest of the civilians who participated in the incident should be reissued and that the truthfulness of the statements made by the inhabitants of Los Uvos regarding the presence of the two civilians with the assent of the police and the army should be established. This recommendation was implemented.

48. The Committee also recommended launching a preliminary investigation into the alleged attempted murder of soldier Juan Carlos Córdoba. The Comité de Seguimiento's report states that this recommendation was waiting for additional steps to be taken in order for the investigation to begin.

b. Disciplinary process relating to the massacre and the acts of cover up by State agents

49. On April 12, 1991, the National Attorney General launched an investigation based on the complaint regarding multiple homicide and criminal damage filed by Maj. Manuel Rodríguez Diazgranados against the Revolutionary Armed Forces of Colombia (FARC). The Office of Special Investigations at the Attorney General's Office completed the investigation in March 1993 and went to the Office of the Attorney-Delegate for Human Rights, in order to begin a disciplinary investigation into eight members of the army for the massacre, and to the Office of the Attorney-Delegate for Judicial Oversight in order to begin a parallel investigation into three army members for irregularities committed during the proceedings before the military courts.

50. On July 29, 1994, the Attorney-Delegate's Office issued Resolution 005, which punished Lt. Col. Pablo Alfonso Briceño Lovera, Maj. César Augusto Saavedra Padilla, 2nd Lt. Edilberto Cortés Valero, 2nd Cpl. José Gustavo Mora Parra, 1st Cpl. José Agustín Cañón González, and 1st. Cpl. Pedro López Gamboa with a request for their dismissal and Maj. Manuel Rodríguez Diazgranados and 1st. Cpl. Miguel Antonio Gil Orozco with requests for suspensions of fifteen and ten days, respectively. This judgment was appealed against and upheld. The accused later filed an appeal based on principle of favorabilidad, which was granted by the Delegate Prosecutor's Office before the Office of the Attorney General, who refused to hear the appeal because he considered it inadmissible. Resolution 005 was upheld by Deed 028 of December 19, 1995, which made it final through a writ of execution.

51. Regarding the probe into the irregularities committed during the military courts' investigation of the incident, in March 1994 a formal disciplinary investigation was initiated to clarify the judicial actions of the commanding officer of the Third Brigade, Gen. Víctor Arévalo Pinilla, Principal War Auditor Antonio José Bolívar Cardona, and the judge of the 19th Military Investigating Court, Maj. Alvaro Ochoa Barrera. Gen. Arévalo Pinilla was punished with a five-day suspension in 1995, a measure that had no practical effects since he was retired. The other persons involved received ten-day suspensions without pay.

52. It should be noted that the State, within the Comité de Seguimiento, agreed to implement a series of promotional measures. First, it agreed to ask the President of the Republic and the Minister of Defense to review the five- and ten-day suspensions of Gen. Víctor Arévalo Pinilla and Dr. Antonio Bolívar Cardona, in order for an adequate punishment to be imposed in accordance with the magnitude of the crime. Second, it agreed to ask the Director of the National Penitentiary and Prisons Institute (INPEC) for information on the grounds for the decision to hold the officers involved at military facilities. The Committee thought it was unusual for individuals accused of committing such serious crimes not to be detained in the same conditions as the other accused, but rather to receive what it deemed to be preferential treatment. Third, it agreed to bring the alleged irregularities in the criminal proceedings to the attention of the Delegate Prosecutor for Judicial Oversight and of the National Prosecutor General's supervisory agency.

c. Administrative proceedings and other compensatory measures

53. In November 1993, the Administrative Tribunal of Cauca ordered the State to indemnify the relatives of Adán Ruano Daza. Subsequently, the same tribunal received other claims for

damages against the nation, the Ministry of Defense, and the army for violation of the constitutional guarantee of respect for life by agents of the State.

54. Most of the claims filed were resolved as recommended by the Comité de Seguimiento, which in Resolution N° 02591 of March 3, 1997, ordered that the victims' beneficiaries be paid damages. In some instances, moral reparations and portions of the material compensations were agreed on, with rulings on material compensations requested by siblings or parents left pending when the victim was survived by a spouse or common-law companion.

