Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Ituango Massacres v. Colombia
Doc. Type:	Judgement (Preliminary Objections, Merits, Reparations and Costs)
Decided by:	President: Sergio Garcia Ramirez; Vice President: Alirio Abreu Burelli; Judges: Antonio A. Cancado Trindade; Cecilia Medina Quiroga; Manuel E. Ventura Robles; Diego Garcia-Sayan Judge Oliver Jackman and Judge ad hoc Jaime Enrique Granados Pena (infra paras. 53 and 54) informed the Court that, for reasons beyond their control, they would be unable to take part in the deliberation of this judgment.
Dated:	1 July 2006
Citation:	Ituango Massacres v. Colombia, Judgement (IACtHR, 1 Jul. 2006)
Represented by:	APPLICANT: the Grupo Interdisciplinario por los Derechos Humanos and the Comision Colombiana de Juristas

In the case of the Ituango Massacres,

the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court"), pursuant to Articles 62(3) and 63(1) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Articles 29, 31, 37(6), 53(2), 55, 56 and 58 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), delivers this judgment.

I. INTRODUCTION OF THE CASE

1. On July 30, 2004, in accordance with the provisions of Articles 50 and 61 of the American Convention, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") lodged before the Court an application against the State of Colombia (hereinafter "the State" or "Colombia"), which originated from petitions No. 12,050 (La Granja) and 12,266 (El Aro), with regard to the Municipality of Ituango, received by the Secretariat of the Commission on July 14, 1998, and March 3, 2000, respectively. On March 11, 2004, the Commission decided to joinder the cases (infra para. 10).

2. In its application, the Commission referred to events that occurred in June 1996 and as of October 1997, in the municipal districts (corregimientos) of La Granja and El Aro, respectively, both of them located in the Municipality of Ituango, Department of Antioquia, Colombia. The Commission alleged that "the State's responsibility [...] arose from the [alleged] acts of omission, acquiescence and collaboration by members of law enforcement bodies based in the

Municipality of Ituango with paramilitary groups belonging to the United Self-Defense Forces of Colombia (AUC), which [allegedly] perpetrated successive armed raids in this Municipality, assassinating defenseless civilians, robbing others of their property and causing terror and displacement." The Commission also stated that "eight years after the raid in the municipal district of La Granja and more than six years after the armed incursion in the municipal district of El Aro, the Colombian State ha[d] still not complied significantly with its obligation to clarify the facts, prosecute all those responsible effectively, and provide adequate reparation to the [alleged] victims and their next of kin."

3. The Commission presented the application for the Court to decide whether the State is responsible for the alleged violation of the following rights established in the following articles of the American Convention, in relation to Article 1(1) thereof:

(a) 4 (Right to Life), to the detriment of the following nineteen (19) persons: William Villa García, Graciela Arboleda, Héctor Hernán Correa García, Jairo Sepúlveda, Arnulfo Sánchez, José Darío Martínez, Olcris Fail Díaz, Wilmar de Jesús Restrepo Torres, Omar de Jesús Ortiz Carmona, Fabio Antonio Zuleta Zabala, Otoniel de Jesús Tejada Jaramillo, Omar Iván Gutiérrez Nohavá, Guillermo Andrés Mendoza Posso, Nelson de Jesús Palacio Cárdenas, Luis Modesto Múnera, Dora Luz Areiza, Alberto Correa, Marco Aurelio Areiza Osorio and Rosa Areiza Barrera;
(b) 19 (Rights of the Child), to the detriment of the minor, Wilmar de Jesús Restrepo Torres;
(c) 7 (Right to Personal Liberty), to the detriment of the following three (3) persons: Jairo Sepúlveda, Marco Aurelio Areiza Osorio and Rosa Areiza Barrera;
(d) 5 (Right to Humane Treatment), to the detriment of the following two (2) persons: Marco Aurelio Areiza and Rosa Areiza Barrera;
(e) 21 (Right to Property), to the detriment of the following six (6) persons: Luis Humberto Mendoza, Libardo Mendoza, Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Ricardo Alfredo Builes Echeverry and Bernardo María Jiménez Lopera; and
(f) 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection), to the detriment "of all the [alleged] victims and their next of kin."

4. Lastly, the Commission requested the Court to order the State to adopt a series of measures of pecuniary and non-pecuniary reparation, and also to pay the costs and expenses arising from processing the case in the domestic jurisdiction and before the inter-American system for the protection of human rights.

II. JURISDICTION

5. The Court has jurisdiction to hear this case in the terms of Articles 62 and 63(1) of the American Convention, because Colombia has been a State Party to the Convention since July 31, 1973, and accepted the contentious jurisdiction of the Court on June 21, 1985.

III. PROCEEDING BEFORE THE COMMISSION

a. Processing of case 12,050 (La Granja)

6. On July 14, 1998, the Inter-American Commission received a petition submitted by the Grupo Interdisciplinario por los Derechos Humanos (hereinafter "GIDH") and the Comisión Colombiana de Juristas (hereinafter "CCJ" and, when referring to both organizations, "the representatives of the alleged victims and their next of kin" or "the representatives") against the State for facts that allegedly took taken place in La Granja. On September 9, 1998, the Commission, in accordance with its Rules of Procedure, opened case file No. 12,050 and requested the State to provide the pertinent information.

7. On October 2, 2000, the Commission adopted report No. 57/00, declaring the case admissible. On October 23, 2000, the Commission made itself available to the parties in order to reach a friendly settlement.

b. Processing of case 12,226 (El Aro)

8. On March 3, 2000, the Inter-American Commission received a petition submitted by the representatives against the State for the facts that allegedly occurred in El Aro. On April 11, 2000, the Commission, in accordance with its Rules of Procedure, opened case file No. 12,226 and requested the State to provide the pertinent information.

9. On October 10, 2001, the Commission adopted report No. 75/01, declaring the case admissible. On November 14, 2001, the Commission made itself available to the parties in order to reach a friendly settlement.

c. Joinder of cases 12,050 (La Granja) and 12,226 (El Aro)

10. Since the petitioners in cases 12,050 and 12,266 were identical, and also the context of the facts denounced in both cases, the sequential relationship of the reported violations, and their impact in the two districts of the Municipality of Ituango in the Department of Antioquia, the Commission proceeded to joinder the cases in order to take a decision on merits.

11. On March 11, 2004, given that a friendly settlement could not be reached in these cases, the Commission, pursuant to Article 50 of the American Convention, adopted joint Report No. 23/04, in which it stated that the Colombian State was responsible for violating the rights embodied in the following articles of the Convention:

(a) 1(1) (Obligation to Respect Rights), 4 (Right to Life), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, to the detriment of William Villa García, Graciela Arboleda (widow of García) and Héctor Hernán Correa García, who lost their life in the facts that occurred in the municipal district of La Granja;
(b) 1(1) (Obligation to Respect Rights), 4 (Right to Life), 7 (Right to Personal Liberty), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection), to the detriment of Jairo Sepúlveda;
(c) 1(1) (Obligation to Respect Rights), 4 (Right to Life), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention, to the detriment of Arnulfo Sánchez, José Darío Martínez, Olcris Fail Díaz, Omar de Jesús Ortiz Carmona, Fabio Antonio Zuleta Zabala, Otoniel de Jesús Tejada Jaramillo, Omar Iván Gutiérrez Nohavá, Guillermo Andrés Mendoza Posso, Nelson de Jesús Palacio Cárdenas, Luis Modesto Múnera, Dora Luz Areiza and Alberto Correa,

a well as Article 19 (Rights of the Child) thereof, to the detriment of the minor, Wilmar de Jesús Restrepo Torres, all of whom lost their life in the facts that occurred in the municipal district of El Aro;

(d) 1(1) (Obligation to Respect Rights), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection), to the detriment of Marco Aurelio Areiza and Rosa Areiza Barrera; and 21 (Right to Property) of the American Convention, "to the detriment of the families identified […] in paragraph 98 [of that report], victims of arson and the theft of livestock perpetrated in El Aro by the paramilitary group, with the acquiescence and collaboration of State agents." The families identified by the petitioners, who appear in paragraph 98 of that report are: "Jesús María Restrepo and family, Jahel Ester Arroyave and family, Danilo Tejada Jaramillo and family, Mercedes Rosa Pérez and family, María Esther Orrego and family, Rosa María Nohava and family, Libardo Mendoza and family, Myriam Lucía Areiza and family, María Gloria Granda and family, Martha Oliva Calle and family, Magdalena Zabala and family, Oswaldo Pino and family, Luis Humberto Mendoza and family, José Dionisio García and family, Abdón Emilio Posada and family, María Resfa Posso de Areiza and family, José Edilberto Martínez Restrepo and family, Omar Alfredo Torres Jaramillo and family, Ricardo Alfredo Builes and family, Javier García and family, Bernardo María Jiménez Lopera and family, Gilberto Lopera and family, and Ramón Posada and family, as victims of the violation of the right to property. However, [the representatives] did not clarify the individual or collective relationship of these persons with the property that was destroyed or stolen as a result of the actions of the paramilitary groups and State agents."

12. The Commission made certain recommendations in this report.

13. On April 30, 2004, the Commission forwarded the report on merits to the State and granted it two months to provide information on the measures adopted to comply with the recommendations it contained.

14. On July 30, 2004, in view of the failure of the Colombian State to comply with the recommendations included in the report adopted under Article 50 of the Convention, the Commission decided to file the case before the Court.

IV. PROCEEDINGS BEFORE THE COURT

15. The Commission filed the application before the Inter-American Court on July 30, 2004 (supra para. 1), attaching documentary evidence and offering testimonial and expert evidence. The Commission appointed Susana Villarán and Santiago A. Canton as delegates, and Ariel Dulitzk, Verónica Gómez, Norma Colledani and Lilly Ching as legal advisers.

16. On September 15, 2004, after the President of the Court (hereinafter "the President") had made a preliminary review of the application, the Secretariat of the Court (hereinafter "the Secretariat") notified it, together with the attachments, to the representatives of the alleged victims and their next of kin, and to the State. It also informed the latter of the time limits for answering it and appointing its representatives for the proceedings. The same day, on the instructions of the President, the Secretariat advised the State of its right to appoint a Judge ad hoc in this case.

17. On November 12, 2004, the State appointed Fernando Arboleda Ripoll, Felipe Piquero and Luz Marina Gil as agent, deputy agent and adviser, respectively. It also proposed that Jaime Enrique Granados Peña be appointed Judge ad hoc.

18. On November 15, 2004, the representatives forwarded their brief with requests arguments and evidence (hereinafter "requests and arguments brief"), attaching documentary evidence and offering testimonial and expert evidence. In this brief, they announced that they would "include additional [alleged] victims of the [alleged] violations of the rights previously indicated" by the Commission, as well as "new [alleged] victims of new rights [allegedly] violated, which had not been included in the application." In this regard, the representatives requested the Court to rule on the alleged violations of the rights embodied in the following articles of the American Convention, in addition to the rights indicated by the Commission (supra para. 3):

(a) 5(1) (Right to Humane Treatment), "to the detriment of the [alleged] victims who were executed [(supra para. 3(a)] and their next of kin";
(b) 5(1) (Right to Humane Treatment), "to the detriment of the [alleged] victims of forced displacement [(infra para. 18(f)], forced labor [(infra para. 18(c)] and […] loss of property [(infra para. 18(e)]";
(c) 6 (Freedom from Slavery), to the detriment of Noveiri Antonio Jiménez Jiménez, Francisco Osvaldo Pino Posada, Rodrigo Alberto Mendoza Posso and Omar Alfredo Torres Jaramillo. Also to the detriment of Milciades De Jesús Crespo, Ricardo Barrera, Gilberto Lopera, Argemiro Echavarría, José Luis Palacio, Román Salazar, William Chavarría, Libardo Carvajal, Eduardo Rua, Eulicio García, Alberto Lopera "and those persons [allegedly] obliged to execute forced labor, and whose identity is established during the proceedings";
(d) 7 (Right to Personal Liberty), to the detriment of Jairo Sepúlveda, Marco Aurelio Areiza, Rosa Areiza, Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Rodrigo Alberto Mendoza Posso and Noveiri Antonio Jiménez Jiménez. Also to the detriment of Milciades De Jesús Crespo, Ricardo Barrera, Gilberto Lopera, Argemiro Echavarría, José Luis Palacio, Román Salazar, William Chavarría, Libardo Carvajal, Eduardo Rua, Eulicio García, Alberto Lopera "and those persons [allegedly] obliged to execute forced labor, and whose identity is established during the proceedings";
(e) 21 (Right to Property), to the detriment of Luis Humberto Mendoza Arroyave, Libardo Mendoza, Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Ricardo Alfredo Builes Echeverri, Bernardo María Jiménez Lopera, María Edilma Torres, María Esther Jaramillo Torres, Francisco Eladio Ortiz Bedoya, Gustavo Adolfo Torres Jaramillo; the successors of Arcadio Londoño: his wife and children, María Frecedis Aristizábal Cuartas, Angélica María Londoño Aristizábal and Juan Manuel Londoño Aristizábal, and the successors of Marco Aurelio Areiza Osorio: his wife and children, Carlina Tobón, Lilian Amparo, Miriam Lucía, Mario Alberto, Johny Aurelio and Gabriela Patricia Areiza Tobón. And also the following personas: Argemiro Arango, Antonio Muñoz, Miguel Angel Echavarría, Alfonso Gómez, Hilda Uribe, Jesús García and "the other persons who lost property and livestock, and who are identified during the proceedings"; and
(f) 22(1) (Freedom of Movement and Residence), to the detriment of María Libia García De Correa, Adán Enrique Correa García (deceased), Dora Luz Correa García, Mónica Liney Arango Correa, Ever Andrés Arango Correa, Olga Regina Correa García, Yolima Sirley Zapata Correa,

Rodrigo Alexander Zapata Correa, Adrián Felipe Zapata Correa, Olga Elena Zapata Correa, Sergio Andrés Zapata Correa, Jorge Enrique Correa García, Nubia De Los Dolores Correa García, Marta Cecilia Ochoa Correa, Mario Enrique Ochoa Correa, Javier Mauricio Ochoa Correa, Luis Gonzalo Correa García, Olga Cristina Correa Tobón, María Elena Correa Tobón, Samuel Antonio Correa García, María Edilma Torres Jaramillo, Miladis Del Carmen Restrepo Torres, Luis Ufrán Areiza Posso, Jael Esther Arroyave Posso, Servando Antonio Areiza Pino, María Resfa Posso De Areiza, Nohelia Estella Areiza Arroyave, Freidon Esteban Areiza Arroyave, Robinson Argiro Areiza Arroyave, María Doralba Areiza Posso, Georgina Areiza Posso, Ligia Amanda Areiza Posso, María Bernarda Areiza Posso, María Esther Orrego, María Elena Martínez Orrego, Rosa Delfina Martínez Orrego, Carlos Arturo Martínez Orrego, José Edilberto Martínez Orrego, Edilson Darío Orrego, William Andrés Orrego, Mercedes Rosa Patiño Orrego, Eligio Pérez Aguirre, Yamilcen Eunice Pérez Areiza, Julio Eliver Pérez Areiza, Eligio De Jesús Pérez Areiza, Omar Daniel Pérez Areiza, Ligia Lucía Pérez Areiza, Luis Humberto Mendoza Arroyave, Fanny Del Socorro Garro Molina, Juan Carlos Mendoza Garro, Fanny Eugenia Mendoza Garro, Bernardo María Jiménez Lopera, Eugenio De Jesús Jiménez Jiménez, Emérida Del Carmen Jiménez, Rosa Adela Jiménez Serna, Nicanor De Jesús Jiménez Jiménez, Otoniel De Jesús Jiménez, Diomedes Javier Jiménez Jiménez, Beatriz Elena Jiménez Jiménez, Luis Bernardo Jiménez, Héctor José Jiménez, María Natividad Jiménez Jiménez, Fabián De Jesús Jiménez Jiménez, Eleazar De Jesús Jiménez Jiménez, Noveiri Antonio Jiménez Jiménez, María Esther Jaramillo Torres, Lucelly Amparo Posso Múnera, Omar Alfredo Torres Jaramillo and Rocío Amparo Posada Molina. "In addition to all the persons whose identity is established and who have been forcibly displaced."

Lastly, the representatives asked the Court to order the State to adopt a series of measures of pecuniary and non-pecuniary reparation and to pay the costs and expenses arising from processing the case before the inter-American system for the protection of human rights.

19. On January 14, 2005, the State submitted its brief filing preliminary objections, answering the application and with observations on the requests and arguments brief of the representatives (hereinafter "answer to the application"), attaching documentary evidence and offering testimonial and expert evidence. In this brief, the State "acknowledge[d] its international responsibility for the violation of the obligation to respect rights in relation to the violation of the rights to life [Article 4 of the American Convention], humane treatment [Article 5 of the American Convention], personal liberty [Article 7 of the American Convention] and property [Article 21 of the American Convention]" of those persons indicated in the application (supra paras. 1 and 3).

20. The State indicated that "consequent with the facts and violations acknowledged in the answer to the application, it [was] prepared to submit a proposal for reparations drawn up in collaboration with the petitioners who duly accredit[ed] their standing." The State also "indicate[d] that it had not failed to comply with any Convention obligation arising" from Articles 6 (Freedom from Slavery), 19 (Rights of the Child), 22 (Freedom of Movement and Residence), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention. It also filed a preliminary objection based on the alleged failure to exhaust domestic remedies.

21. On February 24, 2005, the representatives submitted arguments on the preliminary objection filed by the State.

22. On March 7, 2005, the Commission forwarded its written arguments on the preliminary objection filed by the State.

23. On July 28, 2005, the parties were notified of the order of the President of the Court in which he decided to convene them to a public hearing at the seat of the Court on September 22, 2005, to hear the statements of the witnesses and expert witnesses proposed by the parties (infra para. 42), and also the final oral arguments on the preliminary objection and merits, reparations and costs. In this order, the President requested the seven persons [FN1] proposed as witnesses by the Commission; the ten persons [FN2] proposed as witnesses by the representatives, and Bjorn Pettersson and Alfredo De los Ríos, proposed as expert witnesses by the representatives, and Hernán Sanín Posada, proposed as an expert witness by the State, to submit their testimony and expert evidence in statements made before notary public (affidavits). In the order, the President rejected, as time-barred, the testimony of Jaime Jaramillo Panesso, proposed by the State, and requested the State to forward the name of the person whose statement it had proposed in his capacity as Deputy Prosecutor General. The President also informed the parties in this order that they had until October 24, 2005, to present their final written arguments on the preliminary objection and merits, reparations and costs.

[FN1] The representatives and the witnesses themselves requested that their names should remain confidential for reasons of safety.
[FN2] The Inter-American Commission and the witnesses themselves requested that their names should remain confidential for reasons of safety.

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24. On August 4, 2005, the State advised that the name of the person whose statement it had proposed in his capacity as Deputy Prosecutor General was Jorge Armando Otalora Gómez.

25. On August 5, 2005, the State requested the Court to revoke its decision to reject, as time-barred, the testimony of Jaime Jaramillo Panesso, contained in the President's order of July 28, 2005 (supra para. 23).

26. On August 9, 2005, on the instructions of the President, the Commission and the representatives were granted a non-extendible period of three days from reception of the State's communication of August 5, 2005, to submit any observations they deemed pertinent.

27. On August 12, 2005, the Commission presented its observations on the State's offer of Jorge Armando Otalora Gómez, Deputy Prosecutor General, as a witness, and also on the State's request to revoke the decision to reject, as time-barred, the testimony of Jaime Jaramillo Panesso, contained in the President's order of July 28, 2005 (supra para. 23).

28. On August 19, 2005, the parties were notified of an order of the President of the Court, convening the witnesses proposed by the State, Jorge Armando Otalora Gómez and Jaime

Jaramillo Panesso, to provide their testimony in a statement made before notary public (affidavit), by September 2, 2005, at the latest.

29. On August 19, 2005, the representatives presented their observations on the State's request to revoke the decision to reject, as time-barred, the testimony of Jaime Jaramillo Panesso, contained in the President's order of July 28, 2005 (supra para. 23). The observations were received by the Secretariat after notification of the President's order of August 19, 2005; the observations were therefore rejected as time-barred.

30. On August 22, 2005, the State presented the expert testimony given before notary public (affidavit) by Hernán Sanín Posada. On September 16, 2005, the State presented the original and the attachments to this expert evidence.

31. On August 22, 2005, the representatives submitted the sworn statements of the ten persons that the President had requested in his order of July 28, 2005 [FN3] (supra para. 23), and also the expert evidence given before notary public (affidavit) of Alfredo de los Ríos.

[FN3] The representatives and the witnesses themselves requested that their names should remain confidential for reasons of safety.

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32. On August 23, 2005, the Commission presented the sworn statements of the six persons that the President had requested in his order of July 28, 2005 [FN4] (supra para. 23). The Commission also advised that it desisted from submitting one of the statements.

[FN4] The Commission and the witnesses themselves requested that their names should remain confidential for reasons of safety.

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33. On August 31, 2005, the representatives requested reconsideration of the President's order of July 28, 2005, concerning the way in which the expert evidence of Bjorn Pettersson would be received and, in substitution of the decision to receive his expert evidence before notary public, that he should be convened to give his evidence during the public hearing. On the instructions of the President, the Commission and the State were granted until September 5, 2005, to submit any comments they deemed pertinent.

34. On September 6, 2005, the Commission presented its comments on the offer of Bjorn Pettersson's expert evidence during the public hearing.

