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**REPORT No. 34/15**  
**PETITION 191-07 et al.**  
REPORT ON ADMISSIBILITY

ÁLVARO ENRIQUE RODRÍGUEZ BUITRAGO AND OTHERS  
COLOMBIA

Approved by the Commission at its session No. 2035 held on July 22,, 2015  
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REPORT

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Organization of  
American States

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**I. SUMMARY**

1. This report refers to 37 petitions, filed in representation of 64 persons (hereinafter also referred to as “the alleged victims”) who were presumably executed by members of the Colombian National Army, which allege violations by the Republic of Colombia (hereinafter also referred to as “Colombia”, “the State,” or “the Colombian State”) of the rights enshrined in the American Convention on Human Rights (hereinafter also referred to as “the American Convention” or “the Convention”). The petitions contend that the alleged victims were executed by army service members, who altered the scene of the crime and changed the victims’ clothing in order to report that they were members of guerilla groups who had been killed in combat, supposedly with the aim of claiming economic and professional incentives, and in response to pressure from the government to show positive results in the fight against insurgent groups. The petitions further contend that some of the alleged victims were tortured prior to being executed. Finally, the petitions maintain that despite the fact that these events were reported and authorities were fully apprised thereof, investigations have gone on for years to no avail and final judgments have been obtained solely in a few cases.

2. The State maintains that the alleged victims’ deaths occurred in combat that took place as part of anti-terrorist operations against insurgent groups and therefore do not constitute violations of human rights. The State likewise maintains that the petitions are inadmissible pursuant to Article 46(1)(a) of the Convention, as the alleged victims’ representatives have not exhausted remedies in either the criminal or administrative justice system.

3. After reviewing the positions of the parties in light of the requirements for admissibility provided for under Articles 46 and 47 of the Convention, the Commission concluded that it is competent to hear the 37 petitions and that these petitions are admissible for purposes of reviewing in the merits stage alleged violation of rights enshrined in Articles 4, 5, 7, 8, 11, and 25 of the American Convention in relation to Articles 1(1) and 2 thereof, as well as Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture. Given that some of the alleged victims in petitions 513-07, 464-10, 920-09, 465-10, 462-10, 1398-09, 1020-09, and 1640-09 were minors, the Commission concluded that these petitions are admissible for purposes of reviewing in the merits stage the alleged violation of Article 19 of the Convention. Finally, as to the allegation of sexual violence presented in petition 1662-09, the Commission concluded that it is admissible for purposes of reviewing in the merits stage violations of Article 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women. Furthermore, the Commission decided to join the 37 petitions and process them together in the merits stage under case number 12.998. Lastly, the Commission decided to notify the parties of this Admissibility Report, as well as to publish it and include it in its Annual Report.

**II. PROCESSING BY THE COMMISSION**

4. The Commission received the initial petitions between February 2007 and March 2010. Each one of the petitions was duly forwarded to the State. Submissions sent successively by both parties were forwarded to the other party, providing them with the statutory time periods to present additional observations. The details of the main procedures are provided for in the section on specific allegations, which summarizes the positions of the parties.

### III. POSITION OF THE PARTIES

#### A. Position of the petitioners

##### 1. Common allegations

5. During processing of this group of petitions, both parties have referred to the context of the era when the alleged events occurred. The petitioners contend that there is a pattern that is a common thread among the cases under review. They mention that for over five decades Colombia has faced the consequences of an internal armed conflict, involving armed groups of guerillas, paramilitaries, and State forces. This conflict has led to a phenomenon of internal displacement, exile, massacres, executions, as well as other grave violations of human rights with regard to which the Inter-American Commission on Human Rights has had the opportunity take a position both through its system of cases and petitions, as well as its thematic, annual, and country reports. Throughout the decades that the conflict has endured, the State has militarily fought guerrilla groups which have historically been responsible for kidnappings, recruiting minors, and military actions that have sown terror amongst the general population.

6. As part of this fight, between 2003 and 2009 they argue that the State has adopted a series of provisions to give monetary incentives to those who furnish information that allowed for the identification of members of illegal armed groups, as well as to those soldiers who killed them in combat. According to the petitioners, on June 26, 2003, the Congress of the Republic of Colombia approved Law 812, pursuant to which it adopted the 2003-2006 National Development Plan. Said Plan established a “democratic security” policy in the country, with Article 8(a) thereof highlighting control over territory and the fight against violent groups as a priority, specifying as one of the strategies to achieve it, the organization of nearly one million citizens in networks of cooperators in the cities and the country. To this end, –they argue– the Law provided that it would continue “implementing incentives to foster citizen participation in the democratic security strategy.” Law 812 of 2003 also stipulated that security forces should have a policy of zero tolerance of human rights violations.

7. According to the narrative presented by the petitioners, on November 17, 2005, the Colombian Ministry of National Defense issued Permanent Ministerial Directive No. 29-2005. This Directive, categorized as “secret,” but provided nonetheless by the petitioners, “develops criteria to pay rewards for capturing leaders of illegal armed organizations or for taking them down in combat,” specifying in Article 3 thereof five levels of rewards with a maximum amount established for each level, which would pay between COP\$3,815,000.00 and COP\$5,000,000,000.00 for taking down members of illegal armed groups. Furthermore, Article 2 of this Directive provides that compensation in cash or in kind would be provided “for timely and truthful information furnished to security forces, which leads to the capture or take down in combat of leaders of illegal armed organizations or drug trafficking groups.”

8. The petitions considered in this report contend that the alleged victims were arbitrarily detained by the Colombian National Army and then executed. Their clothes were changed, as were the circumstances and scenes of the alleged crimes to make the victims look like members of guerrilla groups that had been killed in combat with the army, or like common criminals who were members of “emerging criminal gangs” that had perished in skirmishes with security forces. According to the petitioners, there had been no diligent investigation into these events, nor had there been comprehensive redress for the victims, such that the State had violated different rights enshrined in the American Convention on Human Rights.

9. The petitioners affirm that between 2002 and 2009, as the result of implementation of a state anti-terrorist policy known as “democratic security,” there was a marked increase in extrajudicial executions, most of which had the same characteristics as those that are the subject of the petitions contained herein, known popularly as “false positives.” This term refers to the fact that these deaths were presumably presented and documented by the army as positive results in the anti-guerrilla and anti-mafia combat they were conducting, when in reality, as the petitioners report, the individuals killed were civilians who were detained while unarmed and without ever having been in combat. In the opinion of the petitioners, the purported number of cases shown, the widespread geographical distribution thereof, and the numerous

military units involved shows that these “false positives” were not isolated cases, rather that they were a result of a systematic policy of executions within the Colombian National Army.

10. In general the petitions allege violations of rights recognizing juridical personality (Article 3), life (Article 4), humane treatment (Article 5), a fair trial (Article 8), the right to the protection of honor and dignity (Article 11), protection of the family (Article 17), rights of the child (Article 19), to property (Article 21), freedom of movement and residency (Article 22), and judicial protection (Article 25) enshrined in the American Convention on Human Rights.

## 2. Specific allegations

### *Álvaro Enrique Rodríguez Buitrago (P-191-07)*

11. The petition, submitted by Lina Traslaviña Solano, in her name and in representation of her children, on behalf of Álvaro Enrique Rodríguez Buitrago, was received by the IACHR on February 21, 2007, and was sent to the State on July 23, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party. The petitioners affirm that Álvaro Enrique Rodríguez Buitrago was tortured and executed by members of the Unified Action Group for Personal Freedom (GAULA) of the Colombian National Army’s Sixth Brigade and reported to have been “killed in combat.” They state that on January 12, 2007, the alleged victim was taken away in a vehicle with tinted Windows in Ibagué, Tolima when he was at a marketplace. On January 13, 2007, his corpse was found in trash bags, dressed in a military uniform, with a rifle and some grenades. The body showed signs of torture to the genitals and scalp, and an arm presented fractures. The petitioner categorically denies that her husband had any connection in life with illegal armed groups.

12. The petitioners indicate that an investigation was conducted up by Military Criminal Court of Justice No. 79 and affirmed that Attorney General’s Office had taken investigative measures, although they were unaware of “what they had done.” They also state that on January 26, 2009, they had been denied copies of the inquiries undertaken in the case by Court No. 79 and since then had been unable to obtain them. Finally, the petitioners informed the IACHR that there had been “irregularities” in exhuming the alleged victim’s body.

13. They petitioners added that “out of fear of reprisals, being displaced or murdered” many keep silent. They stated that for their safety and that of their family, they only sent petitions to the Attorney General’s Office (Tolima office, the Inspector General’s Office (Tolima office) and the Ombudsman’s Office (Tolima region).

### *Leonel David Sanjuán Barraza, Yuceth Alfredo Diazgranados, Robinson Damián Tamara, and Rubiel Fernando Guerrero Diazgranados (327-07)*

14. The petition submitted by Juan B. Sanjuan García, Carmen S. Diazgranados, and Fernando Tamara, on behalf of Leonel David Sanjuán Barraza, Yuceth Alfredo Diazgranados, Robinson Damián Tamara, and Rubiel Fernando Guerrero Diazgranados, was received by the IACHR on March 20, 2007 and sent to the State on March 20, 2012. The petitioners allege that on September 21, 2005 Leonel David Sanjuán Barraza, Yuceth Alfredo Diazgranados, and Robinson Damián Tamara were stopped in the La Paz neighborhood of the city of Santa Marta by members of the GAULA and were transferred to Pozos Colorados, Magdalena. There they were tortured and murdered. The petitioners contend that the alleged victims had different kind of jobs such as electricians and motorcycle taxi drivers, and in no way were armed or involved in criminal activity when they were detained. They further contend that forensic testing had shown that they had been shot from a short distance while they were on the floor, and that the soldiers “as usual” had put firearms in their hands, claiming that the alleged victims had been combatting the security forces. They thus allege that the killings were not the result of an on-duty operation by security forces; rather, that they were “executions.”

15. The petitioners claim that an exception to the exhaustion of domestic remedies should apply given the ineffectiveness of such remedies. With regard to the criminal case, the petitioners state that on

December 11, 2009, the Inspector General for the Military Forces had ordered that the preliminary inquiry of the army service members be shelved. The petitioners allege for this reason that impunity has prevailed and the State has no intention of solving the crimes, rather, it is covering up for the military forces responsible. They likewise allege that the military justice system was not competent to hear the case.

16. They state that on February 18, 2011, Administrative Court No. 2 of the Santa Marta Circuit had issued a judgment finding in their favor and ordering the State, the Ministry of Defense, and the National Army to pay them compensation. According to the petitioners, this Court had effectively investigated the events reported as part of administrative compensation claim proceedings. Nevertheless, as the judgement was appealed, what the Court ordered was not enforced. Finally, the petitioners affirmed that the GAULA had intimidated them so they would drop the case.

*Edwin Enrique Cordoba Lúquez (P-328-07)*

17. The petition, submitted Nelson Javier de Lavallo Restrepo et al., on behalf of Edwin Enrique Cordoba Lúquez, was received by the IACHR on March 20, 2007, and sent to the State on August 6, 2010. The additional observations and information submitted by each party were duly forwarded by the Commission to the other party. The petitioners claim that at the time the events, the alleged victim had worked for nine years as a public school teacher in the municipality of Aracataca, in the region of Sierra Nevada de Santa Marta. They affirm that on the morning of August 10, 1997, the alleged victim had left his mother's house when he was detained and executed. The alleged victim's wife was interrogated that very day by members of the armed forces, who accused her husbanding of being a "guerilla leader." The petitioners allege that the execution was perpetrated by soldiers from the "Dinamarca Company" of the Army Special Forces Battalion No. 1, which was conducting counter-guerrilla operations against Squad No. 19 of the Revolutionary Armed Forces of Colombia (FARC) in Sierra Nevada de Santa Marta, Magdalena.

18. The petitioners claim that "the ineffectiveness of the military criminal justice system" hindered them from exhausting domestic remedies. They explain that on August 22, 1997 a preliminary inquiry was initiated by Military Criminal Court of Inquiry No. 14, based on falsified military records. On April 13, 2004, Military Criminal Prosecutor's Office No. 28 waived issuing an indictment in the case. The petitioners affirm that although the State had offered to open a "new investigation" after it had submitted observations to the IACHR on June 8, 2011, there had been no progress in that regard.

19. As for administrative remedies, on August 13, 1998, the family filed a claim for reparations. The decision in the case, handed down on February 15, 2005, did not find in their favor and refuted the participation of the military officials involved. This decision was appealed, but the appeal was denied and notified to the petitioners on September 21, 2006.

*Estadero "Rayito de Luna" (P-513-07)*

20. The petition, submitted by Jose Luis Viveros Abisambra on behalf of Adán Segundo Márquez, Fray José González Cárdenas, Guido Antonio Rivero Vital, and Mauricio Rafael Márquez Contreras, was received by the IACHR on April 24, 2007, and sent to the State on September 27, 2011. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

21. The petitioner asserts that at the time of the events, Guido Antonio Rivero Vital was a 16-year old minor, while the others were all young adult men. They were all campesinos that resided in the municipality of Ovejas, Department of Sucre. On the evening of July 29, 2002, the five of them were in the commercial establishment "Rayito de Luna" when the electricity was cut off. They were then forcefully abducted by soldiers who took them by car to a nearby roadway, which had allegedly been closed beforehand with the excuse that a kilometer down the road the army was involved in combat against the guerilla. The young men were taken out of the vehicle, laid on the ground, and executed. The following day, the Commander of the First Marine Brigade, Colonel Luis Alejandro Parra Rivera, publically reported that men under his command had killed 5 guerrilla fighters who had been assaulting inter-municipal buses.

22. As a result of these events, Military Criminal Court of Inquiry No. 109 initiated an investigation. On March 19, 2003, the Court issued a write of waiver, in consideration of the fact that the events had occurred in a confrontation between guerilla carjacking gangs and the army.

*Agudelo Family (P-903-07)*

23. The petition, submitted by the law firm Villegas Posada in representation of Gonzalo de Jesús Agudelo Pérez, José Alejandro Agudelo Agudelo, and Ángel Ramiro Agudelo Grisales was received by the IACHR on July 13, 2007 and sent to the State on September 30, 2011. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

24. According to the petitioners, the alleged victims were campesinos who resided in the Municipality of Campamento, Department of Antioquia. They claim that on December 11, 2002, the alleged victims were stopped by two soldiers while working in the fields. There were two minors with the alleged victims, whom they asked to wait for them, as the army soldiers had promised they would be back in an hour. Moments later, family members and friends nearby heard shots fired and subsequently saw the army transporting three corpses, which were taken by helicopter to the Municipality of Yarumal, where the post mortem external examination was conducted. The bodies were those of the alleged victims who were reported to have been guerrillas killed in combat and from whom weapons had been seized.

25. As a result of these events, the Inspector General's Office for Disciplinary Matters regarding the Protection of Human Rights launched an investigation, which led to charges being filed on June 21, 2005 against a lieutenant and two soldier for the alleged victims' killing. A criminal investigation was initiated in the military justice system, which after being transferred several times ended up in the hands of Military Criminal Court of Inquiry No. 11.

26. Finally, the petitioning organization contends that an administrative suit was filed with Administrative Court No. 12 of Antioquia. Compensation claims against the State were settled in this suit in November 2008, pursuant to an agreement that was approved by the aforementioned Court in February 2009.

*Héctor Andrés Vélez Castañeda et al. (P-1038-08)*

27. The petition, submitted by the law firm Javier Villegas Posada on behalf of Héctor Andrés Vélez Castañeda and his family, was received by the IACHR on September 8, 2008 and sent to the State on January 9, 2014. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

28. The petitioning organization affirms that the alleged victim was a 23-year old young man who resided in the Municipality of Caldas, Department of Antioquia; he was involved in parochial and civic activities and worked at a local business. On the night of November 19, 2004, he disappeared without a trace from his family. Concerned, the family began looking for him the following day. The alleged victim was found on November 26, 2004, in the Medellín city morgue, where the corpse had been registered as a "John Doe" killed in combat with the army. According to the petitioners, the alleged victim was executed by the First Division of the Army's Urban Special Forces Fourth Brigade, who justified the murder as part of an unfolding operation to locate and capture members of criminal groups operating in the city of Medellín. The petitioners assert that the report this military unit prepared regarding the operation contained serious inconsistencies, claiming that there had been a violent confrontation for 15 minutes against 15 individuals, although only the alleged victim had died, no one else was injured, and only one bullet casing was recovered.

29. According to the petitioners, as a result of these events a criminal investigation was launched in the civilian justice system; however, the investigation had remained in the hands of Military Criminal Court of Inquiry No. 23 for four years. The petitioners acknowledge that although there had been criminal convictions of several military officials, they contend that this had occurred 9 years after the fact, which violated the guarantee of access to justice in a reasonable period of time, and, moreover, not all the military officials involved had been convicted. Furthermore, the petitioners claim that the alleged victim's

family had not filed a direct compensation claim against the State out of fear of reprisals from the army and had been unable to become a civil party to the criminal proceedings because the State had not appointed them a pro bono attorney.

*Carlos Enrique Arias Gonzalez and Nelson Enrique Mendoza Hernández (P-1315-08)*

30. The petition, submitted by Juan David Viveros Montoya, in his capacity as representative of the families of the alleged victims, Carlos Enrique Arias Gonzalez and Nelson Enrique Mendoza Hernández, was received by the IACHR on November 11, 2008 and sent to the State on February 20, 2014. The petitioners allege that Carlos Enrique Arias González and Nelson Enrique Mendoza Hernández, who were last seen on May 28, 1993, in the custody of military officials from the Colombian National Army, were executed extrajudicially. The following day, with no knowledge of the whereabouts of either young man, their families went to army service members. These service members took them to where the young men's corpses were located to allow for their identification. The petitioners contend that both young men had left their homes to work mining gold, a typical job in the region, but had appeared dressed in guerrilla uniforms and "killed in combat."

31. The petitioners reported that the Attorney General's Office had initiated a criminal investigation, which had been sent to Military Criminal Court of Inquiry No. 39. On June 28, 1995, this Court decided to waive initiating a criminal investigation of the military officials involved, ruling that they had acted in self-defense. The petitioners alleged that the investigation had been ineffective and biased.

32. Furthermore, as part of the claim filed in administrative justice system, on September 24, 1998, the Administrative Court of Antioquia ruled that the Colombian State and the National Army were liable for the damages caused to the plaintiffs for the deaths of Carlos Enrique Arias González and Nelson Enrique Mendoza Hernández. Upon appeal of the judgment, the Council of State's Administrative Chamber overturned the judgment and denied the claims for damages.

*Carlos Arturo Vélez Ruíz and family (P-1469-08)*

33. The IACHR received a petition filed by Oscar Darío Villegas Posada, in his capacity as representative of Mrs. Luz Dary Londoño and 13 other individuals, all family members of Carlos Arturo Vélez Ruíz, the alleged victim. The petition was received on December 18, 2008 and was sent to the State on March 12, 2014. The petitioner maintains that on December 13, 1999, members of the Colombian National Army evicted Mr. Carlos Arturo Vélez Ruíz from a plantation in the municipality of Almalí. Subsequently, they executed him and reported he had been "a guerilla fighter killed in combat." For this purpose, they put a military uniform and firearms on him. The petitioners add that several witness statements attest to the fact that Carlos Arturo Vélez Ruíz was not an insurgent, rather he was a campesino that worked at a local plantation. His wife filed legal actions in both the criminal and administrative justice systems.

34. As regards the criminal case, the petitioner contends that over 15 years have gone by without justice or punishment of the perpetrators of the crime. In this sense, the petitioner indicates that although domestic remedies have been used, these have not been effective.

