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Represented by:	APPLICANT: the Interdisciplinary Group for Human Rights
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I. SUMMARY

1. On March 12, 1993, the Inter-American Commission on Human Rights (hereinafter the Commission) received a petition presented by the Héctor Abad Gómez Human Rights Committee, today known as the Interdisciplinary Group for Human Rights (Grupo Interdisciplinario por los Derechos Humanos—GIDH) (hereinafter the petitioners), against the Republic of Colombia (hereinafter the State, the Colombian State or Colombia) for violation of the right to life (Article 4), the right to human treatment (Article 5), and the rights of the child, as well as the generic obligation to respect and guarantee the rights recognized in the American Convention on Human Rights (hereinafter the American Convention) to the detriment of the following children: 8-year-old Johana Mazo Ramírez, 17-year-old Johny Alexander Cardona Ramírez, 17-year-old Ricardo Alexander Hernández, 15-year-old Giovanni Alberto Vallejo Restrepo, 17-year-old Oscar Andrés Ortiz Toro, 16-year-old Ángel Alberto Barón Miranda, 17-year-old Marlon Alberto Álvarez, 17-year-old Nelson Duban Flórez Villa, and Mauricio Antonio Higuaita Ramírez, a 22-year-old young man (hereinafter the victims).

2. On July 29, 2002, the Colombian State and petitioners, through the good offices of the CIDH, agreed to sign a friendly settlement agreement in conformity with the procedure set forth in Articles 48 and 49 of the American Convention. After monitoring material compliance with the terms of the agreement, the IACHR adopted a report in accordance with Article 49 of the American Convention in which it describes the friendly settlement process and the joint efforts of the parties to remedy the damage that was caused, in the light of the State's recognition of its responsibility and the purpose and objective of the American Convention.

II. SUBMITTAL OF PETITION TO THE COMMISSION AND PROCESS OF REACHING A FRIENDLY SETTLEMENT

3. On April 8, 1993, the Commission processed the petition submitted by the GIDH, under Case No. 11.141, in accordance with the instructions of the Rules of Procedure in force up to April 30, 2001. On September 7, 1995, in the framework of the Commission's 90th session, the parties initiated a process to reach a friendly settlement in conformity with the provisions of Article 48(f) of the American Convention. As a result of the exchange, the parties signed an understanding envisaging the establishment of a Committee to Promote the Administration of Justice (hereinafter the Promotion Committee) for this and other cases.[FN1]

[FN1] Committee to Promote the Administration of Justice in the cases of Los Uvos, Caloto, and Villatina. See Reports 35/00 and 36/00 in the Annual Report of the IACHR 1999.

4. The mandate of the Promotion Committee consisted of: (1) advocating due process of law in the performance of judicial and disciplinary actions; (2) identifying evidence on the events being dealt with and promoting their processing by the judiciary; (3) promoting the protection of witnesses and, if necessary, and judiciary and disciplinarian officers that conduct the investigations; (4) supporting not only the due exercise of the right of trade unions to defense but also the rights and activities of the civil party; (5) promoting, when deemed advisable for the investigative work, the transfer of proceedings to another jurisdiction and the creation of special units of the Office of the Prosecutor and the Technical Investigation Unit; (6) advocating the reparation of damages produced by the events being dealt with; (7) submitting a report to the IACHR in its next regular session on the exercise of the functions set forth in the previous items and on the results of the respective negotiations, indicating the factors that, in its judgment, might have exerted an impact on the success or failure of the above.

5. The Promotion Committee submitted its final report on February 23, 1996 at a meeting held in the framework of the Commission's 91st regular session. In its report, the Promotion Committee formulated a series of recommendations on the case and on other general issues. In general, it pointed out that:

The Committee as a whole has indicated that theoretically full reparation to victims of severe violations of human rights should envisage the following: (1) prevention of violations, investigation of the facts, identification, trial, and punishment of those responsible; (2) restitution, if possible, of the violated right; (3) compensation to the victims, understood in the broad sense of the term, such as compensations for material and moral damages; (4) reparation for the consequences produced by the violation in the communities that the victims belong, or belonged, to, by means of economic, social, and cultural actions.[FN2]

The Promotion Committee recommended that the State should recognize its responsibility for the Villatina case to the Commission and issued a series of recommendations on the adoption of measures of promotion, especially those involving criminal, disciplinary and administrative proceedings, in order to establish the facts and individual responsibilities. It also agreed that a

series of measures should be adopted to ensure individual and social reparation and to commemorate the victims.[FN3]

[FN2] Friendly Settlement Agreement of July 29, 2002, paragraph 8.

[FN3] These measures included the development of education, health, and job creation projects, as well as designing and installing a work of art to commemorate the victims.