35. On September 8, 2005, the parties were informed that the Court did not consider it necessary to change the way in which the expert evidence of Bjorn Pettersson would be received. However, the Court decided to grant an extension to September 20, 2005, for the representatives to forward this expert evidence in a sworn statement before notary public.

36. On September 8, 2005, the State submitted its observations on the testimonial and expert statements forwarded by the Commission and the representatives. In this brief, the State indicated that the testimonies presented by the Commission and the representatives, and the expert evidence presented by the representatives, had not been provided by means of a statement made before notary public (affidavit), as established in the Rules of Procedure.

37. On September 9, 2005, the State presented the testimony given before notary public by Jorge Armando Otalora and Jaime Jaramillo Panesso.

38. On September 14 and 15, 2005, the representatives presented their comments on the expert evidence of Hernán Sanín Posada and on the testimony given by Jorge Armando Otalora and Jaime Jaramillo Panesso forwarded by the State.

39. On September 14, 2005, the Commission presented its observations on the sworn statements submitted to the Court by the State and the representatives (supra paras. 30, 31 and 37).

40. On September 15, 2005, Bjorn Pettersson presented an expert report in response to the request in the President's order of July 28, 2005 (supra para. 23).

41. On September 20, 2005, the State reiterated "the acknowledgement of international responsibility made in the brief answering the application."

42. On September 22 and 23, 2005, at a public hearing, the Court received the statements of the witnesses and the opinions of the expert witnesses proposed by the parties, and heard the arguments of the Commission, the representatives and the State on the preliminary objection, and merits, reparations and costs. There appeared before the Court: (a) for the Inter-American Commission: Susana Villarán, delegate, and Víctor H. Madrigal Borloz, Juan Pablo Albán, Lilly Ching and Manuela Cuvi, legal advisers; (b) for the representatives: María Victoria Fallon Morales, Patricia Fuenmayor Gómez and John Arturo Cárdenas Mesa, of the Grupo Interdisciplinario por los Derechos Humanos; and Carlos Rodríguez Mejía and Luz Marina Monzón Cifuentes, of the Comisión Colombiana de Juristas; and (c) for the State: Felipe Piquero Villegas, agent; Luz Marina Gil García, deputy agent; Clara Inés Vargas Silva, Gladis Álvarez Arango, Martha Carrillo, Julio Aníbal Riaño, Carlos Rodríguez, Dionisio Araujo and Héctor Adolfo Sintura Varela, advisers. Also, one witness proposed by the Inter-American Commission; two witnesses proposed by the representatives; and Carlos Saavedra Prado, proposed as a witness by the State. In addition, Rodrigo Uprimny Yepes, proposed by the Inter-American Commission and Hernando Torres Corredor, proposed by the State, appeared as expert witnesses.

43. During the public hearing the parties provided various documents (infra paras. 118 and 119).

44. On September 30, 2005, the representatives and the State were asked to forward several documents as helpful evidence and their respective final written arguments by October 24, 2005, at the latest. The State was asked to provide updated information on the La Granja and El Aro criminal, administrative and disciplinary proceedings. The State and the representatives were

also asked to forward: (a) a complete updated list with the names of all the persons who had allegedly been displaced owing to the facts of the instant case; (b) information on whether these persons had received help or support of any kind from the State due to this situation; and (c) information on whether any of the alleged victims or their next of kin had filed actions for protection of their constitutional rights (tutela) or under administrative law in relation to the internal displacement. Lastly, the representatives were asked to provide "a description of the damage suffered by each of the alleged victims listed in the brief with requests, arguments and evidence owing to the alleged violation of Article 21 of the American Convention (Right to Property)," and also copies of some people's identity documents.

45. On October 4, 2005, the Commission requested the Court to maintain the confidentiality of the identity of certain persons who provided testimony by sworn statements before notary public or at the public hearing before the Court. In this regard, on the instructions of the President, the representatives and the State were granted until October 19, 2005, to present any observations they deemed pertinent. Neither the representatives nor the State submitted the respective observations.

46. On October 20, 2005, the representatives requested an additional four days for submitting their final written arguments. On the instructions of the President, the representatives were informed that, in keeping with the fourteenth operative paragraph of the President's order of July 28, 2005 (supra para. 23), the time limit for presenting the final written arguments was non-extendible. Consequently, the representatives were asked to present the said brief with final arguments as soon as possible.

47. On October 24, 2005, the State submitted the helpful evidence requested on September 30, 2005, and also its final written arguments. The original of the briefs and their attachments were received by the Secretariat on October 27, 2005.

48. On October 24, 2005, the Inter-American Commission submitted its final written arguments.

49. On October 25, 2005, the representatives forwarded the helpful evidence requested on September 29, 2005, and also their final written arguments. The originals of the briefs and their attachments were received by the Secretariat on October 28, 2005. In these briefs, the representatives alleged the existence of new alleged victims in relation to Articles 21 and 22 of the Convention.

50. On April 19, 2006, the Commission appointed Víctor Abramovich as delegate.

51. On June 26, 2006, on the instructions of the President and in the terms of Article 45(2) of the Rules of Procedure, the Secretariat of the Court requested the State and the representatives to forward, by June 29, 2006, at the latest, official information concerning life expectancy and the minimum wage in force in Colombia for each year from 1996 to 2006.

52. On June 28 and 29, 2006, the State and the representatives, respectively, presented the helpful evidence requested by the President (supra para. 44).

53. On June 28, 2006, Judge ad hoc Granados Peña advised the Court that, for reasons beyond his control, he would be unable to attend the deliberation of the judgment in this case and referred to Article 19(3) of the Rules of Procedure. He also attached a document stating his position concerning the case. The Court in plenary was informed of this communication.

54. On June 29, 2006, the Court considered the reasons why the Judge ad hoc was unable to attend the deliberation of the instant case, bearing in mind that he had been opportunely and duly convened, that his communication was received only one day before the beginning of this deliberation, and that the Court is not permanent and establishes the agenda of each session for the whole year in advance, so that it was impossible to reschedule the deliberation of the Ituango case. The Court therefore decided to continue hearing the case without his participation, in application of Article 19(3) of its Rules of Procedure.

V. PRIOR CONSIDERATIONS

55. The Court will now proceed to determine: (a) the implications of the State's acknowledgement of international responsibility; (b) the scope of the subsisting dispute, and (c) the alleged victims in this case.

a) Acknowledgement of international responsibility

56. Article 53(2) of the Rules of Procedure establishes:

If the respondent informs the Court of its acquiescence to the claims of the party that has brought the case as well as to the claims of the representatives of the alleged victims, his next of kin or representatives, the Court, after hearing the opinions of the other parties to the case shall decide whether such acquiescence and its juridical effects are acceptable. In that event, the Court shall determine the appropriate reparations and costs.

57. The Inter-American Court, in exercise of its contentious function, applies and interprets the American Convention and, when a case has been submitted to its jurisdiction, is empowered to declare the international responsibility of a State Party to the Convention for the violation of its provisions. [FN5]

[FN5] Cf. Case of Baldeón García. Judgment of April 6, 2006. Series C No. 147, para. 37; Case of Blanco Romero et al.. Judgment of November 28, 2005. Series C No. 138, para. 54; and Case of García Asto and Ramírez Rojas. Judgment of November 25, 2005. Series C No. 137, para. 57.

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58. The Court, in the exercise of its inherent powers of international judicial protection of human rights, may determine whether a defendant State's acknowledgement of international responsibility provides satisfactory grounds, in the terms of the American Convention, for continuing to hear the merits and determining possible reparations. To this end, the Court must examine the situation in each specific case. [FN6]

[FN6] Cf. Case of Baldeón García, supra note 5, para. 38; Case of Blanco Romero et al., supra note 5, para. 55; and Case of García Asto and Ramírez Rojas, supra note 5, para. 58.

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59. In its answer to the application (supra para. 19), Colombia acknowledged its international responsibility for the violation of Articles 4(1) (Right to Life), 5(1) (Right to Humane Treatment), 7(1) (Right to Personal Liberty) and 21(1) (Right to Property) of the Convention, to the detriment of those persons indicated in the application filed by the Commission (supra para. 3). In addition, the State indicated that, "in this case, the said violations involve[d] a violation of the obligation to respect the rights and freedoms enshrined in the Convention (Article 1(1) thereof, which [was] attributable to the State, pursuant to international law, given the participation of its agents in the facts."

60. The State also affirmed that it had not violated Articles 19 (Rights of the Child), 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the Convention, alleged by both the Commission and the representatives (supra paras. 3 and 18), or Articles 6 (Freedom from Slavery) and 22 (Freedom of Movement and Residence) of the Convention, alleged by the representatives (supra para. 18).

61. The State did not refer to the alleged violation of Article 5 (Right to Humane Treatment) of the Convention, to the detriment of the persons executed and their next of kin, as alleged by the representatives in their requests and arguments brief. Also, Colombia did not refer to the alleged violation of Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty) and 21 (Right to Property) of the Convention, to the detriment of the persons indicated by the representatives in their requests and arguments brief (supra para. 18), who were not included in the State's acknowledgement (supra para. 19). Also, the representatives had requested that "those persons whose identity is established during the proceedings" before the Court should be included as alleged victims in this case, based on the violation of Articles 5, 7, 21 and 22 of the Convention (supra para. 18).

62. In its answer to the application, the State indicated that "the reparations recognized by the State […] in the conciliation hearings conducted in the administrative jurisdiction should be considered fair and sufficient in relation to the rights to life and property, in the specific cases that were the subject of this procedure." In addition, it indicated that it was "willing to submit a proposal for reparations, drawn up in collaboration with the petitioners who duly accredit their standing." Finally, it stated that "the recognition of reparations and costs is conditioned to the evidence presented by the Commission and the petitioners, taking into account that, even when applying the principle of equity, the principles of reasonableness and proportionality limit the State's possibility of recognizing them to the quantitative and qualitative validation of the amount and how this is calculated."

63. On September 20, 2005, the State reiterated in writing the acknowledgement of international responsibility made in the answer to the application (supra para. 41) and indicated that the violation of the obligation to respect rights embodied in the Convention "was attributable

to it, pursuant to the provisions of international law, owing to the participation in the facts of its agents, which was clearly illegal and outside institutional mandates; however, this acknowledgement did not in any way imply the weighing or assessing of individual responsibilities."

64. During the public hearing (supra para. 42) the State indicated that:

[…] Following the regrettable facts that are the grounds for these proceedings, the Colombian judicial and disciplinary authorities initiated investigations, implemented the necessary procedures and have been adopting the corresponding legal decisions. Based on the evidence collected, the authorities have found that the incursions carried out by the so-called United Self-Defense Forces of Colombia in the municipal districts of La Granja and El Aro of the Municipality of Ituango on June 11, 1996, and between October 22 and 26, 1997, respectively, were planned and led by well-known leaders of that illegal armed organization and carried out by men under their supervision, and they also found that State agents took part in some of the criminal acts that occurred in the context of the said raids. It reiterates expressly and publicly the acknowledgement of its responsibility made when answering the application in the instant case [(supra para. 19).]
[…]
It ratifies that this acknowledgement of responsibility does not imply weighing or evaluating individual responsibilities.
It requests the Court's permissions to ask the Commission and the victims' representatives to inform all the victims and their next of kin of [...] this declaration by the State and, particularly, the following: […] It expresses its respect and consideration for the victims and their next of kin and apologizes for the improper and unlawful conduct of some of its agents in relation to the facts of the instant case. [Emphasis added.]

65. In its brief with final arguments, the State reiterated the acknowledgement of responsibility made in the answer to the application and during the public hearing (supra paras. 19, 63 and 64). Colombia also indicated that "most of the merits of the case are encompassed by the acknowledgement of responsibility, particularly with regard to the participation of State agents in some of the criminal acts that were perpetrated in the context of the incursions of the United Self-Defense Forces of Colombia in La Granja and El Aro." In addition, the State considered:

That, in particular, the following legal issues indicated by the Commission and the representatives of the victims were not encompassed by the acknowledgement of responsibility: (i) the existence of an unjustified delay in deciding the domestic recourses; (ii) the violation of Articles 8(1) and 25(1) of the American Convention, in relation to Article 1(1) [thereof] (concerning investigation, sanction and reparation obligations); (iii) the violation of Article 22(1) of the American Convention; (iv) the violation of Article 19 of the [American] Convention, and (v) the measures of reparation.

66. During the said public hearing, and referring to the State's acknowledgement of responsibility, the Commission stated the following, inter alia:

[…] It was pleased to observe the acknowledgement of responsibility made by the Colombian State in its brief answering the application and in several subsequent briefs […]; without detriment to the foregoing, the Commission understands that there are still certain issues in dispute[.]

67. Also during the said public hearing, the representatives stated the following, inter alia, with regard to the State's acknowledgement of responsibility:

[…] Taking into account the partial acknowledgement of responsibility made by the State of Colombia, […] we wish to ask the Court to incorporate into the judgment, the acknowledgement of responsibility for violation of the right to life of all the victims, the partial acknowledgment of responsibility for violation of the right to humane treatment of most of the 200 victims that are included in these proceedings, to incorporate the partial acknowledgement of responsibility for the violation of the right to personal liberty of only two of the 18 victims who suffered this violation, and the partial acknowledgement of responsibility for the violation of the right to property of six of the 22 victims who suffered the violation of this right.

68. In its brief with final arguments, the Commission indicated that "both the facts that have been acknowledged and those that remain in dispute and have been proved, substantiate State responsibility for the violation of Articles 4, 5, 7 and 21 of the Convention[,] in relation to its Article 1(1), as do the lack of due judicial clarification of the facts, reparation of their effects, and the consequent violation of Articles 8, 19, 22 and 25 [of this treaty], which still form part of the dispute."

69. The representatives did not refer to the State's partial acknowledgement of international responsibility in its brief with final arguments

i. The State's acknowledgement concerning the facts

70. Bearing in mind the State's acknowledgement of international responsibility (supra paras. 19, 59, 63, and 64), the Court considers that the dispute concerning the facts alleged in the application has ceased (supra paras. 1 and 2), with the exception of those relating to the proceedings in this case in the criminal, administrative and disciplinary jurisdictions, and the determination of the alleged victims named by the representatives, and reparations and costs.

71. Consequently, the Court considers it pertinent to open a chapter on the facts of this case that covers both the facts acknowledged by the State and those that have been proved by all the elements in the case file.

ii. The acquiescence of the State concerning the legal claims

72. The Court considers that it is pertinent to admit the State's acknowledgement of international responsibility for violation of the rights embodied in the following provisions of the American Convention that were alleged in the application filed by the Commission (supra paras. 1 and 3): Article 4 (Right to Life), to the detriment of William de Jesús Villa García, María Graciela Arboleda Rodríguez, Héctor Hernán Correa García, Jairo de Jesús Sepúlveda Arias,

Arnulfo Sánchez Álvarez, José Darío Martínez Pérez, Olcris Fail Díaz Pérez, Wilmar de Jesús Restrepo Torres, Omar de Jesús Ortiz Carmona, Fabio Antonio Zuleta Zabala, Otoniel de Jesús Tejada Jaramillo, Omar Iván Gutiérrez Nohavá, Guillermo Andrés Mendoza Posso, Nelson de Jesús Palacio Cárdenas, Luis Modesto Múnera Posada, Dora Luz Areiza Arroyave, Alberto Correa, Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera; Article 7(1) (Right to Personal Liberty), to the detriment of Jairo de Jesús Sepúlveda Arias, Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera; Article 5(2) (Right to Humane Treatment), to the detriment of Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera; and Article 21(1) (Right to Property), to the detriment of Luis Humberto Mendoza, Libardo Mendoza, Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Ricardo Alfredo Builes Echeverry and Bernardo María Jiménez Lopera, all in relation to Article 1(1) (Obligation to Respect Rights) thereof.

iii. Claims for reparations

73. The Court observes that the State did not acquiesce to any of the claims for reparations and costs presented by the Commission and the representatives (supra para. 62).

b) Scope of the subsisting dispute

74. In their requests and arguments brief, the representatives included additional alleged victims of the violations of the rights alleged by the Commission, and further alleged victims and other allegedly violated rights that were not included in the application (supra para. 18).

75. In their brief with final arguments, the representatives indicated, inter alia, that the allegations regarding the child, Wilmar Restrepo, were "applicable [to] the other children who were the [alleged] direct victims of the violent behavior of the paramilitary group and the agents of the Colombian State in the municipal districts of La Granja and El Aro and also to the other children, members of the families who were victims of the violations committed during these events." In this regard, they requested that "in application of the iura novit curia principle, [the Court] should rule on the same violation with regard to the grandchildren of Elvia García and to the children who lived in El Aro." They also stated that the violation of the right to property "was applicable to all the [alleged] victims who lost their property and livelihood in El Aro, and who are listed in detail in the brief of helpful evidence requested by the Court, in the attachment with concluding arguments, and in the section on reparations." Lastly, the representatives asked the Court to declare that the State had violated the right to freedom of movement and residence of "724 persons who have been individualized and to establish compensation for each of them on grounds of equity" (supra para. 49).

76. The State denied that it had violated Articles 6 (Freedom from Slavery), 8(1) (Right to a Fair Trial), 19 (Rights of the Child), 22 (Freedom of Movement and Residence) and 25(1) (Right to Judicial Protection) of the Convention, to the detriment of the alleged victims as alleged by the Commission and the representatives (supra para. 20).

77. The State did not expressly contest the assertions regarding alleged violations of Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty) and 21 (Right to Property) of the

Convention, to the detriment of the persons indicated by the representatives in their requests and arguments brief, who were not included in the State's acquiescence (supra paras. 19, 59, 63 and 64).

78. In accordance with the arguments of the parties, the Court considers that the dispute between them subsists with regard to:

(a) The alleged violation of Article 5(1) (Right to Humane Treatment) of the Convention, to the detriment of the persons executed and their next of kin; and also of the alleged victims of forced displacement, forced labor, and loss of their property who were not included in the State's acknowledgement of responsibility (supra paras. 60 and 61);
(b) The alleged violation of Article 6 (Freedom from Slavery) of the Convention, to the detriment of the alleged victims who were obliged to herd livestock following the events of El Aro (supra para. 60);
(c) The alleged violation of Article 7 (Right to Personal Liberty) of the Convention, to the detriment of the persons who were allegedly deprived of their liberty during the events of El Aro, who were indicated by the representatives in their requests and arguments brief (supra para. 61), and who were not included in the State's acquiescence (supra paras. 19, 59, 63 and 64);
(d) The alleged violation of Article 19 (Rights of the Child) of the Convention to the detriment of the child, Wilmar De Jesús Restrepo Torres, and of "the other children who were direct victims of the violent behavior of the paramilitary group and the agents of the Colombian State in the municipal districts of La Granja and El Aro and also of the other children, members of the families who were victims of the violations committed during these events" (supra paras. 60, 61 and 75);
(e) The alleged violation of Article 21 (Right to Property) of the Convention, to the detriment of the persons indicated by the representatives in their requests and arguments brief (supra para. 18), who were not included in the State's acquiescence (supra paras. 19, 59, 63, 64 and 77), as well as "all the [alleged] victims who lost their property and their livelihood in El Aro, and who are listed in detail in the brief of helpful evidence requested by the Court, in the [representatives' brief with final arguments in the] attachment with concluding arguments, and in the section on reparations" (supra para. 75);
(f) The alleged violation of Article 22 (Freedom of Movement and Residence) of the Convention to the detriment of "724 persons who have been individualized," who were displaced as a result of the facts of the instant case (supra para. 75);
(g) The facts relating to an alleged violation of Articles 8(1) (Right to a Fair Trial) and 25(1) (Right to Judicial Protection) of the Convention, in relation to Article 1(1) thereof, to the detriment of all the alleged victims and their next of kin; and(h) The determination of reparations and costs (supra para. 73).

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79. The Court considers that the State's acquiescence constitutes a positive contribution to the development of these proceedings and to the exercise of the principles that inspire the American Convention. [FN7] In the case sub judice, the Court appreciates particularly the way in which the State made this acknowledgement during the public hearing of this case; namely, apologizing to the alleged victims and their next of kin (supra para. 64).

[FN7] Cf. Case of Baldeón García, supra note 5, para. 55; Case of Blanco Romero et al., supra note 5, para. 64; and Case of García Asto and Ramírez Rojas, supra note 5, para. 60.

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80. Nevertheless, taking into account the State's responsibility to protect human rights and given the nature of this case, the Court considers that delivering a judgment which determines the truth of the facts and all the elements of the merits of the case, and the corresponding consequences, constitutes a form of reparation for the alleged victims and their next of kin and a contribution to avoiding the repetition of similar acts. [FN8]

[FN8] Cf. Case of Baldeón García, supra note 5, para. 56; and Case of the "Mapiripán Massacre". Judgment of September 15, 2005. Series C No. 134, para. 69.

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81. Also, without prejudice to the acquiescence regarding the violation of Article 4 (Right to Life) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the 19 persons executed in La Granja and El Aro (supra para. 3), the Court considers it essential to make some observations on certain points related to the obligations established in this article (infra paras. 126 to 138).

c) Determination of the alleged victims in this case

82. Article 61(1) of the Convention stipulates that:

Only the States Parties and the Commission shall have the right to submit a case to the Court.

83. Article 2(30) of the Rules of Procedure establishes that:

The expression "alleged victim" refers to the person whose rights under the Convention are alleged to have been violated.