35. In relation to the administrative suit, the petitioner filed a direct compensation claim against the State [acción de reparación directa] on December 19, 2000. The Administrative Court of Antioquia issued a judgment in the case on December on August 2, 2011, denying the claims inasmuch as the responsibility of army service members in this specific case had not been proven. The petitioners add that on December 18, 2013, they filed an appeal for the protection of constitutional guarantees [recurso de tutela] to assert their right, among others, to a second hearing. They contend that the Council of State denied the appeal in a judgment dated August 12, 2014.

*Felix Antonio Valle Ramírez et al. (P-1471-08)*

36. The petition, submitted by Oscar Darío Villegas Posada, on behalf of Felix Antonio Valle Ramírez, Heliodoro Zapata Montoya, Alberto Antonio Valle, José Elías Zapata Montoya, and their families, was received by the IACHR on December 18, 2008 and sent to the State on February 28, 2014. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

37. The petitioner claims that the alleged victims were campesinos who resided in the Municipality of Apartadó, Department of Antioquia. Early in the morning of March 27, 1997, Heliodoro Zapata and his nephew, Félix Antonio, had gone out looking for coconuts to prepare a desert. That afternoon, Alberto Valle and José Elías Zapata, worried that their family members had not returned, went out to look for them and did not return either. The next day, in the wee hours of the morning, more family members went out to look for their four relatives who had disappeared, heading to the plantation where they knew they usually went to gather coconuts, when they came across an army patrol. The patrol did not provide information about their relatives, but warned them to evacuate the area as it was dangerous to remain there. Some hours later, they heard shots fired and then heard a helicopter. On March 29, 1997, the relatives returned to the scene of the events, finding burnt remains of their family members' clothing and documents. Subsequently, when they went to the municipal hospital, they were shown photos of four corpses and they identified Heliodoro Zapata and Alberto Valle. The army had reported their deaths as guerillas killed in combat.

38. Heliodoro Zapata's father filed a complaint with both the Prosecutor's Office and Inspector General's Office of Apartadó. As a result, an investigation was opened in the military justice system, headed up by Military Criminal Court of Inquiry No. 36. On May 21, 1997, this Court waived initiating a criminal investigation of military personnel from Infantry Battalion No. 47. The petitioners affirm that an investigation was subsequently initiated in the civilian justice system; however, it remained in the pre-trial inquiry phase. They also point out that a disciplinary investigation was initiated in which the Inspector General's Office for Disciplinary Matters had punished a lieutenant and three privates by stripping them of their posts. However, that decision had been overturned on appeal by the Disciplinary Chamber of the National Inspector General's Office on October 26, 2001. They had also filed an administrative suit for direct compensation claims against the State, which in the first instance exonerated the State on December 9, 2005. This decision has been appealed to the Council of State.

*Mario Andrés Arboleda Álvarez (P-321-09)*

39. The petition, submitted by the Centro Jurídico de Derechos Humanos de Antioquia [Antioquia Legal Center for Human Rights] in representation of Mario Andrés Arboleda and his family, was received by the IACHR on March 20, 2009, and sent to the State on September 26, 2011. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

40. According to the petitioning organization, the alleged victim was a low-income youth who lived with his family in the city of Medellín, Department of Antioquia. On February 24, 2007, the alleged victim left home in the evening to go to a party and did not return. Three days later, the alleged victim's family received a call asking them to go to the morgue in the Municipality of Guarne, where some young men who had died had been presented by the army as killed in combat, and whose identities had not been determined. The petitioners contend that one of the bodies was that of the alleged victim.

41. The petitioning organization contends that as a result of these events an investigation was initiated in the military criminal justice system, which was [then] shelved and that when the family filed a complaint with the Attorney General's Office, investigation of the events was assigned to Prosecutor No. 5 Specialized in Human Rights and International Humanitarian Law of Bogota. Nevertheless, according to the petitioners, as of March 2014, the investigation was still in the pre-trial phase.



*Dairo Domingo and Ismael Jiménez Gutiérrez (P-898-09)*

42. The petition, submitted by Pedro Pérez Perdomo in representation of Dairo Domingo and Ismael Jiménez Gutiérrez and their families, was received by the IACHR on July 23, 2009, and sent to the State on August 17, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

43. According to the petitioner, on July 22, 2004, the Tenerife Battalion of the 99th Brigade of Neiva, Department of Huila, executed the Jiménez Gutiérrez brothers in the municipality of Santa María, Department of Huila, making it look as if they were guerillas killed in combat. The petitioner also maintains that the army murdered Jairo Jiménez and Geison Jiménez Gutiérrez, the victims' father and brother.

44. As a result of these events, an investigation was initiated in the Military Criminal Court of Inquiry No. 64, which was finally closed. The petitioner also reported that a direct compensation claim against the State had been filed with the administrative courts.

*Deiby Julián Pisa Gil and Jonás Ariza Barbosa (P-920-09)*

45. La petition, submitted by Esmeralda Franco Orrego on behalf of Deiby Julián Pisa Gil and Jonás Ariza Barbosa, was received by the IACHR on July 21, 2009 and sent to the State on July 27, 2010. On August 12, 2011, the alleged victims' representation was taken up by the Comisión Colombiana de Juristas [Colombian Commission of Jurists]. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

46. According to the petitioning organization, Deiby Julián Pisa Gil was a poor, 15-year old boy that lived in the city of Bogotá together with his family. He studied and worked as a scrap dealer, where he met Jonás Ariza Barbosa, a man who was born in Landazurri, a municipality in the Department of Santander, but who had lived together with his family in the city of Bogotá for more than 13 years. In May 2006, they both decided to go to Landazurri to look for job opportunities and planned to stay in Mr. Ariza Barbosa's grandmother's house. However, they never arrived and nothing was heard from the two of them again. In the early morning of May 16, 2006, the army documented that Infantry Battalion No. 41 of the V Brigade had killed two guerilla fighters in combat in the rural area of San Vicente, Municipality of Bolívar, Department of Santander. Although initially only Mr. Ariza Barbosa's body was identified, the body of the minor was subsequently identified as Deiby Julián Pisa Gil. Thanks to the fact that the news of his death had spread around the town, the alleged victims' relatives had found out what had happened and traveled to the Municipality of Cimitarra, Santander, where they identified their son's lifeless body in the morgue. He had been identified as a "John Doe" killed in combat with the army.

47. These events led to a preliminary investigation being initiated by Military Criminal Judge No. 43, who issued a writ of waiver on September 14, 2006. Furthermore, they affirmed that as a result of filing a complaint to the Attorney General's Office on September 13, 2010, an investigation was assigned to the Prosecutor's Office in San Gil, Department of Santander, which was subsequently put in the hands of the Specialized Prosecutor No. 5 of the Attorney General's Office. On February 23, 2011, this Prosecutor had requested that the Military Criminal Court of Inquiry No. 38 provide investigative records of the alleged murders.

*Edilmer Witer Hernández Giraldo, John Jairo Guzmán, and Ricardo Arley Jaramillo, and their families (P-940-09)*

48. The petition, submitted by Rubén Darío Rico Guerra in representation of Edilmer Witer Hernández Giraldo, John Jairo Guzmán, and Ricardo Arley Jaramillo and their families, was received by the IACHR on July 29, 2009, and sent to the State on August 26, 2014. Nevertheless, the State had not provided any arguments or information regarding this petition as of the date this report was adopted, despite a reiterated request for observations on June 9, 2015.

49. According to the petitioner, the alleged victims were murdered on January 4, 2006 in the municipality of La Pintada, on a road leading to the city of Medellín, by men from the National Army's GAULA. The petitioner contends that after murdering them, the army identified them as guerillas that had been killed in combat. The petitioner affirms that witnesses had seen the alleged victims being picked up that afternoon in Berrío Park in Medellín by a vehicle driven by a non-commissioned army officer.

50. The petitioners claim that as a result of these events an investigation was initiated by the Military Criminal Court of Inquiry No. 24, as well as by Prosecutor's Office No. 27 of Santa Bárbara, Antioquia. This led to a conflict of jurisdiction that was decided by the High Council for the Judiciary, which assigned jurisdiction to the civilian jurisdiction. At that point, the investigation was given to Prosecutor Office's for Human Rights No. 75 of the city of Medellín. The petitioner contends that after claiming Edilmer Witer Hernández Giraldo's body, his family, including Mrs. Luz Daneyda Giraldo, had had to leave out of fear from the frequent visits army service members made, asking questions about their family member's death.

*Julio César Posada Echavarría (P-1020-09)*

51. The petition, submitted by the law firm Javier Villegas Posada in representation of Julio César Posada Echavarría and his family, was received by the IACHR on August 14, 2009 and sent to the State on July 29, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

52. The petitioners contend that the alleged victim resided with his wife and children in the Madrigal area of the Municipality of Policarpa, Department of Nariño, in an area that they allege had been labeled by military forces as a bastion of guerillas whose presence was accepted by the community. They maintain that on March 30, 2003, the victim was about to leave for work, saying good-bye to his wife at the door of their house, when members of Infantry Battalion No. 9 opened fire on him, killing him. His wife and two of the alleged victim's employees who were present fled, running towards a paddock, but that his youngest daughter, Eliana Cristina Posada Zuleta, who was in her bedroom, hid under the bed while, they contend, she continued to hear shots and loud noises. Subsequently, she left the room and saw her father bleeding from a bullet to the head. As a result of that attack, the alleged victim's daughter had been wounded, but was forced to leave the house while the soldiers picked up the body. Thereafter, the alleged victim was presented by the army as a member of a subversive group killed in combat.

53. The petitioners claim that as a result of these events an investigation was initiated by the Military Criminal Court of Inquiry No. 53 of Nariño. The investigation was shelved on May 18, 2004 as it was considered that the alleged victim's death had occurred in combat.

*Raúl Amaya Amaya and Family and Jaler Antonio Miranda Miranda and Family (P-1370-09)*

54. The petition, submitted by the Corporación Colectivo de Abogados Luis Carlos Pérez [Collective Corporation of Attorneys Luis Carlos Pérez] in representation of Raúl Amaya Amaya and his family, and Jaler Antonio Miranda Miranda and his family, was received by the IACHR on November 3, 2009, and sent to the State on July 27, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

55. The petitioning organization affirms that at the time of the events that gave rise to the petition, Raúl Amaya Amaya lived in a situation of forced displacement in the Municipality of Ocaña, Department of Norte de Santander, and had been included in the Single Registry of Displaced Persons. The petitioner further affirms that Jaler Antonio Miranda Miranda was a retired army service member, whose girlfriend lived in the Municipality of Ocaña in a situation of forced displacement. According to the petitioning organization, on September 3, 2007, Raúl Amaya Amaya and Jaler Antonio Miranda Miranda had left Ocaña to go to an office of the international organization Oxfam, seeking to receive payment for having worked building housing for displaced persons. Once there, they were asked for a certificate, which they then left to obtain. Thereafter, they were never seen alive again. The petitioners claim that in the early morning of September 4, 2007, it was broadcast on the radio that two alleged guerillas had been killed on the road

between Ocaña and Aguachica, which alerted the alleged victims' partners, who knew that the two men had to use that road to take care of the matter they were attending to. They both went to the nearest battalion where they were informed that the two had been killed because they were "armed robbers," which was the story that appeared in the local media outlets, and which was publically refuted in those same outlets by the then President of the Association of Displaced Persons, "Asodepo." The petitioners contend that the supposed victims of the robbery were never identified and that the alleged victim's bodies were manipulated.

56. According to the petitioners, as a result of these events there had been administrative disciplinary proceedings, as well as a criminal investigation in the military criminal justice and civilian justice systems. The investigation initiated by Military Criminal Court of Inquiry No. 37 of members of Infantry Battalion No. 15 was shelved on December 6, 2007 for lack of evidence, allegedly without summoning the victims' family members to make statements. The family members then filed a complaint with the Inspector General's Office and the Attorney General's Office on November 11 and 13, 2008. Nevertheless, they report that it was not until three years after the fact that a preliminary investigation was launched by the Prosecutor's Office No. 10 Specialized in Humanitarian Matters, which in turn sent the case in August 2012 to the Prosecutor's Office for Human Rights and International Humanitarian Law, where the proceedings remain in the preliminary investigation phase. Furthermore, the petitioning organization asserts that as a result of the events a disciplinary investigation had been launched by the army itself, which was then closed on March 13, 2008. Finally, on October 21, 2009, a direct compensation claim against the State had been filed in Administrative Court No. 2 of Cúcuta. The petitioners contend that no significant progress has been made in the investigation or prosecution of the perpetrators.

*Luis Carlos Angarita Rincón and Family (P-1371-09)*

57. The petition, submitted by the Corporación Colectivo de Abogados Luis Carlos Pérez in representation of Luis Carlos Angarita Rincón and his family, was received by the IACHR on November 3, 2009, and sent to the State on September 3, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

58. The petitioning organization affirms that on October 15, 2007, Mr. Luis Carlos Angarita Rincón, a campesino, was arbitrarily detained by members of Battalion 95 of the National Army's Mobile Brigade No. 15, when he was in the rural district Piedras de Moler, Department of Norte de Santander. They claim the army then took him to rural district Los Ángeles, Municipality of Teorama, Department of Norte de Santander, and the next day, October 16, he was tortured, murdered and then dressed in military garb, placing a firearm in his hand. Thereafter, they took his body by helicopter to a morgue in the Municipality of Ocaña in that same Department, after which they announced on the radio that Mr. Angarita Rincón had been a guerrilla fighter killed in combat.

59. According to the petitioning organization, as a result of these events a preliminary investigation was initiated in the military criminal justice system on the same day as the alleged execution. On July 25 the alleged victim's family filed a complaint with the Prosecutor's Office, pursuant to which a preliminary investigation was launched on August 31 of that year. They affirm that subsequently, on December 18, 2007, the Third Prosecutor's Office of Ocaña ordered all proceedings to be transferred to the Military Criminal Court of Inquiry No. 37 headquartered at Battalion No. 15. However, thanks to a conflict over jurisdiction led up by Prosecutor 73 of the Human Rights Unit of Cúcuta, on February 24, 2010, the High Council of the Judiciary ordered the case be transferred to the civilian jurisdiction. The petitioners contend that despite this, as of the date this report was adopted, eight years after the alleged extrajudicial execution, the case is still in the pre-trial inquiry phase.

*Alfonso López Ramírez and Family (P-1373-09)*

60. The petition, submitted by the Comisión Colombiana de Juristas on behalf of Alfonso López Ramírez and his family, was received by the IACHR on November 3, 2009, and sent to the State on September 9, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

61. The petitioning organization affirms that the alleged victim was subjected to arbitrary detention, forced disappearance, and extrajudicial execution by the National Army's Mobile Brigade No. 5. The petitioner contends that the alleged victim was a farmer and laborer in the Department of Arauc, who was a campesino leader affiliated with the Community Association [Junta de Acción Comunal] of the rural district Gran Bucaré de Tame, and who coordinated the Association's human rights committee. The alleged victim had mentioned to his acquaintances that the Army had locked him for several hours in an abandoned house, ordering him to bring food to another municipality for them, and days later he told his neighbors that the Army had entered his farm, stealing money from him. The petitioners report that on the evening of October 2, 2007, the alleged victim was in his house when members of the Counter-guerilla Battalion No. 43, of the National Army's Mobile Brigade No. 5, entered his home and detained him. On October 3, at 6:30 am, his neighbors heard shots fired and the following day, they heard a helicopter fly over the area. On October 4, the Army stated in a radio communiqué that on October 3 the alleged victim was killed in combat.

62. On October 7, 2007, the Community Association filed a report with the Municipal Ombudsman's Office in Tame, which launched a preliminary investigation that was transferred to the Regional Inspector General of Arauca on January 2, 2008. Furthermore, the petitioners contend that on October 3, 2007, at the behest of the Commander of Mobile Brigade No. 5, the Prosecutor's Office ordered a preliminary investigation be initiated in order to conduct the post mortem external examination of the body at the military facility. On November 6, 2007, the Prosecutor's Office sent the proceedings to Military Criminal Court No. 95 of the Navas Pardo Battalion, which continued with the proceedings even during the investigative stage. On April 20, 2009, the Attorney General's Office requested the case be transferred out of the military courts. However, according to information provided by the petitioners, the investigation was still under military criminal jurisdiction.

*Nicolás Emilio García Parra and Family (P-1398-09)*

63. The petition, submitted by the Corporación Jurídica Libertad on behalf of Nicolás Emilio García Parra and his family, was received by the IACHR on November 4, 2009, and sent to the State on September 3, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

64. The petitioning organization affirms that the alleged victim was a 43-year old campesino who lived on a plantation located in the rural district La Estrella, in the Municipality of Granada, Department of Antioquia, who made a living from growing and processing cane. The petitioners provided sworn statements from family members and neighbors substantiating that the alleged victim had lived for 19 years in La Estrella, where he made a living from agricultural activities, and had never been involved in any kind of armed groups or absent from work for more than very short periods of time. According to the petitioner, on June 14, 2004, the alleged victim was at home with his 14-year old son and wife when members of the National Army's Artillery Battalion No. 4 violently entered without a court order and hit the alleged victim, who was then taken away by force. His wife and son, who were forced to lock themselves in the bathroom after their identifying documents had been taken away, received orders to abandon the region. Before leaving the house, the soldiers had painted ACCU [Autodefensas Campesinas de Córdoba y Urabá], an acronym for a paramilitary group, on the outside walls of the house.

65. The petitioners contend that the Battalion in question had moved into the urban center of the township [corregimiento] of Santa Ana de Granada on June 9, 2004, occupying houses and commercial establishments by force. The alleged victim was locked up in one of those houses until June 18, 2004, when he was executed near the urban center of the township. That same day, an Army helicopter transported his body to the morgue in the city of Medellín, registering it as a "John Doe." Thereafter, the battalion issued a press release that it had killed three guerillas that were getting ready to lay a minefield in the township of Santa Ana.

66. On June 18, 2004, the alleged victim's family filed a complaint about his arbitrary detention to the Municipal Ombudsman of Granada. The complaint was then sent on June 20, 2004 to the Unit to

Support Human Rights and International Humanitarian Law of the Prosecutor's Office. After the complaint was reassigned several times, it ended up in the hands of Prosecutor 59 of the Santuario Prosecutor's Office, which initiated a preliminary investigation of the events on July 19, 2004, and then closed it with a writ of waiver [resolución inhibitoria] on February 4, 2005. Nevertheless, in August 2005, the investigation was reopened. On January 7, 2012, Lieutenant Andrés Mauricio Rosero Bravo admitted in a preliminary inquiry by the Prosecutor's Office that he was the mastermind behind the alleged victim's execution, and identified several soldiers as the perpetrators of the crime. On February 29, 2012, Prosecutor's Office 14 of the National Human Rights and International Humanitarian Law Unit indicted the Lieutenant and the soldiers he had identified, ordering their pre-trial detention without possibility of release.

67. Meanwhile, Military Court of Inquiry No. 23 had initiated an investigation, giving rise to a conflict of jurisdiction, which was decided by the Superior Council of the Judiciary on May 24, 2006 in favor of the civilian jurisdiction. Nevertheless, the petitioners affirm that an identical investigation in the military justice system had gone forward under a different case number and that to date there had been no significant progress in these investigations.