55. The Comité de Impulso agreed upon a series of measures for social reparation: first, attention for the families and individuals displaced from the township on account of the massacre, through the Interior Ministry's program for people displaced by violence; second, the design and submission to the National Joint Financing System of an infrastructure project to provide better coverage for the township's population in the fields of health, education, electric power, and roads — specifically, improving and maintaining the Piedrasentada – Los Uvos road; third, the design and submission to the competent public agencies of a job creation project for the township's inhabitants; finally, working in conjunction with the victims' families and representatives to ensure that one or several of the projects is named in memory of the victims.

## 2. Issues of law

56. The State has acknowledged the responsibility of its agents in the execution of the victims, and it has been proven that the massacre was carried out by members of the "José Hilario López" Battalion of the national army, together with two civilians who were wearing uniforms and bearing army-issue weapons. The petitioners allege that the corresponding investigations and prosecutions were not conducted within a reasonable period of time, that they were not exhaustive, and that in those cases where convictions were reached the punishments were not always been enforced conscientiously.

57. It should be noted that the work of the Comité de Impulso and Seguimiento and the agreements they arrived at gave rise to a series of recommendations intended to satisfy the right of judicial protection. Specifically, they recommended further investigation into the alleged participation of Lt. Col. Pablo Alfonso Briceño Lovera in the incident, and into the possible criminal responsibility of Gen. Víctor Arévalo Pinilla (ret.) for the crime of concealment. Regrettably, these recommendations were not put into practice.

58. This must be seen together with the fact that, as indicated by the narration above, the results of the disciplinary investigation carried out by the Delegate Procurator for Human Rights do not fully coincide with those reached by the military criminal justice system. Specifically, the military courts threw out the allegations made against the suspected masterminds of the massacre in spite of the accusations and cautionary measures imposed by the regional judiciary and the recommendation for their dismissal made in the disciplinary proceedings.

59. In this regard, the Commission must point out that in cases where the violation of a protected right leads to the commission of a crime under domestic jurisdiction, the victims or their relatives are entitled to have a regular court swiftly and effectively identify the physical

perpetrators and the masterminds behind it, prosecute them, and impose and enforce the corresponding punishments. Article 8 of the American Convention states that:

Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.

Similarly, Article 25 stipulates that:

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.
2. The States Parties undertake:
  - a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
  - b. to develop the possibilities of judicial remedy; and
  - c. to ensure that the competent authorities shall enforce such remedies when granted.

These rules establish the obligation of providing access to justice with guarantees of legality, independence, and impartiality, within a reasonable time and with all due protection, together with the general obligation of providing effective judicial recourse for violations of basic rights and requiring that the procedural instruments or mechanisms be effective.

60. The Commission has repeatedly stated that on account of its nature and structure, military justice does not satisfy the requirements of independence and impartiality set forth in Article 8 of the American Convention. The Commission has previously ruled on the suitability of military courts for examining cases that involve human rights violations:

The military criminal justice system has several unique characteristics which prevent access to an effective and impartial judicial remedy in this jurisdiction. First, the military justice system may not even be properly referred to as a true judicial forum. The military justice system does not form part of the judicial branch of the Colombian State. Rather, this jurisdiction is operated by the public security forces and, as such, falls within the executive branch. The decision-makers are not trained judges, and the Office of the Prosecutor General does not fulfill its accusatory role in the military justice system.[FN24]

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[FN24] IACHR, Third Report on the Situation of Human Rights in Colombia (1999), pp. 156 (para. 20). See also, Second Report on the Situation of Human Rights in Colombia (1993), p. 237: “Military tribunals do not guarantee that the right to a fair trial will be observed, since they do not have the independence that is a condition sine qua non for that right to be exercised.

Moreover, their rulings have frequently been biased and have failed to punish members of the security forces whose involvement in very serious human rights violations has been established.”