84. Article 23(1) of the Rules of Procedure indicates that:

When the application has been admitted, the alleged victims, their next of kin or their duly accredited representatives may submit their pleadings, motions and evidence, autonomously, throughout the proceeding.

85. Article 33(1) of the Rules of Procedure indicates that the brief containing the application shall indicate:

The claims (including those relating to reparations and costs); the parties to the case; a statement of the facts; the orders on the opening of the proceeding and the admissibility of the petition by the Commission; the supporting evidence, indicating the facts on which it will bear; the

particulars of the witnesses and expert witnesses and the subject of their statements; the legal arguments, and the pertinent conclusions. In addition, the Commission shall include the name and address of the original petitioner, and also the name and address of the alleged victims, their next of kin or their duly accredited representatives, when this is possible.

86. Article 44 of the Rules of Procedure establishes that:

1. Items of evidence tendered by the parties shall be admissible only if previous notification thereof is contained in the application and in the reply thereto and, when appropriate, in the document setting out the preliminary objections and in the answer thereto.
[…]
3. Should any of the parties allege force majeure, serious impediment or the emergence of supervening events as grounds for producing an item of evidence, the Court may, in that particular instance, admit such evidence at a time other than those indicated above, provided that the opposing parties are guaranteed the right of defense.
4. In the case of the alleged victim, his next of kin or his duly accredited representatives, the admission of evidence shall also be governed by the provisions of Articles 23, 36 and 37(5) of the Rules of Procedure.

87. Article 45 of the Rules of Procedure establishes that the Court may, any stage of the proceedings:

1. Obtain, on is own motion, any evidence it considers helpful. In particular, it may hear as a witness, expert witness, or in any other capacity, any person whose evidence, statement or opinion it deems to be relevant.
2. Request the parties to provide any evidence within their reach or any explanation or statement that, in its opinion, may be useful.
3. Request any entity, office, organ or authority of its choice to obtain information, express an opinion, or deliver a report or pronouncement on any given point. The documents may not be published without the authorization of the Court.
4. Commission one or more of its members to hold hearings, including preliminary hearings, either at the seat of the Court or elsewhere, for the purpose of gathering evidence.

88. In this case, the representatives have included "additional [alleged] victims of the violations of the rights alleged" by the Commission, in relation to Articles 5, 7, 19 and 21 of the Convention as well as "further [alleged] victims and other rights [allegedly] violated that were not contained in the application" in relation to Articles 6 and 22 thereof (supra paras. 18, 74 and 75). The representatives also indicated that the alleged violations of Articles 6, 7, 21 and 22 of the Convention should be considered to the detriment of those persons whose "identity is established during the proceedings" before the Court (supra paras. 18).

89. Regarding the facts that are the object of the proceedings, the Court has already established that the representatives may not allege facts distinct from those set out in the application, without detriment to describing facts that explain, clarify or reject those mentioned in the application, or that respond to the claims of the applicant. [FN9] This does not imply in any way affecting the object of the application or violating the right to defense of the State,

which has the procedural opportunities to respond to the allegations of the Commission and the representatives at all stage of the proceedings. Finally, it is for the Court to decide on the admissibility of allegations in each case in order to safeguard the procedural equality of the parties. [FN10] The case of supervening facts is different, since they may be presented by any of the parties at any stage of the proceedings prior to delivery of the judgment. [FN11]

[FN9] Cf. Case of the Sawhoyamaxa Indigenous Community. Judgment of March 29, 2006. Series C No. 146, para. 68; Case of the Pueblo Bello Massacre. Judgment of January 31, 2006. Series C No. 140, para. 54; and Case of García Asto and Ramírez Rojas, supra note 5, para. 73.
[FN10] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 54; and Case of the "Mapiripán Massacre", supra note 8, para. 58.
[FN11] Cf. Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 69; Case of the Pueblo Bello Massacre, supra note 9, para. 54; and Case of the "Mapiripán Massacre", supra note 8, paras. 57 and 59.

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90. The Court will now determine, pursuant to the Rules of Procedure and its case law, and bearing in mind the characteristics of this specific case, which of the people who were not included by the State's acknowledgement of responsibility will be considered alleged victims in this case.

91. The Court has developed extensive case law on the determination of alleged victims in the cases it hears using criteria applicable to the circumstances of this case. According to Article 50 of the Convention, the alleged victims must be indicated in the application and in the Commission's report. However, owing to the particularities of each case this has not always been so, and the Court has therefore considered as alleged victims persons who were not alleged as such in the application, provided that the right to defense of the parties has been respected and that the alleged victims have some connection with the facts described in the application and the evidence provided to the Court. [FN12]

[FN12] Cf. Case of Acevedo Jaramillo et al. Judgment of February 7, 2006. Series C No. 144, para. 227; Case of the "Mapiripán Massacre", supra note 8, para. 183; Case of the Moiwana Community. Judgment of June 15, 2005. Series C No. 124, para. 74; Case of the "Juvenile Reeducation Institute". Judgment September 2, 2004. Series C No. 112, para. 111; and Case of the Plan de Sánchez Massacre. Judgment of April 29, 2004. Series C No. 105, para. 48.

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92. Particularly in cases of massacres or of multiple victims, the Court has been flexible in the identification of alleged victims, even when they have been alleged in the Commission's application as "the survivors" of the massacre and "their next of kin," or when the parties have submitted additional information on the identification of the alleged victims in briefs submitted subsequent to the application. [FN13] In other cases involving massacres, the Court has considered as alleged victims, "the persons identified by the Commission in its application [...]

and those who may be identified subsequently, since the complexities and difficulties in individualizing them, suggest that there are still other victims to be determined." [FN14]

[FN13] Cf. Case of the Moiwana Community, supra note 12, para. 74; and Case of the "Juvenile Reeducation Institute", supra note 12, para. 111

[FN14] Cf. Case of the Plan de Sánchez Massacre, supra note 12, para. 48. Cf. likewise, Case of the "Mapiripán Massacre", supra note 8, paras. 183 and 305.

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93. In some cases, the Court has emphasized that the right to defense of the parties is the determining criteria. [FN15] Nevertheless, even in the presence of objections by the State, the Court has considered that such alleged new victims should be included. [FN16]

[FN15] Cf. Case of the Moiwana Community, supra note 12, para. 74; and Case of the "Juvenile Reeducation Institute", supra note 12, para. 111.

[FN16] Cf. Case of the Moiwana Community, supra note 12, para. 71.

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94. Based on it jurisdictional function and pursuant to Article 62 of the Convention, which indicates that the Court has jurisdiction to hear "all cases concerning the interpretation and application of the provisions of [the] Convention," in cases with multiple alleged victims, the Court has considered several ways to overcome "shortcomings in the identification or individualization of some of the alleged victims" in the application, [FN17] whose names are to be found in the briefs where other alleged victims appear. For example, the Court has requested the Commission to remedy such flaws by presenting lists of alleged victims identified following the application. [FN18] Also, in cases where the alleged victims "have or have not been identified or individualized" in the application, [FN19] the Court has ordered the State to "individualize and identify the victims […] and their next of kin," for the effects of reparations. [FN20] Finally, the Court has taken the initiative to overcome the shortcomings in the identification of alleged victims in the application, by its own examination of the evidence presented by the parties, even when the parties have admitted that some people "by error, were not included in the list of alleged victims." [FN21] Likewise, the Court has declared individuals who were identified in the evidence provided by the parties as "possible victims," even when these people were not identified in the Commission's application. [FN22]

[FN17] Cf. Case of the "Juvenile Reeducation Institute", supra note 12, paras. 107 and 111.

[FN18] Cf. Case of the "Juvenile Reeducation Institute", supra note 12, paras. 107 and 111.

[FN19] Cf. Case of the "Mapiripán Massacre", supra note 8, paras. 247 and 252.

[FN20] Cf. Case of the "Mapiripán Massacre", supra note 8, paras. 305 and 306.

[FN21] Cf. Case of Acevedo Jaramillo et al., supra note 12, para. 227.

[FN22] Cf. Case of the "Mapiripán Massacre", supra note 8, paras. 255 and 258.

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95. The foregoing makes it clear that, although the identification of alleged victims in a case is governed by the parameters established in the Convention and in the Rules of Procedure, the Court, based on its jurisdictional function and in accordance with Article 62 of the Convention, may take decisions in this respect, that take into account the particularities of each case and the rights regarding which a violation has been alleged, provided that the right to defense of the parties is respected and that the alleged victims have some connection with the facts described in the application and the evidence provided to the Court.

96. In keeping with these criteria, the Court will examine the determination of the alleged victims in this case who were not included in the State's acknowledgement of responsibility in the chapters on the merits of each alleged violation.

97. The Court deems it pertinent to indicate its concern regarding the discrepancy between the persons indicated by the Commission in its report based on Article 50 of the Convention as alleged victims of Article 21 thereof, versus the persons that its application alleges are victims of this article (supra paras. 3 and 11). Neither the number nor names of the individuals listed in these two documents coincide. The Court also notes that the persons alleged by the representatives in their requests and arguments brief are totally different from those indicated in the said Article 50 report (supra paras. 11 and 18).

98. This Court has had to make a laborious examination of the evidence provided by the parties in order to extract the elements required to make a precise identification of the victims, since the Commission's application did not include complete information in this regard. The Court observes that the Commission's application contained general references to the victims in relation to some groups of them, such as "17 herdsmen" or "victims of displacement," without providing the necessary details for the appropriate identification of individual alleged victims. The Court considers that, in accordance with Article 33(1) of the Rules of Procedure of the Court, it corresponds to the Commission, and not to the Court, to identify precisely the alleged victims in a case before the Court.

VI. PRELIMINARY OBJECTION

99. In the brief answering the application (supra para. 19), the State filed a preliminary objection based on the "undue application of the requirement of prior exhaustion of domestic remedies" established in Article 46(1)(a) of the Convention.

The State's arguments

100. Regarding this preliminary objection, the State indicated that:

(a) The inter-American system of protection and respect for human rights is of a "subsidiary [nature] to the mechanisms that the States themselves have established to ensure the respect and guarantee of rights and freedoms in the domestic sphere";
(b) "Opportunely, repeatedly and coherently, the State opposed the admission […] of these cases, because it considered that domestic remedies had not been exhausted";

(c) The Commission drafted a joint report on the La Granja and El Aro cases, with its respective conclusions and recommendations, "before domestic remedies had been exhausted and in the absence of an unjustified delay in the decisions";
(d) "Some of the next of kin of the alleged victims who have become parties to the international proceedings never made use of the mechanisms established in domestic law to seek compensation for the damage they allege they have suffered [, such as an] autonomous civil proceedings or one filed within the criminal proceedings, or [an] administrative action for direct reparation";
(e) Since the burden of proof falls on the Commission regarding the facts on which the application is based, "there does not appear to be any evidence at all [in the application] that domestic remedies have been exhausted or that there has been an unjustified delay in the decisions [...]. Moreover, there is no specific evidence concerning this issue in the admissibility reports that the Commission adopted with regard to each of the cases considered individually";
(f) "It was clear, during the proceedings before the Commission […] that the existing domestic remedies for the protection of the rights and freedoms, whose violation is the subject of the application, are absolutely appropriate, have always been available to the alleged victims and their next of kin, and have been processed by the competent authorities in the way and in the terms established by domestic norms"; and
(g) The remedies under domestic law for the protection of the rights and freedoms whose violation is the subject of the application "are still being processed. Decisions have already been handed down in some of them, which have protected the rights of the alleged victims and their next of kin, and final decisions are awaited in others."

The Commission's arguments

101. Regarding the preliminary objection filed by the State, the Commission stated that:

(a) The Court should proceed "to examine the [preliminary objection] together with the merits of the case; reject it as inadmissible and groundless […] and reaffirm its jurisdiction to examine the merits of the case";
(b) "The procedural opportunity to file objections concerning the exhaustion of domestic remedies is when [the Commission] is examining admissibility";
(c) "The content of the admissibility decisions adopted [by the Commission] should not be substantially re-examined and should be considered final";
(d) "Only the remedies that are adequate for repairing the alleged violations must be exhausted. To be adequate, the function of these domestic remedies must be appropriate to protect the legal situation that has been violated";
(e) "The alleged facts […] involve the alleged violation of fundamental non-derogable rights, such as the right to life and humane treatment, which, under domestic law, translate into crimes that may be prosecuted de oficio and, therefore, it is this procedure, promoted by the State itself, that must be [exhausted]";
(f) "Rulings of a disciplinary nature do not satisfy the obligations established in the Convention concerning judicial protection, because they are not an effective and sufficient way to prosecute, sanction and repair the consequences of the extrajudicial execution of individuals protected by the Convention";

(g) "Regarding the exhaustion of the administrative jurisdiction, […] this type of proceedings is exclusively a mechanism for supervising the State's administrative activities, designed to obtain compensation for damages resulting from an abuse of authority. In general, this procedure alone is not an adequate mechanism to repair cases of human rights violations, so that is does not need to be exhausted in a case such as this one when there is another mechanism to achieve the reparation of the damage and the required prosecution and sanctions"; and
(h) There has been an unjustified delay in the criminal investigation of the facts.

The representatives' arguments

102. Regarding the preliminary objection filed by the State, the representatives indicated that:

(a) The preliminary objection "is groundless" and, therefore, the Court should reject it;
(b) The State had presented a preliminary objection and an acknowledgement of responsibility simultaneously, acquiescing to several of the claims in the Commission's application, which "constituted a subsequent waiver of objections";
(c) "The appropriateness of the remedies stems from their ability to result in the effective integral reparation of the alleged violations[.] Integral reparation is understood to mean the identification, prosecution and sanction of those responsible, and also the reparations intended to guarantee that similar facts will not recur and that the damage caused is compensated";
(d) The "purpose of the criminal proceedings in the domestic sphere is to identify, prosecute and punish those responsible, and also to re-establish the rights and to compensate the damage caused." Consequently, this remedy was the one that "the [alleged] victims and their next of kin should exhaust to obtain the protection of their rights in the terms of the Convention";
(e) The determination of the responsibility of public officials by means of disciplinary proceedings "is merely aimed at assessing that their actions correspond to the norms regulating the performance of their public functions." During the disciplinary proceedings, there is no "possibility of suing all those responsible, but merely individuals in their capacity as public officials." Additionally, "the disciplinary investigation does not provide access to the [alleged] victims and their next of kin." Consequently, the disciplinary proceeding does not have "the scope of punishment in the terms of the Convention";
(f) The financial compensation available as the result of administrative proceedings "cannot be understood as integral reparation in the terms of the Convention, [because] it only covers the financial aspect, and disregards the re-establishment of the rights through the determination of the truth and the identification, prosecution and punishment of those responsible"; and
(g) When the El Aro and La Granja cases were submitted to the inter-American system, "the investigations undertaken as a result of the facts had not made significant progress, despite the time that had elapsed and there was no justification for [these delays]." "Subsequent progress in the investigations does not influence the assessment of the prior exhaustion of domestic remedies."

The Court's findings

103. In the instant case, the State has acknowledged its international responsibility for violation of Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal

Liberty) and 21 (Right to Property) of the American Convention with regard to the persons indicated in the application (supra paras. 19, 59, 63 and 64).

104. By acknowledging its responsibility in this case, the State has implicitly accepted the Court's full jurisdiction to hear the case; [FN23] thus, Colombia has tacitly waived the preliminary objection it had filed. Moreover, the content of that objection is closely related to the merits of the case, particularly with regard to the alleged violation of Articles 8 and 25 of the Convention. Therefore, this preliminary objection must be rejected and the Court will rule on the arguments of the parties in this respect in the chapters on merits of this judgment (infra paras. 283 and ff.).

[FN23] Cf. Case of the "Mapiripán Massacre", supra note 8, paras. 247 and 252.
[FN23] Cf. Case of the "Mapiripán Massacre". Preliminary objections and acknowledgement of responsibility. Judgment of March 7, 2005. Series C No. 122, para. 30.

VII. EVIDENCE

105. Before examining the evidence received, the Court will make some observations in light of the provisions of Article 44 and 45 of the Rules of Procedure, which are applicable to the specific case, most of which have been developed in its case law.

106. The adversary principle, which respects the right of the parties to defend themselves, applies to matters pertaining to evidence. This principle is embodied in Article 44 of the Rules of Procedure, as regards the time at which the evidence should be submitted to ensure equality between the parties. [FN24]

[FN24] Cf. Case of Baldeón García, supra note 5, para. 60; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 30; and Case of Acevedo Jaramillo et al., supra note 12, para. 183.

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107. According to the Court's practice, at the commencement of each procedural stage, the parties must indicate the evidence they will offer at the first opportunity they are given to communicate with the Court in writing. Moreover, in exercise of the discretional powers included in Article 45 of its Rules of Procedure, the Court or its President may request the parties to provide additional probative elements as helpful evidence; and this shall not provide a new opportunity for expanding or completing the arguments or offering fresh evidence, unless the Court expressly permits it. [FN25]

[FN25] Cf. Case of Baldeón García, supra note 5, para. 61; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 31; and Case of Acevedo Jaramillo et al., supra note 12, para. 184.

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108. In the matter of receiving and weighing evidence, the Court has indicated that its proceedings are not subject to the same formalities as domestic proceedings and, when incorporating certain elements into the body of evidence, particular attention must be paid to the circumstances of the specific case and to the limits imposed by respect for legal certainty and the procedural equality of the parties. Likewise, the Court has taken account of international case law; by considering that international courts have the authority to assess and evaluate the evidence according to the rules of sound criticism, it has always avoided a rigid determination of the quantum of evidence needed to support a judgment. This criterion is particularly valid for international human rights courts, which have greater latitude to evaluate the evidence on the pertinent facts, in accordance with the principles of logic and on the basis of experience. [FN26]

[FN26] Cf. Case of Baldeón García, supra note 5, para. 62; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 32; and Case of Acevedo Jaramillo et al., supra note 12, para. 185.

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109. Based on the foregoing, the Court will now proceed to examine and assess the documentary probative elements forwarded by the Commission, the representatives and the State at different procedural opportunities or as helpful evidence requested by the Court and its President, as well as the expert and testimonial evidence given before the Court during the public hearing, all of which forms the body of evidence in this case. To this end, the Court will abide by the principles of sound criticism, within the corresponding legal framework.

A) DOCUMENTARY EVIDENCE

110. The Commission, the representatives and the State forwarded sworn statements and also testimonial and expert statements made before notary public (affidavits) responding to the President's requests in his orders of July 28, 2005 (supra para. 23), and August 19, 2005 (supra para. 28). Since most of the 16 witnesses asked that their identity should be kept confidential – a request reiterated by the Commission (supra para. 45) – because they feared reprisals owing to their statements, the Court will summarize these statements, avoiding any allusions that could lead to the identification of the witnesses or their next of kin. The Court will also summarize the expert opinions.

TESTIMONY

a) Testimony proposed by the Inter-American Commission [FN27]

The Commission presented the testimonial statements of six persons, including residents, tradesmen and civil authorities of El Aro at the time of the facts; their statements are summarized below.

El Aro was a village where the people farmed and raised livestock, inhabited by from 300 to 500 people. By mule, it could take six hours to reach El Aro from Puerto Escondido, or eight hours

from Puerto Valdivia. El Aro was considered a zone of influence of the guerrilla, because the "Nudo de Paramillo" is located there; this is the union of three cordilleras giving access to several different regions. The zone is a strategic transit point for four groups: the Army, the Police, the paramilitary groups and the guerrilla. The paramilitary groups began to arrive "years before" the events occurred in El Aro in 1997. In 1996, there was an incursion that reached Santa Rita. Approximately two months before the massacre, they reached the "La Esmeralda" sector, but they did not get to the urban capital of El Aro. The paramilitary groups came to El Aro via Puerto Valdivia. Prior to 1994, neither the Army nor any legal authority was present in Puerto Valdivia.

The paramilitary groups had maps of all the municipal districts (corregimientos) and municipalities and marked with a red cross those they planned to destroy. El Aro was marked with a red cross on one of those maps, and the Mayor of Ituango and the other Councilors were duly notified. In view of this situation, "about two months before the incursion," the El Aro Community Action Committee asked for protection from the state Governor's office, but this was not granted. The local authorities began to call "on everyone, on the Fourth Brigade, on the Girardot Battalion, even on the Yarumal prosecutor's office." They all replied that "no troops [were] available," because they had all been deployed in relation to the elections that were being held at the time.

In October 1997, before the massacre, the paramilitary groups met daily with members of the Army in the zone of Cachirimé and Tarazá. Many families "said that it was the members of the paramilitary groups with the Army who raided El Aro." Among the soldiers identified, were those known as "piña" [pineapple], "el burro" [the donkey] and Corporal Alzate, who was called "Rambo" or "Kamiski." It was even said that the person in charge of the Army in Puerto Valdivia had joined a paramilitary group.

The paramilitary group entered El Aro on October 25, 1997. The elections were programmed for Sunday, October 26, 1997. On Saturday, October 25 "shots [were heard and] many explosions." During the morning of that Saturday "a white helicopter arrived" from which "bursts of machine gun fire" [were heard] and "it flew off towards northern Cauca." Some armed men arrived and said: "We are the Auto Defensas Campesinas [Peasant Self-Defense Units] and we need you to accompany us a short distance, to the park." The armed men accused the residents of El Aro of being guerrillas. They seized several people from the village and took them to the center of the village square; they insulted them and made them lie face down; then they proceeded to murder several people.