*Alberto Elías Mazo Álvarez and Family (P-1414-09)*

68. The petition, submitted by the Grupo Interdisciplinario por los Derechos Humanos [Interdisciplinary Group for Human Rights] on behalf of Alberto Elías Mazo Álvarez and his family, was received by the IACHR on November 6, 2009, and sent to the State on September 3, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

69. The petitioning organization states that the alleged victim was subjected to arbitrary detention, torture, forced disappearance, and extrajudicial execution at the hands of the National Colombian Army's Giradot Battalion. According to the petitioners, the alleged victim was a campesino and cattle salesman in the township of Cedeño, Municipality of Yarumal, Antioquia. On November 21, 2007, Mr. Mazo was detained by three individuals dressed as civilians who took him on foot to the rural district La Quiebra, two hours away. There he was executed by army service members, who reported it the following day as a guerilla killed in combat.

70. As a result, investigations were launched by the military criminal and civilian courts. On May 13, 2009, the petitioners requested that the Attorney General's Office file a motion of conflict of jurisdiction. In July of that year Prosecutor's Office No. 16 assigned to the Criminal Judges of the Yarumal Circuit filed said motion with the supervisory judge. The motion was accepted by the judge and submitted to the Superior Council of the Judiciary, which, on February 24, 2010, abstained from ruling on the conflict, arguing that it had not been presented by the Military Judge hearing the case, who was the proper authority. According to the petitioners, the investigation in the civilian jurisdiction continued, and on February 2, 2012 was reassigned to Prosecutor's Office 51 of the National Human Rights Unit. The petitioners allege however, that there has been an unwarranted delay, as there has still been no court decision regarding the events denounced.

*Jorge Alonso López Higueta and Juan Ramón Gallego and Their Families (P-1415-09)*

71. The petition, submitted by the Grupo Interdisciplinario por los Derechos Humanos on behalf of Jorge Alonso López Higueta and Juan Ramón Gallego, was received by the IACHR on November 6, 2009 and was sent to the State on September 3, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

72. According to the petitioning organization, Jorge Alonso López Higueta did his obligatory military service until August 17, 2007, and as of October of that year, was working for the program to eradicate illicit crops under the Presidential Office for Social Action and International Cooperation. The petitioning organization contends that on January 7, 2008, Jorge Alonso López Higueta and his friend, Juan Ramón Gallego, were at the Jorge Alonso's mother's house, in the Municipality of Urrao, Department of Antioquia. At some point, the two friends decided to sit outside the house to chat. Hours later, Jorge Alonso's mother had gone out to offer them something to eat and could not find them. The next day a neighbor

informed her that the two young men had been taken away by hooded men, which led to a search by their family members. Subsequently, the two families discovered that there were two unidentified corpses in the Municipality of Caicedo, which had been taken there by army service members who had presented them as guerillas killed in combat. The families went to Caicedo and when they saw the bodies, identified them as Jorge Alonso López Higueta and Juan Ramón Gallego.

73. The families denounced the events as an extrajudicial execution perpetrated by the Army and, in keeping with their investigations, identified the soldiers as members of the IV Brigade's Cacique Nutibará Battalion. As a result, a criminal investigation was initiated by the Santafé de Antioquia Prosecutor's Office, as well as a disciplinary investigation by the Santafé de Antioquia Provincial Inspector General's Office. Nevertheless, according to the petitioners, these investigations never made any progress or even led to a definitive indictment. The petitioners provided copies [of documents] that indicate that as a result of the events parallel investigations were initiated in both the civilian and the military criminal jurisdictions, which gave rise to a conflict of jurisdiction. On August 3, 2011, the Superior Council of the Judiciary ruled on this conflict between the two jurisdictions in favor of the civilian jurisdiction, ordering that all proceedings be sent to the Fifth Specialized Prosecutor of the Bogotá Human Rights and International Humanitarian Law Unit. The petitioners contend, however, that since that time there has been no significant progress made in the investigation or prosecution of the perpetrators.

*Leonardo Fabio Herrera García and Geovanny Loayza Acevedo (P-1416-09)*

74. The petition, submitted by the Grupo Interdisciplinario por los Derechos Humanos on behalf of Leonardo Fabio Herrera García and Giovanni Loayza Acevedo, was received by the IACHR on November 6, 2009, and sent to the State on September 3, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

75. The petitioning organization states that the alleged victims were young men who lived in Altos de la Torre, a marginalized neighborhood in the city of Medellín. Leonardo Fabio Herrera García worked as a scrap dealer to help support his family. On July 26, 2007, the professional soldier, Gustavo Múnera, proposed to Leonardo Fabio Herrera García and his friend, Geovanny Loayza Acevedo, that they travel to the Municipality of San Luis, to engage in an illegal activity for which they would be financially rewarded. The young men accepted the proposal. However, when they did not return home, their families began looking for them to no avail. Finally, on August 3, 2007, Leonardo Fabio's brother found him and his friend, Geovanny Loayza, in the San Luis morgue. The Army had taken them to the town morgue after their deaths, and had presented them as unidentified members of the guerilla killed in combat. According to the petitioners, both young men had been executed by service members of the National Army's Infantry Battalion No. 3 on July 28, 2007.

76. They indicate that on August 10, 2007, family members filed a complaint with the Permanent Human Rights Unit of the Medellín Ombudsman's office, which led to a disciplinary investigation by the Provincial Inspector General's Office of the Municipality of Rionegro, Antioquia. Furthermore, the Military Criminal Jurisdiction and the Medellín Prosecutor's Office 74 Specialized in Human Rights initiated investigations; however, as of November 2009, these investigations had produced no results. The petitioners allege that an irregularity in the investigation was the post mortem external examination done by a judicial police officer of the Municipality of Manizales (belonging to another Department of Colombia), which, moreover, had been done a day after the events according to several witness statements, despite the record stating that it had been done only an hour after the alleged combat. Finally, the petitioners provided copies of a first-instance judgment from the Fourth Administrative Court of the Antioquia Circuit that held the State liable in tort to pay damages for the death of Leonardo Fabio Herrera García. The petitioners allege that in the criminal matter, there has been no significant progress to date in the investigation or prosecution of the perpetrators.

*Francisco Javier Chica Quintero (P-1417-09)*

77. The petition, submitted by the Grupo Interdisciplinario por los Derechos Humanos on behalf of Francisco Javier Chica Quintero, was received by the IACHR on November 6, 2009, and sent to the State on September 3, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

78. The petitioning organization states that the alleged victim lived in the rural district of Organí, Municipality of Valdivia, Department of Antioquia, working as a farmer on a plantation that belonged to his grandfather. In March 2007, the alleged victim was detained in the Municipality of Puerto Valdivia by members of the National Army, and brought before the Cauca Prosecutor's Office, which in turn sent him to the Yarumal Prosecutor's Office, where a complaint had been filed against him for voluntary manslaughter [homicidio simple]. However, 15 days later he was released. On March 13, 2007, at approximately 6 am, the alleged victim was detained once again with another campesino (Santiago Andrés Serna Jiménez) by members of the Colombian National Army's Infantry Battalion No. 10, "Atanasio Girardot," while he was fishing on the Banks of the Cauca River, in the company of several fishermen. Both were taken to an abandoned house, where they remained until the night. Campesino friends of the second person detained interceded before the commander of the troops so he would release both of them. The army, however, only agreed to release Mr. Serna Jiménez, contending that the alleged victim had been accused of belonging to the guerilla. The petitioners maintain that hours later the army took the alleged victim's body to the morgue of the Briceño Municipal Hospital, and presented it as a guerrilla killed in combat.

79. According to the petitioner, Military Criminal Court of Inquiry No. 22 of the Army's Fourth Brigade initiated a preliminary investigation. In turn, the alleged victim's brother also filed a complaint with the Yarumal Provincial Inspector General's Office, which, however, only launched a disciplinary investigation in April 2009. The civilian justice system did not conduct any investigation. The alleged victim's family filed suit in the administrative justice system, and the Fourth Administrative Court of Medellín held the State liable in the first instance. Said judgment has been appealed. The petitioners allege that to date there has been no significant progress in the investigation and prosecution of the perpetrators.

*Albeiro de Jesús Giraldo García, José Alfredo Botero Arias, Carlos Mario Botero Aria, and Humberto Botero Arias, and family members (P-1430-09)*

80. The petition, submitted by the Corporación Jurídica Libertad [Juridical Corporation Liberty] on behalf of Albeiro de Jesús Giraldo García, José Alfredo Botero Arias, Carlos Mario Botero Arias, and Humberto Botero Arias, was received by the IACHR on November 10, 2009 and sent to the State on September 9, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

81. According to the petitioning organization, Mr. Botero Arias was 22 years of age, lived in the rural district Villanueva, Municipality of San Luis, Antioquia, and worked in agriculture. Mr. Giraldo García was 31 years old, lived in the Municipality of Granada, and work on the Botero Arias family's plantation. On July 20, 2003, army personnel had violently entered the plantation, stealing several things. Months later, on September 26, 2003, the army stopped the alleged victims, detained them, beat them, put hoods on them and forced them to put on combat fatigue shirts. Several individuals, including Mr. Botero Arias' mother witnessed the events. Hours later, the alleged victims were murdered. The following day they were taken to the Municipality of San Carlos, where they were reported to have been guerillas killed in combat. After the post mortem external examination of the corpses, the two were buried as "John Does". According to the petitioners, on August 7, 2004, Carlos Mario Botero Arias and Humberto Botero Arias, the alleged victims' brothers, were also executed by the Army's IV Brigade Mechanized Calvary Group No. 4 "Juan del Corral." Both victims' families were forcibly displaced to the city of Medellín.

82. The family members reported the events that had befallen the four victims to the Antioquia Regional Inspector General's Office on November 26, 2004, which led to an investigation of Albeiro de Jesús Giraldo García and José Alfredo Botero Arias' deaths in the civilian justice system. At first the investigation

was shelved on May 18, 2006 for lack of evidence, but was reopened subsequently and reassigned in November 2008 to the Human Rights and International Humanitarian Law Unit's Specialized Prosecutor's Office No. 57. The military criminal justice system, in turn, headed up by Military Criminal Court of Inquiry No. 23, launched an investigation. This gave rise to a conflict of jurisdiction, which was decided by the Superior Council of the Judiciary on July 30, 2009, in favor of the military criminal jurisdiction. The proceedings continued in Court of Inquiry No. 23, where, according to the petitioners, the alleged victims' attorney received threats directly from the judge after a hearing.

83. Despite the foregoing, the alleged victim's family members filed an appeal of the Superior Council of the Judiciary's ruling, seeking protection of their constitutional rights and guarantees. On December 14, 2010, the Council's Disciplinary Chamber issued a second-instance decision, this time ordering that the investigation be transferred to the civilian justice system. According to the petitioners, the investigation continues in the pre-trial phase in the Specialized Prosecutor's Office of the city of Medellín.

84. The victim's family members lodged a direct compensation claim against the State, which was decided by the Medellín Administrative Court No.23 on October 10, 2011, holding the State liable for the events. The State has appealed said judgment.

*Samuel Navia Moreno and John Carlos Nocua Rueda (P-1640-09)*

85. The petition, submitted by Jaime Beltrán Moncada on behalf of Samuel Navia Moreno and John Carlos Nocua Rueda, was received by the IACHR on December 17, 2009, and sent to the State on September 8, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

86. The petitioner contends that the two alleged victims were driving a motorcycle on the road that goes from Saavena to Cubará, Department of Arauca, at night when they were detained by National Army service members, who took them to a place near the roadway to then execute them. Thereafter, the two were accused of belonging to the National Liberation Army [Ejército de Liberación Nacional—ELN]. The Colombian Army affirmed they had been killed in combat and arms had been seized from them. Samuel Navia Moreno and John Carlos Nocua Rueda were, respectively, 17 and 18 years of age.

87. According to the documents provided by the petitioner, the alleged events took place on November 26, 2007, and the following day, the Military Criminal Court of Inquiry No. 47 ordered an investigation of four soldiers for killing the two alleged victims in combat. Subsequently, on August 12, 2009, Specialized Prosecutor's Office No. 26 for Human Rights and International Humanitarian Law requested that Military Criminal Court of Inquiry No. 47 transfer the investigative proceedings conducted in the case, thus taking over the case.

*Javier Correa Arias and Family (P-1662-09)*

88. The petition, submitted by the Comité de Solidaridad con los Presos Políticos [Committee on Solidarity for Political Prisoners] on behalf of Javier Correa Arias and his family, was received by the IACHR on December 18, 2009, and sent to the State on September 3, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party. On July 31, 2009, the Commission also received a request for precautionary measures for the alleged victim's widow and daughter. The IACHR requested information from the State on August 14, 2009. The request for precautionary measures was closed by the Commission, and on August 16, 2012, both parties were informed of this decision.

89. The petitioning organization states that Javier Correa was a 33-year old campesino who lived in the township of Tenerife, rural district of El Salado of the Municipality of El Cerrito, in the Cauca Valley. His nuclear family was comprised of his wife and two daughters who were 4 and 6 years old. On November 13, 2004, at 5:30 am, 20 army soldiers from the Engineering Battalion "Coronel Agustín Codazzi," knocked on the door and ordered the family out of the house. Nini Yohanna Oviedo, the alleged victim's wife,



was beaten, forced to take off her clothes from the waist up in front of the soldiers, and finally threatened with rape. The alleged victim's daughters were also terrorized and mistreated. In the end, the soldiers took Mr. Correa Arias away, but before doing so allegedly forced his wife to sign a document confirming that she had been treated well. The alleged victim was dressed in combat fatigues, a hat and balaclava, and forced to walk on a roadway leading to another municipality. Hours later, the alleged victim's step-father by accident purportedly came upon the group of soldiers who he saw were carrying a man in combat fatigues, without knowing that it was his step-son. When he asked who they were carrying, he was told it was another soldier who was ill and needed to be carried. Immediately thereafter, they took the horse he was riding from him in order to put the body in combat fatigues on it. Later, residents between the rural districts of Monterilio and El Vergel heard approximately 3 shots. Subsequently, the alleged victim's body was taken to the Municipality of Tenerife, where it was publically displayed as a guerilla killed in combat. The following day the alleged victim's sister saw that her brother was reported as a guerilla killed in combat on the local news.

90. On November 14, 2004, the alleged victim's sister went to the Palmira morgue, identify her brother's body, which according to her, showed clear signs of torture, such as: arms and some fingers that seemed to be broken, fingernails and teeth ripped out, split lips, and a slashed tongue. Nevertheless, the petitioners allege that the morgue refused to document the condition in which the body had been brought. The alleged victim's family denounced the events to the Ombudsman's Office, and as result they have been subjected to persecution, death threats, an attempted kidnapping, and have been forced to move several times.

91. With regard to the complaints filed and investigations conducted, the petitioning organization states that on February 2, 2005 it reiterated to the then Regional Ombudsman of Valle that he report the events to the Prosecutor's and Inspector General's Office, which he did. Furthermore, the complaints were broadened. As for the complaint filed for the alleged victim's murder and torture, although initially an investigation was initiated under military criminal justice, the investigation was finally transferred to the civilian justice system under the lead of the Third Specialized Prosecutor's Office of Cali. It was not until August 26, 2009, that the pre-trial inquiry phase began, and according to the petitioners, as of June 2011, the investigation was still at this phase.

92. Additionally, there was a disciplinary investigation and administrative proceedings. Disciplinary proceedings were only officially launched in 2008, and as of June 2011 a first-instance ruling had not been handed down in the administrative proceedings. Finally, given the request for precautionary measures for the alleged victim's family, and after some measures were taken—such as setting up a communication system with Nini Yohanna Oviedo, the alleged victim's widow—in October 2009, the Prosecutor's Office took steps to conduct a risk study to establish whether Ms. Oviedo and her daughters should be placed in a victims and witness protection program. That same year an investigation was launched as a result of threats received by Nini Yohanna Oviedo and her daughters.

*Wilmer Jácome Velásquez and Family (P-1690-09)*

93. The petition, submitted by the Corporación Colectivo de Abogados Luis Carlos Pérez [Collective Corporation of Attorneys Luis Carlos Pérez] on behalf of Wilmer Jácome Velásquez and his family, was received by the IACHR on December 28, 2009, and sent to the State on September 3, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

94. According to the petitioners, the alleged victim was a 22-year old youth that worked as an agricultural laborer. At the time of the events, he lived with his parent in the rural district Patiecitos in the township of Cartagenita, Municipality of Convención, Department of Norte de Santander. In the early morning of October 16, 2007, the alleged victim was headed to the plantation where he worked when he was detained by members of the Counter-guerilla Battalion No. 95, which is part of the National Army's Mobile Brigade No. 15. The military officials led him off the road to then torture and execute him. Subsequently, they dressed him in combat fatigues and took his body by helicopter to the morgue of the Hospital in Ocaña. That night his family, concerned because he did not return home, found out he had not gone to work.

95. Having alerted the community, a group of 15 individuals was organized to search for him, which found traces of blood close to his home. Subsequently, the family heard in the local news that a guerilla had been killed in the midst of a combat in the area, reporting him as a "John Doe." The family finally arrived at the morgue, confirming that the corpse reported was that of the alleged victim. The events cause indignation in the community associations of the region, as well as in campesino and human rights organizations, which identified the alleged victim as a campesino who had nothing to do with the armed conflict. The events were immediately denounced to the Prosecutor's Office. According to the petitioning organization, as of December 2009, the investigation had made no progress and the family members had been denied access to the case file, as well as any involvement in the investigation, thereby obstructing [their] access to justice. According to the petitioners, it was not until 2012 that Prosecutor's Office 133 for Human Rights and International Humanitarian Rights took over the case and admitted the family as a civil party to the criminal proceedings.

*Daniel Suárez Martínez and Family (1691-09)*

96. La petition, submitted by the organization Corporación Colectivo de Abogados Luis Carlos Pérez on behalf of Daniel Suárez Martínez and his family, was received by the IACHR on December 28, 2009, and sent to the State on September 8, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

97. The petitioners contend that at the time of the events, the alleged victim lived in Venezuela, but would visit the Municipality of Ocaña, in Norte de Santander, where his partner lived. On December 4, 2007, he traveled to Colombia, where he was to meet his partner on December 5. However, she did not come. The morning of the following day the alleged victim went out again to the town square in Ocaña to meet her and this was the last time that he was seen alive. In the afternoon on that very day, family members who were hosting him heard on the radio that a person with his name had been killed in a combat with guerrillas. On December 9, the alleged victim's family found him in a morgue, reported to have been someone killed in combat and found carrying weapons.

98. As a result of these events an investigation was initiated by the Military Criminal Court of Inquiry No. 37. Nevertheless, due to the family's insistence, an investigation was also launched by Prosecutor's Office No. 72 for Human Rights and International Humanitarian Law of Cúcuta.

*Tilzón Barrera Acosta and Family (P-1695-09)*

99. The petition, submitted by the organization Humanidad Vigente on behalf of Tilzón Barrera Acosta and his family, was received by the IACHR on December 31, 2009, and sent to the State on September 3, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

100. The petition contends that on June 23, 2004, in the outskirts of the Municipality Arauquita, Department of Arauca, Tilzon Barrera and Oscar Javier Sánchez Castrillón were traveling by motorbike when they were detained at an army roadblock. The army accused them of being members of the guerrilla on their way to set off a car bomb. Both were taken to the Support Structure of the Attorney General's Office, which operated in the military facilities of the Army's XVIII Brigade. There they were accused of perpetrating a terrorist attack that occurred in May 2004, although the arrest warrant issued by the Attorney General's Office was for unknown individuals. According to the petitioners, both were forced to confess their involvement, after which the Prosecutor kept the alleged victim in custody until June 29, 2004, when he was transferred to the Navas Pardo Battalion's facilities in Tame, Arauca, where he was incommunicado for 15 days. On July 12, 2004, the Prosecutor's Office issued an order for the XVIII Brigade to keep the alleged victim in custody.