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In a decision dated August 5, 1997, Colombia’s Constitutional Court ruled as follows:

For the military criminal justice system to have competence over a crime, there must be from the onset an evident link between the crime and the inherent activities of military service. In other words, the punishable action must constitute an excess or abuse of power occurring within the context of an activity that is directly related to a legitimate function of the armed forces. The link between the criminal action and the activity related to military service breaks down when the crime is extremely serious, such as is the case with crimes against humanity. In such circumstances, the case must be referred to the civilian courts.[FN25]

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[FN25] Constitutional Court, Decision C-358 of August 5, 1997.

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61. The Commission believes that the massacre of 17 defenseless civilians cannot be considered part of the legitimate functions of the security forces. Consequently, the fact that the military courts were given jurisdiction to try the individuals suspected of masterminding those serious violations constitutes a breach of Articles 8 and 25 of the American Convention.

62. As regards Resolution 005, adopted within the Office of the National Attorney General, which resolved to dismiss the members of the army who participated in the incident, the Commission must note that it does not satisfy the obligations of judicial protection contained in the Convention. Disciplinary procedures alone do not constitute an effective and adequate means for judging, punishing, and making amends for serious human rights violations.

63. The petitioners allege that there were unwarranted delays in the administration of justice, in both the investigative and prosecution phases. It should be determined whether the complexity of the case, the actions of the victims’ relatives, and the activity of the courts justify the alleged delay in the proceedings to establish the facts behind the violations committed at Los Uvos.

64. The Commission finds no evidence to indicate a high degree of complexity in the facts of this case. From the onset, it was determined that members of Eagle Two Platoon, belonging to Company A of the national army’s Infantry Battalion N° 7 “José Hilario López” carried out the extrajudicial executions. Moreover, the State offered an express recognition of responsibility for the participation of its agents in the incident. This indicates that there was enough evidence to determine responsibilities.

65. Regarding the actions of the victims’ relatives, the members of their families were initially prevented from intervening in the proceedings conducted by the regional judiciary. In any event, whenever a crime that should be pursued on an ex officio basis is committed, the State is obliged to promote and pursue the criminal proceedings to their final consequences.[FN26] In

such cases, it falls to the State to investigate the facts and to judge and punish the guilty as part of its obligation of preserving public order.[FN27]

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[FN26]. Report N° 52/97, Case 11.218, Arges Sequeira Mangas, IACHR Annual Report 1997, paragraphs 96 and 97. See also, Report N° 55/97, paragraph 392.

[FN27]. Report N° 52/97, *ibid.*

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66. As regards the activity of the courts, the information submitted by the parties reveals that the regional judiciary filed conflicts of competence in favor of the military courts and only brought charges against the suspects and served arrest warrants on them two years after the incident, in spite of the ample evidence collected. The Commission concludes that the State failed to fulfill its duty of providing due judicial guarantees within a reasonable period of time.

67. Article 1(1) of the Convention stipulates the obligation of organizing the government apparatus and, in general, the structures through which public power is exercised in such a way as for them to be capable of legally ensuring the free and full enjoyment of human rights. As a result of this obligation, States parties have a legal duty to prevent, investigate, and punish all violations of rights protected by the American Convention.[FN28] Specifically, in the case at hand, the State has a duty to judge all of the physical perpetrators of the massacre and the masterminds behind it, to punish them effectively, and to make amends to all the families.

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[FN28] *Ibid.*, paragraph 166.

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68. Based on the above factual and legal considerations, the Commission concludes that the State has not totally and effectively guaranteed the judicial protection owed to the victims' families under Articles 8 and 25 of the American Convention in conjunction with Article 1(1) thereof.