6. On February 23, 1996, the parties agreed to continue with the friendly settlement process for which purpose they established a Follow-up Committee to monitor the recommendations made by the Promotion Committee (hereinafter the Follow-up Committee). The mandate of the Follow-up Committee, set forth in a document of understanding consisted of: (a) looking for, gathering, centralizing, and transmitting to the Inter-American Commission on Human Rights information on the measures agreed upon to develop the functions of the Promotion Committee; b) presenting periodical reports to the Inter-American Commission on Human Rights on the development of these functions and the result of these functions; (c) reporting to the Inter-American Commission on Human Rights, whenever necessary, about the obstacles that it encounters in the exercise of its functions; (d) submitting a report to the Inter-American Commission on Human Rights at its next regular session on the exercise of the functions it was entrusted with and on the results of its negotiations, with an indication of the factors that, in the judgment of the Committee, would have led to the success or failure of these functions.

7. The Follow-up Committee submitted its evaluation on compliance with the recommendations formulated by the Promotion Committee on October 7, 1997 at the Commission's 97th session. In this evaluation, the Follow-up Committee indicated that, although there was progress in applying disciplinary sanctions on the State agents involved in the massacre and in determining social reparations, the Commission should continue with the procedure envisaged in Article 50 of the Convention. In view of this situation, on October 16, 1997, the Commission issued a resolution whereby it evaluated and adopted the general recommendations included in the report of the Follow-up Committee and urged the parties to inform, by December 1, 1997, whether they were willing to continue the friendly settlement process or not.

8. On January 2, 1998, the State expressly acknowledged its international responsibility for Case 11.141 and accepted responsibility for the involvement of its agents in the death of the victims. On July 29, 1998, the President of the Republic publicly recognized the State's responsibility for the action or neglect of public servants in the events of Villatina[FN4] and handed to the families of each victim a document as a testimony of moral redress and atonement.

[FN4] Remarks by the President of the Republic in the Public Announcement of the Recognition of the State's Responsibility for the violent crimes committed in Villatina, Caloto, Los Uvos, and the cases of Roison Mora and Faride Herrera.

9. Despite the efforts made by the parties to promote the friendly settlement process, on October 5, 1998, they decided to terminate it, because most of the agreements drawn up during the different stages of the negotiations failed to be met. During the hearing held in the framework of the Commission's 100th session, the State and the petitioners agreed to request the Commission to rule on the substance of the case with due recognition of the partial implementation of the recommendations made by the committees established in the framework of the attempt to reach a friendly settlement. On March 2, 1999, at the hearing held in the framework of the Commission's 102nd session, the parties reported on the status of the compliance with the agreements drawn up in the framework of the Follow-up Committee.

10. On November 16, 2001, the Commission approved Report No. 123/01 pursuant to Article 50 of the American Convention and duly notified the State of this approval. In its report, the Commission establishes its competence to rule in the matter, refers to the attempt to reach a friendly settlement, and reviews the State's responsibility for violation of Articles 4, 8, 25, and 1(1) of the American Convention in the light of its recognition of its responsibility. Likewise, in its Report 123/01, the Commission expressed its recognition of the effort made by the petitioners and the Colombian State to resolve the case by a friendly settlement process and regrets that this process has failed due to noncompliance with the commitments that were made to ensure justice and social reparation by historically commemorating the victims. In view of the information that was gathered during this process, recognition of responsibility by the Republic of Colombia, and the preceding considerations, the Commission concludes that the Colombian State is responsible for the violation of the right to life of the children Johanna Mazo Ramírez, Johny Alexander Cardona Ramírez, Ricardo Alexander Hernandez, Giovanni Alberto Vallejo Restrepo, Oscar Andrés Ortiz Toro, Ángel Alberto Baron Miranda, Marlon Alberto Alvarez, and Nelson Duban Florez Villa and its obligation to provide them special protection by virtue of their status as children pursuant to Articles 4(1) and 19 of the American Convention, as well as the right to life and personal integrity of the young man Mauricio Antonio Higueta Ramírez, as set forth in Article 4(1) of the same Convention. Likewise, the Colombian State has failed to fulfill its obligation to duly provide for the right to fair trial and legal protection for the victims and their families pursuant to Articles 8 (1) and 25 of the American Convention and its obligations to safeguard the guarantee provided in Article 1 (1) of the same Convention.[FN5]

[FN5] IACHR Report 123/01, Case 11.141 Villatina Massacre, Colombia, November 16, 2001, paragraph 66.

11. On February 25, 2002, in view of the recommendations made by the IACHR, the Government of Colombia expressed its willingness to start up talks again with the petitioners in order to make progress in reviewing those commitments that have not as yet been met and to proceed with their implementation, as well as coordinate those aspects where, regarding this topic, there are differences between the parties. On February 26, 2002, the representatives of the State and the petitioners signed a document in which they testify to the intention of restarting the process of friendly settlement, on the basis of the following terms:

1. The parties agree to review the current status of the criminal investigations and to analyze the issue of the right to protection and fair trial and to include the results, in the light of the considerations of the Promotion Committee and Report 123/01, as part of the Agreement.
2. As for individual compensation for the persons who have not yet received it, the Government pledges to analyze once again the applicability of Law 288 of 1996.
3. As for social reparation, the parties agree to promote negotiations along the adequate channels to:
 - a) build a monument of atonement;
 - b) implement a new productive project that is operational and profitable;
 - c) place a memorial plaque of the Villatina health center; and
 - d) implement a nonformal education project.