101. On July 8, 2004, an official from the Ombudsman's Office informed the alleged victim's family that he had availed himself of the Individual Demobilization and Reintegration Program. Thereafter, the

alleged victim was released. He told his family that he had been threatened and tortured by the Army. After his release, the alleged victim was forced to patrol the Department as an army informant. Nevertheless, on August 4 he was forced to go to the XVIII Brigade's facilities. The following day, 5 soldiers from that Brigade took him to a field where they murdered him. That same day he was presented as a guerrilla fighter who had been killed in combat when he attempted to escape from the army's custody. When his family asked to remove the corpse from the morgue, it was demanded that the family obtain authorization from the Brigade commander, who forced the family to sign a document whereby they accepted that the alleged victim was a guerrilla fighter.

102. The petitioners allege that as a result of the events an investigation was initiated by Military Criminal Court of Inquiry No. 46. Four years later, the Inspector General's Office requested that this Court transfer the case file to the Attorney General's Office Human Rights Unit, which assigned it to Prosecutor's Office No. 73. On September 28, 2009, a pre-trial inquiry was ordered; however, as of the date this report was adopted, a first-instance decision had not been handed down and the disciplinary proceedings undertaken by the Inspector General's Office had been shelved. The alleged victim's family members filed an administrative remedy; however, the ruling in that case denied their claims.

*Luis Sigifredo Castaño Patiño (P-1700-09)*

103. The petition, submitted by the organization Humanidad Vigente on behalf of Luis Sigifredo Castaño Patiño, was received by the IACHR on December 31, 2009, and sent to the State on September 3, 2010. The additional observations and information presented by each party were duly sent by the Commission to the other party.

104. The petitioning organization contends that the alleged victim was a campesino who resided in the rural district "Caño de Tigre", located in the Municipality of Remedios, Department of Antioquia. They maintain that he was a representative of the community association of his municipality and a founding member of the Corporación Acción Humanitaria por la Convivencia y la Paz del Nordeste Antioqueño [Humanitarian Action Corporation for Coexistence and Peace in Northeast Antioquia]. On August 7, 2005, four members of the Colombian Army's XIV Brigade Calibío Battalion presumably executed the alleged victim in the "Quebrada de la India," located in the Municipality of Remedios, Department of Antioquia. The petitioning organization cites the purported statement made to the Antioquia Regional Inspector General's Office by one of the soldiers involved in the alleged victim's murder, in which he affirmed that that an operation had been organized with the Battalion's sergeant so that an informant would take them to a man who they had been ordered to shoot. After several rounds of fire, the sergeant informed his commander that they had killed a member of the guerrilla in combat.

105. As a result of the events an investigation was initiated by the Military Criminal Court of Inquiry No. 40, which, after conducting a series of tests, had been transferred to the Military Criminal Prosecutor's Office No. 21. This Office decided to end the proceedings in favor of the defendants, a decision upheld by the Second Prosecutor's Office of the Superior Military Court of Bogotá. Additionally, a disciplinary investigation launched by the Inspector General's Office for Human Rights Disciplinary Matters was shelved on April 10, 2007. The petitioners contend that despite this, the disciplinary investigation was reopened on November 25, 2009.

106. The alleged victim's family members also filed an administrative remedy. Administrative Court No. 25 of the Medellín Circuit handed down a first-instance decision, ruling against the State. The decision has been appealed to the Administrative Court of Antioquia.

*Danilo Anderson Verjel Álvarez and Family (P-1701-09)*

107. The petition, submitted by the organization Humanidad Vigente on behalf of Danilo Anderson Verjel Álvarez and his family, was received by the IACHR on December 31, 2009, and sent to the State on September 8, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

108. The petitioning organization maintains that on January 25, 2007, Danilo Anderson Verjel Álvarez was murdered by officials from the Special Road and Energy Plan Battalion No. 10. According to the petitioner, the alleged victim lived with his family and worked as a farm laborer on a plantation located in the Municipality of El Tarra, Department of Norte de Santander. On January 25, 2007, the alleged victim was traveling by mule carrying two empty cylinders of gas to refill in the closest town, when he was detained by the Battalion together with other individuals at a roadblock the army had set up. After a while, the alleged victim got off the mule he was on and had distanced himself from the group to relieve himself. However, a soldier had interpreted this as an attempt to escape, with which the soldiers opened fire, murdering him. Subsequently, despite his family's opposition, the army took it away by helicopter, presenting it as that of a guerrilla fighter who had opened fire on the army at a roadblock, causing a skirmish in which he had been killed. As a result, a preliminary investigation was initiated by the Military Criminal Court of Inquiry No. 37 of the Francisco de Paula Santander of Ocaña, Norte de Santander Battalion. On August 28, 2007, the investigation was sent to the Specialized Human Rights Prosecutor's office of Cúcuta. The petitioners also contend they reported these events to the National General Inspector's Office.

*Nelson Vergara Coy, Juan Carlos Quimbayo Mazuera, Gerardo Antonio Moreno González, José Never Ramos Henao, José Yiner Enriquez Hoyos, and Didier Cuervo (P-136-10)*

109. The petition, submitted by Francia Julieth Castro Polo on behalf of Nelson Vergara Coy et al., was received by the IACHR on January 30, 2010, and sent to the State on July 27, 2010. On April 11, 2014, the IACHR received a power of attorney from Nelson Vergara Coy's sister authorizing the Corporación Justicia y Dignidad [Justice and Dignity Corporation] to represent her interests in the petition. The other five victim's family members did the same, notifying the IACHR on October 31, 2014 that they granted power of attorney to said organization. All the additional observations and information presented by each party were duly forwarded by the commission to the other party.

110. The petitioner maintains that her then husband, Nelson Vergara Coy, and five other young men, lived in the city of Cali at the time of the events. They were all young men with few economic resources. According to the petitioner, a man proposed to them that they go to the city of Ibagué, where they could take the money of a drug trafficker who had hidden a large amount of it on a plantation that said man took care of in the township of Los Mangos, Municipality of Ibagué, Department of Tolima. On February 28, 2008, they arrived at the plantation where they found members of the army who indiscriminately shot them to death. The following day, they were all presented as guerrilla fighters killed in combat. The petitioner added that the individual who the victims' families reported to be the recruiter was also being investigated in another case of "false positives" involving young men from Cali.

111. According to documents provided by the petitioner, on February 29, 2008, Infantry Battalion No. 18 "Coronel Jaime Crook" launched a disciplinary investigation of the events. Additionally, it is shown that the petitioner filed a complaint with the Cali Provincial Inspector General's Office in April of that year. However, according to the petitioner, 7 years after the fact, there has yet to be even a first-instance court ruling identifying and punishing the perpetrators who killed the 6 young men.

112. According to the petitioners, on August 31, 2011, the Attorney General's Office decided to assign the investigation of the events to the Fourth Specialized Prosecutor's Office for Human Rights and International Humanitarian Law. This Prosecutor's Office had in turn requested that the Military Criminal Court of Inquiry turn over the case and waive its jurisdiction, with which it submitted the conflict of jurisdiction to the Superior Council of the Judiciary. On February 25, 2013, the Council ordered the proceedings to be transferred to the civilian jurisdiction. However, they indicate that the alleged victims' families had had difficulties in accessing the case file and becoming civil parties to the suit. Therefore, the family members filed an appeal for protection of constitutional rights and guarantees, which they won on April 30, 2012. The ruling ordered that the petitioners be informed of which Prosecutor's office was in charge of investigating the events and that they be allowed to have access to all necessary information.

*Carlos Mauricio Nova Vega and Family (P-280-10)*

113. The petition, submitted by the Corporación Colectivo de Abogados Luis Carlos Pérez on behalf of Carlos Mauricio Nova Vega, was received by the IACHR on March 3, 2010, and sent to the State on July 29, 2010. The additional observations and information presented by each party were duly forwarded by the commission to the other party.

114. According to the petitioning organization, the alleged victim was seen on August 25, 2008, conversing with two men in the Centenario Park, in the city of Bucaramanga, Department of Santander. There, a man passing by in a truck offered them work as laborers, to which they agreed, given their economic necessity as low-income individuals. Two days went by without any news of their whereabouts, when on August 27, the Thirtieth Brigade reported that members of Infantry Battalion No. 15 had had a confrontation with guerillas in a rural district of the Municipality of Hacarí, Department of Norte de Santander, killing three of them. The persons reported killed were the alleged victim and the two men who had been with him.

115. The petitioners hold that the investigation of the events was done in the ordinary justice system, first by the First Prosecutor's Office of Ocaña, and finally by the Human Rights and International Humanitarian Law Prosecutor's Office No. 72.

*Eustacio Franco Amaya and Family (P-292-10)*

116. The petition, submitted by the Asociación para la promoción Social Alternativa [Association for Alternative Social Promotion] –MINGA on behalf of Eustacio Franco Amaya, was received by the IACHR on March 4, 2010 and sent to the State on July 27, 2010. The additional observations and information presented by each party were duly forwarded by the Commission to the other party.

117. The petitioning organization states that at the time of the events the alleged victim was 34 years old, lived in the Municipality of San Calixto, Department of Norte de Santander, and worked fixing shoes, driving a motorcycle taxi, and repairing motorcycles. They further state that his entrepreneurial nature made him well known in the Municipality. They report that on July 7, 2007, the army detained the alleged victim in the Municipality of San Calixto, took him to a wooded area, and then to the Municipality of Teorama, where they extrajudicially executed him. The Army reported that while conducting operation "Japón 3", its Mobile Brigade No. 15 was attacked by insurgents, killing the alleged victim on whom they found weapons. They allege that on July 8, 2007, Military Criminal Court of Inquiry Judge No. 86 oversaw the post mortem external examination of the body, which was taken to the city Ocaña. This is where his family members recovered it on July 9, after they had discovered what had befallen Mr. Amaya, whom they had been desperately looking for.

118. As a result of these events, an investigation was opened by Military Criminal Court of Inquiry No. 86. Nevertheless, on August 2, 2007, the Second Prosecutor's Office of Ocaña requested that the said Court forward the record of the post mortem external examination of the body, which did not happen. However, on May 16, 2008, the Human Rights Unit Prosecutor No. 72 conducted a judicial inspection of the case being handled by Military Criminal Court of Inquiry No. 86. In turn, the Court requested the proceedings conducted by the civilian justice system. This gave rise to a conflict of jurisdiction, which the Superior Council for the Judiciary decided on October 15, 2009, ruling in favor of the military criminal justice system. However, according to the petitioners, that decision acknowledged that it was probable that the alleged victim had not been a member of a guerilla group and possibly had died accidentally.

*Juan Carlos Arenas Palacio and Family (P-428-10)*

119. The petition, submitted by the Grupo Interdisciplinario por los Derechos Humanos on behalf of Juan Carlos Arenas Palacio, was received by the IACHR on March 24, 2010, and sent to the State on September 3, 2010. The additional observations and information submitted by each party were duly forwarded to the other party.

120. According to the petitioning organization, Juan Carlos Arenas Palacio was 23 years old and lived in the “El Salado” neighborhood of Envigado, Department of Antioquia, together with his family. The alleged victim had scant economic resources and made a living, according to the petitioners, by taking care of cars and running errands. On March 9, 2008, the alleged victim did not return home, with which his family began to search for him to no avail, reporting his disappearance to the Immediate Reaction Unit of the Prosecutor’s Office. A year later, in February 2009, the alleged victim’s mother was summoned to the Prosecutor’s Office for Disappeared Persons to inform her that the corpse of a “John Doe” killed in a battle between the army and the guerilla in the municipality of Dabeiba, Antioquia, on March 12, 2008, had been identified as her son. The petitioning organization reports that Mobile Brigade No. 11’s Counter-guerilla Battalion No. 79 was responsible for the alleged victim’s disappearance and extrajudicial execution.

121. As a result of these events, a preliminary investigation was initiated by the IV Brigade’s Military Criminal Court of Inquiry No. 128. However, the alleged victim’s family requested that the Prosecutor’s Office take over investigation of the case.

*José Yair Mosquera, Luis Amilkar Calle Fernández, Luis Horacio Ladino Guarumo, Miguel Ángel González, William Hernán Sánchez, and their Families (P-462-10)*

122. The petition, submitted by the Corporación Jurídica Yira Castro [Juridical Corporation Yira Castro] on behalf of 5 campesinos and their families, members of CAHUCOPANA (Corporación Acción Humanitaria por la Convivencia y la Paz del Nordeste Antioqueño), a campesino organization created with the aim of resolving the humanitarian and human rights crisis that is overwhelming the rural communities of Antioquia, ravaged by the armed conflict in Colombia. The petition was received by the IACHR on March 30, 2010, and was sent to the State on July 27, 2010. The additional observations and information submitted by each party were duly forwarded by the Commission to the other party.

*Amilkar Calle Fernández*

123. According to the petitioning organization, the alleged victim was a 67-year old campesino who resided in the rural district Dos Quebradas, Department of Antioquia, with his family. They allege that on October 13, 2005, a group of 30 soldiers from Demolition Platoon No. 1 of the XIV Brigade’s Calibío Battalion, together with 3 well-known paramilitaries from the region, detained the alleged victim at his plantation, subjecting him to torture. However, they contend that the soldiers had to release the alleged victim because the campesinos from the area alerted two foreigners, members of the organization International Peace Observatory, who were in the area and went to the scene demanding that they let them see what condition the alleged victim was in. Mr. Calle was released, but was forced to sign a document attesting to his good treatment by the army. The events were reported to the authorities, and an investigation was opened by Prosecutor’s Office 19 assigned to the National Human Rights and International Humanitarian Law Unit. It was not until August 6 and October 20, 2010 that an order to initiate inquiry proceedings was issued, indicting a sergeant and 8 soldiers, respectively

124. As a result of these events, a direct compensation claim against the State was lodged. Administrative Court 20 of the Medellín Circuit issued a ruling on November 2, 2010, denying all of the plaintiff’s claims. This ruling has been appealed.

*William Hernán Sanchez*

125. According to the petitioning organization, the alleged victim was a campesino that resided in the rural district El Tamar, Department of Antioquia, together with his family. The alleged victim was affiliated with the community association of his rural district. On February 4, 2007, soldiers from the XIV Army Brigade’s Special Road and Energy Plan Number 8 detained and murdered the alleged victim, presenting him as a guerilla killed in combat. As a result of the events a preliminary investigation was initiated by Military Criminal [Court of Inquiry] No. 42, which in the end decided not to indict any military official in the proceedings. Due to the complaint filed by the family, an investigation was initiated by the National Human Rights Units of Prosecutor’s Office No. 75 of Medellín, which nevertheless, informed the

alleged victim's family that the body's identity had not been confirmed, leading to steps for its identification that further delayed access to justice.

*José Yair Mosquera*

126. According to the petitioning organization, the alleged victim was 15 years old and helped his family with agricultural activities. He resided in the rural district Ojos Claros, Municipality of Remedios, Antioquia. On March 25, 2007, the alleged victim left home together with another young man, Carlos Mario García, when they were detained by the Army's XIV Brigade Calibío Battalion, and taken to a rural area of the Municipality of Simití, in the south of the Department of Bolívar. Carlos Mario García was murdered, but José Yair Mosquera managed to escape. The murder unleashed panic among the population, displacing some 200 individuals from the area. The alleged victim was also displaced with his mother to the city of Bogotá, where he filed a complaint about the events. As a result, an investigation was opened in the civilian and the military criminal justice systems, giving rise to a conflict of jurisdiction, which the Superior Council of the Judiciary decided, ruling in favor of the civilian justice system. On March 30, 2012, Prosecutor's Office No. 8 of the National Human Rights Unit ordered inquiry proceedings, indicting two soldiers and a captain for the death of the young man who was detained together with the alleged victim. However, no one was indicted for the crimes that were purportedly committed against the alleged victim. An investigation was initiated by Specialized Prosecutor's Office No. 37 of Medellín for the crimes of displacement.

*Miguel Ángel González Gutierrez*

127. According to the petitioning organization, the alleged victim was a 23-year old young man who worked as an agricultural worker in the rural district of Puerto Nuevo Ité, Municipality of Remedios, Antioquia. On January 19, 2008, while a meeting of the Campesino Association of the Valle del Río Cimitarra was taking place, army officials burst in, together with a purported former member of the guerilla who had been reintegrated, and detained Miguel Ángel González Gutierrez and Ramiro Ortega Muñeton. Mr. González was released, but the petitioners allege that on the night of January 27, 2008, when he was on his way to the village center of the rural district in order to charge his two cell phones and an Avantel radio, he was executed. The following day his family members found out about this death, which the XIV Brigade's Calibío Battalion reported as a guerrilla fighter killed in combat. As a result of the events, an investigation was initiated by the Specialized Human Rights Prosecutor's Office No. 69 of Bogotá.

*Luis Horacio Ladino Guarumo*

128. According to the petitioning organization, the alleged victim was a lumber merchant who lived in the rural district Campo Bijao, Municipality of Remedios, Antioquia. On March 19, 2008, the alleged victim was murdered by the army, which contended that he had been found laying land mines. His family members filed a complaint, leading to an investigation by the Specialized Prosecutor's Office No. 42. That Prosecutor's Office filed charges against a second lieutenant and a soldier who were involved in the operation. They are being tried by Specialized Court No. 2 of Antioquia. However, the petitioners contend that none of those whom had ordered the crime, in keeping with the chain of command, had been accused.

*Orestes de Jesús Morales and Family (P-464-10)*

129. The petition, submitted by the Corporación Jurídica Libertad on behalf of Orestes de Jesús Morales and his family, was received by the IACHR on March 31, 2010, and sent to the State on July 27, 2010. The additional observations and information submitted by each party were duly forwarded by the Commission to the other party.

130. According to the petitioning organization, the alleged victim was a 17-year old boy who lived on the plantation "La Bretaña", located in the rural district Boquerón, Municipality of San Francisco, Department of Antioquia. The petitioners contend that they boy worked and helped his parents with farming activities on the plantation. On March 13, 2003, at approximately 7:30 a.m., he left with a schoolmate for school when they were stopped by officials from the army. The alleged victim was taken to another place

where military personnel had some other 14 individuals they had stopped. That afternoon, they were all released with the exception of the alleged victim and José Ruperto Agudelo Ciro, whom an informant of the insurgent group National Liberation Army (ELN) had identified. According to the petitioners, they were tortured and subsequently executed on the morning of March 14. That afternoon, an army helicopter had transported both bodies to the morgue of the Municipality of Río Negro, Antioquia, where they were documented as two guerilla fighters killed in combat. They allege that this extrajudicial execution was carried out by the IV Army Brigade's Artillery Battalion No. 4. The family went to the Municipal Ombudsman's Office to report these events.

131. The petitioners maintain that as a result of these events an investigation was opened by the Military Criminal Court of Inquiry No. 24, which on February 15, 2005, decided not to conduct a formal inquiry and shelved the case. However, 5 years later the investigation was reopened. On November 5, 2010, Prosecutor's Office 37 of the Human Rights Unit asked for jurisdiction over the investigation, a request that was denied by military justice in November 2010. In the conflict of jurisdiction that ensued, the Superior Council of the Judiciary issued a decision on December 15, 2010 finding in favor of the military criminal justice system.

*Álvaro de Jesús García Idarraga and Javier Augusto García Idarraga (P-465-10)*

132. The petition was filed by the Corporación Jurídica Libertad (Legal Freedom Corporation) on behalf of Álvaro de Jesús García Idarraga, Javier Augusto García Idarraga, and their families and received by the IACHR on July 27, 2010. The additional remarks and information submitted by each party were duly forwarded by the Commission to the other party.