Those assassinated during this paramilitary incursion included the following: Wilmar Restrepo Torres, Mario Torres, Mario Iván, Dora Luz Areiza, Aurelio Areiza, Arnulfo Sánchez, Luis Modesto Múnera, Nelson Palacio, Alberto Correa and Guillermo Andrés Mendoza.

On Sunday, October 26, the paramilitary group gave permission to bury the dead. Those who died in El Aro were "honest, hardworking people, who […] had no connection with either the guerrilla or the paramilitary groups. They were farmers."

On the night the livestock were stolen from El Aro, two individuals accompanied the soldiers "they looked very odd, and were not wearing proper Army uniforms," but wore "camouflage uniform and were heavily armed, and their haircuts and appearance [were] not military." Lieutenant Bolaños ordered the closure all the establishments in El Aro. The two individuals accompanied the Army to close all the businesses in the area known as El Retén. At 4 a.m., they brought down the livestock from the "La María" farm to the "El Pescado" farm. The livestock came from farms between Puerto Valdivia and El which were left without any animals. The

livestock was put into trucks and transferred to Caucasia. Members of the Army were herding the livestock. Several residents of El Aro were obliged to herd the cattle. When, two weeks' later, they went to see if they would be paid, they were told that they would be killed.
The Governor of Antioquia sent a telegram to the Inspector of Puerto Valdivia asking him to communicate with the secretary of the government who, in turn, asked him to communicate with the Army commander for the area and request help to retrieve the livestock. Subsequently, the official telephoned Lieutenant Bolaños, who told him that they were "members of the guerrilla; that the livestock belonged to the guerrilla; that it had been taken away."
On the Tuesday or Wednesday following the paramilitary incursion, a civic official who witnessed the events informed Amado Muñoz, head of the local government, about what had happened; the latter asked him "not to say anything" and not to report the matter.
As a result of these facts, approximately 300 people displaced towards Puerto Valdivia. When they were crossing the Cauca River, the displaced saw Army soldiers on one side of the bridge and members of a paramilitary group on the other side. The paramilitary forces ordered the displaced not to say anything about what had happened in El Aro. In Puerto Valdivia, the displaced had to register at the secondary school, where "they were given assistance." However, they were all "in a very bad situation, because many of them had had their cattle and mules seized." "They were all left poverty-stricken." Many people never returned to El Aro. Others do not go back because their safety is not guaranteed. The paramilitary groups continue taking livestock from the area.
In the Inspector's Office in Puerto Escondido, a paramilitary group had used and thrown away "the official records of births and marriages […] as if they had been toilet paper."
The situation of the paramilitary and other groups, the fear of another massacre, and the disappearance of their work and livelihood, mean that the displaced do not want to return permanently to El Aro. Some of them returned to El Aro, others remained in Puerto Valdivia, and some went to Medellín.

[FN27] The names of the witnesses will remain confidential to protect their safety.
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b) Testimony proposed by the representatives [FN28]

The representatives presented the testimonial statements of ten people, including next of kin of the alleged victims and residents of El Aro at the time of the events; their statements are summarized below.
Those responsible for the events in El Aro "had identified themselves as a self-defense unit." When they came to the village, the paramilitary group took several villagers to the village square, threw them on the ground and lined them up. The paramilitary forces accused all of them of collaborating with the guerrilla. They stretched out the people face downwards, they trampled on them, and then they shot them.
When a helicopter arrived, the members of the paramilitary group said the passenger was Carlos Castaño. The passenger of the helicopter went to the Police Inspectorate and spoke to those who were there, including someone they called "..." and a soldier known as "Rambo." "Junior" was also called Mauricio. Among the approximately 200 men who raided El Aro, there were those known as "Cobra," "Pescado" and "El Tigre." The members of the paramilitary group could be

seen with members of the Army in Puerto Valdivia, including with "Rambo," who was dark-skinned and very tall. "Rambo" had come to El Aro with some soldiers a week before the massacre and was subsequently seen in Puerto Valdivia.

When they had murdered several of the villagers, the paramilitary group set fire to homes, stores and surrounding farms on the following Thursday and Friday. On the Saturday, the paramilitary forces left the village after they had set fire to it. El Aro "was totaled." The civilians buried the dead.

Those killed during this paramilitary incursion included: Guillermo Andrés Mendoza Posso, Nelson Palacio, Marco Aurelio Areiza, Wilmar Restrepo Torres, Darío Martínez, Luis Modesto Múnera, Alberto Correa, Dora Luz Areiza, Favio Zuleta, Omar Ortiz, Omar Iván Gutiérrez, Otoniel Tejada Jaramillo and Rosa Barrera.

The paramilitary commander obliged some residents of El Aro to herd livestock, bury the dead and carry everything that the group ordered. Those forced to herd livestock included: Omar Alfredo Torres Jaramillo, Libardo Carvajal, Román Salazar, Tomás Monsalve, Omar Iván Gutiérrez, Nobeires Antonio Jiménez, Milciades Crespo, Eulicio García, Ricardo Barrera, Rodrigo Alberto Mendoza, Gilberto Lopera, Francisco Osvaldo Pino Posada, Eduardo Rúa, someone known as Pipe, and others. There were a total of "17 herdsmen." The paramilitary forces threatened to kill the herdsmen if they tried to escape.

The paramilitary group ordered the herdsmen to gather the livestock from several different places, including the Montebello, Manzanares, La Floresta, La Planta and La María farms, near Puerto Valdivia. These farms had between 900 and 1,200 head of livestock between them. They ordered the people to close their stores and to remain inside their homes while they carried off the livestock. The Army officer known as "Rambo" was with the paramilitary group when they took the livestock from Puerto Valdivia. In El Aro, near Bellavista, a troop of men wearing Army uniforms took a fairly large herd of cattle. From the Monday to the following Sunday, the herdsmen remained taking care of the livestock. On the Saturday, they were in El Llano, gathering livestock from all the farms. On the Monday, the members of the paramilitary group spoke to the soldiers in the La Planta farm. The paramilitary group sent the soldiers a cow to eat. In the El Catorce farm, the paramilitary group separated 12 of the best animals for the soldiers. They reached the El Pescado farm and put the livestock into 15 to 20 trucks which they drove off towards the coast. The Army was stationed two blocks from where they were putting the livestock into trucks on the El Pescado farm "yet they did nothing."

A member of the paramilitary group informed the herdsmen that they should go home and that three days later they should go down to La Caucana where they would receive payment for the mules and the cattle. Three days later the herdsmen went to this place, but the paramilitary group told them to return a week later for the payment. They returned a week later, but they were not paid and their livestock were not returned. The paramilitary group threatened to kill the herdsmen "if they made any more trouble," so they did not insist.

In an attempt to recover their livestock, they spoke to the secretary of the government of the Department, who told them that the livestock "was detained" and that they should not worry about it. Then they spoke to an officer of the 4th Brigade and asked for greater protection in the zone. The officer answered that the livestock and the zone were safe with the Army.

Following the massacre, all the villagers displaced towards Puerto Valdivia. In Puerto Valdivia the displaced stayed at a secondary school. Two weeks later, the Army informed them that they could return home. By then, all the livestock had been removed from the region, through Puerto Valdivia.

The displaced lost not only their legal papers, but also all their mementos, such as photographs, the pictures of saints that were hung up on the walls of their homes, and all their clothes and everything they had built up during their lifetime. Most of the displaced consider that they will continue to be displaced, because they have no hope of recovering what they had in El Aro, since "the situation is complicated, because the guerrilla is on one side and the paramilitary groups on the other." The paramilitary groups have continued to steal livestock and murder people.

The events in El Aro had huge financial and physical effects on all the families. The region was left in ruins. Almost all the families lost everything. Those who had livestock, the result of a whole life's work, were left without anything. Those who had houses were left homeless, and those who had land, had to abandon it. Those whose homes had not been burnt down, had their furniture, their animals and their few possessions stolen. Very few people have been able to recover anything. The people have not returned to the zone because the guerrilla and the paramilitary groups are still present in the region, and they have looted the peasants' few remaining possessions, stealing their mules and cattle, and preventing the people from prospering. The few residents who returned to El Aro have suffered a great deal and are in a very difficult situation.

The life of the families changed a great deal after the paramilitary raid in El Aro. In order to remake their lives, they had to start off again from nothing, "undergoing hunger." Many people did not return, especially those who lost family members. Many people have not been able to recover from the events and, now that they are old, it is much more difficult for them to recover financially. Some of the children of the alleged victims could not continue their studies. Many families are still afraid; many have not been able to find work, suffer from illnesses and are depressed, "as if they no longer wanted to live" and, at night, the children wake up screaming with nightmares. The family groups disintegrated. Some of the next of kin suffered psychological traumas owing to the events.

[FN28] The names of the witnesses will remain confidential to protect their safety.

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c) Testimonies proposed by the State

1. Jorge Armando Otalora Gómez, Deputy Prosecutor General

Following the events in La Granja, both the Police and the Ituango Sectional Prosecutor's Office opened preliminary investigations into the assassinations that had occurred in that municipal district on June 11 and 12, 1996. Given "the gravity of the facts, the geographical complexity and the public order situation," on November 20, 1996, the Prosecutor General's Office decided to reassign the investigation of the facts to the National Human Rights Unit.

On June 17, 1999, "when the body of evidence collected had been assessed, the pre-trial proceedings were initiated and orders were give to formally investigate" the Sub-Lieutenant of the National Army and Commander of the Police of Ituango, José Vicente Castro; the Lieutenant of the National Army and Commander of the Girardo Battalion based in Ituango, Jorge Alexander Sánchez Castro; and the civilians, Jaime Angulo Osorio, Francisco Angulo Osorio, Hernando de Jesús Álvarez Gómez, Manuel Remigio Fonnegra Piedrahita and Carlos Castaño Gil, the latter "a member of the United Self-Defense Forces of Colombia."

As a result of the inquiries of a judicial commission of the National Human Rights Unit and of the evidence collected by the commission in the place where the facts had occurred, "the Prosecutor General's Office found that there were grounds for investigating as alleged perpetrators of the facts": Carlos Antonio Carvajal Jaramillo, Jairo Castañeda, Gilberto Tamayo Rengifo, Orlando de Jesús Mazo Mazo and Isaías Montes Hernández, alias "Junior," the latter "head of the self-defense forces in northwestern Antioquia."

"The results of the judicial activities of the Prosecutor General's Office" during the period from December 23, 2002, to May 5, 2003, "allowed preventive measures consisting in pre-trial detention without parole to be imposed on" the following personas: Carlos Antonio Carvajal Jaramillo, for the crimes of extortion and conspiracy to commit a crime, Gilberto Tamayo Rengifo, for the crimes of conspiracy to commit a crime, terrorism and extortion, Hernando de Jesús Álvarez Gómez, for the crimes of conspiracy to commit a crime, extortion and terrorism, Jairo Castañeda, for the crime of conspiracy to commit a crime, Orlando Mazo Mazo for the crimes of conspiracy to commit a crime, extortion and terrorism, and Isaías Montes Hernández, for the crimes of conspiracy to commit a crime, extortion and terrorism.

On November 14, 2003, José Vicente Castro was sentenced to 31 years' imprisonment, a decision that was revoked by the Antioquia Superior Court on July 12, 2004. On July 8, 2005, the Antioquia First Specialized Court sentenced Jorge Alexander Sánchez Castro to 31 years' imprisonment; Orlando De Jesus Mazo Mazo to 12 years' imprisonment; Gilberto Antonio Tamayo Rengifo to 12 years' imprisonment, and Carlos Antonio Carvajal Jaramillo to 7 years' imprisonment, all of them for the crimes of conspiracy to commit a crime and aggravated murder. In the case of José Vicente Castro, the decision absolving him is being reviewed by the Supreme Court of Justice. In the case of Hernando de Jesús Álvarez, it was ordered that the proceedings should be discontinued owing to the death of the accused. Regarding the members of the paramilitary group, Carlos Castaño and Isaías Montes Hernández, the investigation is still underway and "will soon be evaluated."

In relation to the events of El Aro, which took place from October 22 to 26, 1997, the Prosecutor General's Office formally took over the investigation through the Delegate Prosecutor's Office for the Ituango circuit and the Yarumal Delegate Prosecutor's Office. On November 20, 1997, the investigations were reassigned to the Second Unit of the Medellín Regional Prosecutor's Office.

On March 19, 1999, "the Prosecutor General's Office ordered that [Carlos Castaño Gil and Francisco Enrique Villalba] should be investigated in the inquiry." An unsworn statement was taken from the latter on June 4, 1999, and on July 1, 1999, "his legal status was decided […] imposing a preventive measure consisting in pre-trial detention without parole […] for multiple murders."

In April 1998, the National Human Rights Unit had ordered a judicial inspection of the disciplinary proceedings so as to transfer evidence, in order to establish the names of the members of the Girardot Battalion based in the zone at the time of the facts.

"On February 24, 2000, an order was issued to investigate" Salvatore Mancuso Gómez and Alexander Mercado Fonseca, "members of the AUC." On April 22, 2003, the Second Criminal Affairs Judge of the Antioquia Specialized Circuit sentenced Salvatore Mancuso Gómez and Carlos Castaño Gil to 40 years' imprisonment for the crimes of conspiracy to commit a crime, aggravated multiple murders and aggravated theft. The same judgment also sentenced Francisco Villalba Hernández to 33 years' imprisonment; he is serving his sentence in the Itagüí Prison in Antioquia.

The disciplinary ruling against Army Lieutenant Everardo Bolaños Galindo and First Corporal Germán Antonio Alzate Cardona for collaboration and omission in relation to the facts that occurred in the municipal district of El Aro was transferred to the criminal investigation. The transfer of this ruling, allowed the acting Prosecutor to order that these individuals should be investigated under the criminal proceedings. The First Corporal was declared "absent" on January 11, 2005, and it was determined that he used the alias "Rambo." In a decision of March 1, 2005, "the acting Prosecutor decided the legal status of Everardo Bolaños Galindo and Germán Antonio Alzate Cardona, and ordered a preventive measure against them consisting in pre-trial detention without parole for the crimes of conspiracy to commit a crime, aggravated by their status as active members of the Army at the time of the facts, in conjunction with the crimes of terrorism, aggravated murder and aggravated theft." Everardo Bolaños Galindo is in prison at the orders of the Specialized Court of Florencia, Caquetá, for his alleged participation in acts that took place in 2002 and 2003.

Finally, the investigation is complicated by the geographical location and public order situation of the zone. Also, during the initial stages of the investigation, there was no conclusive testimony, because people were afraid owing to the presence of illegal agents. Subsequently, the cases were incorporated into the Special Committee for the Promotion [of Human Rights Investigations], created by the Vice President of the Republic as a public policy project within the framework of the fight against impunity, composed of the Attorney General's Office, Judges of the Republic, and the Prosecutor General's Office, assisted by the Office of the United Nations High Commissioner for Human Rights in Colombia, with international cooperation resources.

2. Jaime Jaramillo Panneso, Peace and Culture Adviser of the Antioquia Governor's Office

"About 15 to 20 families" may have been displaced from El Aro, owing to the raid of October 1997.

The Governor's Office gave food to those who were displaced and offered them protection and help to return to their homes. Since the families were dispersed, it was difficult to find and assist them. Some of the help was provided in coordination with the Social Solidarity Network.

The Antioquia Governor's Office, through the security councils, coordinated the actions of law enforcement personnel, and promoted the work with the Offices of the Prosecutor General, the Ombudsman and the Attorney General. This is what the Governor called REDIS (Safety Information Networks), in which not only of members of law enforcement bodies participated, but also control and investigation agencies.

EXPERT EVIDENCE

a) Expert evidence proposed by the representatives

1. Bjorn Pettersson, independent human rights consultant, particularly on the issue of internal displacement

Based on his many interviews and field visits, he concluded that: (a) the authorities did not adopt preventive measures, even though they knew that paramilitary groups were raiding Ituango; (b) the Ituango massacres were perpetrated by paramilitary groups acting in conjunction with the

Colombian Armed Forces or, at least, with the latter's acquiescence or tolerance, and (c) a large number of people were forced to displace without emergency assistance, or State support for resettlement and voluntary reintegration.
The acts allegedly perpetrated by paramilitary groups, such as mutilation and other tortures following by extrajudicial execution, were carried out with "extreme cruelty."
The paramilitary group involved remained in the area for several days, receiving military and logistic support from the Colombian Armed Forces.

Regarding the forced displacement, according to local laws and also international norms, the Colombian State was obliged to: (a) prevent the massacre and displacement; (b) investigate the violent acts, and prosecute and punish those responsible; (c) protect the displaced from additional violations; (d) provide the displaced with humanitarian assistance as regards nutrition, housing, health care, education and clothing, and (e) ensure their safe and voluntary return home and local reintegration, or resettlement in another part of the country.
The displaced population did not have access to health care, nutrition, housing and educational services.
The measures taken by the State to help the displaced return to their original communities were implemented without guaranteeing the minimum conditions of security and before the causes of the displacement had been eliminated.
The possibility of the displaced inhabitants of Ituango returning was not feasible owing to the presence of paramilitary groups in the north of Antioquia, and the collaboration of certain sectors of the Colombian Armed Forces.
The main mechanisms for implementing the State's obligations towards the displaced are: (a) the competent authorities have the obligation to establish ways and means of ensuring safe and acceptable conditions for the voluntary return of the displaced to their homes or their voluntary resettlement in another part of the country and (b) the State has the obligation to make reparation to those displaced from Ituango who are unable to return and recover their lost possessions.
At the domestic level, Decree No. 2569 of December 12, 2000, introduced a possible end to the status of displaced persons and referred to the elimination of the Displaced Persons' Register. In its judgment T-327 of March 26, 2001, the Colombian Constitutional Court ruled in favor of the displaced persons who were not allowed to register on the Displaced Persons' Register. In this judgment, it made a difference between the "status of displaced" and the "actual situation causing displacement." The former was a requirement for access to Government support and required formal certification as a displaced person, while the latter corresponded merely to a de facto situation, which did not have to be certified by the Government. Also, displacement is not limited in time, so that a person continues to be displaced until he can return home in secure conditions and when the reasons for his displacement have been eliminated in the area from which he was expelled.

2. Alfredo De los Ríos, psychiatrist

The next of kin of the alleged victims suffered psychological and physical effects, such as: anxiety, problems at school, nervousness, depression, feelings of loneliness and distress, resentment, anger, bitterness, sadness, lack of energy, loss of appetite, fear, confusion, insomnia, pessimism, lack of the will to live, and a desire to die.

Displacement affects the normal mourning process of the victims' next of kin, because they live in remote places and the families are dispersed; this prevents them from performing collective acts, rites and commemorations, and establishing a connection with places and objects related to their deceased family members.
Most of the alleged victims who died in El Aro and La Granja were men. The displacement produced by the death of the main family member in these villages affected not only their wives and children, but often the nephews and nieces and the grandchildren too, because everyone felt threatened and fearful as a result of the attack.
The abrupt financial loss and the feelings of terror, arbitrariness, impotence and defenselessness caused additional traumatic effects, over and above the accumulated anger and bitterness against those who perpetrated the tragedy, and also against the agencies who should have avoided it or whose function was to provide protection.
The life project of the next of kin has been truncated. Many of the children of the alleged victims had to drop out of school and begin to work to help the family survive.
The failure to clarify the facts becomes a factor that increases the feeling of injustice and abandonment by the State.
The psychological effects on the next of kin of the alleged victims could be treated and improved by the intervention of mental health experts.

b) Expert evidence proposed by the State

1. Hernán de Jesus Sanín Posada, Superintendent of Private Security and Surveillance of Colombia

The first paragraph of Article 365 of the Constitution establishes the State's policy concerning private security and surveillance as a public service inherent in the social purposes of the State. Its regulation, control and monitoring are reserved to the State by constitutional provisions. Since it is a public service, it can be provided directly by the State or indirectly through organized groups or individuals.
Private security and surveillance services are regulated by the Private Security and Surveillance Superintendence Act. These services are defined as remunerated activities or activities for the benefit of a public or private organization established by natural or legal persons that tend to prevent or put a stop to disruptions of individual peace and security with regard to their own life and property or that of third parties, and also the manufacture, installation, marketing and use of private security and surveillance equipment, armor plating and transport for this purpose. The means of providing private security and surveillance services must be authorized by law and/or the Superintendence of Private Security and Surveillance.
When the service is provided indirectly by the State, through organized groups or individuals, the State exercises control and monitoring to guarantee its effectiveness. Decree 2453 of 1993 defines its organic structure, objectives, functions and sanctions regime.
The Superintendence's authority to apply the sanctions regime arises from its status as a senior administrative police authority for guaranteeing the effective and adequate provision of the services monitored.
Resolution 368 of April 27, 1995, established technical and legal criteria and indicated a procedure for establishing private security and surveillance services, such as the "special" ones mentioned in Article 39 of Decree 356 of 1994. According to this administrative decree, legal

persons under public or private law authorized to provide this type of service to protect themselves will be known as “Convivir.” The purpose of the specific denomination was to guarantee effective control and monitoring of the achievement of the objectives and activities of this type of legal person.
Resolution 368 of 1995 was revoked by Resolution 7164 of October 22, 1997, because it was considered that the Superintendence did not have the authority to assign a name to the private security and surveillance services. However, it maintained the Superintendence’s control and monitoring functions by confirming the procedural regulations for establishing these special services.
The existence of the special private security and surveillance services referred to in Article 39 of Decree 356 of 1994 and Decree 2974 of 1997 was based on exceptional circumstances of threat and risk to communities. Owing to progress in protection and security, the need for this type of services has declined considerably. Thus, today, there are only three legal persons authorized to provide this type of special services. It is worth noting that, as the bodies responsible for public order and the police service in their regions, the local administrative authorities constituted by direct vote play a special role in granting permits and licenses for the provision of these special services, since they are only granted following approval by these authorities. To ensure that the private security and surveillance services remain within the framework of the Constitution and the law, the Superintendence exercises strict control and monitoring by meticulously ensuring that they fulfill the requirements and conditions for obtaining operating permits and licenses for all surveillance services, and also by carefully reviewing implementation of the activities of the authorized service and verifying that the requirements are updated and the permits and licenses renewed.
While continuing to perform these activities, the Superintendence will soon be undergoing a legal and administrative restructuring that will provide it with improved human, technical and physical resources to strengthen controls and society’s confidence in the professional and technical quality and efficiency of the private security and surveillance sector.