The activity stemming from the document of February 26, 2002 led the parties to renew their intention to reach a friendly settlement pursuant to Article 49 of the American Convention.

12. Finally, on July 29, 2002, the parties signed a friendly settlement agreement in which a series of commitments specified below was established. Since then, the parties, with the good offices and supervision of the IACHR have made joint efforts to fulfill the commitments that were made to remedy the damage caused.

III. THE FACTS OF CASE 11.141: THE VILLATINA MASACRE

13. On November 15, 1992, at about 8:30 p.m., while several inhabitants of the barrio of Villatina in the city of Medellín were returning home from a religious service, about 12 men in three privately owned cars and carrying firearms used exclusively by security forces stopped at a street corner in the district, got out of their cars, ordered the children and young people who were there to lie down on the ground, and opened fired on them. As a result the following children died: 8-year old Johanna Mazo Ramírez, who had a leg in a cast because of a recent accident, Johnny Alexander Cardona Ramírez, Ricardo Alexander Hernández, Giovanni Alberto Vallejo Restrepo, Oscar Andrés Ortiz Toro, Ángel Alberto Barón Miranda, Marlon Alberto Álvarez, and Nelson Duban Flórez Villa, all of who were between 15 and 17 years of age, and the young man Mauricio Antonio Higueta Ramírez, who was 22 years of age.

14. The attack against the children and young people came to a halt when a National Army patrol arrived on the scene, which triggered a brief confrontation without any deaths or arrests. The child Nelson Dubán Flórez Villa at first survived the assault and was transferred alive to the closest Intermediate Health Unit, where he eventually died. While he was being carried to the health care center, Nelson pointed out that he had recognized among the killers members of the National Police Force, companions of one of his relatives. The testimony of those who accompanied Nelson is consistent with the ballistic tests, which indicate that the bullets used in the massacre belonged to the Departmental Police Force and the National Army.

IV. THE FRIENDLY SETTLEMENT AGREEMENT

15. On July 29, 2002, the representatives of the State and the petitioners signed a friendly settlement agreement. This document accepts the terms of the agreement signed on May 27, 1998 in a first attempt to reach a friendly settlement in this matter. The agreement recognizes the State's responsibility for violation of the American Convention, the right to fair trial, and individual reparation to the families of the victims, as well as a social reparation element with health and education components and a productive project. The Report envisages the installation of a park with a monument in the city of Medellín to serve as a historical commemoration of the victims. Likewise, the Commission observes that the provisions of the agreement reflects the recommendations of the Committee to Promote the Administration of Justice, as well as those included in Report No. 123/01 of the Commission.

16. The agreement includes a mechanism to monitor fulfillment of the commitments, which consists of informing the Commission jointly at each regular session on the progress achieved, without detriment to ongoing information and communication that the parties will maintain during the implementation of the commitments, through periodical meetings that make it possible to conduct a specific follow-up of its implementation.

17. Before providing a detailed report of the commitments that were made in the agreement of July 29, 2002 and their degree of fulfillment, the Commission wishes to express its satisfaction at the terms of this agreement and to express its sincere appreciation to the parties for their efforts in reaching a friendly settlement based on the purpose and objective of the American Convention.

A. Recognition of responsibility and right to justice

18. In the friendly settlement agreement, the State recognized international responsibility for violating the American Convention in the following terms:

The State reiterates the contents of its communication of January 2, 1998 addressed to the Commission and publicly announced by the President of the Republic on July 29, 1998, recognizing its responsibility for the violent events in which the following children were killed: 8-year-old Johanna Mazo Ramírez, 17-year-old Johny Alexander Cardona Ramírez, 17-year-old Ricardo Alexander Hernández, 15-year-old Giovanny Alberto Vallejo Restrepo, 17-year-old Oscar Andrés Ortiz Toro, 16-year-old Angel Alberto Barón Miranda, 17-year-old Marlon Alberto Álvarez, 17-year-old Nelson Duban Flórez Villa, and the 22-year-old young man Mauricio Antonio Higuera Ramírez; and therefore, in the framework of the Inter-American Convention on Human Rights, it accepts its responsibility for these serious crimes.

19. As for the right to justice of the victims, their families, and society, the agreement provides that:

Taking into account that the criminal investigation for the serious crimes that led to the death of the children, previously remained under investigation for more than two years, the Committee to Promote the Administration of Justice was instructed, among other things, to guarantee due process of law in the performance of the judicial and disciplinary proceedings, as well as to identify evidence and promote its processing in the judiciary.

Despite the efforts made by the Follow-up Committee to monitor the recommendations made by the Promotion Committee, the investigations conducted in the criminal courts of law were not an effective mechanism to secure justice and to avoid the atrocious crime from remaining unpunished.