*Álvaro de Jesús García Idarraga*

133. According to the petitioning organization, Álvaro de Jesús García Idarraga was a young 19-year old man living with his family on a ranch located in the rural district (vereda) of La Estrella, in the Granada municipality, Department of Antioquia. The García Idarraga family also has a home located in the town center of the Granada municipality, which they report was occupied by members of the army, who allegedly stole and destroyed belonging and prevented them from entering their residence.

134. On August 3, 2004, Álvaro de Jesús had left with his mother to go to the La Cascada Rural Educational Center, where his younger siblings were studying and where they regularly helped prepare food for the school cafeteria. Once they were there, his mother reportedly asked him to go harvest some oranges at their neighboring ranch. The young man did not return, but gunshots were heard at the school. The mother reportedly went to look for him at the Police Department, where she was informed that the army had taken a body with the same description to the Cocorná municipality. The deceased had reportedly died in combat and been identified as a guerrilla. His mother traveled to said municipality, where she identified the body as that of her son, who had been accused of being a guerrilla fighter carrying war material and of engaging in combat with the BOMBARDA No. 3 Counter-guerrilla Battalion during operation "Espartaco."

135. The mother of the alleged victim lodged a complaint of the events with the Prosecutor's Office. An investigation was opened by Sectional Prosecutor's Office No. 59 in El Santuario. It was reportedly reassigned in December 2006 to Prosecutor's Office No. 17 of the National Human Rights and International Humanitarian Law Unit, and then sent to Prosecutor's Office No. 81 of the same unit, where it remains under investigation, according to the petitioners. A parallel investigation was opened by the Military Criminal Court of Inquiry No. 23, and later transferred to Military Criminal Court of Inquiry No. 31, which took over the case September 26, 2006.

136. The family of the alleged victim also filed an administrative remedy for a direct compensation claim against the State, which was granted by the Eighth Circuit Administrative Court on June 19, 2009 and sentenced the State to pay compensation for extra-contractual liability.



*Javier Augusto García Idarraga*

137. Javier Augusto García Idarraga was 15-years old and lived on the same ranch as his brother Álvaro de Jesús. On May 6, 2005, he was allegedly murdered while out in the field by members of the army, who took his body and arrested Mrs. Ildura de la Cruz Betancur Velásquez and her daughter Yesenia Betancur, who were with the alleged victim at the time of the events. They were all reportedly taken to the Granada municipal headquarters, where the alleged victim was identified as a guerrilla fighter killed in combat carrying war material and propaganda. Mrs. de la Cruz Betancur Velásquez, an alleged eyewitness who testified during the administrative proceedings on the events, was murdered June 15, 2008.

138. An investigation was opened into the events by Prosecutor's Office No. 59 in the municipality of El Santuario, as well as with the criminal military justice system, where it was transferred to Military Criminal Court of Inquiry No. 31. The investigation in the civilian justice system was transferred to Prosecutor's Office No. 12 of the National Human Rights Unit. On February 24, 2012, this office ordered the pre-trial detention of a professional soldier for the crime of homicide of a protected person. This soldier was identified as the perpetrator of the crime. Furthermore, this Prosecutor's Office also accused the commander of the tactical unit, Captain Luis Andre Rodríguez, and four professional soldiers of the crime of aggravated favoring (favorecimiento agravado). All have been released.

139. The family of the alleged victim also filed an administrative remedy for a direct compensation claim against the State, which was granted by Administrative Court No. 21 in Medellín, which ruled against the State.

140. The petitioners note that on November 5, 2008, they asked the Attorney General to investigate Colonels Juan Carlos Barrera Jurado and Luis Javier Pérez Orellanos, commanders of Battalion No. 4 of the 4th Brigade of the National Army, bearing in mind the alleged considerable increase in extrajudicial executions under the modus operandi of false positives attributed to said battalion, including the deaths of the alleged victims of this petition.

### **Position of the State**

#### **1. Common allegations**

141. The State claims that it has an exhaustive legal framework of constitutional and criminal law that provides the highest level of human rights protection to its citizens, and included in this framework are regulations on international humanitarian law that protect the civilian population from abuses perpetrated by state authorities. The State also notes that its existing public policies also share this objective. According to the State, Law 812 of 2003 and Law 1151 of 2007 give substance to the democratic security policy, which lays the foundation for a human rights policy in the Ministry of Defense. The State cites document 3411 of 2006, drafted by National Council on Economic and Social Policy, which delineates a policy to combat impunity in cases of human rights and international humanitarian law violations. In this regard, the State contends that the Ministry of Defense, via Directive 300-28, changed its incentives policy, favoring demobilization over capture, and capture over combat deaths.

142. Regarding the investigation and punishment of claims of extrajudicial executions, the State asserts that the National Human Rights Unit has a group of prosecutors to investigate serious homicides attributed to security forces. According to the State, "Some of the cases that had occurred in the last ten years were before the Military Criminal Court, either shelved or active. Based on the relevant evidentiary and legal grounds, the Prosecutor's Office claimed jurisdiction." With respect to the matter of comprehensive reparations, the State claims that the administrative jurisdiction in Colombia is derived from the same legal source and provides reparations for the same damages as those in the Inter-American system.

143. Based on the foregoing, and given that for almost all of the cases included in this report, the investigation and trial proceedings in criminal and administrative jurisdictions had not concluded, the State claimed that domestic remedies had not been exhausted by the petitioners. Their petitions should, therefore,

be declared inadmissible by the Commission. Lastly, the State maintains that for almost all of the petitions in this report, unwarranted delay could not be established, bearing in mind the number of individuals involved and the complexity of the alleged events, which complicate the investigation, particularly as pertains to the carrying out of military operations. The State argues that, despite this, the actions of the State investigators and justice operators have been impeccable.

144. Lastly, the State claims that the Commission only has the authority to hear violations of the American Convention on Human Rights, not to rule on alleged violations of international humanitarian law. In the opinion of the State, all of the cases included in the report relate to events that do not comprise human rights violations, but rather events that are framed in the legitimate enforcement of international humanitarian law. The Commission would, thus, lack competence *ratione materiae*.

## 2. Specific allegations

### *Álvaro Enrique Rodríguez Buitrago (P-191-07)*

145. Regarding the alleged events, the State reports that, according to the report submitted by the commander of the GAULA Operational Unit, a tactical military operation was carried out on January 12, 2007. The events of this case allegedly occurred as part of this operation. Specifically, the State asserts that the abovementioned commander and a member of the Judicial Police were driving through the Alvarado municipality when two subjects riding a motorcycle stopped. Next, as part of the plan, there was an exchange between them and the two subjects on the motorcycle. When the GAULA agents identified themselves, there was an armed confrontation, resulting in the death of both subjects. The State claims that the Technical Investigation Body of the Attorney General's Office did not perform the post mortem external examination that day due to lack of proper light conditions and that this task was completed the next day.

146. The State posited that the facts presented in this petition lack evidence and, as such, are not violations of the Convention. Similarly, it claims that the domestic remedies had not yet been exhausted. In particular, it reports that Sectional Prosecutor's Office No. 24 of Ibagué had initiated a criminal investigation of its own motion into the events resulting in the homicide of Álvaro Enrique Rodríguez Buitrago and Marco Antonio Quiroga. The case was referred to the jurisdiction of Military Criminal Court of Inquiry No. 79 on January 15, 2007, in which various actions were taken. According to the State, the investigation remains in the examining phase, but there is no evidence or proof to date that would question the legality of GAULA's actions in the events subject to investigation.

147. Regarding the remedy for a direct compensation claims against the State before the administrative jurisdiction, the State reports that no domestic proceedings had been initiated in this jurisdiction. According to the State, this would be the appropriate and effective remedy for obtaining compensation for the alleged material and immaterial damages suffered by the victims as a result of the actions or neglect of state agents.

### *Leonel David Sanjuán Barraza, Yuceth Alfredo Diazgranados, Robinson Damián Tamara and Rubiel Fernando Guerrero Diazgranados (327-07)*

148. The State disputed the version of events submitted by the petitioners on the following points. According to the report from the GAULA Intelligence Unit for Evaluation and Analysis, on September 21, 2005, stemming from an emergency call alerting officials to alleged threats and harassment of residents of the El Manantial rural district, they decided to carry out an operation with members of the GAULA Intelligence Unit and Operational Unit. Once they were in position, there was an exchange of fire, which left Leonel David Sanjuan Barraza, Robison Damián Tamara Utria, and Yuseth Alfredo Nuñez Diazgranados dead.

149. The State reported that, on September 22, 2005, Prosecutor's Office No. 8 of the Santa Marta Circuit referred the proceedings to Military Criminal Court of Inquiry No. 19. The latter initiated a formal investigation on December 7, 2005, implicating two officers, two non-commissioned officers, and two professional soldiers. Once the investigation was concluded, Military Criminal Prosecutor's Office No. 12

proceeded with the criminal prosecution of the military personnel. However, on May 14, 2007, these proceedings were halted as it was determined that the actions of the army personnel were justified. This decision was upheld by the Second Military Criminal Court before the Military Superior Court on July 11, 2007. According to the State, the second-instance judgment focused primarily on recognizing the right to self-defense as cause for justification of the military personnel's actions, given that the deceased were armed with small arms "and that apparently two of them were members of a robbery gang operating out of the ranches located in the rural district of El Manantial and that they were the alleged perpetrators of the death of the dentist Cecilia Ada Vargas de Pérez five days prior."

150. The State maintained that the petitioners were attempting to use the IACHR as a "fourth instance" for appealing judgments that were issued in compliance with guarantees for due process and that the facts of the case do not constitute violations of the American Convention. Likewise, it claimed that domestic remedies had not been exhausted, insofar as the appeal of the decision before the court of first instance was still pending as part of the suit brought before the administrative court.

*Eduin Enrique Cordoba Lúquez (P-328-07)*

151. Regarding the alleged events, the State maintained that on August 10, 1997, military units had sustained armed contact with the 19th Front of the FARC for approximately one hour. Subsequently, upon searching the area, the body of a person was found with a grenade in his hand, 50 AK-47 shells, and other combat elements. This was corroborated by the August 13, 1997 report issued for Prosecutor's Office No. 9 of Magdalena. The State confirmed that, according to the investigation performed as part of the military criminal proceedings, a captain that had participated in the operation did not perform the post mortem external examination the site of the events as it was an inhospitable area, with no roads and difficult to access.

152. The State claimed that the alleged facts lack evidence and, therefore, do not constitute violations of the Convention. It also asserted that the facts were being subjected to investigation by judicial bodies, such that all remedies in a domestic jurisdiction had not been exhausted. In the criminal arena, the State claimed that the proceedings had been effective and carried out in a reasonable timeframe. It explained that Sectional Prosecutor's Office No. 26 of Fundación had initiated an investigation, but suspended activities on October 2, 1998. However, on May 4, 2011, the International Affairs Department of the Attorney General's Office requested the Sectional Prosecutor's Office of Santa Maria create a technical legal committee to study the possibility of reopening the investigation. The State added that the same events were subject to a parallel and simultaneous investigation carried out by the military criminal justice system, under the supervision of Military Criminal Court of Inquiry No. 14. This investigation concluded April 13, 2004, date on which the Military Criminal Prosecutor's Office No. 28 ordered the investigation closed due to the lack of evidence for filing any charges. The cessation of the investigation was upheld on April 11, 2005 by the Second Prosecutor's Office before the Military Superior Court. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

153. Regarding the administrative proceedings, the State claimed that, on February 15, 2005, the Administrative Court of Magdalena issued a judgment of acquittal in favor of the State, the Ministry of Defense, and the National Army. Although this ruling was appealed, the Administrative Court of Magdalena dismissed the appeal on September 12, 2006, given "the quantity of claims posed in the suit, the appeal was not admissible, due to the fact that there was only a single instance for these proceedings." In this regard, the State asserted that the petitioners are trying to use the IACHR as an instance to appeal the decisions of local courts.

*Estadero "Rayito de Luna" (P-513-07)*

154. The State claims that the deaths occurred when an army squad confronted five men from the 35th Front of the Revolutionary Armed Forces of Colombia (FARC). They contend that these men were embedding a group along the road leading from the municipality of Ovejas to Cartagena. They claim that the alleged victims were carrying pistols and rifles.

155. Regarding the investigation of the events, the State claims that the Emergency Response Unit of the Prosecutor's Office performed the post mortem external examination on July 30, 2002. On September 10, 2002, the Ninth Prosecutor's Office of Corozal ordered the investigation transferred to Military Criminal Court No. 109 of the Marine Battalion of Riflemen No. 5 in Corozal. This court decided to waive prosecution since the case "dealt with a carjacking gang that had been ravaging the Ovejas region, which gave rise to the confrontation between these men and State troops. These subjects were found in possession of real and toy weapons."

156. Additionally, a disciplinary investigation was opened. On October 10, 2002 it concluded with a decision in which the Command of the Counter-guerrilla Battalion No. 31 decided to shelve the investigation. The families of the alleged victims filed an administrative remedy for a direct compensation claim against the State. On April 10, 2008, the Seventh Administrative Court of the Sincelejo Circuit ruled against the State. However, this judgment was appealed, and on April 15, 2011, the Administrative Court of Sucre in the second instance overturned the ruling in the first instance, absolving the State of all responsibility. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Agudelo Family (P-903-07)*

157. The State reported that the investigation of the events had been taken over by the civilian justice system, headed by the Attorney General's Office, which, following an investigation of the events, ruled on the merits of the case on December 28, 2010, with a decision to charge five members of the military. According to the State, the Criminal Court of the Yarumal, Antioquia Circuit issued a first-instance judgment in October 2013 against five members of the military for the homicide of the alleged victims. As regards the administrative suit, the State claimed that on November 27, 2008 before the Administrative Court of Antioquia, the parties agreed to the compensation payment for moral and material damages and for the life of the family member. The settlement was approved by the Third Chamber of the Administrative Court of Antioquia on February 9, 2009. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Héctor Andrés Vélez Castañeda and Others (P-1038-08)*

158. The State claims that the alleged victim died on November 19, 2004. An investigation was immediately initiated by the Technical Investigation Body, Sectional Prosecutor's Office No. 155, and Military Criminal Court of Inquiry No. 23. On December 10, 2004, Sectional Prosecutor's Office No. 188 took over investigation of the case, and on the same day, the military criminal courts ordered the launch of the investigation. However, on February 11, 2005, the prosecutor for the civilian justice system referred the file to the military justice system, which assumed exclusive jurisdiction of the investigation, implicating several soldiers, a corporal, and a captain of the army. After years of investigation, on April 13, 2009, the Military Criminal Court of Inquiry No. 23 decided to transfer jurisdiction to the civilian justice system.

159. On May 12, 2009, Sectional Prosecutor's Office No. 16 took over the case, later transferring jurisdiction to Sectional Prosecutor's Office No. 132 on June 11, 2010. On March 23, 2012, the Specialized Prosecutor's Office of the Human Rights Unit carried out several investigations, including one of the homicide of the alleged victim, related to reports of extrajudicial executions perpetrated by members of the same army unit. The State underscores that this series of investigations included 23 victims and that pre-trial detention was ordered for 31 people. Four professional soldiers and a corporal admitted responsibility for the crimes of aggravated homicide and conspiracy to commit a crime. They entered a guilty plea [sentencia anticipada] and were convicted in February and March 2014. According to the State, in May 2014, the proceedings continued for the captain and the commander of the military unit who allegedly murdered the alleged victim.

160. The State notes that in this case, in terms of the level of complexity of the matter in evaluating the reasonability of the timeframe, the soldiers involved reportedly "staged a fake scene of events," which misled the Prosecutor's Office and judges, thereby prolonging the work of public officials. The State also requests review of the initial jurisdiction that the military criminal court took on, which originally had

assumed that the events occurred in the carrying out of a legitimate military operation, due to the mistake made resulting from the manipulation of the body and the crime scene, as well as the false testimonies received.

161. Regarding the administrative proceedings, the State underscored the decision of the victim's family members to not pursue this remedy and objected to the lack of trust in the proceedings, which – as in so many other cases – would order reparations for the victim's family. As regards the victim's family lack of participation as the civilian party in the criminal proceedings, the State objected to being blamed for no attorney being appointed to the family, since they did not request one. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Carlos Enrique Arias González and Nelson Enrique Mendoza Hernández (P-1315-08)*

162. The State disputed the factual basis and claimed that the facts of the case do not constitute violations of the rights enshrined in the Convention. It furthermore claimed that the petitioners intend for the Commission to act as a court of “fourth instance” to analyze the alleged errors committed by Colombian judicial authorities in the investigation and hearing of the proceedings. On the contrary, the State asserts that all were carried out with full due process at all times.

163. As regards the criminal investigation, the State reported that on June 18, 1993, the Sectional Prosecutor's Office of Zaragoza, Antioquia transferred proceedings to the jurisdiction of the Military Criminal Court. On June 28, 1995, Military Criminal Court of Inquiry No. 39 of said jurisdiction refrained from initiating an investigation after analyzing the evidence gathered and determining that the military operation had been performed based on information indicating that there was guerrilla presence in the “El Jamón” rural district and that there had been armed confrontations in the preceding days. According to the State, a criminal investigation was carried out under the charge of the presiding judge, in compliance with due process at all times.

164. Regarding the proceedings before the administrative jurisdiction, the State explained that, on September 24, 1998, the Administrative Court of Antioquia ruled that the State was liable. However, this ruling was appealed. On August 14, 2008, the Council of State concluded that the death of Carlos Enrique Arias Gonzalez and Nelson Enrique Mendoza Hernández had occurred during an armed confrontation with members of the Armed Forces during an operation against an illegal group. The State alleges that this determination was made after studying the evidence in the proceedings, as well as the evidence gathered in the civilian and military criminal investigations. It was determined that the conduct of the members of the military constituted “the right of self-defense against current and unfair aggression” and, therefore, grounds were established for acquittal of responsibility for the specific act carried out against the victim.

*Carlos Arturo Vélez Ruíz and Family (P-1469-08)*

165. As regards the evidentiary framework, the State disputed the allegations of the petitioners, claiming that none of the events recounted had been duly proven by domestic authorities. On the contrary, the events that had been heard before domestic courts upheld a different reality than that presented by the petitioners. As such, it argued that neither the military criminal judiciary nor the administrative jurisdiction had found evidence to support their allegations.

166. The State deemed the petition inadmissible as domestic remedies had not been exhausted in the administrative or criminal jurisdictions. The State indicated that the criminal proceedings had been initiated on December 14, 1999 by Military Criminal Court of Inquiry No. 126. On June 15, 2000, the court ruled to stop the proceedings against the members of the military implicated. However, on August 18, 2000, the Military Superior Court overturned this decision and ordered the gathering of evidence. Lastly, on February 12, 2009, the investigation was transferred to the civilian justice system to be spearheaded by the Prosecutor's Office of Amalfi, Antioquia, which is still processing the case.

167. Regarding the administrative proceedings, the State noted that on August 2, 2002, once the suit brought by Luz Dary Londoño was settled, the Administrative Court of Antioquia dismissed the claims for the compensation requested, as there was no evidence to prove the State's responsibility. On August 2, 2011, the appeal of this ruling was "denied for lack of grounds," given that the applicable law did not allow for the appeal due to the amount. On February 4, 2013, the petitioner appealed this decision, claiming that it did have the proper amount. However, on March 22, 2014, the Council of State upheld the denial of the appeal and declared the ruling enforceable. Subsequently, on April 8, 2013, the petitioner filed an appeal for reversal, which was rejected on September 13, 2013. Following this, the petitioner appealed to the constitutional court, filing a writ for protection of constitutional rights. This suit was decided on August 12, 2014, and was again dismissed. This decision was appealed and the appeals judge ruled on February 12, 2015 with a limited judgment modifying the terms of the decision in the first instance, in which the suit should have been declared "groundless," instead of dismissing it. Lastly, given that the case was sent to the Constitutional Court so it could rule on the revision, the State argues that the case has not yet been settled as domestic remedies have not been exhausted.