## VI. PROCESSING SUBSEQUENT TO REPORT 113/99

69. On September 28, 1999, the Commission approved Report 113/99 as provided under Article 50 of the American Convention. In that report, the Commission, in view of the information gathered during the proceedings, and of the admission of responsibility by the Republic of Colombia, concluded that the State was responsible for violations of the right to personal liberty, right to humane treatment, and right to life of Alfonso Chilito, José Belisario Dorado Muñoz, Saúl Espinosa, Wilson Gil Velásquez, Hoibar Gómez Mamian, Ruben Darío Joaquín Narváez, Santiago Lasso Bolaños, Adriana López, Hernán Mamian Moreno, Leoncio Mellizo Angulo, Libardo Nieves Dorado, Yenny Prieto Rengifo, Hernando Rosero, Adán Ruano Daza, and Alejandro Salazar Paz, violations of the right to life of Pastora García and Henry Suárez Villa; and violations of the right to a fair trial and right to judicial protection recognized in Articles 8 and 25 of the Convention, according to the obligation, established in Article 1(1), to guarantee the rights protected, since the investigation was delayed and those responsible were

not effectively punished. The Commission indicated that the State had taken a number of actions to comply with the commitments undertaken in terms of indemnities and in terms of the social component of reparations in the area where the events took place. The Commission also stated that many of the victims' relatives had received damages under resolution N° 02591 of March 3, 1997.[FN29] In terms of the State's fulfillment of commitments regarding the social component of reparations, the Commission learned that certain infrastructure projects had been completed and others were in progress. As of the date of approval of Report 113/99, there was no available information on these issues.

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[FN29] The relatives who benefited from that resolution are: María Teresa Dorado de Nieves, Guillermo Nieves, Yenny Mercedes Nieves Dorado, Milvia Nieves Dorado, Guillermo Nieves Dorado, Sara Stella Nieves Dorado, Hugo Martín Nieves Dorado, Luis Ferney Nieves Dorado, Ariel Hernán Dorado, Socorro Dorado, Olga Lucia Tellez García, Martha Leticia Tellez García, Mery Erfilia Ceron de Espinosa, Mary Lucía Espinosa Cerón, Dennis de Jesús Espinosa Cerón, Francy Aminta Espinosa Cerón, Carlina María Rengifo de Prieto, Idelfonso Prieto Espinosa, Elen Yinet Lazo Prieto, Janier Lazo Prieto, Libey Lazo Prieto, Manases Prieto Rengifo, Carlos Andrés Prieto Rengifo, Jair Prieto Rengifo, Idelberto Prieto Rengifo, Nancy Prieto Rengifo, Carmelina Mellizo Vega de Muñoz, Hugo Muñoz Mellizo, Lucely Muñoz Mellizo, Carmenza Muñoz Mellizo, Leonso Muñoz Mellizo, Rosalba Gómez, Tránsito Paz Solarte, Alejandro Salazar Romero, Leandro Salazar Paz, Freddy Antonio Salazar Paz, María Alejandrina Salazar Paz, Hernán Salazar Paz, Peregrino Gómez Hoyos, Euliecer Antonio Gómez Mamian, María Oliva Gómez Mamian, Doumer Rafael Gómez Mamian, Miryam Gómez Mamian, María Inés Gómez Mamian, Doris María Gómez Mamian, Segundo Peregrino Gómez Mamian, Edilberto Gil Dorado, Ana Gedma Velásquez de Gil, María Victoria Gil Velásquez, Gloria Patricia Gil Velásquez, Sandra María Gil Velásquez, Claudia Cristina Gil Velásquez, and Maximina López Diaz.

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70. Given its conclusions, the Commission recommended that the State: (1) carry out an impartial and effective investigation, under ordinary jurisdiction, for the purpose of trying and punishing those responsible for planning and carrying out the crime; (2) take the necessary measures to ensure that the court-ordered penalties are effectively applied; (3) take the necessary measures to ensure that those among the relatives of the victims who have not received damages are given due compensation; (4) take the necessary measures to ensure that the State completes the projects initiated under the social component of reparations; and (5) take the necessary measures to comply fully with the case law developed by the Colombian Constitutional Court and by this Commission in the investigation and trial of similar cases in ordinary criminal courts.