Partly because various pieces of evidence that were recommended by the Promotion Committee did not yield the results that they could have produced if they had been processed on time and in part because irregularities appeared, as pointed out by the Follow-up Committee itself[FN6] and the Surveillance Unit of the Office of the Attorney General of the Nation.[FN7]

On the basis of a review of the current status of the investigations, it was found that, although on November 14, 1994 the Office of the Prosecutor General of the Nation confirmed the first-instance decision of the Office of the Prosecutor in Charge of Human Rights whereby an order was issued to dismiss the three active members of the National Police Force for their participation in the massacre of the children, the Fourth Specialized Criminal Trial Court of Medellín issued a judgment of acquittal on April 30, 2002 in the proceedings that had been filed against one of these persons for covering up the crime. This judgment is now being appealed with the Superior Court of Medellín.

Because of the above, the Government and the petitioners adopted as part of the agreement the review on “Judicial Protection and Guarantees” that the Inter-American Commission made in its Report No. 123/01 of November 2001, which points out, among other matters:

54. Article 25 of the American Convention establishes the obligation of States to guarantee access to justice and to provide due judicial protection to persons under their jurisdiction.” (...)

55. The American Convention obliges the States to prevent, investigate, identify, and punish the perpetrators of, and those covering up, violations of human rights, especially when they affect the fundamental rights such as life. In those cases where the violation of a protected right has as a consequence the committing of a criminal act in the framework of domestic law, the victims or their families are entitled to have a regular court, rapidly and effectively, identify those responsible, try them, punish them accordingly, and effectively enforce the punishment.

56. As indicated by the Inter-American Court:

“Article 25, with respect to Article 1 (1), obliges the State to guarantee all persons access to the administration of justice and, in particular, to simple and prompt recourse so that those responsible for the violations of human rights can be tried and the damaged suffered can be compensated for. As indicated by this Court, “Article 25 is one of the fundamental pillars not only of the American Convention but also of the rule of law in a democratic society according to the Convention.”[FN8]

The contents of Article 25 are closely related to Article 8(1) which enshrines the right of all persons to be heard in a fair trial and within a reasonable amount of time by an independent and impartial judge or court and grant to the family of the victims the right to have the death of their loved ones effectively investigated by the authorities, that legal proceedings be brought against those responsible, that they be punished accordingly, and that damages suffered be repaired.[FN9]

(...) in the present case, despite ballistic evidence, the testimony of the child Nelson Duban Flórez before his death, the testimonies of those living in Villatina and the State's own recognition of responsibility, almost one decade has elapsed without those responsible being brought to trial or punished.

(...)

58. In the present case, the delay has not only deprived the families of the victims of an effective action to obtain justice and reparation for a decade, it has also contributed to undermining the possibility of bringing those responsible to trial on the basis of existing evidence and continues to generate risks for the lives of the witnesses and the families of the victims.

(...)

62. In view of these considerations, it should be concluded that, in the present case, the State has not secured the necessary means to fulfill its obligation to investigate the extra-judicial execution of the victims, to bring to trial and punish those responsible, and to provide reparation to the families of the victims. The execution of the victims in the present case remains unpunished, which, as indicated by the Court, "promotes the chronic repetition of violations of human rights and the total defenselessness of the victims and their families.

On the basis of the above, the State recognized that, despite the results of the disciplinary investigations, it has not fulfilled its obligation to provide due judicial guarantees and protection to the victims and their families pursuant to the provisions of Articles 8 (1) and 25 of the American Convention and expressed its will to continue investigating the facts that would enable them to identify, bring to trial, and punish those responsible.

[FN6] Report of the Follow-up Committee to monitor the recommendations of the Promotion Committee: "The Promotion Committee (sic) views with concern the various obstacles that prevented observance of the recommendation made to the Attorney General's Office regarding the procedure of suspect identification in a police lineup, which jeopardized the witnesses that were going to participate in it and that could prevent the individuals responsible for the massacre from being identified."

[FN7] Evaluation Report 374/96V of September 30, 1997 of the Surveillance Office of the Attorney General of the Nation: "In this precarious state of evidence, with official letter D5-1886 of October 3, 1995 the proceeding filed under No. 10.458 of the REGIONAL OFFICE OF THE PROSECUTOR GENERAL OF MEDELLÍN to the NATIONAL HUMAN RIGHTS UNIT, is forwarded concluding without a doubt that both the Regional Attorney General(s) competent in the case and the CTI agents of the Region of Medellín were responsible for almost two years of dereliction of duty, during which time the prior proceedings filed under No. 10.458 were issued from the regional office with extensions of time for testing evidence and would come from the CTI without any action having been taken."

[FN8] IAHR Court, Case of Loayza Tamavo, Reparations, Judgment of November 27, 1998, paragraph 169.

[FN9] IAHR Court, Case of Durand & Ugarte, Judgment of August 16, 2000, paragraph 130.

B. Measures to repair the damage caused to the victims and their families

20. As part of the measures for full reparation, the agreement includes measures aimed to repair the damage individually and collectively in its different aspects. As for pecuniary compensation, the agreement points out that:

Considering that the Government of Colombia recognized its international responsibility for the serious crimes committed on November 15, 1992, the National Police Force, in compliance with the recommendations of the Promotion Committee, reached an agreement with the families of the victims who filed timely proceedings for compensation for damages with the Administrative Court of Antioquia. This conciliation was approved by means of a ruling issued on March 12, 1998.