B) TESTIMONIAL AND EXPERT EVIDENCE

111. On September 22 and 23, 2005, the Court received the statements of the witnesses and expert witnesses proposed by the parties at a public hearing. Since several witnesses asked that their identity should kept confidential, for fear of reprisals owing to their statements, the Court will now make a general summary of these statements avoiding allusions that could lead to the identification of those testifying and their next of kin. The Court will also summarize the expert opinions.

TESTIMONIES

a) Witness proposed by the Inter-American Commission [FN29]

Prior to October 1997, El Aro was a village with around 700 or 800 inhabitants. The paramilitary presence in the district began in 1996.
On October 25, 1997, some “paramilitary troops” arrived in El Aro and shots were heard at the entrance to the village. Among the troops was a member of the Army known as “Rambo.” The

armed group wore Army uniform with dark green clothing. Some of them had a military emblem on their shirts that read “National Army, Girardot Battalion.”
The witness was obliged to bring equipment from a nearby farm known as “El Paraíso” and to unload mules carrying other equipment and the bodies of individuals that the group had killed along the way. That night, the armed group raped three or four women. The following day, they were allowed to bury the bodies of the villagers who had been executed up until that time. El Aro was totally destroyed. There were from “90 to 100 houses in the village.”
The armed group stole the possessions from the homes of the inhabitants of El Aro and a great many head of livestock. The people were obliged to herd their own livestock. They asked for help from an Army troop that was in “El Socorro” to confiscate the stolen livestock. The Army officers answered that the livestock “had already been confiscated” and that they should proceed peacefully to Puerto Valdivia, where there were about “800” displaced people. One night the Army started shooting, so everyone shut themselves up in their homes. The livestock were then taken through El Aro on the way to another location. The witness lost his livestock, his home, his work and all his belongings.

[FN29] The Inter-American Commission and the witness requested that the name should remain confidential for reasons of safety.
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b) Witnesses proposed by the representatives [FN30]

In the 1990s, different actors intervened in the existing conflicts in the area of the Municipality of Ituango. The FARC guerrilla had been “established in the daily life of the Municipality and [of] the State’s forces, represented by the Army and the Police,” for about 10 or 12 years.
In view of this situation, a departmental government council was established to deal with the issue of security in the Municipality. Subsequently, various ranchers and some political leaders proposed that “the Convivir associations” should be established in Ituango; these were “paramilitary groups” operating within a legal framework. These associations were defined as “private security cooperatives” and had the full support of the Army and the Police. After they had been established, a large number of disappearances began to occur and more than 200 deaths were recorded, as this was “the modus operandi of the paramilitary groups.”
On June 11, 1996, armed men came to one of the houses in the village and, having forced the front door, one of them went inside and seized Héctor Hernán, who was mentally retarded, by the arm. It all happened within a question of minutes. A shot was heard followed by the moans of Héctor Hernán. There was no civil or military authority in La Granja when the facts occurred. The alleged victims of La Granja did not receive any help subsequently from the State. Some of the inhabitants’ children left the district, which has made it difficult for the families to get together frequently.
After the El Aro massacre in 1997 there was massive displacement and the conditions have not been safe enough to return.

[FN30] The representatives and the witnesses themselves requested that their names should remain confidential for reasons of safety.

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c) Witness proposed by the State

1. Germán Saavedra Prado, member of the Colombian Army

In 1995, he was a Major in the Army and worked as an S3 officer of the Girardot Battalion, in the Department of Antioquia.
The Municipality of Ituango is located in the Western Cordillera and is a strategic location, because it facilitates the movement of illegal groups to other departments. This is why these groups are concentrated in the zone and can easily gather 800 individuals and make incursions in different localities. Moreover, at that time, poppy growing was widespread and this resulted in a dispute for control of the area.
It was well know that paramilitary groups were present in the region of Antioquia. The situation became "difficult," owing to the menace represented by these illegal groups.
At that time, the Girardot Battalion did not have the capacity "to control the territory, because the area under its control [...] was very extensive." Since there had been a "guerrilla incursion" in the zone in 1995, about 18 to 20 kilometers from La Granja, a military company of approximately 120 men had been established to conduct operations in different sectors of the Municipality of Ituango. The normal time for traveling to La Granja was five, six or seven days, depending on the level of danger; and easily about 15 days to El Aro. When they received word from the civilian population that there was imminent danger, the military authorities first had to analyze the dangers and threats and then apply "the norms established for deployment in an operations order." It could take from eight days to a month to plan an operation, depending how the Battalion received the information and the number of sources. Further information was sought from the civilian population, but it was not possible "to oblige the civilian population to [carry out] military or tactical actions."

EXPERT EVIDENCE

d) Expert witness proposed by the Inter-American Commission

1. Rodrigo Uprimny Yepes, lawyer

Different types of proceedings can be filed in Colombia's administrative jurisdiction; the most important are: the action for annulment, the action for annulment and for reinstatement, and also the action for direct reparation. The "action for annulment" is used to request annulment of an administrative act based on different factors established by law. This public civil action does not extinguish. The "action for annulment and reinstatement" can be used by an individual to request not only the annulment of the administrative act, but also the reinstatement of his right and, possibly, reparation. This action extinguishes four months after notification of the corresponding administrative act. An individual can use the action for "direct reparation" to sue the State in the administrative jurisdiction in order to obtain a declaration of responsibility for an illegal damage that the victim should not have to endure, and an order of reparation consisting in financial compensation.

Based on the events examined in the instant case, it would appear that the appropriate action to file would be the "action for direct reparation," which extinguishes two years after the events have occurred.

The administrative jurisdiction has had some "successes" in the area of human rights. There is a "certain similarity between the administrative jurisdiction and the international human rights jurisdiction." However, the administrative recourse of direct reparation "is not an appropriate substitute" for the international human rights jurisdiction, because it has obvious limitations, owing to its nature, regulation and actual functional limitations

The first of these limitations refers to the grounds for the declaration of responsibility in the administrative jurisdiction. These grounds are limited, because "international human rights obligations and standards are not obligatorily examined" in this jurisdiction. To the contrary, the administrative proceeding determines whether "a damage has been caused that can be attributed to the State and, in accordance with the Constitution, whether this damage is illegal. However, the concept of illegal damage does not signify damage derived from an illegal action by the State, but damage that the victim should not have to endure, whether this damage stems from a legal or illegal action of the State." This is different from when the violation of a human rights obligation is declared. Even when a ruling of the Council of State declares that the Nation is responsible for the death of a specific individual, it cannot be understood as a declaration of the State's responsibility for violating the right to life because, for example, it may relate to an unfortunate traffic accident where the State must provide reparation, but there is no real violation of the right to life. The State is declared responsible for the death, but not for the "violation of a specific article of the Constitution or a specific article of a human rights treaty."

The second limitation refers to the symbolic significance and the specific legal function of the declaration of responsibility in the administrative jurisdiction. Regarding the symbolic significance of this declaration, one of the reparations that the victims seek in an international human rights court is precisely that the State's responsibility is acknowledged. This does not happen in the administrative jurisdiction, and the declaration of responsibility is devalued because it is not obligatorily a human rights-related reprimand or a rehabilitation of the victims, but a finding that an illegal damage has occurred that must be repaired. Thus, a declaration due to an accident that can be attributed to an act of the Administration and a declaration of the State's responsibility for forced disappearance have the same effect. In relation to the specific legal function of the said declaration of responsibility, contrary to an international human rights court, the Council of State does not establish the scope of the State's obligations "in order to guide its future actions."

A third limitation refers to the type of judicial remedy that the administrative jurisdiction establishes when it declares State's responsibility for an illegal act: financial compensation. This type of reparation is limited in comparison with the concept of reparation established in international law, which involves not only compensation, but also restitution, reparation, rehabilitation and guarantee of non-repetition.

A fourth limitation is specifically related to the guarantees of non-repetition, because the administrative jurisdiction does not establish measures to this end; consequently, it cannot be considered an instance for adequately achieving this type of guarantee. Also, it is not possible to order the re-opening of a disciplinary investigation in this jurisdiction.

Lastly, some "actual functional limitations" relating to problems of "access" and "congestion and delays" must be added to the preceding limitations relating to the legal nature and regulation of the administrative proceeding. Regarding access, the action for reparation is never de oficio, it

must be filed by a lawyer and in a specific district, which only operates in the departmental capitals, "often very far away from the place where the most severe human rights violations in Colombia occur." Moreover, the State does not have administrative judges; they "have been established by law, but this has never been implemented." Although the Ombudsman's Office exists and provides lawyers to the impecunious who are defendants in criminal proceedings, the State does not provide legal assistance to impecunious victims so that they may file an action for direct reparation. Regarding the problems of congestion and delay, it is apparent from the report of the Superior Council of the Judicature that, on average, approximately 13 years are required to reach a final decision in cases in the administrative jurisdiction.

The action for direct reparation in the administrative jurisdiction fulfils an important democratic function in Colombian society, in that it is a kind of collective insurance for damage, focused on financial compensation, since, at times, this can be very important to mitigate the lack of justice in human rights violations; however, that does not make it an appropriate mechanism to repair serious human rights violations as understood by international case law and legal doctrine.

In Colombia, conciliation is possible in the administrative jurisdiction, but if a simple declaration of the State's extra-contractual responsibility as satisfaction for the victims is already inadequate as a judicial remedy according to human rights standards, a conciliation hearing and the symbolic value of a declaration of responsibility arising from this is even less adequate.

The criminal jurisdiction is the appropriate instrument to guarantee integral reparation in Colombia, including the obligation to investigate and sanction those responsible in cases of human rights violations, complying with the guarantee of non-repetition. If recourse is had to the administrative jurisdiction alone, there is a possibility of achieving the "perverse effect of a sort of standardization of the costs of human rights violations."

Although there could be some complementarity between an international human rights court and the administrative jurisdiction, in that a pecuniary reparation granted to a victim in the domestic sphere could be taken into account by the international court in order to avoid double compensation, this complementarity does not convert the action for reparation "into an appropriate action for integral reparation of serious human rights violations" and, thus, "would not constitute a judicial remedy that needs to be exhausted."

e) Expert witness proposed by the State

1. Hernando Torres Corredor, lawyer

A constitutional response to shortcomings in the effectiveness of the administration of justice was promulgated in 1991. Thus, the 1991 Constitution gave rise to "either transformations, or the creation of new institutions." This Constitution integrates domestic law and international law. The changes made were not merely of a juridical and structural nature, but also in relation to the strategies of the State mechanisms. Thus, the Colombian Constitutional Court, the Superior Council of the Judicature and the Prosecutor General's Office were created; in addition, the Ombudsman's Office was improved, and the Attorney General's Office transformed. The new Constitution allowed a new Code of Criminal Procedure to be drafted and, since then, a new path has been traced which, over the past 15 years has enabled the country to pass from an "inquisitorial system to a mixed accusatory [...] system, [and finally] to a purely accusatory [...] system."

The administrative jurisdiction is collective and composed of a Council of State which has three chambers: a general chamber, an administrative chamber, and a consultation and civil service chamber. The following actions may be filed in this jurisdiction: for annulment, for annulment and re-establishment of the right, direct reparation and contractual reparation. When referring to a reasonable time in this jurisdiction, it is important to take into account the workload of the judges of the administrative courts.
The conciliation mechanism, as an alternate method of settling disputes, has had some success in alleviating the heavy congestion. Conciliation is established not only in the administrative jurisdiction, but also in the criminal jurisdiction. In the case of human rights, conciliation has the effect of res judicata.
With regard to decisions on direct reparation for illegal damage, under current legislation the judges of the administrative jurisdiction face several barriers to ruling outside the framework of the claims formulated, but case law is opening up the way to do so.
Non-pecuniary reparations may be ordered by way of the action for direct reparation, according to the Constitution, respecting the parameters of international legislation on the integral reparation of damage. The expert witness does not know of any judgment of the Council of State in which the investigation, prosecution and sanction of those responsible for human rights violations has been ordered.
The average duration of the action for direct reparation is from five to seven years. On appeal, proceedings may take from four to eight years on average. Owing to the length of the judicial delay, the Council of State has formed a legislative committee to review the Code of Administrative Law.
In an administrative action for direct reparation, the administrative courts are not able to order non-repetition of the conduct that violates human rights, or the criminal prosecution of the perpetrators or, among other measures, non-pecuniary reparation, or the erection of monuments. However, the expert witness considers that the legal scenario is ready to take this route, although this has not yet occurred.

C) ASSESSMENT OF THE EVIDENCE

Assessment of the documentary evidence

112. In this case as in others, [FN31] the Court accepts the probative value of the documents presented by the parties at the proper procedural opportunity or as helpful evidence in accordance with Article 45(2) of its Rules of Procedure, which were not contested or opposed, and whose authenticity was not questioned.

[FN31] Cf. Case of Baldeón García, supra note 5, para. 65; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 36; and Case of Acevedo Jaramillo et al., supra note 12, para. 189.

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113. Regarding the statements made before notary public by the witnesses and expert witnesses proposed by the parties (supra para. 110), in accordance with the provisions of Article 47(3) of the Rules of Procedure and as requested by the President in his orders of July 28, 2005,

and August 19, 2005 (supra paras. 23 and 28), the Court admits them to the extent they are in keeping with the purpose established in the orders and assesses them with the body of evidence, applying the rules of sound criticism and bearing in mind the observations of the parties (supra paras. 29, 38 and 39).

114. Regarding the sworn statements that were not made before notary public by the witnesses proposed by the Commission and the representatives, and also by the expert witnesses proposed by the representatives, the Court admits them to the extent they are in keeping with the purpose defined in the order of July 28, 2005, and assesses them together with the body of evidence, applying the rules of sound criticism and bearing in mind the objections submitted by the State (supra para. 36). On other occasions, the Court has admitted sworn statements that were not made before notary public, when this does not affect the legal certainty or the procedural equality of the parties. [FN32]

[FN32] Cf. Case of Baldeón García, supra note 5, para. 67; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 42; and Case of Acevedo Jaramillo et al., supra note 12, para. 191.

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115. The representatives objected to the expert opinion given before notary public (affidavit) by Hernan de Jesús Sanín Posada, presented by the State, arguing that some of the conclusions reached by the expert witness were not true (supra para. 38). In this regard, the Court admits this expert opinion to the extent that it is in keeping with the purpose defined in the order of July 28, 2005, and assesses it with the body of evidence, applying the rules of sound criticism and bearing in mind the objections raised by the representatives.

116. The Commission objected to the statement made before notary public (affidavit) by Jorge Armando Otalora Gómez, presented by the State, with regard to "the recital of the facts on pages 1 to 7 concerning the events in La Granja, and pages 7 to 13, [since] they did not constitute testimony," and, consequently, stated that "the facts referred to there should be accepted as proven only to the extent that the Court has the judicial documentation in which they are recorded" (supra para. 39). In this respect, the Court admits this statement to the extent that it is in keeping with the purpose defined in the order of July 28, 2005, and assesses it with the body of evidence, applying the rules of sound criticism and bearing in mind the objections raised by the Commission.

117. The representatives objected to the statements made before notary public (affidavits) by Jorge Armando Otalora Gómez and Jaime Jaramillo Panneso, presented by the State, because they were time-barred, having been submitted one day after the time limit for their presentation had expired (supra para. 38). In this regard, the Court considers that, although these statements were presented on September 9, 2005, while the time limit for their presentation had expired on September 8, 2005, this delay does not affect the legal certainty and procedural equality of the parties. Therefore, the Court admits these statements to the extent that they are in keeping with the purpose defined in the order of July 28, 2005, and assesses them with the body of evidence,

applying the rules of sound criticism and bearing in mind the objections raised by the representatives.

118. The Court considers useful for deciding this case the documents presented by the representatives on September 23, 2005 (supra para. 43), which consist of powers of attorney, identity cards, a marriage certificate, and also baptismal certificates and birth certificates of some of the alleged victims and their next of kin; particularly, as they were not contested or opposed and their authenticity and veracity were not contested. The Court therefore adds them to the body of evidence, in keeping with Article 45(1) of the Rules of Procedure.

119. The Court considers useful for deciding this case the documents presented by the State and the representatives during the public hearing on September 22 and 23, 2005 (supra para. 43), as well as other documents presented as attachments to their respective final argument briefs (supra paras. 47 and 49); particularly, as they were not contested or opposed and their authenticity and veracity were not contested, The Court therefore adds them to the body of evidence, in keeping with Article 45(1) of the Rules of Procedure.

120. Regarding the documents forwarded as useful evidence by the State and the representatives on October 24 and 25, 2005 (supra paras. 47 and 49), respectively, and also those forwarded on June 28 and 29, 2006, by the State and the representatives (supra para. 52), respectively, the Court incorporates them into the body of evidence in this case in application of the provisions of Article 45(2) of the Rules of Procedure.

121. In relation to both merits and reparations, the statements of the alleged victims, as well as those of their next of kin, are useful to the extent that they can provide more information on the alleged violations that may have been perpetrated and their consequences. However, since the alleged victims or their next of kin have a direct interest in this case, these statements must be assessed together with all the evidence in the case and not in isolation. [FN33]

[FN33] Cf. Case of Baldeón García, supra note 5, para. 66; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 37; and Case of Acevedo Jaramillo et al., supra note 12, para. 203.

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122. In the case of the newspaper articles submitted by the parties, the Court considers that they can be assessed to the extent that they refer to well-known public facts or statements by State officials, or corroborate aspects related to the case. [FN34]

[FN34] Cf. Case of Baldeón García, supra note 5, para. 70; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 45; and Case of Acevedo Jaramillo et al., supra note 12, para. 199.

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123. In application of the provisions of Article 45(1) of the Rules of Procedure, the Court incorporates into the body of evidence in the instant case, the following evidence already assessed in the "Mapiripán Massacre" case, because it is useful to decide this case: Act 48 of December 16, 1968, Legislative Decree No. 3398 of December 24, 1965, and Decrees Nos. 0180 of January 27, 1988, 0815 of April 19, 1989, 1194 of June 8, 1989, 3030/90 of December 14, 1990, 2266 of October 4, 1991, 324 of February 25, 2000, 128 of January 22, 2003, 3360 of November 24, 2003, 2767 of August 31, 2004, and 250 of February 7, 2005; and Acts 387 of July 18, 1997, 200 of 1995, 548 of December 23, 1999, 782 of December 23, 2002, and 418 of December 26, 1997; the judgments of March 17, 1998, issued by the Superior Military Tribunal; May 25, 1989, delivered by the Supreme Court of Justice; April 14, 1998, issued by the Tribunal Nacional; May 28, 1997, delivered by the Cúcuta Regional Court; C-225/95 of May 18, 1996, delivered by the Colombian Constitutional Court; all in Colombia; the report of the United Nations Special Rapporteur on summary or arbitrary executions on a visit to Colombia from October 11 to 20, 1989 (E/CN.4/1990/22/Add.1 of 24 January 1990); and the reports of the United Nations High Commissioner on Human Rights on the situation of human rights in Colombia of 1998, 2000, 2001, 2002, 2003, 2004 and 2005; the Economic and Social Council, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, E/CN.4/2005/48, 3 March 2005; Final observations of the Committee on the Rights of the Child: Colombia, 16/10/2000, CRC/C/15/Add.137, twenty-fifty session, Committee on the Rights of the Child; Report of the Special Representative of the Secretary General for Children and Armed Conflict. The United Nations General Assembly document A/54/430 of 1 October 1999; Report of the Inter-American Commission on Human Rights on the Demobilization Process in Colombia issued on December 13, 2004, OEA/Ser.L/V/II.120 Doc. 60; Displaced Persons' Register, accumulated number of persons displaced up until August 31, 2005; Alto Comisionado para la Paz en Colombia, Diálogos y Negociación, Grupos de Autodefensa; Informe Anual de Derechos Humanos y Derecho Internacional Humanitario 2002 [High Commissioner for Peace in Colombia, Dialogue and Negotiation, Self-Defense Groups: Annual Report on Human Rights and International Humanitarian Law, 2002] and Avances Período Presidencial 2003 [Progress during the Presidential Mandate, 2003], issued by the Ministry of National Defense of the Republic of Colombia; and expert opinion of Federico Andreu given before the Inter-American Court during the public hearing in the "Mapiripán Massacre" case on March 7, 2005.

Assessment of the testimonial and expert evidence

124. Regarding the statements made by the witnesses proposed by the Commission, the representatives and the State, and the expert witnesses proposed by the Commission and the State (supra para. 111), the Court admits them to the extent they are in keeping with the purpose established by the President in the order of July 28, 2005 (supra para. 23), and gives them probative value, bearing in mind the observations made by the parties. This Court considers that the testimony of the persons who were convened to the public hearing in this case (supra paras. 42) must be assessed together with all the evidence in the case and not in isolation since they are alleged victims and have a direct interest in the case.