71. On October 19, 1999 the Commission sent the report to the State, establishing a two-month deadline for compliance with the recommendations contained therein. On December 20, 1999, the State requested a deferral of the deadline for presentation of information on its compliance with the recommendations, which was duly granted. On January 24, 2000, the State presented its reply, in which it included a final evaluation of the results obtained under the friendly settlement process.

72. With respect to the five recommendations issued by the Comité de Impulso in terms of the criminal proceedings, the State indicated that the first recommendation had not been carried out because part of the action pursued against Pablo Alfonso Briceño Lovera had been referred to the military court of criminal justice. The State was unable to present information on the implementation of the second and third recommendations. It maintained that the fourth recommendation had been implemented fully, in that Mr. Asmed Ordóñez and Mr. Juan Carlos Muñoz had been sentenced to 30 years in prison. The State did not submit information on the additional action pending with respect to fulfillment of the fifth recommendation. The recommendation by the Comité de Seguimiento that information be requested as to the grounds for the decision to detain the officers implicated in the massacre at military headquarters was rejected as out of order by IMPEC, which argued that this action would be incompatible with the provisions of Article 402 of the Code of Criminal Procedure and with Act 65/93[FN30]. The State provided no concrete information on the results of the decision by the Comité de Seguimiento to refer the irregularities in the criminal proceedings to the Delegate Procurator for the Judicial Police and to the Inspectorate of the Office of the General Prosecutor of the Nation for consideration.

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[FN30] These provisions state that law enforcement personnel shall serve prison sentences in special facilities or, should these be unavailable, in the facilities of the units to which they are assigned.  
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73. With respect to the recommendation for disciplinary action, the State maintained that the Procurator General of the Nation had taken all the necessary steps to implement it fully. The members of the Armed Forces had been removed permanently from the military institution. The State also confirmed that the recommendation by the Comité de Impulso calling for review of the disciplinary rulings concerning the individuals originally entrusted with the criminal investigation--Brigadier General (R) Víctor Arévalo Pinilla, Dr. Antonio José Bolívar Cardona, and Major and attorney Alvaro Ochoa Barrera--so that they might be punished in a manner commensurate with their misdeeds, had not been carried out.

74. The State alleges that, in terms of action under administrative law, all of the Comité de Impulso's recommendations have been carried out. The Administrative Tribunal of Cauca received 20 claims, which were tried jointly. The State confirmed that 18 cases were settled and a favorable judgment was rendered on December 16, 1997, with the exception of Case N° 3984, in which the claims were dismissed for lack of legal capacity. In Case N° 3776, the claim was presented again. On March 3, 1998, by resolution N° 02591, a payment of Col\$655.453.589 to the beneficiaries of the victims was ordered. In some cases, settlement was reached on damages for pain and suffering and on only part of the damages for physical harm requested by the parents and siblings of the victims in cases where the victim had a spouse or domestic partner. Some of these damages were processed by application of Act 288, under resolution 3 of 1997, adopted by the Committee of Ministers, in the light of the recommendation issued by the IACHR at its 97th session.

75. Concerning the six recommendations made by the Comité de Impulso on the social component of reparations, the State indicated that it had completed construction of the health unit in the Los Uvos district and that the budgetary allocation for the remaining projects had been approved. The State undertook to keep the Commission informed as to the fulfillment of those commitments.

76. Lastly, the State stressed the importance and value of friendly settlement as a mechanism which, in this particular case, enabled significant progress to be made in some of the areas addressed during the proceedings, and recognized the good will and commitment of the parties. The State also pledged to continue pursuing steps to implement the recommendations of the Commission.

## VII. CONCLUSIONS

77. The Commission wishes to state that it values the efforts made by the petitioners and the Colombian State to resolve this case through the friendly settlement process, and regrets that the process broke down in the final stage, essentially because the commitments made in the area of justice were not fulfilled. It should be recognized that the State has taken a number of measures to fulfill the commitments undertaken in terms of damages and the social component of reparations in the area where the events occurred.