Taking into account that the Inter-American Commission on Human Rights, in Report 123/01, declared that the State was responsible and made recommendations, which include that of :

“2. Providing full reparation to the families of the victims in conformity with the commitments made for compensation (...) during the attempt to reach a friendly settlement.”.

Taking into account also that the Rapporteur for Colombia of the Inter-American Commission on Human Rights addressed the Minister of Foreign Affairs last May 16th and indicated that this recommendation comes under Law 288, for those who, according to what was ascertained during the proceedings with the Commission, did in fact suffer damages as a consequence of the events that took place in Villatina in November 1992.

The Government of Colombia, as a result, through the Committee of Ministers established by Law 288 of 1996, ruled that the matter was with merit by means of Resolution 06/02 for compliance with Report No. 123/01 of the Inter-American Commission on Human Rights, in the terms and for the purposes of Law 288 of 1996; so that, according to the Committee, there are the factual and legal grounds as envisaged in the Political Constitution and in applicable international treaties.

In this regard, the Government, in addition to enforcing Law 288 of 1996, by means of the corresponding proceedings, pledges to estimate the amounts for the reparation of damages, applying for this purpose the parameters that were used in the case of Trujillo, in view of the commitments made in the Promotion Committee,[FN10] recognition of the State’s responsibility, the Commission’s recommendations, and precedents of law.

Resolution number 06/02 of July 22, 2002 of the Committee of Ministers established by Law 288 of 1996 and the commitment of the Director General of the National Police Force to estimate by conciliation the amounts of the compensations for the families of the victims who have not been fully compensated are part of the present friendly settlement agreement.

The Commission has learned that substantial progress has been made in the process of estimating and paying the compensatory amounts due to the families of the victims.

[FN10] According to which: “The Committee is pleased to note the statement drawn up by the parties in the contentious-administrative proceedings corresponding to the cases of Los Uvos, Caloto, and Villatina, for their wish to strive for conciliation in these cases and their willingness to actively promote the signing of these respective conciliatory agreements. The Committee urges them to sign such agreements. In addition, it invites them to take into account, in the efforts to draw them up, the evidence and information known by the Committee itself and collected by any judicial or disciplinary instance or received by the Committee or by the parties from any other source. It also suggested to the parties that, in the signing of these agreements, they apply the parameters that were followed in the conciliation of the case of the so-called Violent Events of Trujillo “made with the Council of State.”

21. As for the measures of collective reparation involving health, the agreement points out that:

We the parties agreed, in February 1996, on the development of a project aimed to improve basic health care for the inhabitants of Villatina, which has been materialized with the building of the Health Center that is currently functioning in the neighborhood.

As part of the obligation of the Colombian State to commemorate the victims and make moral amends and provide reparations to their families, the State pledged to place a memorial plaque in the Health Center, which shall be installed prior to the next regular session of the Inter-American Commission on Human Rights, with the following text:

“This Health Center was built in memory of 8-year-old Johanna Mazo Ramírez de 8 años, 15-year-old Giovanny Alberto Vallejo Restrepo, 17-year-old Johny Alexander Cardona Ramírez, 17-year-old Ricardo Alexander Hernández, 17-year-old Oscar Andrés Ortiz Toro, 16-year-old Angel Alberto Barón Miranda, 17-year-old Marlon Alberto Álvarez, 17-year-old Nelson Duban Flórez Villa, and 22-year-old Mauricio Antonio Higueta Ramírez, who died on November 15, 1992 in the district of Villatina in Medellín.

The Colombian Government publicly recognized its responsibility to the OAS Inter-American Commission on Human Rights and to Colombian society for the violation of human rights in these serious crimes, chargeable to agents of the State. Likewise, it expressed its feelings of solidarity and condolences to the families of the victims.

This action of moral redress and atonement will not be enough to ease the pain that this crime has caused, but it is an obligation of the State, a fundamental step to do justice and so that crimes of this nature do not occur again.

Medellín, (date)”

The plaque will not bear the name of any national, departmental or municipal authority and will be installed during a public ceremony attended by representatives of the National Government and local government, the families of the victims, and the petitioners.

The Commission has learned that measures aimed at installing the plaques to the memory of the victims in the health center have been taken.

22. Regarding the collective reparation measures related to education, the agreement points out that:

In fulfillment of the commitments made in February 1996, the Government of Colombia pledged to remodel the San Francisco de Asís Primary School so that it could also provide basic secondary education services. This project has been developed gradually since 1999, as a result of which the physical premises have been satisfactorily refurbished and classes have been gradually opened.

The Government of Colombia, in compliance with the recommendations contained in Report 123/01 of the Inter-American Commission, pledges to continue without interruption the process of opening grades up to eleventh grade.