*Felix Antonio Valle Ramírez and Others (P-1471-08)*

168. The State reserved the right to dispute the factual description presented by the petitioner for a future stage of the process. However, it claimed that there was a duplication, since the alleged victims of the petition were included among the alleged victims of petition 12.325 also filed before the IACHR.

169. Regarding domestic remedies, the State notes that the claims of the administrative suit filed by the families of the alleged victims were dismissed in the first instance by the Administrative Court of Antioquia on December 9, 2005. However, in the appeal before the Council of State, on August 28, 2014 the decision in the first instance was overturned and various reparation measures were ordered, in addition to guarantees of non-repetition, including the ordering of certified copies of the file sent to the Attorney General's Office, the National Center for Historical Memory, the General Archive of the Nation, the National Commission for the Search of Disappeared Persons, and the Ministry of Defense to allow the military criminal justice system to review the criteria for assigning jurisdiction for cases like this. The judgment also ordered the Commander General of the National Army to make a public apology on behalf of the State to the families of the alleged victims, recognizing that the deaths of Heliodoro Zapata Montoya and Alberto Antonio Valle, as well as the disappearance of Félix Antonio Valle Ramírez and José Elías Zapata Montoya had not occurred as part of an armed confrontation.

170. Regarding the criminal investigation, the State noted that although the military criminal justice system had waived prosecution, the civilian justice system had also undertaken an investigation, which created a conflict of jurisdiction, leading the Delegate Prosecutor's Office, before the Criminal Judges of the Specialized Circuit, to take over jurisdiction of the case. This jurisdiction was later reassigned on January 20, 2014 to the National Directorate of Analysis and Context of the Attorney General's Office, which coordinated the investigation of the events. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Mario Andrés Arboleda Álvarez (P-321-09)*

171. The State alleges that on February 20, 2007, National Army troops assigned to the Unified Action Group for the Personal Freedom and Autonomy of the Orient (Grupo de Acción Unificada para la Libertad y Autonomía Personal del Oriente) initiated a tactical mission in the municipality of Guarne, Department of Antioquia, against members of two guerrilla groups, as well as common and organized criminal gangs. On February 24, 2007, as part of this operation, there was a confrontation in which two men, whose identity could not be established, died. According to the State, these men were carrying war material.

172. According to the State, on March 12, 2007, Military Criminal Court of Inquiry No. 25 ordered an investigation into the events. Subsequently, the Specialized Prosecutor's Office of the Human Rights and International Humanitarian Law Unit requested the proceedings be transferred, which created a conflict of jurisdiction. This conflict was settled by the Superior Council of the Judiciary on December 9, 2010, with a

ruling in favor of the civilian justice system. As such, the investigation was sent to Prosecutor's Office No. 5 of the Human Rights and International Humanitarian Law Unit. Lastly, the State underscored that the family of the alleged victim had not filed a remedy for a direct compensation claim against the State before the administrative jurisdiction. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Dairo Domingo and Ismael Jiménez Gutiérrez (P-898-09)*

173. The State disputes the factual description submitted by the petitioner and claims that the Command of Artillery Battalion No. 9, in July 2004, had obtained intelligence about the presence of a guerrilla group in the area of the municipality of Santa Maria, Department of Huila. In response, it deployed a defensive operation that led to combat, resulting in the death of the two alleged victims, who were found to have possessed long and short-range arms.

174. According to the State, an investigation was opened by Military Criminal Court of Inquiry No. 64, which transferred the case to Military Criminal Prosecutor's Office No. 19. On March 15, 2007, the latter decided to close the proceedings. This decision was upheld by the Second Prosecutor's Office by the Military Criminal Court. Regarding the disciplinary proceedings, the State asserted that the Inspector General's Human Rights Office for Disciplinary Matters decided on August 4, 2006 to shelve the investigation. Regarding the administrative proceedings, the State reported that in March 2011, the proceedings before the Fifth Administrative Court of Neiva were still in the evidence phase. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Deiby Julián Pisa Gil and Jonas Ariza Barbosa (P-920-09)*

175. The State disputes the factual description submitted by the petitioners and contends that on May 16, 2006 in the rural district of San Vicente, Municipality of Bolivar, Department of Santander, that there was an armed confrontation between members of the army and armed men who had threatened the people of the region. The confrontation killed a man named Jonas Ariza Barbosa and another unidentified person, who were wearing camouflage uniforms and carrying war material. According to the State, the body of the second person was not identified.

176. A preliminary investigation was opened into the events by Military Criminal Court No. 43, which waived prosecution on September 14, 2006. An investigation was also opened by the civilian jurisdiction with Sectional Prosecutor's Office No. 1 of Vélez, Department of Santander, to be later sent to the National Human Rights and International Humanitarian Law Unit. The State reported that the request for jurisdiction from the military criminal court and civilian court created a conflict of jurisdiction that was settled by the Superior Council of the Judiciary on January 21, 2014, ruling in favor of the civilian justice system. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Edilmer Witer Hernández Giraldo, John Jairo Guzmán, and Ricardo Arley Jaramillo, and families (P-940-09)*

177. The State filed no allegations or comments for this petition.

*Julio César Posada Echavarría (P-1020-09)*

178. The State disputes the factual description submitted by petitioners and claims that, based on intelligence that allegedly indicated the presence of members of the 29th Front of the FARC in the area, operation "Cuervo" was executed on March 30, 2003. This resulted in an armed confrontation in which Mr. Posada Echavarría died. The State indicates that an investigation was opened into the events by the military criminal justice system. On May 18, 2004, Military Criminal Court of Inquiry No. 53 shelved the case. However, the State asserts that on November 2, 2010, Specialized Prosecutor's Office No. 9 of the National

Human Rights and IHL Unit claimed jurisdiction over the case. Consequently, on December 5, 2011, the case was assigned to Specialized Prosecutor's Office No. 87 of the National Human Rights and IHL Unit. After performing an investigation, said office requested the pre-trial detention of a soldier on November 22, 2013 for the crime of homicide, aggravated injury, false testimony and procedural fraud. Regarding the case before the administrative court, the State indicates that on September 5, 2008, the Second Administrative Court of the Pasto District ruled that the State was liable for the damages caused to Eliana Cristina Posada Zuleta, as a result of the death of Mr. Posada Echavarría. This ruling was appealed and was overturned on July 12, 2010 by the Sixth Chamber of Decisions of the Administrative Court of Nariño, dismissing all of the claims made by the petitioners. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Raúl Amaya Amaya and Family and Jaler Antonio Miranda Miranda and Family (P-1370-09)*

179. The State claims that Infantry Battalion No. 15 was carrying out operation "Saturno" to track bandits that were allegedly hitting the area at that time. The State asserts that in the middle of the operation, Raúl Amaya Amaya and Jaler Antonio Miranda Miranda were traveling along the road, when they received orders from the army to stop. Instead, they opened fire against the battalion, which in turn responded, killing them.

180. Based on these events, the State asserts that an investigation was opened by Military Criminal Court of Inquiry No. 37, which waived prosecution on December 6, 2007 as it determined that the deaths had occurred lawfully. The State claims that following requests from the Judicial Prosecutor's Office for Criminal Affairs, the existing proceedings were transferred from the military criminal jurisdiction to the Second Delegate Prosecutor's Office for the Sectional Prosecutor's Unit in Ocaña. The State also claims that on May 26, 2009, the file was ordered sent to the Humanitarian Affairs Unit in Cúcuta. However, on August 17, 2010, said prosecutor's office sent the file to the office of reassignment. It was not until August 24, 2010 that the First Specialized Prosecutor's Office for Humanitarian Affairs took over the case, received statements, carried out inspections, and other investigative actions, and finally on May 25, 2012, the inquiry stage was ordered open. It was through this process that several members of Battalion No. 15 were implicated. Lastly, the State claims that on July 25, 2012, the Second Delegate Prosecutor, before the criminal judges of the Ocaña circuit, ordered the files sent to the National Human Rights Unit, on the direct order of the Attorney General.

181. The State also asserts that a disciplinary investigation was opened by the army, which was shelved March 13, 2008. However, it claims that the Inspector General's Office took over the examination of the file, although it has provided no information as to the outcome of this process. Lastly, the State indicated that the suit before the administrative jurisdiction is still under way. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Luis Carlos Angarita Rincón and Family (P-1371-09)*

182. The State disputes the factual description submitted by the petitioners and maintains that Army Mobile Military Unit No. 15, in order to neutralize the activities of narco-terrorist groups committing crimes in the area of the Cesar and Norte de Santander Departments, planned an irregular combat operation in the Municipality of Teorama. According to the State, in the midst of this operation on July 16, 2007, the counter-guerrilla unit entered into a confrontation with members of the FARC, resulting in the combat death of Mr. Luis Carlos Angarita Rincón, on whom they found a Smith Wesson 9 mm handgun with no serial number, among other weapons. Based on the foregoing, the State believes the events follow the application of international humanitarian law and in no way constitute a case of homicide of a protected person. It, therefore, requests that the Commission find the case inadmissible given that the events do not constitute violations of the Convention, as set forth in Article 47, paragraphs (b) and (c).

183. The State alleges that, as a result of these events, disciplinary and administrative proceedings were opened in the civilian justice system. As part of these disciplinary proceedings, via a March 26, 2008 decision, the Command of Counter-guerrilla Battalion No. 95 refrained from opening an



investigation and, thus, ordered the shelving of these proceedings as it believed the conduct displayed by Mobile Brigade No. 15 was consistent with a counter-guerrilla mission and the exercise of legitimate right to self-defense, given that the guerrilla reportedly attacked the army. Mr. Angarita Rincón was one of these attackers. Regarding the proceedings before the administrative jurisdiction, the State reported that it had not yet been concluded, neither had the criminal proceedings before the civilian jurisdiction. The latter was assigned to Prosecutor's Office No. 73 of the National Human Rights Unit of the city of Cúcuta on May 21, 2010. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Alfonso López Ramírez and Family (P-1373-09)*

184. The State disputes the factual description of the facts submitted by the petitioners and contends that on October 3, 2007, under the orders for operation "Escorpión," tactical mission "Omega 2," a combat incident occurred in the rural district of El Garrotazo, killing Mr. López Ramírez. He was known in the area as "El Zorro," a member of the FARC guerrilla, and found to be in possession of a 9mm handgun.

185. The State claims that the case is under investigation by Military Criminal Court of Inquiry No. 95 and notes that on December 20, 2007, the legal status of the soldiers implicated was decided when the court did not issue a ruling for their pre-trial detention. On September 2, 2008, the investigation was assigned to Prosecutor's Office No. 73 of the Human Rights and International Humanitarian Law Unit of San José de Cúcuta. This created a conflict of jurisdiction that was settled by the Superior Council of the Judiciary on May 20, 2010, which ruled in favor of the military criminal jurisdiction. It is the opinion of the State that the Commission cannot ignore the legitimacy of the military criminal court as the appropriate judicial administrative body for investigating the types of conduct closely related to on-duty military service. The State also claims that there are also proceedings open into the events before the administrative jurisdiction. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Nicolás Emilio García Parra and Family (P-1398-09)*

186. The State disputes the factual description submitted by the petitioners and contends that the available information indicates that Artillery Battalion No. 4 was manning an observation station in the rural district of Santa Ana, Municipality of Granada, when seven "suspicious" persons were seen approaching a creek. Given this, the [battalion] decided to approach and were attacked by a burst of bullets that they had to repel. At the end of the combat, a lifeless body was recovered along with war material.

187. According to the State, the investigation was assigned on September 7, 2005 to Prosecutor's Office No. 37 of the National Human Rights and International Humanitarian Law Unit, which requested the proceedings be transferred from the Military Criminal Court of Justice. However, on April 7, 2006, the 8th Court of the Brigade created a positive conflict of jurisdiction, which was settled in favor of the civilian courts by the Superior Council of the Judiciary. On December 7, 2006, the case was assigned to Specialized Prosecutor's Office No. 14 of the Human Rights and International Humanitarian Law Unit. According to the State, between 2006 and mid-2011, the Prosecutor's Office performed numerous evidentiary proceedings. On September 10, 2007, a lieutenant, second lieutenant, 12 professional soldiers, and a corporal were implicated. According to the State, on May 20, 2011, the pre-trial detention was ordered for seven of them, including the lieutenant and second lieutenant. On June 7, 2012, charges were filed for a plea bargain [sentencia anticipada] against three of the soldiers implicated, who accepted the charges of homicide of a protected person for the death of Mr. Nicolás Emilio García Parra. At the date of this report, the State had not reported any further progress in proceedings.

*Alberto Elías Mazo Álvarez and Family (P-1414-09)*

188. The State disputes the factual description submitted by the petitioners and maintains that the available information indicates that the "Atanacio Girardot" Battalion executed a mission in an area that was controlled by the guerrilla, which consisted of the readying of troops, moving them into the Municipality

of Yarumal, and controlling the area, which resulted in combat and the death of the alleged victim. The State contends that the State's actions relating to the investigation of the events have been diligent. According to the State, the investigation of the case was initiated in the military criminal jurisdiction and subsequently there was a simultaneous one in the civilian jurisdiction. They assert that in July 2009 the Attorney General's Office claimed jurisdiction of the case. However, before the conflict of jurisdiction was settled, the Military Court of Instruction No. 22, of its own motion, referred the file on December 15, 2011 to Prosecutor's Office No. 18 of the National Human Rights Unit of Bogota. This office, in October and November 2011, implicated a second lieutenant and five professional soldiers in the proceedings. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Jorge Alonso López Higueta and Juan Ramón Gallego and their Families (P-1415-09)*

189. According to the State, as part of operation "Espada," on January 8, 2008, in the rural district of La Manga, Municipality of Caicedo, troops from the Cacique Nutibará Marine Battalion reportedly engaged in combat with alleged guerrilla, resulting in the deaths of Jorge Alonso López Higueta and Juan Ramón Gallego and their families. The State claims that the initial investigation was initiated in the Military Criminal Court of Inquiry No. 128 of Medellín. On August 23, 2010, a decision was issued ordering the investigation transferred to the Military Criminal Court of Inquiry No. 27 in the Municipality of Andres, Antioquia. A parallel investigation was transferred on April 29, 2009 to the Prosecutor's Office of the National Human Rights and International Humanitarian Law Unit.

190. The State also asserts that the families lodged an administrative remedy and that a disciplinary investigation was initiated by the Provincial Inspector General's Office in Santafé de Antioquia. Neither of the two ended with a definitive judgment. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Leonardo Fabio Herrera García and Geovanny Loayza Acevedo (P-1416-09)*

191. The State contends that Marine Battalion No. 3 of the National Army was carrying out tactical operations to counteract the terrorist activities of FARC squad No. 9, which was operating in the Municipality of San Luis. On July 28, 2007 in the afternoon, they came upon four armed persons, who, upon seeing the troops, reportedly opened fire, to which the members of the army had to respond. The combat reportedly lasted 30 minutes, after which the lifeless bodies of the two alleged victims were recovered, as well as various war materials. According to the State, on August 15, 2007, two people showed up at the Judicial Police, claiming that the two young men had received a proposal from a member of the army to go to the Municipality of San Luis to steal 36 million pesos and a pound of cocaine.

192. According to the State, Prosecutor's Office No. 47 of the National Human Rights and International Humanitarian Law Unit of the Attorney General's Office launched an investigation into the facts of the case. In November 2011, the Prosecutor's Office carried out several investigation proceedings. The State contended that the Assistant Inspector General's Office opened a disciplinary investigation. In October 2010, the investigation was in the study phase of the evidence in the file to determine whether or not to proceed with filing charges against those under investigation.

193. The State maintains that unwarranted delay cannot be claimed in this case in the resolution of the suits, given that the facts under examination are particularly complex, since they occurred in the framework of a military operation, there are different versions of the events, and they involve several individuals. All of these elements significantly complicate the investigation. According to the State, between August 2007 and June 2012, multiple evidentiary proceedings necessary for establishing the truth of the events were carried out. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Francisco Javier Chica Quintero (P-1417-09)*

194. The State disputes the factual description submitted by the petitioners, asserting that all of the claims lack evidentiary support and, therefore, constitute biased claims. Regarding the various open investigations, the State noted that the Military Criminal Justice System initiated examination of the facts since they occurred during a military operation to neutralize terrorist and criminal groups of urban militia and drug traffickers, closely tying the events to on-duty military service. However, the State holds that on February 16, 2008, Military Criminal Court of Inquiry No. 22 referred the proceedings on the grounds of jurisdiction to the Sectional Prosecutor's Office of Reparto in the Municipality of Yarumal, which on February 27, 2009 assigned it to Sectional Prosecutor's Office No. 15 of Yarumal to prosecute the crime of homicide. According to the State, on June 22, 2012, the investigation was taken over by the Human Rights Unit of the Attorney General's Office. This transfer of jurisdiction, according to the State, took place following an exhaustive investigation carried out by the military justice system, in which there arose "a clear doubt as to the legal capacity to continue investigating the case." At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Albeiro de Jesús Giraldo García, José Alfredo Botero Arias and Families (P-1430-09)*

195. The State claims that Artillery Battalion No. 4 "BAJES" was carrying out offensive and search operations in the area to neutralize illegal groups that were terrorizing the area. On September 26, 2003, as part of these operations, in the middle of an ambush, they engaged in combat, after which the lifeless bodies of the alleged victims were found. They were in possession of various types of war material.

196. An investigation was opened into the events by Military Criminal Court of Inquiry No. 23, which abstained from opening a formal investigation on October 6, 2004. On October 31, 2004, the investigation of the events was assigned to Specialized Prosecutor's Office No. 36 of the National Human Rights Unit. This office decided on May 18, 2006 to waive prosecution. However, on November 7, 2007, the Specialized Prosecutor's Office for Human Rights and International Humanitarian Law of Medellín overturned the waiver of prosecution and reopened the investigation, which was then assigned to Prosecutor's Office No. 57 in Medellín. This created a conflict of jurisdiction that was settled by the Superior Council of the Judiciary on July 30, 2009, with a ruling in favor of the military criminal court. The families of the alleged victims filed a writ for the protection of constitutional rights. This was decided in the court of second instance on December 14, 2010 by the Disciplinary Chamber of the Superior Council of the Judiciary, which ruled that the file should be referred to the civilian justice system, specifically Specialized Prosecutor's Office No. 57 of Medellín. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Samuel Navia Moreno and John Carlos Nocua Rueda (P-1640-09)*

197. The State maintains that the day after the alleged facts occurred, an investigation was opened by the military criminal jurisdiction, which carried out a thorough and diligent investigation. Subsequently, on January 31, 2008, the 1st Delegate Prosecutor's Office of the Criminal Court of the Saravena Circuit ordered the opening of a preliminary investigation, which was assigned to Specialized Prosecutor's Office No. 26 on December 10, 2008. Following the emergence of a conflict of jurisdiction, the Superior Council of the Judiciary ordered the investigation be carried out exclusively by the civilian jurisdiction. On September 29 and 30, 2010, a sergeant and three corporals were formally charged with the crime of homicide. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Javier Correa Arias and Families (P-1662-09)*

198. The State claims that on November 13, 2004, the Commander of Battalion No. 3 "Agustín Codazzi" issued the order for operation "Orca II," whose mission was to capture subversive elements working under the command of the man going by the alias "Piscuiz" in the Department of El Valle del Cauca. During the operation, at approximately 6:30 a.m., the soldiers inquired in a residence about the safety situation, when they saw a man reportedly trying to escape from the home. This man, Javier Correa Arias, was detained with a revolver, a grenade, and communication devices. According to the State, this man confessed to belonging to

the FARC. Military units were later attacked, during which the alleged victim was killed as he was being moved with the uniformed soldiers.