VIII. PROVEN FACTS

125. Based on the State's acknowledgement of responsibility (supra paras. 19, 59, 63 and 64) and in accordance with the body of evidence in this case, the Court finds that the following facts have been proved: [FN35]

The internal armed conflict in Colombia and the illegal armed groups, known as "paramilitary groups"

[FN35] Paragraphs 125(1) to 125(103) of this judgment contain uncontested facts, which the Court considers have been established based on the State's acknowledgement of responsibility.

125(1) Beginning in the 1960s, different guerrilla groups emerged in Colombia and, owing to their activities, the State declared "that public order had been disrupted and national territory was in a state of siege." In view of this situation, on December 24, 1965, the State issued Legislative Decree No. 3398, which was of a transitory nature, but was adopted as permanent legislation by Act No. 48 of 1968. Articles 25 and 33 of this Legislative Decree provided a legal basis for the creation of "self-defense groups." [FN36] The main purpose of these groups was to assist the law enforcement bodies in anti-subversive operations and to defend themselves from the guerrilla groups. The State gave them permits to carry and own weapons, and also logistic support. [FN37]

[FN36] Cf. Legislative Decree 3398 of December 24, 1965; Act 48 of December 16, 1968; judgment delivered by the Superior Military Tribunal on March 17, 1998; and report of the United Nations Special Rapporteur on summary or arbitrary executions on a visit to Colombia from October 11 to 20, 1989, E/CN.4/1990/22/Add.1 of January 24, 1990.
[FN37] Cf. judgment delivered by the Tribunal Nacional on April 14, 1998; judgment delivered by the Superior Military Tribunal on March 17, 1998; judgment delivered by Cúcuta Regional Court on May 28, 1997; and report of the United Nations Special Rapporteur on summary or arbitrary executions on a visit to Colombia from October 11 to 20, 1989, E/CN.4/1990/22/Add.1 of January 24, 1990.

125(2) During the 1980s, mainly as of 1985, it was well-known that many "self-defense groups" changed their objectives and became criminal groups, usually known as "paramilitary groups." This happened first in the Magdalena Medio region and then extended gradually to other regions of the country. [FN38]

[FN38] Cf. Decree 0180 of January 27, 1988, "complementing some norms of the Penal Code and issuing other provisions leading to the re-establishment of public order"; Decree 0815 of April 19, 1989; Decree 1194 of June 8, 1989, "establishing new criminal categories concerning the armed groups commonly known as death squads, bands of hired killers or private justice groups"; judgment delivered by the Superior Military Tribunal on March 17, 1998; and report of

the United Nations Special Rapporteur on summary or arbitrary executions on a visit to Colombia from October 11 to 20, 1989, E/CN.4/1990/22/Add.1 of January 24, 1990.

125(3) On January 27, 1988, Colombia issued Legislative Decree No. 0180. This decree defined as a crime, inter alia, the membership, promotion and leadership of groups of hired assassins, and also the manufacture or trafficking of weapons and ammunition exclusively for the use of the Armed Forces or the National Police. The decree was later converted into permanent legislation by Decree No. 2266 of 1991. [FN39]

[FN39] Cf. Decree 0180 of January 27, 1988, "complementing some norms of the Penal Code and issuing other provisions leading to the re-establishment of public order"; and Decree 2266 of October 4, 1991.

125(4) On April 19, 1989, Decree No. 0815 was issued, suspending the effects of Article 33(3) of Legislative Decree No. 3398, which empowered the Ministry of National Defense to authorize private individuals to carry weapons for the exclusive use of the Armed Forces (supra para. 125(1)). Subsequently, in a judgment of May 25, 1989, the Supreme Court of Justice declared "unenforceable" the said Article 33(3) of Legislative Decree No. 3398 of 1965. [FN40]

[FN40] Cf. Decree 0815 of April 19, 1989; and judgment delivered by the Supreme Court of Justice on May 25, 1989.

125(5) On June 8, 1989, the State issued Decree No. 1194, "which added to Legislative Decree No. 0180 of 1988, penalizing new criminal activities, in the interests of restoring public order." This decree defined as a crime, inter alia, the membership, instruction, training, promotion, financing, organization, leadership, and encouragement of "armed groups commonly known as death squads, bands of hired killers or private justice groups, improperly called paramilitary groups." In addition, it stipulated that it was an aggravating circumstance of these conducts, if they were "committed by active or retired members of the Armed Forces, the National Police or State security agencies." The decree subsequently became permanent legislation by Decree No. 2266 issued on October 4, 1991. [FN41]

[FN41] Cf. Decree 1194 of June 8, 1989, "establishing new criminal categories concerning the activities of the armed groups, commonly known as death squads, bands of hired killers or private justice groups"; Decree 2266 of October 4, 1991, "adopting as permanent legislation some provisions issued in exercise of the faculties of the stage of siege."

125(6) On December 14, 1990, the State issued Decree No. 3030/90 “establishing the requirements for a reduction in sentence as a result of the confession of crimes committed before September 5, 1990.” [FN42]

[FN42] Cf. Decree 3030/90 of December 14, 1990, “establishing the requirements for a reduction in sentence as a result of the confession of crimes committed before September 5, 1990.”

125(7) On December 17, 1993, Decree No. 2535 was issued “establishing norms and requirements for the ownership and carrying of weapons, ammunition and explosives and their accessories [and] indicating the regime for private security and surveillance services.” Its article 9 establishes that “weapons of restricted use are weapons of war or for the exclusive use of law enforcement personnel, which, exceptionally, may be authorized for special personal defense based on the discretionary powers of the competent authority.” [FN43]

[FN43] Cf. Decree 2535 issued on December 17, 1993, “establishing norms on weapons, ammunition and explosives” (file of attachments to the requests and arguments brief, tome 3, Appendix H7, folio 3571 bis).

125(8) On February 11, 1994, the State issued Decree No. 356/94, the purpose of which was “to establish the statute for the provision of private surveillance and security services by private individuals.” Its article 39 considered that a private security and surveillance service was “special” when it had to use “weapons of restricted use” and “techniques and procedures that differed from those established for other private security and surveillance services.” In addition, it established that control by the Superintendence of Private Security and Surveillance was optional and the responsibility of the entity protected. [FN44]

[FN44] Cf. Decree 356/94 issued on February 11, 1994, “establishing the Private Security and Surveillance Statute” (file of attachments to the requests and arguments brief, tome 3, Appendix H8, folio 3597).

125(9) On April 27, 1995, the Superintendence of Private Security and Surveillance issued Resolution 368 establishing technical and legal criteria and procedures for the implementation of the special private security and surveillance services referred to in article 39 of Decree 356, calling these entities: “Convivir.” [FN45]

[FN45] Cf. Resolution 368 issued by the Superintendence of Private Security and Surveillance on April 17, 1995, “establishing technical and legal criteria and indicating procedures for the implementation of the special private security and surveillance services referred to in article 39

of Decree 356 of 1994" (file of attachments to the expert evidence given by Hernán Sanín Posada, folio 5230).

125(10) On July 6, 1995, the Colombian Constitutional Court declared, inter alia, "unenforceable" the expression "of war or for the exclusive use of law enforcement personnel," contained in article 9 of Decree 2535 of 1993 (supra para. 125(7)), finding that this provisions violated article 216 of the Constitution, because "individuals may never be allowed the possibility of substituting for law enforcement personnel." [FN46]

[FN46] Cf. judgment C- 296 delivered by the Colombian Constitutional Court on July 6, 1995 (file of observations on the affidavits, folio 5369).

125(11) On October 22, 1997, the Superintendence of Private Security and Surveillance issued Resolution 7164, revoking its previous Resolution 368 (supra para. 125(9)), considering that the Superintendence of Private Security and Surveillance did not have powers to assign a name to the private security and surveillance services; nevertheless, it maintained the objective of controlling and monitoring these entities. [FN47]

[FN47] Cf. Resolution 7164 issued by the Superintendence of Private Security and Surveillance on October 22, 1997 (file of attachments to the expert evidence given by Hernán Sanín Posada, folio 5232).

125(12) On November 7, 1997, having examined the provisions of Decree 356 of 1994, the Colombian Constitutional Court found, first, that although the State may delegate to individuals the provision of public security and surveillance services, the so-called "special private security and surveillance services" could not use arms of restricted use; second, that the control of the Superintendence of Private Security and Surveillance should be obligatory and not optional and, third, that they could not use "techniques and procedures that differed from those established for other private security and surveillance services." [FN48]

[FN48] Cf. judgment C-572 issued by the Colombian Constitutional Court on November 7, 1997 (file of observations on the affidavits, folio 5373).

125(13) On December 16, 1997, the State issues Decree No. 2974, whose purpose was to establish parameters and criteria for implementation of the activities of special services and community services of private security and surveillance, which would allow the Superintendence of Private Security and Surveillance to exercise effective and timely control over them. [FN49]

[FN49] Cf. Decree 2974 issued on December 16, 1997, "regulating special services and community services of private security and surveillance" (file of attachments to the expert evidence given by Hernán Sanín Posada, folio 5224).

125(14) On December 26, 1997, the State promulgated Act 418 "embodying various instruments seeking peaceful coexistence and effective justice, and ordering other provisions." This law was extended by Act 548 of December 23, 1999, and Act 782 of December 23, 2002. [FN50]

[FN50] Cf. Act 418 issued on December 26, 1997, "embodying various instruments seeking peaceful coexistence and effective justice, and ordering other provisions"; Act 548 of December 23, 1999 "extending the duration of Act 418 of December 26, 1997, and ordering other provisions"; and Act 782 of December 23, 2002 "extending the duration of Act 418 of 1997, extended and modified by Act 548 of 1999 and modifying some of its provisions."

125(15) On February 25, 2000, Decree No. 324 was issued "establishing the center for coordinating the fight against the illegal self-defense groups and other illegal groups." [FN51]

[FN51] Cf. Decree 324 issued on February 25, 2000, "establishing the center for coordinating the fight against the illegal self-defense groups and other illegal groups."

125(16) In August 2002, some of the leaders of the United Self-Defense Forces of Colombia (hereinafter "the AUC") announced their intention of negotiating terms for the demobilization of their forces. [FN52]

[FN52] Cf. Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia of February 17, 2004, E/CN.4/2004/13, para. 13; Alto Comisionado para la Paz en Colombia, Diálogos y Negociación, Grupos de Autodefensa, en http://www.altocomisionadoparalapaz.gov.co/g_autodefensa/dialogos.htm, and Report of the Inter-American Commission on Human Rights on the demobilization process in Colombia of December 13, 2004, OEA/Ser.L/V/II.120 Doc. 60, para. 75.

125(17) On January 22, 2003, the State issued Decree 128, which established "legal and socio-economic benefits" as well as other types of benefits for the "illegal armed organizations" that accepted the demobilization program. Article 13 of the decree established that:

[…] Members of illegal armed organizations who demobilize and, regarding whom the Operational Committee on Disarmament (CODA) has issued a certification, shall have a right to pardon, conditional suspension of the execution of sentence, cessation of the proceedings,

preclusion of the investigation or writ of prohibition, according to the status of the proceedings […]

125(18) Article 21 of this Decree excluded from the enjoyment of these benefits:

Those who are being prosecuted or who have been convicted of crimes that, according to the Constitution, the law, or international treaties signed and ratified by Colombia, may not receive this type of benefit. [FN53]

[FN53] Cf. Decree 128 issued on January 22, 2003, "regulating Act 418 of 1997, extended and modified by Act 548 of 1999 and Act 782 of 2002 concerning reincorporation into civil society".

125(19) On November 24, 2003, the State issued Decree 3360 "regulating Act 418 of 1997, extended and modified by Act 548 of 1999 and by Act 782 of 2002." According to one of the preambular paragraphs, "special procedures shall be established to facilitate the collective demobilization of illegal organized armed groups within the framework of agreements with the national Government." [FN54]

[FN54] Cf. Decree 3360 issued el November 24, 2003, "regulating Act 418 of 1997, extended and modified by Act 548 of 1999 and by Act 782 of 2002".

125(20) On August 31, 2004, the State issued Decree 2767. One of the preambular paragraphs states that "conditions must be established that, clearly and precisely, allow spheres of competence to be established, functions assigned and procedures developed for acceding to the benefits referred to in Act [418 of 1997, extended and modified by Act 548 of 1999 and by Act 782 of 2002], once the voluntary demobilization procedure starts." [FN55]

[FN55] Cf. Decree 2767 issued on August 31, 2004, "regulating Act 418 of 1997, extended and modified by Act 548 of 1999 and Act 782 of 2002 concerning reincorporation into civil society."

125(21) On July 15, 2003, the Santa Fe de Ralito Agreement was signed, in which the Government and the AUC agreed to the total demobilization of these forces before December 31, 2005. In 2003, the AUC had approximately 13,500 members. On November 25, 2003, 874 members of the AUC "Bloque Cacique Nutibara" handed over their weapons. At the beginning of December 2004, about 1,400 members of the "Catatumbo" Front were demobilized and, including this figure, at the end of 2005, approximately 7,000 members of different AUC groups had laid down their weapons. [FN56]

[FN56] Cf. Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia of February 17, 2004, E/CN.4/2004/13, para. 13; Alto Comisionado para la Paz en Colombia, Diálogos y Negociación, Grupos de Autodefensa, en http://www.altocomisionadoparalapaz.gov.co/g_autodefensa/dialogos.htm; Report of the Inter-American Commission on Human Rights on the demobilization process in Colombia of December 13, 2004, OEA/Ser.L/V/II.120 Doc. 60, paras. 56, 75 and 94, and Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2005/10, February 28, 2005, Introduction

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125(22) On June 22, 2005, the Congress of the Republic of Colombia adopted Act No. 975, called the "Justice and Peace Act," "with provisions for the reincorporation of members of illegal organized armed groups, who make an effective contribution to achieving national peace, and other provisions concerning humanitarian agreements." It was ratified and published on July 25, 2005. [FN57]

[FN57] Cf. Act 975 issued on July 25, 2005, "with provisions for the reincorporation of members of illegal organized armed groups, who make an effective contribution to achieving national peace and other provisions concerning humanitarian agreements."

125(23) It is considered that the paramilitary groups are responsible for numerous murders committed for political motives in Colombia and for a significant percentage of the general human rights violations. [FN58]

[FN58] Cf. Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2005/10, February 28, 2005, para. 8, and Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2001/15, March 20, 2001, paras. 29 and 30.

125(24) As of 1997, numerous cases of links between paramilitary groups and members of law enforcement bodies in relation to facts similar to those that occurred in the instant case have been documented in Colombia, as well as acts of omission by members of law enforcement bodies in relation to the actions of these groups. According to the 1997 report of the Office of the United Nations High Commissioner for Human Rights, acts committed by the paramilitary groups constituted most of the human rights violations reported in the country in 1997, and included massacres, forced disappearances and the taking of hostages. [FN59]

[FN59] Cf. Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2001/15, March 20, 2001, paras. 131, 134 and 254; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2005/10, February 28, 2005, paras. 9, 45, 61, 73, 84, 87, 112 to 116; Report

of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2004/13, February 17, 2004, paras. 22, 24, 26, 59, 65 and 73; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2003/13, February 24, 2003, paras. 34, 74 and 77; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2002/17, February 28, 2002, paras. 202, 211, 356 and 365; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2000/11, March 9, 2000, paras. 25 and 111; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/1998, March 9, 1998/16, paras. 21 and 29; and Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/1998/16, March 9, 1998, paras. 27, 28, 29, 34, 42, 46 and 88.

125(25) The impunity of the violations of human rights and international humanitarian law committed by the paramilitary groups and the connivance between these groups and law enforcement bodies is a consequence of criminal proceedings and disciplinary investigations filed against them that failed to establish responsibilities or the corresponding sanctions. [FN60]

[FN60] Cf. Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2005/10, February 28, 2005, paras. 61 and 92; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2004/13, February 17, 2004, paras. 26, 27, 28, 34 and 77; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia in 2002, E/CN.4/2003/13, February 24, 2003, para. 77; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2002/17, February 28, 2002, para. 211, 212 and 365; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia in 2000, E/CN.4/2001/15, March 20, 2001, paras. 57, 142, 206 and 254, and Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2000/11, March 9, 2000, para. 27, 47, 146 and 173.

Concerning the historical context of Ituango

125(26) The Municipality of Ituango is located in the northern zone of the Department of Antioquia in Colombia and is divided into the municipal districts of La Granja, Santa Rita and El Aro.

125(27) The economy of Ituango is pre-eminently agricultural.

125(28) The increasing incursion of dissident armed groups in the zone led to a similar escalation in the activity of the structures known as paramilitary or “self-defense” groups, as well as an increased presence of the National Army.

125(29) In 1996, troops of Infantry Battalion No. 10 “Colonel Atanasio Girardot” were based in the Municipality of Ituango. In addition to the National Army, the Municipality of Ituango also had a Police Station with approximately 20 agents.

A. Facts concerning La Granja

i) The armed incursion

125(30) During the first months of 1996, different sectors of society, headed by Dr. Jesús María Valle Jaramillo, reported their fears and concerns about the possibility of a armed paramilitary incursion in the zone of Ituango to the departmental authorities.

125(31) In this regard, Army Lieutenant Jorge Alexander Sánchez Castro indicated, during a meeting of the Municipal Security Council on May 14, 1996, that the Army had set up roadblocks in strategic locations in the area to monitor all the entrances to the town.

125(32) On June 10, 1996, the Commander of the Girardot Battalion ordered the withdrawal of most of the units that were operating in the zone and their deployment in the sector of Santa Lucía and other villages far from La Granja.

125(33) On June 11, 1996, about 22 men, heavily armed with pistols and revolvers, members of a paramilitary group, drove to the municipality of Ituango in two trucks, specifically to the municipal district of La Granja. The paramilitary group set out from the proximity of the municipality of San Andrés de Cuerquia, where they passed close to a police station, without the police doing anything to stop them.

125(34) The paramilitary group were also seen on several occasions along the way, first by the passengers of a public transport bus on the route between Medellín and Ituango, then by the passengers of the bus that traveled that route in the opposite direction, and by the inhabitants of a place known as El Filo de la Aurora, where the group stayed for about two hours.

125(35) When they reached the municipal district of La Granja, the members of the paramilitary group ordered the closure of all public establishments. When the paramilitary group had taken control of the district, they began a chain of selective executions, without any opposition from law enforcement bodies and in full sight of the district’s inhabitants.

ii) Persons executed in La Granja

125(36) First, during the afternoon of June 11, 1996, the illegal armed group went to the workplace of William de Jesús Villa García, where he was killed by bursts of machine gun fire after being hit by ten bullets. At the time of his death, William de Jesús Villa García was 25 years of age; he was married to Miryam Henao Carmona, and worked as a bricklayer. His parents were Alfredo Villa Zuleta and Carmen Emilia García. [FN61]

[FN61] Cf. death certificate of William de Jesús Villa García (file of attachments to the requests and arguments brief, tome II, folio 3192).

125(37) Then, the same day, the paramilitary group burst into the home of Adán Enrique Correa, where they proceeded to murder Héctor Hernán Correa García, as a result of multiple bullet injuries. Héctor Hernán Correa García was 37 years of age; [FN62] he did farm work; he was unmarried and mentally disabled. At the time of his death, he was at home with his father, Adán Enrique Correa García, his mother, María Libia García Correa, and a nephew of 10 years of age, Jorge Correa Sánchez. The eight siblings of Héctor Hernán Correa García were Dora Luz, Olga Regina, Jorge Enrique, Alba Cecilia, Nubia de los Dolores, Gloria Lucía, Luis Gonzalo and Samuel Antonio, all of them with the last names Correa García. The death of Héctor Hernán Correa García caused his family great anguish and obliged them to displace to different parts of the country.

[FN62] Cf. death certificate of Héctor Hernán Correa García (file of attachments to the requests and arguments brief, tome II, folio 3188).

125(38) The same day, the paramilitary group then went to the farm of Hugo Espinal Lópera where they shot María Graciela Arboleda Rodríguez several times and also used a knife to kill her, after interrogating her about the whereabouts of Mr. Espinal Lópera. María Graciela Arboleda Rodríguez did domestic work; she was 47 years of age, and a widow with six children. Her parents are Adán Antonio Arboleda and María Isabel Rodríguez. [FN63]

[FN63] Cf. death certificate of María Graciela Arboleda Rodríguez (file of attachments to the requests and arguments brief, tome II, folio 3190).

125(39) Subsequently, the paramilitary group abandoned the district and proceeded in the direction of the urban area of Ituango. Once there, they went to the Colombia Polytechnic Institute Jaime Isaza Cadavid, and seized the Institute's Coordinator, Jairo de Jesús Sepúlveda Arias, aged 38 years. The following day, June 12, 1996, his body was found with four bullet holes in El Líbano, located on the highway leading from the Municipality of Ituango to Medellín. His parents were Abraham Sepúlveda and María Inés Arias. Jairo de Jesús Sepúlveda Arias was a teacher and lived with his mother.