23. Regarding the collective reparation measures involving the implementation of a productive project, the agreement establishes that the parties agreed to start up a new project on the basis of the following terms:

The parties agreed in February 1996 that the National Government would draw up, submit, and promote among public institutions in charge of this matter, along with the respective feasibility study, a project for creating jobs especially aimed at the neighborhood's young people. Afterwards, at the request of the families of the victims, it was determined that the project would be aimed at the affected families and a process started up to install a center for storing building materials, which ended up by being grocery store.

In the development of the productive project of the storage center, administrative irregularities seem to have occurred and they need to be clarified through the corresponding legal mechanisms so that the competent authorities can determine what occurred and, if the facts warrant it, those found to be responsible can be punished.

Because of the above, the parties agreed to start up a new productive project, taking into account the factors that led to the failure of the previous one. At the suggestion of the Secretary of Government of Medellín, we the parties have agreed to include the new productive project in the PARE Program headed by the Archdiocese of Medellín.

On May 29, the petitioners informed the Government that the families of the victims had indicated their decision to implement a project aimed at setting up and running a sewing shop.

On the basis of this information, the Administrative Department of the Office of the President and National Planning confirmed that resources had been obtained to implement this project. In addition, the DAPRE specified that it would carry out the due and necessary legal procedures so that it would be that central entity that would give the money to the Archdiocese of Medellín and would oversee the agreement drawn up for this purpose. It was also agreed that both the

movables and real estate assets that the Municipality of Medellín had purchased for the previous project would be for the sewing shop.

On July 22, the Ministry of Foreign Affairs, the Administrative Department of the Office of the President of the Republic, and the Interdisciplinary Group for Human Rights met with the Archdiocese of Medellín and some of the mothers of the victims to discuss the terms whereby the PARE Program will serve as a support for the implementation of the productive project chosen by the community. At this meeting, the Archdiocese accepted to collaborate and granted the parties the means within its reach to fulfill the commitments as specified by the petitioners and the Government.

Taking into account that one of the commitments acquired by the Government in the framework of the friendly settlement was to draw up and implement a nonformal education program aimed at the community and that this commitment has still not been implemented, we the parties have agreed that the initial phase of the productive project, that is, the one involving participatory planning, in which the mothers of the victims receive training on community projects and participate in the formulation of their own projects, shall be funded without the involvement of resources allocated for the project by the National Government. Regarding this, the Government has reached a solution by involving the collaboration of the FIEL Institute in the city of Medellín, which has expressed its readiness to take up this first stage in coordination with the Archdiocese of Medellín.

Finally, the parties agree that the petitioners to the IACHR, representatives of the families of the victims, will be able to supervise at any time implementation and execution of the productive project.

On August 13, 2004, the petitioners reported that, at the end of the year 2003, when the Productive Project was starting up commercial production and about 30% of the funds given to the UNDP had still not been implemented, the National Government ordered reimbursement of these funds to the General Department of the National Treasury.[FN11] The petitioners claim that, because of this measure, the company came to a standstill, several of the obligations that were accepted failed to be fulfilled, and the premises that had been remodeled had to be returned to their owner for default. On August 17, 2004, the Commission requested information from the State on compliance with item (c) of the friendly settlement agreement signed on July 29, 2002 and granted a 15-day deadline for the State to reply. On September 23, 2004, the State presented its communication to the Commission in which it recognized that, at the request of the Ministry of Finance and Public Credit, it was necessary to reimburse 30 million pesos to the National Treasury, adding that, thanks to efforts by the Presidential Program of Human Rights and International Humanitarian Law, 40 million pesos had been allocated to replace the amount that was repaid to the State.[FN12]

[FN11] Communication of the Interdisciplinary Group for Human Rights of August 13, 2004. This situation supposedly stemmed from Law 848 of November 12, 2003, which decreed the Budget of Revenues and Capital Resources and the Law of Appropriations for the fiscal year extending from January 1st to November 31, 2003.

[FN12] Communication DDH 48043 of the Ministry of Foreign Affairs of the Republic of Colombia of September 23, 2004. It clarifies that, because the contract with UNDP ended on June 30, 2004, the Office of the President has been obliged to implement directly the resources and indicates that it expects to sign contracts for the implementation of available resources during the last week of September 2004. The State has indicated that the resources available in the amount of the 40 million will be disbursed as follows: 30 million pesos for a contract to be signed with Mercaferro EAT, a company comprised of mothers (for inputs and maintenance) and 10 million pesos for a supervision contract to exercise control and surveillance over the project.

24. On March 01, 2005, the Colombian State and the petitioners presented to the IACHR a joint report from February 17, 2005, informing about the contents of the commitments implementation concerning the support to the productive project, including the payment of damages for the standstill above mentioned. Likewise, in that document both parties required the approval and publication of the friendly settlement agreement, in accordance of Article 49 of the American Convention.[FN13]

[FN13] “Joint Report about the development of pending commitment of the friendly settlement agreement. Case Villatina (11.141) in study before the Interamerican Commission on Human Rights” dated on February 17, 2005, signed by the Minister of Foreign Affairs, Carolina Barco, the Interdisciplinary Group for Human Rights and the Colombian Commission of Jurists.