199. The State asserts that Military Criminal Court of Inquiry No. 52 launched a thorough investigation into the events, which – at the request of the Inspector General’s Office – was referred to the civilian justice system, headed by Specialized Prosecutor’s Office No. 10 of Cali on April 18, 2006. In February 2011, the proceedings were in the investigation phase and eight soldiers of the “Agustín Codazzi” Battalion were implicated. The Prosecutor’s Office abstained from ordering the pre-trial detention of the military members under investigation, as they believed that the forensic medical examination performed on the body of the alleged victim did not show any signs of torture and that the ballistics tests coincided with the soldiers’ version, in which the alleged victim was shot standing up by those attacking the military squad, shooting from a ground position. A disciplinary investigation was also opened, which was also in the pre-trial proceedings phase. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events.

*Wilmer Jácome Velásquez and Family (P-1690-09)*

200. The State contends that at that time, the Army had given the order for operation “El Alacrán” to neutralize the terrorist activities being carried out by the guerrilla and criminal gangs in the Department of Norte de Santander. In this framework, Counter-guerrilla Battalion No. 95 executed mission “Orion 7” to neutralize the activities of the subversive group National Liberation Army (Ejército de Liberación Nacional). On October 16, 2007, this battalion saw three subjects dressed as civilians carrying weapons. When the soldiers yelled for them to stop, they allegedly responded by shooting, which led to a confrontation. At the end of the confrontation, the lifeless body of one of the three armed men was found, which was later identified as Wilmer Jácome Velásquez.

201. According to the State, Sectional Prosecutor’s Office No. 2 of Ocaña opened an investigation. On March 31, 2011, this office opened the pre-trial proceedings phase against 15 members of the National Army. Subsequently, on July 22, 2012, the Attorney General’s Office reassigned the proceedings to remain with Prosecutor’s Office No. 133 of the Human Rights and International Humanitarian Law Unit. Lastly, the State notes that there are administrative proceedings underway for direct compensation claims against the State, being heard by the Third Decongestion Administrative Court in Cúcuta. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events giving rise to this petition.

*Daniel Suárez Martínez and Family (1691-09)*

202. The State disputes the factual description submitted by the petitioning organization and claims that the Army deployed into an area stricken by violence to carry out an operation to counteract narco-terrorist groups. They were attacked by a group of guerrillas, which resulted in a combat situation, in which the alleged victim died. His body was reportedly found with war material.

203. According to the State, an investigation was opened into the events by Military Criminal Court of Inquiry No. 37. After carrying out a series of investigation proceedings, said court decided to refer the file to the Attorney General’s Office, which assigned it to Specialized Prosecutor’s Office No. 72 of the Human Rights and International Humanitarian Law Unit. On April 16, 2010, this office issued an order for the pre-trial preventive detention for 11 people and formally charged 13 members of the military and two civilians for the forced disappearance and homicide of the alleged victim. The State also claims that the victims’ families filed an administrative remedy for a direct compensation claim against the State.

204. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events giving rise to this petition.

*Tilzón Barrera Acosta and Family (P-1695-09)*

205. The State claims that the alleged victim was detained on June 23, 2004 at a military checkpoint, along with another person, for driving a vehicle that was transporting explosive material and was tied to a terrorist attack that took place in May of the same year. Subsequently, as part of the investigations carried out by the Specialized Judge from the Arauca Circuit, the alleged victim reportedly confessed to being a member of a guerrilla group and perpetrating the terrorist act that took place in May. Mr. Barrera was transferred to a military unit, where he was held for six days. On June 29, 2004, he was transferred to General Rafael Navas Pardo Engineers Battalion No. 18. Subsequently, the Regional Ombudsman notified his family that Mr. Barrera had accepted participation in the Individual Demobilization and Reintegration Program. On July 12, 2004, the Support Office of the Prosecutor's Office of Arauca requested that Battalion No. 18 maintain custody of Mr. Barrera, after ordering his pre-trial detention for the crime of terrorism. However, the State claims that, on August 5, 2004, Mr. Barrera died as he attempted to escape from the patrol that was guarding him.

206. According to the State, Military Criminal Court of Inquiry No. 46 opened an investigation on August 6, 2004 into the events. However, the State notes that on September 1, 2008, the investigation was referred to Prosecutor's Office No. 73 of the Human Rights and International Humanitarian Law Unit of Cúcuta, at which point the investigation moved to the pre-trial proceedings phase. According to the State, the investigation was diligent and exhaustive, despite the challenges of the case, particularly in terms of the location of the events. For example, the State notes that there are no laboratories in Arauca for performing the tests and all information was, thus, sent to Bogota or Cúcuta, which delayed receipt of the information. Since the information was provided in May 2011, the State has not reported any further progress in the criminal proceedings.

207. Regarding the disciplinary investigation, the State asserts that, although it was shelved by the Regional Inspector General of Arauca on March 17, 2005, it was reopened on June 8, 2010. Lastly, the State notes that Mr. Barrera's family filed an administrative remedy, which was dismissed on August 27, 2008 by the First Administrative Court of Arauca, declaring the statute of limitations expired. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events giving rise to this petition.

*Luis Sigifredo Castaño Patiño (P-1700-09)*

208. The State disputes the factual description of the events submitted by the petitioning organization and maintains that, on August 7, 2005, the Counter-guerrilla Unit of the Battalion "Battle of Calibío," during operation "Sorpresa," engaged in a confrontation with members of the guerrilla in the Municipality of Remedios, Antioquia, in which the alleged victim, known by his alias "Boca Mamita," was killed.

209. The State also reports that an investigation was opened by the military criminal justice system. The investigation was closed on the decision of Military Criminal Prosecutor's Office No. 21. The decision was upheld on July 13, 2007 by the Second Prosecutor's Office of the Military Superior Court, which determined that the alleged victim had died in combat. The same conclusion was reached by the Inspector General's Human Rights Office for Disciplinary Matters, which also closed the investigation into the events. A complaint was received to reopen the investigation and the same office reopened it on October 7, 2005, and again closed the investigation definitively on April 1, 2008. Regarding the remedy for a direct compensation claim against the State, the State reports that the case is pending an appeals settlement in the Administrative Court of Antioquia. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events giving rise to this petition.

*Danilo Anderson Vergel Álvarez and Family (P-1701-09)*

210. The State disputes the factual description submitted by the petitioners and claims that, on January 27, 2007, National Army troops installed a checkpoint along the road that connects five rural districts

in the Municipality of Tarra, Department of Norte de Santander. The alleged victim reportedly arrived at that time. Upon seeing the checkpoint, he dismounted his horse and opened fire.

211. As the State describes, “Shots were heard and the National Army began returning fire, resulting in the death of Mr. Vergel Álvarez at the site of the events.”

212. The State claims that an investigation into the events was opened on February 1, 2007 by Military Criminal Court of Inquiry No. 37. However, in August 2007, the same court decided to refer the file to a Specialized Prosecutor’s Office of the Human Rights Unit. On September 26, 2007, Prosecutor’s Office No. 40 of this Unit took over jurisdiction of the investigation. On February 13, 2008, the investigation was again reassigned, this time to Prosecutor’s Office No. 42, which took over control in July of that year. On January 21, 2010, pre-trial detention was ordered for four members of the military for the homicide of the alleged victim. However, on August 11, 2010, the Prosecutor’s Office terminated the investigation against the four soldiers, as it determined that Danilo Anderson was a guerrilla collaborator and that he was transporting two gas tanks and a scale for delivery to the militia at the time. Furthermore, the Prosecutor’s Office stated that it was not possible to establish whether the bullet that killed the alleged victim had come from any of the soldiers under investigation. The State underscored that the decision to terminate the investigation was not challenged and that the families had not filed a remedy for a direct compensation claim against the State in the administrative jurisdiction. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events giving rise to this petition.

*Nelson Vergara Coy and Others (P-136-10)*

213. The State claims that an intelligence report alerted the National Army of the intentions of a criminal group from the city of Cali to kidnap a merchant while he was on his ranch. Based on this report, the army launched a security operation, placing troops on the ranch. On February 28, 2008, the army observed a group of men entering the ranch from several points. Upon seeing the soldiers, the men opened fire, engaging in combat, during which six of them died. These men were Didier Cuervo, José Never Ramos Henao, Nelson Vergara Coy, Juan Carlos Quimbaya Mazuera, José Yiner Enríquez Hoyos, and Gerardo Antonio Moreno González. The State notes that three of those killed had a criminal record for theft and possession of a firearm.

214. The State reported that Military Criminal Court of Inquiry No. 79 of Ibagué opened an investigation into the events on March 7, 2008. By October 28, 2010, this investigation was in the investigation phase. However, on February 25, 2013, the Superior Council of the Judiciary ordered the investigation transferred to the civilian justice system. According to the information provided by the State, in November 2014, the investigation was still in the pre-trial phase.

215. The State also reported that the Inspector General’s Office opened a disciplinary investigation into the events and that the families of Nelson Vergara Coy, José Yiner Enríquez Hoyos, Gerardo Antonio Moreno González, and José Never Ramos Henao had filed for remedies for direct compensation claims against the State in the administrative jurisdiction. The suit filed for Nelson Vergara’s case was shelved by the First Administrative Court of Ibagué. The suit filed for José Yiner Enríquez’s case was decided on November 30, 2009 by the Administrative Court of Tolima, as was the case of Antonio Moreno González on April 25, 2013 in the same court. The latter two decisions were appealed and are pending the decision of the Council of State. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events giving rise to this petition.

*Carlos Mauricio Nova Vega and Family (P-280-10)*

216. The State disputes the factual description submitted by the petitioners. It claims that, on August 28, 2005, a group of people whose identification had been requested by the army opened fire on the military unit. This resulted in a combat that ended in the death of the alleged victim, who was found in possession of various war material.

217. The State asserted that Specialized Prosecutor's Office No. 56 of the National Human Rights and International Humanitarian Law Unit opened an investigation into the events. In December 2010, the State reported that the investigation was in the investigation phase, in which an officer, a non-commissioned officer, and eight professional soldiers were being investigated. However, on October 21, 2013, the State reported that the investigation was again reassigned, this time to Specialized Prosecutor's No. 56 of the National Human Rights and IHL Unit, where it is still pending a hearing for submitting charges.

218. The State also maintained that a disciplinary investigation had been opened by the Inspector General's Human Rights Office for Disciplinary Matters and that the family of the alleged victim had filed a remedy for a direct compensation claim against the State. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events giving rise to this petition.

*Eustacio Franco Amaya and Family (P-292-10)*

219. The State disputes the factual description of the petitioners and claims that the events occurred as part of operation "Japón 3," in which members of Army Mobile Brigade No. 15 engaged in combat with a group of subversive elements. During the combat, a soldier was wounded and the alleged victim was killed. He was reportedly found with war material.

220. An investigation into the events was opened by the military criminal justice system and the civilian justice system, resulting in a conflict of jurisdiction. The conflict was settled by the Superior Council of the Judiciary on October 15, 2009, with a ruling in favor of the military criminal courts. The State notes that no writ for the protection of constitutional rights was filed in response to the decision, even though it was founded. In December 2010, the State reported that the proceedings were in the investigation phase in Military Criminal Court of Inquiry No. 86. The State also asserts that the family of the alleged victim did not file a remedy for a direct compensation claim against the State. At the date of this report, the State had not reported any further progress in the investigation and prosecution of the events giving rise to this petition.

*Juan Carlos Arenas Palacio and Family (P-428-10)*

221. The State maintains that, according to a Ministry of Defense report, on March 12, 2008, as part of operation "Escorpión," Counter-guerrilla Battalion No. 79 saw a group of men wearing military clothing and carrying weapons exclusively reserved for use by the Armed Forces. After asking them to identify themselves, the men fired, resulting in a confrontation in which the alleged victim was killed.

222. An investigation into the events was opened by Military Criminal Court of Inquiry No. 128 and another by Delegate Prosecutor's Office No. 50 in the Criminal Court Circuit of Dabeiba, resulting in a conflict of jurisdiction. On January 6, 2009, the military criminal justice system launched a formal investigation against seven professional soldiers and a Sergeant First Class. The civilian justice system, headed by Delegate Prosecutor's Office No. 50 in the Criminal Court Circuit of Dabeiba, also opened an investigation. The families of the victims also filed an administrative remedy for a direct compensation claim against the State. At the date of this report, the State had not reported any further progress in the criminal or administrative proceedings.

*José Yair Mosquera, Luis Amilkar Calle Fernández, Luis Horacio Ladino Guarumo, Miguel Ángel González, William Hernán Sánchez and Families (P-462-10)*

*William Hernán Sánchez*

223. The State claims that the alleged victim was a member of a guerrilla group that planted land mines. He died in combat February 5, 2007 and was found in possession of various war material. Military Criminal Court of Inquiry No. 40 opened an investigation into the events, which was later referred to Prosecutor's Office No. 75 of the Human Rights Unit of Medellín of March 3, 2009. This office stated on July 7, 2009 that it was unclear whether the body found was that of William Hernán Sánchez. It was not until April

18, 2011 that the Forensic Medicine and Science Institute certified that the body was that of the alleged victim. The State reported that the criminal investigation is be carried out against three members of the army.

*Luis Amilkar Calle Fernández*

224. The State maintains that Prosecutor's Office No. 19 of the National Human Rights and International Humanitarian Law Unit opened an investigation into the events, carrying out numerous investigation proceedings. On August 6, 2010, the investigation phase began and on December 16, 2010, the merits of the case were determined. The State reported that, following this, on May 9, 2013, the First Criminal Court of the Specialized Circuit of Rionegro, Antioquia issued a judgment convicting Second Sergeant Blanquicet Doria Nairo of the crime of torture of a protected person, handing down a prison sentence of 120 months. The same judgment acquitted the sergeant of the crime of forced displacement, which the Prosecutor's Office appealed.

225. Regarding the administrative remedy, the State reported that a first-instance decision issued by Administrative Court No. 20 of Medellín on November 2, 2010 dismissed the claims of the complainants.

*Miguel Angel González Gutierrez*

226. The State asserts that the alleged victim was a member of a guerrilla group and that he died in combat on January 27, 2008. He was found in possession of various war material. It contends that the proceedings for inspecting the area and performing the post mortem external examination were carried out in compliance with the law and to preserve the scene. Military Criminal Court of Inquiry No. 40 launched an investigation into the events. The investigation was later referred to Sectional Prosecutor's Office No. 21 of Puerto Berrío, Antioquia and again to Prosecutor's Office No. 69 of the National Human Rights Unit. This office had a difficult time carrying out the investigation proceedings, given the constant inability of traveling to the area due to the existing security problems there. A disciplinary investigation was also opened and later concluded when the Provincial Inspector General's Office of Puerto Berrío decided to shelve the investigation on March 9, 2010.

*Luis Horacio Ladino Guarumo*

227. The State asserts that the alleged victim was a member of a guerrilla group that was installing explosives. He died in combat on March 19, 2008 and was found to be in possession of various war material. The Section Prosecutor's Office of Remedio, Antioquia opened an investigation into the events. On March 20, 2009, the Municipal Mixed Jurisdiction Court for Procedural Guarantees of Segovia, Antioquia ordered the arrest of six soldiers. Subsequently, on July 2, 2009, the Municipal Criminal Court of Guarantees of Medellín held a hearing to formalize the arrest, bring the charges, and order the pre-trial detention of a lieutenant. In 2004, four members of the army were arrested for their possible participation in the events. On July 24, 2013, the First Criminal Court of the Specialized Circuit of Antioquia convicted Edwin Mauricio Chavarrio Heredia of the crime of homicide of a protected person and handed down a prison sentence of 241 months. It also convicted Diego Esteban Mejía Bernal and sentenced him to 42 months in prison for the crime of cover-up for self-protection. This sentence was upheld on September 25, 2013 by the Criminal Chamber of the Superior Court of Antioquia and again in the appeals ruling issued by the Supreme Court of Justice on December 11, 2013.

*José Yair Mosquera*

228. The State claims that an investigation was opened into the death of Carlos Mario García, the person that was detained with José Yair Mosquera. Although the complaints made by the alleged victim were initially included in the same proceedings, on November 28, 2011, the Prosecutor's Office ordered the procedural separation of the cases to further the pre-trial investigation of the crimes allegedly committed against Mr. Mosquera.



*Orestes de Jesús Morales and Family (P-464-10)*

229. The State asserts that at the time of the events, guerrilla groups were constantly committing criminal acts in the area, for which the 4th Brigade planned operation “Marcial,” an offensive operation to locate, capture, and prosecute guerrilla members. Furthermore, according to the State, on March 13, 2003, the Alcatraz squad of Counter-guerrilla Battalion No. 5 was performing a search of the El Boquerón rural district in the Municipality of San Francisco when it was attacked by guerrillas. This led to a combat, after which the lifeless body of the alleged victim was found, along with war material.

230. According to the State, Military Criminal Court of Inquiry No. 24 opened an investigation into the events. On February 15, 2005, it decided to waive investigation, ordering the shelving of the case. However, at the demand of the family, this court overturned the decision, ordering the reopening of the investigation. Prosecutor’s Office No. 67 of the Human Rights Units ordered an inspection. As a result, on July 12, 2010, Judicial Criminal Inspector No. 197 requested the investigation be assigned to the civilian justice system. However, in a decision issued July 21, 2010, the military criminal justice system refused to transfer jurisdiction. According to the State, both the military criminal justice system and the Specialized Prosecutor’s Office No. 37 of Medellín’s investigations continued at that time. This created a conflict of jurisdiction that was settled by the Superior Council of the Judiciary, which ruled in favor of the military criminal justice system on December 15, 2010. On May 2, 2011, Military Criminal Court of Inquiry No. 24 of Bello, Antioquia issued a decision in which is abstained from opening a formal investigation against the members of the military under investigation, claiming that it was evident that the [alleged victims] were combatants at the time of the incident. The families of the victims filed a writ for the protection of constitutional rights. Both the first and second instances rejected the suit to transfer jurisdiction to the civilian courts.

231. The State underscores that no remedy was filed for a direct compensation claim against the State in the administrative jurisdiction.

*Álvaro de Jesús García Idarraga and Javier Augusto García Idarraga (P-465-10)*

232. For the factual framework for the events, the State cites the conviction sentence of June 19, 2009 issued by the Eighth Administrative Court of the Medellín Circuit for the case of the death of Álvaro de Jesús (which the State claims was partially upheld by the Administrative Court of Antioquia), as well as the second-instance judgment from the Administrative Court of Antioquia dismissing the claims of the suit and absolving the State of all responsibility.

233. The State also asserts that an investigation into the death of Álvaro de Jesús was opened by Prosecutor’s Office No. 81 of the National Human Rights and International Humanitarian Law Unit. It also contends that an investigation into the death of Javier Augusto was opened by the military criminal justice system, which was later under the charge of the Specialized Prosecutor’s Office of Santuario, Antioquia. At the date of this report, the State had not reported any further progress in the criminal or administrative proceedings to the Commission.