125(40) Having perpetrated the said selective executions, the paramilitary group left the area of La Granja without encountering any opposition from law enforcement personnel.

iv) Criminal investigations

125(41) Following the events in La Granja both the Police and also the Ituango Sectional Prosecutor's Office and the Antioquia Office of the Attorney General opened a preliminary

inquiry into the events in this municipal district. On June 12, 1996, a preliminary inquiry was opened into the death of Jairo de Jesús Sepúlveda Arias. On June 19, 1996, the measures taken in relation to the death of William de Jesús Villa García, Héctor Hernán Correa García and María Graciela Arboleda Rodríguez were joined to that preliminary inquiry. In view of the gravity of the facts and the complications relating to geography and public order, the investigation of the facts was transferred from the Prosecutor General's Office to the National Human Rights Unit on November 20, 1996.

125(42) From November 1996 to mid-1999, the National Human Rights Unit conducted various investigatory procedures, including the reception of statements, judicial inspections, and a search for witnesses.

125(43) On June 17, 1999, three years after the massacre in La Granja, the National Human Rights Unit of the Prosecutor General's Office issued a decision to open the pre-trial investigation. On that occasion, it ordered the investigation and a preventive measure consisting of pre-trial detention of the civilians Jaime and Francisco Angulo Osorio, who were detained in the context of other proceedings. However, the preventive measure against them was subsequently revoked. It also decided to investigate Hernando de Jesús Álvarez Gómez, Manuel Remigio Fonnegra Piedrahita and Carlos Castaño Gil, and ordered their arrest

125(44) On the same date, orders were given to investigate two State agents, the Commander of the Police in Ituango, José Vicente Castro, and the National Army Lieutenant and Commander of the Girardot Battalion based in Ituango, Jorge Alexander Sánchez Castro, for the crimes of co-authorship in the establishment of private justice groups, aggravated murder and aggravated simple kidnapping with criminal intent by unjustified omission. At the same time, an order was issued for the preventive detention of these State agents.

125(45) On June 2, 2000, orders were issued to investigate some members of the United Self-Defense Forces of Colombia (AUC) in the proceedings: the civilians, Jhon Jairo Mazo Pino, Lider Yamil Concha Rengifo, Gilberto Antonio Tamayo Rengifo and Jorge Alberto Muletón Montoya.

125(46) On August 30, 2001, an indictment was issued against the Commander of the Ituango Police Station at the times of the facts, José Vicente Castro. In a judgment of November 14, 2003, the First Criminal Court of the Antioquia Specialized Circuit sentenced José Vicente Castro to 31 years' imprisonment, "for omission in the crime of aggravated murder for terrorist purposes." This decision was revoked in its entirety by the Antioquia Superior Court, seven months later, on July 12, 2004. On September 2, 2005, the Prosecutor's Office filed an appeal for review of the ruling of July 12, 2004, before the Supreme Court of Justice.

125(47) On August 20, 2002, the pre-trial detention was ordered of the civilians, Hernando de Jesús Álvarez Gómez, Jhon Jairo Mazo Pino, Gilberto Antonio Tamayo Rengifo and Jorge Alberto Muletón Montoya.

125(48) In December 2002, the Prosecutor's Office and investigators of the National Human Rights Unit conducted investigations in Ituango, including inspections of the Registry Office records and the Municipal Treasurer's Office, and received 30 statements.

125(49) On November 10, 2003, the Prosecutor's Office issued indictments against Hernando de Jesús Álvarez Gómez, Gilberto Antonio Tamayo Rengifo and Orlando de Jesús Mazo Mazo, for the crimes of conspiracy to commit a crime, terrorism and extortion; against Carlos Antonio Carvajal Jaramillo, for the crimes of conspiracy to commit a crime and extortion, and against Jorge Alexander Sánchez Castro, National Army Captain, for the crimes of conspiracy to commit a crime, aggravated murder and aggravated extortion.

125(50) In September 2004, the Prosecutor's Office conducted further investigations, receiving statements and carrying out inspections that led to the individualization and identification of the alleged head of AUC finances at the time of the facts. On September 8, 2004, an order was given to investigate him and a preventive measure consisting in pre-trial detention was imposed and his arrest ordered.

125(51) On July 8, 2005, the Antioquia First Specialized Court delivered a judgment sentencing Jorge Alexander Sánchez Castro, National Army Lieutenant, to 31 years' imprisonment for the crimes of conspiracy to commit a crime and aggravated murder; Gilberto Antonio Tamayo Rengifo to 12 years' imprisonment for the crimes of conspiracy to commit a crime and aggravated murder; Orlando de Jesús Mazo Mazo to 12 years' imprisonment for the crimes of conspiracy to commit a crime and aggravated murder, and Carlos Antonio Carvajal Jaramillo to 7 years' imprisonment for the crimes of conspiracy to commit a crime and aggravated murder. The extinguishment of the proceedings with regard to Hernando de Jesús Álvarez Gómez was ordered, since he was deceased.

125(52) The arrest warrant against Orlando de Jesús Mazo has not been executed.

v) Disciplinary proceedings concerning the events of La Granja

125(53) On May 4, 2000, the Delegate Attorney for the Armed Forces decided to close the preliminary inquiry opened against the Army officers, Major Jorge Enrique Fernández Mendoza and Lieutenant Jorge Alexander Sánchez Castro, finding that they had not incurred in omission constituting a disciplinary offense. In addition, the Delegate Attorney for the Armed Forces forwarded attested copies of the ruling to the Antioquia Regional Office of the Attorney General, for reasons of jurisdiction, so that the latter could open a disciplinary investigation against José Vicente Castro, Commander of the Ituango Police Station.

125(54) On September 19, 2001, the Antioquia Regional Office of the Attorney General decided to declare that the disciplinary action against José Vicente Castro was time-barred, in application of articles 34 and 54 of Act 200 of 1995, since more than five years had elapsed since the events occurred in La Granja on June 11, 1996.

B. Facts regarding El Aro

i) The armed incursion

125(55) Following the incursion in La Granja, members of civil society of the Municipality of Ituango sent numerous communications to the different state authorities requesting the adoption of measures to guarantee the life and safety of the civilian population threatened by the activities of the illegal groups. They included, in particular, the lawyer and human rights defender, Jesús María Valle Jaramillo, who sent communications to the departmental authorities informing them of the paramilitary presence in the region. On November 20, 1996, he communicated with the Governor of Antioquia and with the Medellín Ombudsman in order to request protection for the inhabitants of Ituango. This request was repeated and expanded on January 20, 1997, by the former Comisión Intercongregacional de Justicia y Paz. On that occasion, the request for protection and attention for the zone was also sent to the national authorities.

125(56) Before the incursion in El Aro, the paramilitary group had met with members of the Army's Girardot Battalion in the municipality of Puerto Valdivia.

125(57) In this context, a paramilitary incursion occurred in the municipal district of Builópolis, better know in the region of Ituango as El Aro. between October 22 and November 12, 1997. The chain of selective executions perpetrated by the paramilitary group that moved through the zone on foot for several days with the acquiescence, tolerance or support of members of the law enforcement bodies, began in the municipal district of Puerto Valdivia, from where they started out.

ii) Persons executed in El Aro

125(58) On October 22, 1997, approximately 30 armed men, wearing military clothing arrived by land at the farm of Omar de Jesús Ortiz Carmona, located in the village of Puquí, in the municipal district of Puerto Valdivia, Department of Antioquia. There, they gathered all the workers and asked them about the guerrilla. Then, they took Omar de Jesús Ortiz Carmona and Fabio Antonio Zuleta Zabala apart from the group and shot them several times, murdering them.

125(59) Omar de Jesús Ortiz Carmona owned a farm and was 30 years of age at the time of his death. His permanent companion was María Oliva Calle Fernández. [FN64] He was the son of María Libia Carmona de Ortiz and Jesús María Ortiz [FN65] and had two sisters, Rosángela and Gudiela del Carmen Ortiz Carmona. His children are Omar Alveiro Ortiz Calle, Juan Carlos Ortiz Callo, Deisy Tatiana Ortiz Calle, Johan Daniel Ortiz Calle and Cristian de Jesús Calle. His death had a profound emotional effect on his family.

[FN64] Cf. identity card of María Oliva Calle Fernández (file of attachments to the application, tome I, folio 0459).
[FN65] Cf. baptism certificate of Johan Daniel Ortiz Calle (file of attachments to the application, tome I, folios 0474 to 0478).

125(60) Fabio Antonio Zuleta Zabala worked on Omar de Jesús Ortiz Carmona's farm and was 54 years of age at the time of his death. He lived with María Graciela Cossio Jaramillo, [FN66] who had been his permanent companion for more than ten years, and his children, Carlos Adrián, Yeison Andrés and Juan Felipe Zuleta Cossio. [FN67] He was the son of María Magdalena Zabala [FN68] and Roberto Zuleta [FN69] and his siblings are Margarita, Araccelly, Rodrigo and Orlando, all with the last names Zuleta Zabala. He also had a half-sister by his mother, named Celia Monsalve Zabala. He helped his parents financially, in addition to providing for his children and his companion. As a result of the death of Fabio Antonio Zuleta Zabala, his permanent companion lost the family's financial support, so that the children had to go to Medellín to live with Celia Monsalve Zabala, half-sister of the alleged victim, who assumed their care. The whole family was severely affected by the death of Fabio Antonio; it broke up the family, and they now live in different places.

[FN66] Cf. birth certificate of María Graciela Cossio Jaramillo (file of attachments to the application, tome I, folio 0516); and birth certificate of Juan Felipe Zuleta Cossio (file of attachments to the application, tome I, folio 518).
[FN67] Cf. birth certificate of Juan Felipe Zuleta Cossio (file of attachments to the application, tome I, folio 518); birth certificate of Carlos Adrián Zuleta Cossio (file of attachments to the application, tome I, folio 520); and birth certificate of Yeison Andrés Zuleta Cossio (file of attachments to the application, tome I, folio 522).
[FN68] Cf. birth certificate of Fabio Antonio Zuleta Zabala (file of attachments to the application, tome I, folio 513); and identity card of María Magdalena Zabala (file of attachments to the application, tome I, folio 492).
[FN69] Cf. birth certificate of Fabio Antonio Zuleta Zabala (file of attachments to the application, tome I, folio 513).

125(61) Then, the same day, on the La Planta farm, the armed group murdered Arnulfo Sánchez Álvarez, who was an elderly man. He owned land, where he grew fruit trees and had cattle. [FN70] His wife was Teresa del Niño Jesús Álvarez Palacio [FN71] and they had a daughter named Vilma Ester Sánchez Álvarez. [FN72]

[FN70] Cf. testimony given by Amado de Jesús Jaramillo Cano on August 30, 2000 before the Valdivia Municipal Civil and Criminal Court (file of attachments to the application, tome II, Appendix C34, folio 917).
[FN71] Cf. marriage certificate of Arnulfo Sánchez Álvarez and Teresa del Niño Jesús Álvarez Placio (file of documents presented by the representatives of the alleged victims on September 23, 2005, folio 5613).
[FN72] Cf. baptism certificate of Vilma Ester Sánchez Álvarez (file of documents presented by the representatives of the alleged victims on September 23, 2005, folio 5618).

125(62) Then the paramilitary group went by foot to the municipal district of El Aro, which was six hours from Puerto Valdivia.

125(63) On October 23, 1997, the paramilitary group arrived at the home of Martha Cecilia Jiménez in Puerto Escondido, they looted her store, stole 90 head of cattle and, in front of the whole family, murdered her spouse, Omar Iván Gutiérrez Nohavá, who was 32 years of age at the time of his death, worked on his own farm, had a general store, which was looted during the paramilitary incursion, and a warehouse. He had two daughters, Eliana Juliet and Juliana Andrea Gutiérrez Jiménez, who witnessed the death of their father. He was the son of José Aníbal Gutiérrez Jaramillo and Rosa María Nohavá de Gutiérrez. He had three siblings, Fabio Arley, Rosmira and María Luciria, all with the last names Gutiérrez Nohavá, as well as three half-brothers by his mother, Víctor Manuel, Jair Ovidio and Walter Alirio, all with the last names Tobón Nohavá. In addition to providing for his family, he also helped his niece, Jésica Natalia Martínez Gutiérrez, financially. The death of Omar Iván affected his family considerably, especially his sister Lucira, mother of Jésica Natalia, who, together with a nephew called Francisco Daniel Córdoba, witnessed the death of her loved one. [FN73]

[FN73] Cf. birth certificate of Omar Iván Gutiérrez Nohavá (file of attachments to the application, folio 282); death certificate of Omar Iván Gutiérrez Nohavá (file of attachments to the application, folio 284); and statement made confidentially before the Inter-American Court of Human Rights on October 28, 2004 (file of attachments to the requests and arguments brief, folio 3166).

125(64) The same day, when they left the dock in Puerto Escondido, the paramilitary group murdered Olcris Fail Díaz Pérez, José Darío Martínez Pérez and Otoniel de Jesús Tejada Jaramillo.

125(65) Olcris Fail Díaz Pérez was 26 years old at the time of his death; he worked on a farm owned by his parents and lived with his parents and siblings. He was the son of Mercedes Rosa Pérez Pino and Heriberto Díaz Díaz, [FN74] and his siblings were Luz Nelly, Deicy Berenice, Iraima, Alexander de Jesús and Noelia, all with the last names Díaz Pérez. The death of Olcris Fail Días Pérez had serious consequences for his family, which displaced from El Aro to Yarumal, leaving their farm and their possessions. Also, his father's health worsened as a result of the death of Olcris Fail Díaz Pérez and the family's displacement. His sister Noelia suffered a great deal as a result of her brother's death. [FN75]

[FN74] Cf. death certificate of Olcris Fail Díaz Pérez (file of attachments to the application, tome I, folio 174).
[FN75] Cf. statement made confidentially before the Inter-American Court of Human Rights on October 27, 2004 (file of attachments to the requests and arguments brief, folio 3168).

125(66) José Darío Martínez Pérez was 46 years old at the time of his death. His permanent companion was María Esther Orrego [FN76] with whom he had four children, María Elena, Rosa Delfina, Carlos Arturo and José Edilberto, all with the last names Martínez Orrego.

He also had two sons who he had not acknowledged, Edilson Darío Orrego and William Andrés Orrego, as well as an adopted daughter, Mercedes Rosa Patiño Orrego. He had a brother named Heraldo Enrique Martínez Pérez. [FN77]

[FN76] Cf. birth certificate of María Ester Orrego (file of attachments to the application, tome I, folio 432).
[FN77] Cf. identity card of Heraldo Enrique Martínez Pérez (file of attachments to the application, tome I, folio 425).

125(67) Otoniel de Jesús Tejada Jaramillo was 40 years old at the time of his death. His wife, María Eugenia Gaviria Vélez, witnessed the torture and death of her husband. His parents were Israel Antonio Tejada and María Dolores Jaramillo Oquendo. His brother is Danilo de Jesús Tejada Jaramillo. [FN78]

[FN78] Cf. birth certificate of Danilo de Jesús Tejada Jaramillo (file of attachments to the application, folio 79).

125(68) On October 23, 1997, during the incursion, the paramilitary group also murdered the child, Wilmar de Jesús Restrepo Torres, aged 14 years, as well as Alberto Correa, while they were working on the Mundo Nuevo farm.

125(69) Alberto Correa did farm work and was married to Mercedes Barrera, [FN79] who died shortly after the death of her husband; they had no children. [FN80]

[FN79] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5120)
[FN80] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5120).

125(70) The child, Wilmar de Jesús Restrepo Torres, was the son of Jesús María Restrepo Ospino and María Edilma Torres Jaramillo [FN81] and brother of Miladis, Gema Inés, Guido Manuel (deceased), Nicolás Albeiro, Maryori and Llover Arley, all with the last names Restrepo Torres. The family of Wilmar de Jesús Restrepo Torres was extremely affected by his death, because he was the youngest son and helped support the family financially. Miladis del Carmen Restrepo Torres, [FN82] the alleged victim's sister suffered greatly as a result of his tragic death and was very angry, especially because they had to move her brother's body tied to a mule. The family of Wilmar de Jesús Restrepo Torres grew sugar cane; however, they were unable to look after it as a result of the child's death and because the region was almost destroyed and overwhelmed by poverty following the paramilitary incursion. [FN83]

[FN81] Cf. birth certificate of the child Wilmar de Jesús Restrepo Torres (file of attachments to the application, tome I, folio 150).
[FN82] Cf. identity card of Miladis del Carmen Restrepo Torres (file of attachments to the application, tome I, folio 78).
[FN83] Cf. statement made confidentially before the Inter-American Court of Human Rights on October 28, 2004 (file of attachments to the requests and arguments brief, folio 3170).

125(71) On Saturday, October 25, 1997, the paramilitary group reached El Aro, where they proceeded to gather all the inhabitants in the central park of the village. Then the members of the paramilitary group murdered Guillermo Andrés Mendoza Posso, Luis Modesto Múnera Posada and Nelson de Jesús Palacio Cárdenas.

125(72) Guillermo Andrés Mendoza Posso was 21 years old at the time of his death and owned a bar. [FN84] He lived with his parents, Libardo Mendoza and Leticia Posso Molina, who he helped financially. He had eight siblings, Viviana Yanet, Magnolia Emilce, Beatriz Amalia, Rodrigo Alberto, Diego Fernando, Jovanny Alcides, Diana Patricia and Jael Rocio, all with the last names Mendoza Posso.

[FN84] Cf. birth registration of Guillermo Andrés Mendoza Posso (file of attachments to the application, tome I, folio 240).

125(73) Luis Modesto Múnera Posada was 60 years of age at the time of his death and did manual work for the municipality of Ituango. His wife was María Gloria Granada López and they had six children, Astrid Elena, María Clementina, Aracelly, Gloria Emilsen, Marta Consuelo and Juan Alberto, all with the last names Múnera Granada. [FN85] His death affected his family and the inhabitants of El Aro greatly, because he was highly respected by everyone. [FN86]

[FN85] Cf. birth registrations of María Gloria Granada López, and Astrid Elena, María Clementina, Aracelly, Gloria Emilsen, Marta Consuelo and Juan Alberto, all with last names Múnera Granada (file of attachments to the application, tome I, Appendix B10, folios 368 to 415)
[FN86] Cf. statement made by Lylliam Amparo Areiza Tobón for the Inter-American Commission on Human Rights on April 21, 1998, (file of attachments to the application, tome III, folio 1409).

125(74) Nelson de Jesús Palacio Cárdenas was the farm manage of the Manzanares farm at the time of this death. He lived with his permanent companion, Gladis Helena Jaramillo Cano, and they had two children, Alexander and Nelson Adrián Palacio Jaramillo, who he supported

financially. He also had a child by Aura Estela Posso Múnera, John Freddy Palacio Posso. [FN87]

[FN87] Cf. birth certificate of John Freddy Palacio Posso (file of attachments to the application, tome I, folio 215).

125(75) In addition, on October 25, 1997, Marco Aurelio Areiza Osorio, a tradesman of 64 years of age, was obliged by the paramilitary group to accompany them to a place near the cemetery, where they tied him up and tortured him until he died. His body showed signs of torture on his eyes, ears, chest, genital organs and mouth. At the time of his death, he was separated from his wife, Carlina Tobón Gutiérrez, with whom he had five children, Lilian Amparo, Mario Alberto, Miriam Lucía, Johnny Aurelio and Gabriela, all with the last names Areiza Tobón. Marco Aurelio Areiza Osorio provided financial support to his wife and children. He lived with Rosa María Posada, with whom he had two children, José Leonel and Marco Aurelio Areiza Posada. He owned a farm, livestock, a butcher's shop and some properties. The paramilitary group looted all his properties and took his livestock. He lost 150 to 200 head of cattle, two farms, more than 20 pigs and a store. [FN88]

[FN88] Cf. testimony given by Elena Torres de Barrera before the Valdivia Municipal Civil and Criminal Court on September 14, 2000 (file of attachments to the application, Appendixes C1-C59, folio 868).

125(76) In a room attached to the church, the paramilitary group tortured and murdered Elvia Rosa Areiza Barrera, aged 30 years, who did domestic work in the priest's house. She was married to Eligio Pérez Aguirre, and they had five children, Ligia Lucía, Eligio de Jesús, Omar Daniel, Yamilse Eunice and Julio Eliver, all with the last names Pérez Areiza. [FN89] Her parents were Gabriel Ángel Areiza and Mercedes Rosa Barrera. [FN90] Her family displaced to other towns as a result of the events and returned to the region three years later. [FN91]

[FN89] Cf. identity card of Eligio Pérez Aguirre, birth certificate of Eligio de Jesús Pérez Areiza, baptism certificate of Julio Eliver Pérez Areiza, birth registration of Ligia Lucía Pérez Areiza, and birth registration of Omar Daniel Pérez Areiza (file of attachments to the application, tome I, folios, Appendix B14, folios 563 to 569).
[FN90] Cf. birth certificate of Elvia Rosa Areiza Barrera (File of attachments to the requests and arguments brief, Appendix E2, folio 3079).
[FN91] Cf. statement made by Jaime Adonai Quintero Tobón for the Inter-American Commission on Human Rights on November 5, 2005 (file of attachments to the requests and arguments brief, tome I, folio 3173).

125(77) Also on October 30, 1997, the paramilitary group murdered Dora Luz Areiza Arroyave, aged 21 years, who had been accused of being a member of the guerrilla. At the time of her death, she lived with her parents, Luis Ufrán Areiza Posso and Jael Esther Arroyave Posso, and she had three siblings, Noelia Estelia, Freidon Esteban and Robinson Argiro, all with the last names Areiza Arroyave. [FN92] Dora Luz Areiza Arroyave's family displaced as a result of the events, living in very precarious conditions, and are afraid to return to Ituango. [FN93]

[FN92] Cf. identity card of Luis Ufrán Areiza Posso and Jael Esther Arroyave Posso, and also birth certificates of Freidon Esteban Areiza Arroyave, Nohelia Estelia Areiza Arroyave, and Robinson Argiro Areiza Arroyave (file of attachments to the application, tome I, Appendix B8, folios 302 to 332).
[FN93] Cf. statement made by María Resfa Posso de Areiza for the Inter-American Court of Human Rights on August 17, 2005 (file of affidavits and the respective observations, folio 5094).