25. As for the collective reparation measures to commemorate the victims, the agreement established that:

The National Government and the petitioners wish to reiterate, in this friendly settlement agreement, that the purpose of building a work of art is to commemorate the children, as well as make moral amends and provide reparations to the families of the victims. Therefore, any project that is developed in this direction should count on the support and interest of the community, the families, and the petitioners to IACHR.

The parties recognized that, in the first stage of looking for a friendly settlement, conditions were suitable for implementing and erecting a monument, including the corresponding budget appropriations, but for different administrative reasons that should be the target of an investigation by the competent authorities, they decided that the project could not be carried out.

Because of the above, after identifying the matters that prevented this commitment from being fulfilled in the past, we the parties agree to define the following items regarding the building of the monument, after the National Government discussed it with the Municipality of Medellín:

(1) The monument will be built in one of the three parks of the city of Medellín: Parque del Periodista (Maracaibo & Girardot), Parque San Antonio (Av. Oriental) or Plazuela del Teatro Pablo Tobón Uribe (Av. La Playa). The Municipality of Medellín shall choose from among these alternatives. The Office of the Mayor of Medellín, in turn, has five days as of the date of the

signing of the inter-administrative agreement to obtain the necessary permits issued by Municipal Planning.

(2) The petitioners and the Office of the Mayor of Medellín shall each submit two names of artists to invite them to present proposals, in accordance with the terms of reference that the Administrative Department of the Office of the President will be providing in due time.

(3) The parties agreed that the petitioners would have the right to suggest some parameters in the terms of reference for hiring the artist. In conformity with the above, the petitioners have requested that the following be taken into account: a) that the work of art be made of bronze, b) that the work of art be comprised of 9 elements which should be clearly identifiable as the 9 victims, c) that the project include the complete remodeling of the public space that will be used, and d) that the artist have some personal or professional experience in the field of human rights or in similar or related areas. The parties agree that the Ministry of Foreign Affairs shall transmit to the DAPRE the suggestions of the petitioners, which shall be taken into account in due time, as part of the contracting process.

(5) The contracting process will be conducted directly by the Administrative Department of the Office of the President, which will also supervise implementation of the contract, without detriment to the collaboration of the Ministry of Foreign Affairs and the petitioners in the latter activity. In this hiring process, on the basis of what was agreed, a proposal evaluation committee will be set up with the participation of a person designated by the Ministry of Foreign Affairs, one by the petitioners in coordination with IACHR, and one by the Office of the President of the Republic.

The National Government confirms that the resources that were earmarked to build the monument commemorating the killed children have been approved and appropriated.

As for the text that should appear on the plaque of the monument, we the parties have agreed on the following:

“To the memory of Johanna Mazo Ramírez (8 years old), Giovanni Alberto Vallejo Restrepo (15 years old), Johny Alexander Cardona Ramírez (17 years old), Ricardo Alexander Hernández (17 years old), Oscar Andrés Ortiz Toro (17 years old), Angel Alberto Barón Miranda (16 years old), Marlon Alberto Álvarez (17 years old), Nelson Duban Flórez Villa (17 years old) and Mauricio Antonio Higuera Ramírez (22 years old), killed on November 15, 1992, in the district of Villatina in Medellín.

The Colombian Government recognized its responsibility to the Inter-American Commission on Human Rights of the OAS and to Colombian society for the violation of human rights in this serious crime, chargeable to State agents.

This monument is a way to commemorate the victims, make moral amends and express atonement to the families, and although it is not enough to ease the pain produced by this action, it has become a fundamental step for justice to be done and to remind Colombians that crimes of this nature cannot be repeated.

Medellín, (date).”

The plaque will not bear the name of any national, departmental, or municipal authority and it will be installed during a public ceremony attended by representatives of the National Government and local government, the families of the victims, and the petitioners.

As for the implementation of this measure, the Commissioner at that time, Robert K. Goldman, who was a member of the jury to select the project of the monument envisaged in the agreement, expressed his viewpoint on the different proposals on the basis of the terms of reference issued by the Administrative Department of the Office of the President of the Republic of Colombia on December 30, 2002. Likewise, on May 12, 2003, the Commission requested the good offices of the Mayor of Medellín to speed up the negotiations that had yet to be done. Finally, on July 13, 2004, the ceremony to unveil the monument was held in the Plaza del Periodista in the city of Medellín. The ceremony was attended by the mothers of the victims, the Archdiocese of Medellín, the Vice-President of the Republic, the Minister of Defense, the Director of the National Police Force, authorities from the Office of the Mayor of Medellín, the petitioners in case 11.141 and the IACHR, represented by Commissioner Susana Villarán[FN14]—who replaced Robert K. Goldman as rapporteur for Colombia in January 2004—and the Executive Secretary, Santiago Cantón.