78. The Commission concludes that the Colombian State, by its own admission, is responsible for violations of: the right to personal liberty, right to humane treatment, and right to life of Alfonso Chilito, José Belisario Dorado Muñoz, Saúl Espinosa, Wilson Gil Velásquez, Hoibar Gómez Mamian, Ruben Darío Joaquín Narváez, Santiago Lasso Bolaños, Adriana López, Hernán Mamian Moreno, Leoncio Mellizo Angulo, Libardo Nieves Dorado, Yenny Prieto Rengifo, Hernando Rosero, Adán Ruano Daza, and Alejandro Salazar Paz; the right to life of Pastora García and Henry Suárez Villa; and the rights to a fair trial and judicial protection, recognized in Articles 8 and 25 of the Convention, according to its obligation, established in Article 1(1), to guarantee the rights protected, since the investigation was delayed and those responsible were not effectively punished.

## VIII. RECOMMENDATIONS

79. On the basis of the analysis and conclusions presented in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS REITERATES THE FOLLOWING RECOMMENDATIONS TO THE COLOMBIAN STATE:

1. Carry out an impartial and effective investigation, under ordinary jurisdiction, for the purpose of trying and punishing those responsible for planning and carrying out the crime.
2. Take the necessary measures to ensure that the court-ordered penalties are effectively applied.
3. Take the necessary measures to ensure that those among the relatives of the victims who have not received damages are given due compensation.

4. Take the necessary measures to ensure that the State completes the projects initiated under the social component of reparations.
5. Take the necessary measures to comply fully with the case law developed by the Colombian Constitutional Court and by this Commission in the investigation and trial of similar cases in ordinary criminal courts.

## IX. PUBLICATION

80. On February 24, 2000, the Commission transmitted Report N°1/00 adopted pursuant to Article 51 of the American Convention, to the petitioners and the State, and granted a period of one month to the Colombian State to present information on compliance with the aforementioned recommendations. On March 23, 2000 the State requested an extension, which was duly granted by the Commission. The State submitted its response in a communication dated March 31, 2000.[FN31]

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[FN31] Nota EE 563 de la Dirección General de Asuntos Especiales del Ministerio de Relaciones Exteriores de la República de Colombia, de fecha 31 de marzo de 2000.

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81. In its response, the State indicated that the criminal investigation undertaken against members of the Army José Agustín Cañón González, Pedro López Gamboa and Miguel Antonio Gil Orozco by the National Human Rights Unit is still in its initial phase. Concerning the situation of the families of the victims who have not as yet received reparations, the State informed the Commission that the Ministry of the Defense was studying the feasibility of concluding conciliation agreements on the basis of a new list of complainants before the administrative courts. Regarding the measures adopted to comply with the social component of the reparations recommended by the Comité de Impulso, the State indicated that it had secured the resources to finalize all five infrastructure projects, which have been duly concluded, legalized and are being executed. The State also informed the Commission of the execution of the project for the social and psychological assistance to treat the effects of the events that gave rise to this case and rebuild social interaction between the community at Los Uvos. The State also referred to the measures adopted to ensure the future application of the case law of the Colombian Constitutional Court and the Commission as regards the investigation and trial of events similar to those that occurred at Los Uvos.

82. On the bases of the foregoing and in accordance with Articles 51(3) of the American Convention and 48 of its Regulations, the Commission decides to reiterate the conclusions reached in paragraph 78 and its recommendations, make this Report public and include it in its Annual Report to the General Assembly of the OAS. The Commission, consistent with its mandate, shall continue evaluating the measures taken by the Colombian State in relation to the recommendations mentioned, until they have been carried out.

Done and signed by the Inter-American Commission on Human Rights at the 13 day of the month of April 2000. (Signed): Hélio Bicudo, Chairman; Claudio Grossman; First Vice-

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Chairman, Juan E. Méndez, Second Vice-Chairman; and Commissioners Marta Altolaguirre, Robert K. Goldman, Peter Laurie and Julio Prado Vallejo.