**V. ANALYSIS OF COMPETENCE AND ADMISSIBILITY****A. Competence *ratione personae*, *ratione loci*, *ratione temporis* and *ratione materiae* of the Commission**

234. The petitioners are entitled under Article 44 of the Convention to file complaints. The alleged victims were under the jurisdiction of the Colombian State on the date of the alleged events. Colombia ratified the American Convention on July 31, 1973. The Commission, therefore, is competent *ratione personae* to examine the petitions.

235. The Commission is competent *ratione loci* to hear the petitions, as they allege violations of rights protected under the American Convention that reportedly occurred within the territory of a State party to this treaty.

236. The Commission is competent *ratione temporis*, given that the duty to uphold and guarantee the rights protected by the American Convention and the Inter-American Convention to Prevent and Punish Torture was already in force for the State on the date that the facts alleged in the petitions included in this report occurred.

237. Lastly, the Commission is competent *ratione materiae*, given that, as will be explained in the section below describing the nature of the allegations, the petitions included in this report allege facts that could possibly constitute a violation of the rights protected under the American Convention and the Inter-American Convention to Prevent and Punish Torture.

238. Regarding the Commission's jurisdiction to rule on the violations of the Inter-American Convention to Prevent and Punish Torture, the Commission notes that Colombia has been a State party to this instrument since it ratified it on January 19, 1991. Bearing in mind that the allegations of torture contained in this report occurred, according to the claims, between March 2003 and October 2007, the IACHR is competent *ratione temporis* to study the allegations of torture and cruel, inhuman and degrading treatment made by the petitioners under this instrument.

239. Regarding the Commission's jurisdiction to rule on the violations of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the Commission notes that Colombia has been a State party to this instrument since it ratified it on November 15, 1996. Bearing in mind that the allegations that could contain violations of this convention, according to the allegations of petition 1662-09, occurred in November 2004, the IACHR is competent *ratione temporis* to study the allegations of gender-based violence made by the alleged victim and representatives.

## **B. Exhaustion of domestic remedies**

240. In order for a claim to be admitted for an alleged violation of provisions of the American Convention, it must meet the requirements set forth in Article 46(1) of this international instrument. Article 46(1)(a) of the Convention provides that for a petition or communication lodged before the IACHR in accordance with Articles 44 or 45 of the Convention to be admissible, domestic remedies must be pursued and exhausted, in keeping with generally accepted principles of international law.

241. Additionally, Article 46(2) of the Convention provides that the prior exhaustion of domestic remedies requirement shall not be applicable when (a) the domestic legislation of the State concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; (b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or (c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

242. In almost all of the petitions comprising this report, the central allegation of exhaustion of remedies by both parties stems from the exception contained in Article 46(2)(c). The petitioners contend that the exception set forth in Article 46(2)(c) is applicable, given that the petitions in this report remain in the initial stages of the proceedings, despite all the years that have passed since the events occurred.

243. Additionally, the State claims that, given that for almost all of the cases comprising this report, the investigation and prosecution proceedings in the criminal and administrative jurisdictions have not concluded and the petitioners have not exhausted domestic remedies. As such, their petitions must be found inadmissible by the Commission. The State also asserts that the exception for an unwarranted delay cannot be applied, bearing in mind the number of individuals involved, as well as the complexity of the alleged facts, which made investigation activities difficult, particularly those related to the carrying out of military operations. In summary, the State contends that, given the nature of the duty to investigate, prosecute, and, where appropriate, punish those responsible, in addition to the excessive complexity of the cases and the number of individuals involved, the timeframe of the criminal proceedings cannot be deemed unreasonable.

244. The precedents established by the Commission indicate that whenever there is an alleged crime prosecutable by operation of the law, the State has the duty to initiate and advance criminal proceedings and that, in these cases, this is the appropriate channel for establishing the facts, prosecuting those responsible, and establishing the relevant criminal punishments, in addition to enabling other methods of financial compensation. The Commission observes that the facts presented by the petitioners regarding the alleged arbitrary detention, execution, and – in some cases – torture of the alleged victims are considered, under domestic legislation, criminal conduct prosecutable by operation of the law, whose investigation and prosecution must be at the State's initiative.

245. The Commission observes that, with the exception of petitions 1038-08 and 462-10, between seven and 22 years have passed since the incidents contained in the complaints occurred, during which time the authorities have not issued a single first-instance ruling, and therefore no definitive conviction has yet been handed down for anyone. To this effect, the Commission observes that, as a general rule, a criminal investigation should be carried out speedily to protect the interests of the victims, to preserve the evidence, and even to safeguard the rights of all those that may be identified as suspects in the investigation. According to the Inter-American Court, although all criminal investigations must comply with a series of legal requirements, the rule of prior exhaustion of domestic remedies must never lead to a halt or delay that would render international action in support of the victim ineffective.

246. The IACHR notes that the nature of the cases and the context in which the events occurred could indeed present elements of complexity. However, it also observes that the time that has transpired since the events is extensive and that there still have been no first-instance rulings, with the exception of the already-mentioned petitions. The Commission, therefore, deems applicable the exception set forth in Article 46.2(c) of the American Convention regarding delay in domestic criminal proceedings. As such, the requirement for exhausting domestic remedies is not applicable for petitions 328-07, 903-07, 1469-08, 1471-08, 321-09, 920-09, 940-09, 1020-09, 1370-09, 1371-09, 1398-09, 1414-09, 1415-09, 1416-09, 1417-09, 1430-09, 1640-09, 1662-09, 1690-09, 1691-09, 1695-09, 136-10, 280-10, 428-10, and 465-10.

247. It also bears noting that in petitions 191-07, 327-07, 513-07, 1315-08, 898-09, 1373-09, 1700-09, 292-10, and 464-10, included in this report, the investigations were performed by the military criminal justice system. Regarding this matter, the Commission has repeatedly stated that the military jurisdiction is not an appropriate forum and, therefore, does not provide the adequate remedy for investigating, prosecuting, and punishing violations of the human rights enshrined in the American Convention, violations that are allegedly committed by members of the Armed Forces or which received their collaboration or acquiescence. Furthermore, the Inter-American Court had confirmed that the military justice system is the appropriate forum exclusively for prosecuting members of the military for crimes or offenses that, by their very nature, violate the legal interests of military order. Thus, given that the investigations of the alleged extrajudicial executions were carried out in the military criminal jurisdiction, the exception established in Article 46(2)(b) of the Convention is applicable.

248. Regarding petitions 1038-08 y 462-10, the Commission recognizes that the domestic criminal proceedings did convict several members of the military directly and indirectly involved in the events contained in the complaint. In the case of Luis Horacio Ladino Guarumo, one of the alleged victims included in petition 462-10, information was provided allowing the Commission to deduce that domestic remedies were exhausted with an enforceable judgment, in which two people were convicted for the incidents, thereby meeting the requirements established in Article 46(1)(a) of the Convention. Regarding petition 1038-08, the State itself reported that the criminal proceedings remain in the initial phase for a captain and a commander who were allegedly involved in the incidents. This would constitute another exception to requirement to exhaust domestic remedies, as set forth in Article 46(2)(c). The same applies to petitions 1691-09 and 462-10 (the case of Luis Amilkar Calle Fernández, one of the alleged victims included in this petition), based on the information provided by the State. In the former petition, a single person was convicted of acting as a recruiter and in the latter, the first-instance judgment was appealed.

249. Lastly, for petition 1701-09, on August 11, 2010, Specialized Prosecutor's Office No. 42 decided to cease the investigation. This decision was not appealed. The Commission notes that the events occurred in January 2007 and it took eight months for the investigation to be sent to the civilian justice system, where it was in the hands of two different prosecutors. Finally 11 months later, it was taken over by Prosecutor's Office No. 42 in July 2008. On January 21, 2010, pre-trial detention was ordered for four members of the military for the homicide of the alleged victim. However, on August 11, 2010, the Prosecutor's Office decided to terminate the investigation. This decision was enforced. The petition states that the investigation provided numerous testimonies and evidence showing the criminal liability of members of the army, but that this did not translate into any significant headway in the investigation. The State contends that the petitioners should have appealed the decision. The Commission reaffirmed that the State is responsible for initiating an investigation of its own motion into the claims of extrajudicial execution. Furthermore, the Commission takes into account that, during the investigation phase, the family was procedurally unable appear as complainants or be fully informed of the investigation proceedings. Based on the foregoing, the IACHR finds that the exception to the rule of prior exhaustion of remedies provided for in Article 46(2)(b) is applicable to this petition.

250. It bears noting that invoking exceptions to the rule of prior exhaustion of domestic remedies provided for in Article 46(2) of the Convention is closely linked to the determination of potential violations of certain rights enshrined therein, such as the fair trial guarantees of access to justice. However, because of its very nature and purpose, Article 46(2) is a norm whose content is independent from the substantive rules of the Convention. Therefore, it must be determined in advance and separately from the analysis of the merits of the case whether or not exceptions to the prior exhaustion of domestic remedies requirement are applicable to the case in question, since it relies on a standard of evaluation different from the one used to determine a possible violation of Articles 8 and 25 of the Convention. It is important to clarify that the causes and effects preventing exhaustion of domestic remedies, as well as the appropriateness of the military criminal jurisdiction and its possible impact on access to justice, will be analyzed in the report adopted on the merits of the dispute, in order to ascertain whether or not they constitute violations of the Convention.

251. Regarding the proceedings before the administrative jurisdiction, the Commission has repeatedly maintained that this court is not the appropriate remedy for analyzing the admissibility of a claim, such as that before the Commission. Specifically, the Commission has noted that the administrative mechanism aims to oversee the administrative activity of the State and that it is solely enabled for obtaining compensation for damages incurred by the action or omission of State agents. To this effect, the Inter-American Court has determined that "the comprehensive reparation for a violation of a right protected by the Convention cannot be reduced to the payment of compensation to the family of the victim."

### **C. Deadline for submitting the petition**

252. The American Convention establishes that in order for a petition to be admissible before the Commission, it must be lodged within six months of the date on which the alleged victim was notified of the final decision adopted by domestic courts. In the petitions under consideration, the IACHR has established that the exceptions to the rule of prior exhaustion of domestic remedies, as provided under Article 46(2)(c) of the American Convention are applicable. In this regard, Article 32 of the Commission's Rules of Procedure establishes that when exceptions to prior exhaustion of domestic remedies are applicable, the petition must be lodged within a reasonable period of time, as determined by the Commission. For this purpose, the Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.

253. In this case, the petitions were received between February 2007 and March 2010, and the events contained in the complaint occurred between May 1993 and August 2008. However, the alleged effects of the alleged lack of administration of justice has continued to present day (except in the case of Luis Horacio Ladino Guarumo, one of the alleged victims included in petition 462-10). Therefore, in view of the context and the nature of these cases, according to the information provided by the parties, the Commission determined that the exception to the rule of prior exhaustion of domestic remedies is applicable to the petitions included

in this report. As such, the Commission finds that the petitions were submitted within a reasonable timeframe and that the admissibility requirement for the deadline for submitting the petition was met.

254. In the case of Luis Horacio Ladino Guarumo, one of the alleged victims included in petition 462-10, the criminal proceedings concluded with a final judgment issued by the Supreme Court of Justice on March 30, 2010. Given that the petition was submitted to the Commission on March 30, 2010, thereby meeting the requirement regarding submission deadlines.

#### **D. Duplication of procedures and international res judicata**

255. Article 46(1)(c) of the Convention establishes that the admission of a petition is subject to the requirement that “the petition is not pending in another international proceeding” and Article 47(d) of the Convention stipulates that the Commission shall not admit any petition that is substantially the same as one previously studied by the Commission or any other international organization. With the exception of petition 1471-08, for the petitions included in this report, the parties have not argued that either of these two circumstances exist, nor can this be deduced from the file.

256. Regarding petition 1471-08, the State contends that there was a duplication of proceedings, since the alleged victims of the petition are included among the alleged victims of petition 12.325 (Community of San José Apartadó), also submitted to the IACHR. After a review of the files for both petitions, the Commission noted that the alleged victims of petition 1471-08 had granted the power of representation to the petitioner, Oscar Darío Villegas Posada, for all proceedings before the Inter-American Commission on Human Rights addressing the alleged extrajudicial execution of Felix Antonio Valle Ramírez, Heliodoro Zapata Montoya, Alberto Antonio Valle, and José Elías Zapata Montoya. Regarding petition 12.325 (Community of San José Apartadó), the facts alleged occurred prior to those submitted for petition 1471-08. The IACHR will study these events to determine whether or not the petition is admissible. The IACHR is studying the admissibility of petition 1471-08 according to the factual context described therein regarding the alleged extrajudicial execution of the above-mentioned persons. As such, the Commission understands that alleged victims Felix Antonio Valle Ramírez, Heliodoro Zapata Montoya, Alberto Antonio Valle, José Elías Zapata Montoya, and their families are represented in petition 1471-08 and shall not be included as alleged victims in petition 12.325 for the violations alleged in the factual context of the latter petition.

#### **E. Nature of the facts alleged**

257. For the purposes of admissibility, the Commission must decide whether the petitions state facts that tend to establish a violation of the American Convention, as stipulated in Article 47(b) or whether the petition is “manifestly groundless” or “obviously out of order,” as per Article 47(c). The standard for evaluating these two extremes is different from that required for ruling on the merits of the complaint. The Commission must perform a prima facie evaluation to examine whether the complaint lays the foundation for the apparent or potential violation of a right guaranteed by the Convention, not whether it establishes the existence of a violation. This is a summary analysis that does not convey any prejudice or advanced opinion on the merits.

258. Furthermore, neither the American Convention nor the Rules of Procedure of the IACHR requires the petitioner to identify the specific rights allegedly violated by the State in a matter submitted to the Commission, although the petitioners may do so. It is up to the Commission, based on the case-law of the system, to determine in its admissibility reports what provision or provisions of the relevant Inter-American instruments apply and whose violation could be established if the facts alleged are proven by sufficient evidence.

259. Regarding the petitions in this report, the State contends that the Commission should not hear them, according to the principle of subsidiarity and its inability to act as an appeals court, particularly for cases in which judgments have already been issued. Additionally, it claims that, for the cases included in the report, human rights violations were not committed, given that the deaths occurred in the framework of armed combats with illegal groups, whereby they are legitimate under International Humanitarian Law. The

petitioners assert that in the few cases in which convictions have been handed down, that not all those who participated in the alleged crimes were convicted. They also claim that, in any case, the liability was limited to the middle and low ranks, excluding those in the chain of command who had orchestrated the alleged extrajudicial executions, or at least had covered them up.

260. Regarding State allegations, the Commission reaffirms what has been established in its case law, that it is not competent to review the judgments issued by domestic courts acting in their own jurisdictions, where due process and judicial guarantees are enforced. The Commission cannot act as an appellate court to examine alleged legal or factual mistakes that may be committed by domestic courts. However, as part of its mandate to guarantee observance of the rights enshrined in the American Convention and other Inter-American human rights instruments, the Commission is competent to find a petition admissible and rule on the merits when said petition addresses domestic processes that might be in violation of the rights guaranteed by the American Convention.

261. According to this doctrine, the Commission notes that by admitting the petitions included in this report, it is not supplanting the competence of domestic judicial authorities. Given that the facts alleged by the petitioners are intimately related to the merits of this matter, particularly regarding the alleged violation of Articles 8 and 25 of the Convention, the preliminary exception should be dismissed so that, during the merits phase, the Commission can analyze whether or not the investigation was indeed timely, effective, and impartial.

262. The IACHR takes note of the context in which the alleged violations occurred, including the legal framework established to provide economic incentives to members of the military based on the number of deaths produced in combat. Bearing this in mind, as well as the elements submitted by the parties, the Commission believes that the alleged circumstances in which the detention of the alleged victims, followed by their alleged extrajudicial execution, and orchestration to pass the victims off as having been killed in combat occurred, could constitute violations of the rights enshrined in Articles 4, 5, 7, 8, 11, and 25 of the American Convention, in keeping with its Articles 1(1) and 2 as pertains to all of the alleged victims comprising the 37 petitions admitted in this report.

263. Likewise, it bears noting that for petitions 513-07 (for Guido Antonio Rivero), 464-10, 920-09 (for Deiby Julián Pisa Gil), 465-10 (for Javier Augusto García Idarraga), 462-10 (José Yair Mosquera), 1398-09, and 1640-09 (for Samuel Navia Moreno), the alleged victims were minors under the age of 18. The allegations in these petitions could be characterized as violations of the rights of the child enshrined in Article 19 of the Convention.

264. The petitions included in this report contain allegations of mistreatment that could constitute violations in the form of torture or other cruel, inhuman and degrading treatment, which could be characterized as violations of the rights enshrined in Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of the alleged victims.

265. In that same vein, the Commission finds that the claim of sexual abuse allegedly perpetrated against Nini Yohanna Oviedo, contained in petition 1662-09, could constitute a violation of Articles 5 and 11 of the American Convention, as well as the rights enshrined in Article 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, in detriment of the alleged victim.

266. In petition 1430-09, in addition to the claims regarding Albeiro de Jesús Giraldo García and José Alfredo Botero Arias, the petitioners also made claims in the initial petition of human rights violations against Carlos Mario Botero Arias and Humberto Botero Arias. Similarly, in petition 898-09, in addition to the claims regarding Dairo Domingo and Ismael Jiménez Gutierrez, allegation were also made in the initial petition of violations against Jairo Jiménez and Geison Jiménez. The same applies to petition 940-09, in which the petitioners made claims regarding Luz Daneida Giraldo, in addition to claims for Edilmer Witer Hernández Giraldo, John Jairo Guzman, and Ricardo Arley Jaramillo. However, no basic description of the alleged violations against the additional persons in the claims was provided in any of these three petitions or reports, based upon which the petitions were submitted. In the context of these petitions, the IACHR finds

inadmissible the claims made in the cases of Carlos Mario Botero Arias and Humberto Botero Arias, Jairo Jiménez and Geison Jiménez, and Luz Daneida Giraldo.

267. Lastly, in the cases in which the lack of grounds or inadmissibility of the petitions included in this report are not evident, the Commission concludes that these cases meet the requirements set forth in Articles 47(b) and (c) of the American Convention.

## **VI. CONCLUSIONS**

268. Based on the foregoing points of fact and law, and without prejudice to the merits of the matter, the Inter-American Commission concludes that the 37 petitions addressed in this report meet the admissibility requirements set forth in Articles 46 and 47 of the American Convention,

### **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

#### **DECIDES:**

1. To find admissible the 37 petitions comprising this report, as to Articles 4, 5, 7, 8, 11, and 25 of the American Convention, in connection with the obligations established in Articles 1(1) and 2 of the same instruments.

2. To find admissible petitions 513-07 (for Guido Antonio Rivero), 464-10, 920-09 (for Deiby Julián Pisa Gil), 465-10 (for Javier Augusto García Idarraga), 462-10 (José Yair Mosquera), 1398-09, 1020-09 (for Eliana Cristina Posada Zuleta), and 1640-09 (for Samuel Navia Moreno), in connection with Article 19 of the Convention.

3. To find admissible the 37 petitions comprising this report, as to Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture.

4. To find admissible petition 1662-09, as to Article 7 of the Inter-American Convention for the Prevention, Punishment, and Eradication of Violence against Women.

5. To notify the State and petitioners of this decision.

6. To compile the 37 petitions found admissible in this Admissibility Report under case registration 12.998 and establish the matter on its merits.

7. To publish this decision and include it in the IACHR Annual Report to be submitted to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 22<sup>nd</sup> day of the month of July, 2015. (Signed): Rose-Marie Belle Antoine, President; James L. Cavallaro, First Vice President; José de Jesús Orozco Henríquez, Second Vice President; Felipe González, Rosa María Ortiz, Tracy Robinson and Paulo Vannuchi, Commissioners