[FN14] At the ceremony, Commissioner Villarán stated: “On November 15, 1992, in the barrio of Villatina Caycedo, here in Medellín, members of the National Police Force executed the children Johana Mazo Ramírez, who was 8 years old, Jhonny Alexander Cardona Ramírez who was 17, Ricardo Alexander Hernández who was also 17, Giovanni Alberto Vallejo Restrepo who was 15 years old, Oscar Andrés Ortiz Toro who was 17 years old, Ángel Alberto Barón Miranda who was 16 years old, Marión Alberto Álvarez who was 17 years old, Nelson Duban Florez Villa who was 17 years old, and the young man Mauricio Antonio Higuíta Ramírez, who was 22 years old. Most of these children belong to a group called “Builders of the Future.” The future was violently taken away from them, they died before their time, and thus their dreams and life ambitions were cut down. In 1995, the representatives of the victims met with the government at an IACHR session to pave the way for a friendly settlement that culminated in the establishment of a Committee to Promote the Administration of Justice, which was set up in this city on September 29, 1995. Various years passed, agreements on justice and reparation were signed. It was not easy, it was not just matter of having the Colombian State recognize its international responsibility, which was done publicly by the President of the Republic on July 29, 1998. Not all the agreements materialized and the friendly settlement process ended in 1998. In November 2001, our Commission issued a report with very concrete recommendations: among them, guarantees for an investigation that would identify, try, and convict the perpetrators, full reparation for the families, and the pronouncement of guarantees that actions as atrocious as this one would never occur again. In 2002, the friendly settlement was taken up again on the basis of the State’s responsibility, the right to justice, individual reparation, social reparation in health, education, a productive project and a monument that we are unveiling today. I repeat, it has not been an easy going, but today the Commission congratulates itself for having fulfilled the mission that was entrusted to it by the American Convention on Human Rights. And it does so to recall that it has no meaning other than that of remembering these children to the heart of this society. It is also doing it to send a message through this monument: it involves human beings, children that the State should have provided special protection to and did not. On the contrary, it

violated their right to life, denied their families for a long time their right to justice and reparation, adding defenselessness to the pain of an irreparable loss. The message is that, as of today, the children of Medellín will be effectively and especially protected. The IACHR is happy that both the families and the government have trusted in international mechanisms for the protection of human rights and have found effective solutions despite the difficulties that were encountered on the way. Nine persons, eight of them children, were executed. We should not be counting them, each one is unique and impossible to duplicate. When we refer to the victims, we should not count them, out of respect for their inherent dignity and humanity, we should only recite their names and by doing so return them symbolically to the lives of their families and to society as a whole. May this be the occasion to redouble our commitment to life and long-lasting peace for this dearly beloved people of Colombia. We owe it to Johana, to Jhonny, to Ricardo, to Giovanni, to Oscar, to Ángel, to Marion, to Nelson, and to Mauricio. “Remarks by Commissioner Susana Villarán at the unveiling of the monument erected to the memory of the victims of the Villatina massacre,” Medellín, September 13, 2004.

26. The agreement envisages its publication and distribution on the basis of the following terms:

Taking into account that the present Friendly Settlement Agreement contributes substantially to full reparation for the victims of the violations of human rights, and constitutes as well a mechanism to promote in the future the speedy, timely, and effective implementation of judicial investigations to prevent crimes of this nature to remain unpunished, we the parties agree that the National Government shall publish and disseminate, in coordination with the petitioners, five hundred copies of the complete text of the agreement, including the documents that are part of it and its annexes.

In view of the characteristics of the agreement and the joint work of the parties to agree on its terms in conformity with the purpose and objective of the rights protected in the American Convention, the Commission highlights the importance of this commitment and its fulfillment.

V. CONCLUSIONS AND RECOMMENDATIONS

27. On the basis of the preceding considerations and by virtue of the procedure set forth in Articles 48(1)(f) and 49 of the American Convention, the Commission wishes to reiterate its satisfaction at the signing of the friendly settlement agreement in the present case, its compatibility with the purpose and objective of the American Convention, and also to highlight the efforts of the parties to reach an agreement and implement it.

28. The Commission wishes to highlight the State’s fulfillment of the substantive part of the commitments made in the agreement. At the same time, it calls upon the State to continue to fulfill the remaining commitments that were made and to cooperate in the corresponding follow-up process.

29. By virtue of the considerations and conclusions set forth in the present report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To approve the terms of the friendly settlement agreement signed on July 29, 2003.
2. To urge the State to take the necessary measures to fulfill the commitments that are pending, particularly the obligation to provide the right to a fair trial and judicial protection to the victims and their families according to Article 8(1) and 25 of the American Convention by continuing with the facts investigation, which will allow to identify, judge and sanction those responsible.
3. To continue supervising the fulfillment of the commitments made to ensure a historical commemoration of the victim and access to justice.
4. To publish the present report and include it in its Annual Report to the General Assembly of the OAS.

Done and signed at the headquarters of the Inter-American Commission on Human Rights in Washington, D.C., on the 27th day of October 2005. Signed: Clare K. Roberts, First Vice-President; Susana Villarán, Second Vice-President; Commissioners Evelio Fernández Arévalos, Paulo Sergio Pinheiro, Freddy Gutiérrez and FLorentín Meléndez.