125(78) Owing to the state of decomposition of some of the dead, the inhabitants of El Aro buried them, before any State authority had seen them.

125(79) Before leaving El Aro, the paramilitary group destroyed and set fire to most of the houses in the urban center, leaving only a chapel and eight homes.

iii) Assistance given to the next of kin of the alleged victims who were executed

125(80) The following families of alleged victims executed during the events of El Aro received life insurance from the Social Solidarity Network:

a) Gladis Elena Jaramillo Cano received 7,500,000 Colombian pesos on August 28, 2000, as an insurance payment for the death of her husband, Nelson de Jesús Palacio Cárdenas;
b) Libardo Mendoza and María Leticia Posso received 5,000,000 Colombian pesos each in 1999, as an insurance payment for the death of their son, Guillermo Andrés Mendoza Posso; and
c) Carlina Tobón received 5,000,000 Colombian pesos as an insurance payment for the death of her husband, Marco Aurelio Areiza Osorio. Also, the following children of Marco Aurelio Areiza Osorio received 1,000,000 Colombian pesos: Miriam Lucía, Lilian Amparo, Yonny Aurelio, Gabriela Patricia and Mario Alberto, all of them with the last names Areiza Tobón.

iv) Loss of private property

125(81) The people who lost their property in El Aro were:

1. Bernardo María Jiménez Lópera, who lost 36 head of cattle, and also the farm, Sevilla, which was set on fire; [FN94]
2. Francisco Osvaldo Pino Posada, who lost six heifers and three yoke of oxen; [FN95]
3. Libardo Mendoza, who lost 51 head of cattle, 20 cows, 18 feeder steers and a mule, and also the farm, La Floresta, which was set on fire; [FN96]

4. Luis Humberto Mendoza Arroyave, who lost 20 head of cattle and his home, which was set on fire; [FN97]
5. Omar Alfredo Torres Jaramillo, who lost his home; [FN98]
6. Ricardo Alfredo Builes Echeverri, who lost 81 head of cattle, 15 yoke of oxen, 31 cows, 18 heifers and 2 bulls; [FN99]
7. Albeiro Restrepo, who lost his home; [FN100]
8. Alfonso Gómez, who lost his home, which was set on fire; [FN101]
9. Amparo Posada, who lost her home; [FN102]
10. Antonio Muñóz: who lost his home and a business, which was set on fire; [FN103]
11. Arcadio Londoño, who lost 10 yoke of oxen, 40 cows, 50 bullocks, 5 bulls and 5 bull calves, and also a farm, which was set on fire; [FN104]
12. Argemira Crespo, who lost her home; [FN105]
13. Argemiro González, who lost his business; [FN106]
14. Aurelio Sepúlveda, who lost his home; [FN107]
15. Berta Inés Mendoza Arroyave, who lost her home and 6 cows; [FN108]
16. Carlos Gutiérrez, who lost his home; [FN109]
17. Carlos Mendoza, who lost his home; [FN110]
18. Clara López, who lost her home; [FN111]
19. Dario Mora, who lost his home; [FN112]
20. Fabio de Jesús Tobón Gutiérrez, who lost livestock; [FN113]

[FN94] Cf. testimony given by Reinel Octavio Correa Hidalgo before the San José de la Montaña Criminal and Civil Municipal Court on March 14, 2001 (file of attachments to the application, tome II, Appendix C39, folio 971); statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5119); and statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5102).
[FN95] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 17, 2005 (file of affidavits and the respective observations, folio 5100).
[FN96] Cf. testimony given by Reynel Correa before the San José de la Montaña Criminal and Civil Municipal Court, Antioquia, on March 14, 2001 (file of attachments to the application, tome II, Appendix C39, folio 0971).
[FN97] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 17, 2005 (file of affidavits and the respective observations, folio 5098); statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations folio 5109); and statement made by Lucelly Amparo Posso Molina for the Inter-American Commission on Human Rights on November 8, 2004 (file of attachments to the requests and arguments brief, folio 3177).
[FN98] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 22, 2005 (file of affidavits and the respective observations, folio 5091); and statement made confidentially before the Inter-American Court of Human Rights on August 17, 2005 (file of affidavits and the respective observations, folio 5100).
[FN99] Cf. testimony given by Rodrigo Mendoza Posso Molina before the Valdivia Municipal Civil and Criminal Court on December 14, 1999 (file of attachments to the application, tome II, Appendix 32, folio 0932); testimony given by Reinel Octavio Correa Hidalgo before the San

José de la Montaña Municipal Civil and Criminal Court on March 14, 2001 (file of attachments to the application, tome II, Appendix C39, folio 0968); testimony given by Luis Humberto Mendoza Arroyave before the Antioquia Administrative Court on April 3, 2000 (file of attachments to the application, Appendix C40, folio 0996); and statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5101).

[FN100] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).

[FN101] Cf. statement made by Lucelly Amparo Posso Molina for the Inter-American Commission on Human Rights on November 8, 2004 (file of attachments to the requests and arguments brief, tome I, Appendix F7, folio 3177).

[FN102] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 22, 2005 (file of affidavits and the respective observations, folio 5080).

[FN103] Cf. testimony given by Luis Humberto Mendoza Arroyave before the Antioquia Administrative Court on April 3, 2000 (file of attachments to the application, tome II, Appendix C40, folio 0996); statement made by Lucelly Amparo Posso Molina for the Inter-American Commission on Human Rights on November 8, 2004 (file of attachments to the requests and arguments brief, folio 3177); and statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).

[FN104] Cf. testimony given by Maria Fraccedie Aristizabal before the Antioquia Administrative Court on June 27, 2001 (file of attachments to the application, tome II, Appendix C38, folio 0963); and testimony given by Reynel Correa before the San José de la Montaña Municipal Civil and Criminal Court on March 14, 2001 (file of attachments to the application, tome II, Appendix C39, folio 970).

[FN105] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5117).

[FN106] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).

[FN107] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5117).

[FN108] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 14, 2005 (file of affidavits and the respective observations, folio 5099).

[FN109] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5104).

[FN110] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).

[FN111] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 14, 2005 (file of affidavits and the respective observations, folio 5099); and list from the Official Land Registry of the Department of Antioquia, Municipality of Ituango, dated October 18, 2005 (file of useful evidence presented by the representatives of the alleged victims, folio 5699).

[FN112] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5119).

[FN113] Cf. testimony given before the Valdivia Municipal Civil and Criminal Court on July 5, 2000, by Fabio de Jesús Tobón Gutiérrez (file of attachments to the requests and arguments brief, tome II, Appendix 50, folio 3489).

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21. Francisco Eladio Ortiz Bedoya, who lost livestock; [FN114]
22. Gilberto Lópera, who lost livestock and his home, which was set on fire; [FN115]
23. Gildardo Jaramillo, who lost his bar; [FN116]
24. Gustavo Adolfo Torres Jaramillo, who lost two houses, which were set on fire, and also four cows; [FN117]
25. Hermilda Correa, who lost her home; [FN118]
26. Hilda Uribe, who lost livestock; [FN119]
27. Jaime Posso, who lost livestock; [FN120]
28. Javier García, who lost livestock; [FN121]
29. José Gilberto López Areiza, who lost livestock; [FN122]
30. José Noe Pelaez Chavarría, who lost three mules; [FN123]
31. José Torres, who lost livestock; [FN124]
32. Judith Molina, who lost livestock and her home; [FN125]
33. Lucelly Torres Jaramillo, who lost her home; [FN126]
34. Luis Argemiro Arango, who lost his home; [FN127]
35. Luis Carlos Mendoza Rúa, who lost his home, 30 beef cattle and 4 mules; [FN128]
36. Marcelino Barrera, who lost his business; [FN129]
37. Marco Aurelio Areiza Osorio, who was executed, lost between 150 and 200 head of cattle, and also several stores and a garage, which were set on fire; [FN130]
38. María Edilma Torres Jaramillo, who lost her home, which was set on fire; [FN131]
39. María Esther Jaramillo Torres, who lost her home, which was set on fire; [FN132]
40. María Vásquez, who lost her home; [FN133]

[FN114] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5102).
[FN115] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 17, 2005 (file of affidavits and the respective observations, folio 5100).
[FN116] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).
[FN117] Cf. testimony given by Luis Humberto Mendoza Arroyave before the Antioquia Administrative Court on April 3, 2000 (file of attachments to the application, tome II, Appendix C40, folio 0996); and statement made confidentially before the Inter-American Court of Human Rights on August 22, 2005 (file of affidavits and the respective observations, folio 5090).
[FN118] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).
[FN119] Cf. testimony given before the Valdivia Municipal Civil and Criminal Court on December 14, 1999, by Rodrigo Alberto Mendoza Posso (file of attachments to the application, tome II, Appendix C35, folio 0937).
[FN120] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5107).

[FN121] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5102).
[FN122] Cf. testimony given before the Valdivia Municipal Civil and Criminal Court on may 15, 2001, by Maria Edilma Torres Jaramillo (file of attachments to the application, tome II, Appendix C28, folio 0878).
[FN123] Cf. testimony given before the Valdivia Municipal Civil and Criminal Court on July 5, 2000, by José Noé Peláez Chavarría (file of attachments to the requests and arguments brief, tome II, Appendix G51, folio 3484).
[FN124] Cf. testimony given before the Valdivia Municipal Civil and Criminal Court on December 14, 1999, by Álvaro Antonio Martínez Moreno (file of attachments to the application, tome II, Appendix C35, 0943).
[FN125] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 22, 2005 (file of affidavits and the respective observations, folio 5080).
[FN126] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 16, 2005 (file of affidavits and the respective observations, folio 5087); statement made confidentially before the Inter-American Court of Human Rights on August 17, 2005 (file of affidavits and the respective observations, folio 5100); and statement for the Inter-American Commission on Human Rights made on November 8, 2004, by Lucelly Amparo Posso Molina (file of attachments to the requests and arguments brief, tome I, Appendix F7, folio 3177).
[FN127] Cf. statement made by Lucelly Amparo Posso Molina for the Inter-American Commission on Human Rights on November 8, 2004 (file of attachments to the requests and arguments brief, tome I, Appendix F7, folio 3177).
[FN128] Cf. transcript of the statement made by Luis Humberto Mendoza Arroyave in a hearing before the Inter-American Court on September 22, 2005; and statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5102).
[FN129] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).
[FN130] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 16, 2005 (file of affidavits and the respective observations, folio 5088).
[FN131] Cf. testimony given by Luis Humberto Mendoza Arroyave before the Antioquia Administrative Court on April 3, 2000 (file of attachments to the application, tome II, Appendix C40, folio 0996); and statement for the Inter-American Commission on Human Rights made on November 8, 2004, by Lucelly Amparo Posso Molina (file of attachments to the requests and arguments brief, tome I, Appendix F7, folio 3177).
[FN132] Cf. testimony given by Luis Humberto Mendoza Arroyave before the Antioquia Administrative Court on April 3, 2000 (file of attachments to the application, tome II, Appendix C40, folio 0996).
[FN133] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).
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41. Mercedes Jiménez, who lost her home; [FN134]
42. Miguel Chavaría, who lost livestock and his home; [FN135]
43. Miguel Ángel Echavarría, who lost livestock and his home, which was set on fire; [FN136]

44. Miriam Cuadros, who lost her home; [FN137]
45. Nelson de Jesús Palacio Cárdenas, who was executed in El Aro, lost his home; [FN138]
46. Omar Iván Gutiérrez Nohavá, who was executed in El Aro, lost 90 head of cattle, a farm and a general store; [FN139]
47. Rafael Ángel Piedrahita Areiza, who lost 20 head of cattle and a farm, which was set on fire; [FN140]
48. Rafael Ángel Piedrahita Henao, who lost two mules and his home, which was set on fire; [FN141]
49. Rafael Posada, who lost livestock; [FN142]
50. Ramón Molina Torres, who lost his home, which was set on fire; [FN143]
51. Ramón Posada, who lost livestock and his home; [FN144]
52. Ricardo Barrera, who lost his home; [FN145]
53. Rodrigo Alberto Mendoza Posso, who lost livestock; [FN146]
54. Samuel Martínez, who lost his home; [FN147]
55. Santiago Martínez, who lost his farm; [FN148]
56. Santiago Serna, who lost his home; [FN149]
57. Vicente Posada, who lost his home, which was set on fire; [FN150]
58. Amado Jaramillo Cano, who lost his home, [FN151] and
59. Servando Antonio Areiza, who lost 4 "animals" and his home. [FN152]

[FN134] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5117).
[FN135] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folios 5107 and 5109).
[FN136] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5107).
[FN137] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).
[FN138] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).
[FN139] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5102).
[FN140] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5102); and statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5122).
[FN141] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5123).
[FN142] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5107).
[FN143] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 22, 2005 (file of affidavits and the respective observations, folio 5090).
[FN144] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109); and statement

made confidentially before the Inter-American Court of Human Rights on August 22, 2005 (file of affidavits and the respective observations, folio 5080).
[FN145] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109); and statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5117).
[FN146] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5107).
[FN147] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5104).
[FN148] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5103).
[FN149] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 11, 2005 (file of affidavits and the respective observations, folio 5109).
[FN150] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5104); and statement made confidentially before the Inter-American Court of Human Rights on August 18, 2005 (file of affidavits and the respective observations, folio 5117).
[FN151] Cf. testimony given by Luis Humberto Mendoza Arroyave before the Antioquia Administrative Court on April 3, 2000 (file of attachments to the application, tome II, Appendix C40, folio 9096); and list from the Official Land Register of the Department of Antioquia, Municipality of Ituango, of October 18, 2005 (file of useful evidence presented by the representatives of the alleged victims, folio 5699).
[FN152] Cf. statement made confidentially before the Inter-American Court of Human Rights on August 17, 2005 (file of affidavits and the respective observations, folio 5092).
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iv) Theft and herding of livestock

125(82) Under threat of death, the paramilitary group obliged 17 residents of the area to herd the stolen livestock to various place for 17 days. The herdsmen received no remuneration of any type for their work.

125(83) The following persons were forced to herd livestock: Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Rodrigo Alberto Mendoza Posso, Noveiri Antonio Jiménez Jiménez, Milciades de Jesús Crespo, Ricardo Barrera, Gilberto Lopera, Argemiro Echavarría, José Luis Palacio, Román Salazar, William Chavaría, Libardo Carvajal, Eduardo Rua, Eulicio García, Alberto Lopera, Tomás Monsalve and Felipe Gómez.

125(84) During the incursion, the paramilitary group stole from 800 to 1,200 head of livestock (horses, mules and cattle) belonging to several farms in the area. The livestock was taken first to a place known as “La Planta,” which is 5 minutes by foot from the urban center of Puerto Valdivia, and eventually embarked for La Caucana, a district of the municipality of Tarazá. The livestock was moved using the highway leading to the Atlantic Coast.

125(85) Members of the Army knew about the theft and transfer of the livestock and even imposed a curfew on the population, closing all the places that were open in the evening in the district so that the livestock could be moved without witnesses, using the public roads; some soldiers also benefited, because they were given cattle for their own consumption.

125(86) Agents of the armed forces not only acquiesced to the acts perpetrated by the paramilitary group, but also participated and collaborated directly at times. Indeed, the participation of State agents in the armed incursion was not limited to facilitating the entry into the region of the paramilitary group, they also failed to help the civilian population during the incursion and during the theft of the livestock and its transfer from the area.

v) Criminal investigations

125(87) Initially the events of El Aro were investigated by the Prosecutor General's Office, through the Delegate Prosecutor of the Ituango circuit and the Yarumal Delegate Prosecutor. On November 20, 1997, the investigations were reassigned to the then Medellín Regional Prosecutor's Office. On July 23, 1999, the investigation was forwarded to the National Human Rights Unit of the Prosecutor General's Office under case file No. UDH-525.

125(88) From November 1997 to February 1998, the Prosecutor General's Office received statements from witnesses and next of kin of the alleged victims; ordered and conducted investigatory procedures to determine the identity of those involved, and carried out judicial inspections in the district.

125(89) On March 19, 1998, the Prosecutor General's Office decided to order that a preliminary inquiry should be opened and ordered the investigation of Carlos Castaño Gil and Francisco Enrique Villalba Hernández in the proceedings. On June 4, 1999, it was declared that Carlos Castaño could not be found and Francisco Enrique Villalba Hernández's statement was heard. On July 1, 1999, an arrest warrant was issued for Carlos Castaño Gil and Francisco Villalba Hernández for murder and the establishment of private justice groups.

125(90) On March 29, 1999, the Office of the Delegate Prosecutor before the Regional Judges exhumed several corpses in order to carry out autopsies and identify them. As a result, the mortal remains of Luis Modesto Múnera Posada, Marco Aurelio Areiza, Nelson de Jesús Palacios Cárdenas, Andrés Mendoza and Alberto Correa were identified.

125(91) On February 24, 2000, Salvatore Mancuso Gómez, Alexander Mercado Fonseca and Héctor Darío Gallego Meza were summoned to appear in relation to the investigation. On September 21, 2000, it was declared that Salvatore Mancuso and Alexander Mercado Fonseca could not be found. On February 23, 2001, arrest warrants were issued for Salvatore Mancuso Gómez and Alexander Mercado Fonseca.

125(92) On September 10, 2001, the acting Prosecutor indicted Carlos Castaño Gil, Francisco Enrique Villalba Hernández, Salvatore Mancuso Gómez and Alexander Mercado Fonseca as alleged co-authors of the crime of conspiracy to commit a crime together with aggravated murder and aggravated theft.

125(93) On April 22, 2003, the Second Criminal Court of the Antioquia Specialized Circuit delivered judgment against Carlos Castaño Gil, Salvatore Mancuso Gómez and Francisco Enrique Villalba Hernández, sentencing the first two to 40 years' imprisonment and the latter to 33 years' imprisonment for the murder of 15 persons, conspiracy to commit a crime, compounded by aggravated theft. With the exception of Francisco Enrique Villalba, who was detained serving a prison sentence for other crimes, the said civilians – including important paramilitary leaders – were tried and sentenced in absentia and the arrest warrants against them have never been executed.

125(94) On February 6, 2004, the disciplinary ruling (infra para. 125(98) and 125(100)) against Army Lieutenant Everardo Bolaños Galindo and First Corporal Germán Antonio Alzate Cardona, for collaboration and omission in relation to the events in El Aro, was transferred to the criminal investigation. On December 16, 2004, these individuals were summoned by the criminal proceedings. On January 11, 2005, it was declared that the First Corporal could not be found. On March 1, 2005, an arrest warrant was issued against them. The Army Lieutenant is imprisoned in the Cómbita maximum security prison.

125(95) Witnesses, lawyers and prosecutors involved in the investigations into the events of El Aro have had to abandon the zone or the country for safety reasons.

vi) Disciplinary proceedings

125(96) On December 7 and 11, 1998, since the alleged facts had not been committed by members of the Army, but by a paramilitary group, the Caucasia Provincial Attorney's Office decided to close several disciplinary proceedings related to the following facts in El Aro: (1) the theft of several head of cattle from the farm of Bernardo Jiménez, between October 20 and 28, 1997; (2) the death of Omar Iván Gutiérrez Nohavá, on October 23, 1997, and (3) the theft of livestock from the farm of the García Lopera brothers, on October 25, 1997.

125(97) On August 10, 2001, the Attorney General's Office decided to close disciplinary proceedings related to the alleged responsibility of Major General Carlos Ospina Ovalle "and other members of the Army," for "the events that took place at the end of October 1997 in Aro." The Attorney General's Office considered that there was insufficient evidence to accuse the Army of responsibility for the alleged omissions in relation to these events.

125(98) On July 30, 2001, owing to the many complaints filed since 1997 based on the events in El Aro, the Office of the Delegate Attorney for the Defense of Human Rights ordered the opening of a disciplinary investigation against Lieutenant Captain Germán Morantes Hernández, Lieutenant Everardo Bolaños Galindo and First Corporal Germán Antonio Alzate Cardona.

125(99) On January 28, 2002, the Office of the Delegate Attorney for the Defense of Human Rights disqualified itself from continuing the disciplinary procedure against Lieutenant Captain Germán Morantes Hernández and decided to bring disciplinary charges against Lieutenant Everardo Bolaños Galindo and Captain Germán Antonio Alzate Cardona.

125(100) On September 30, 2002, the Office of the Delegate Attorney for the Defense of Human Rights decided to sanction Lieutenant Everardo Bolaños Galindo and First Corporal Germán Antonio Alzate Cardona, alias "Rambo," dismissing them from their functions as public officials because it found that they were responsible for collaborating with the paramilitary incursion in El Aro and the theft of livestock and facilitating it with criminal intent. On November 1, 2002, following an appeal filed by the said individuals, this ruling was confirmed in second instance by the Disciplinary Chamber of the Attorney General's Office.

vii) Administrative proceedings

125(101) Fifteen claims were filed in the administrative jurisdiction. Conciliation was reached in 13 of them, and a resolution of the Ministry of National Defense ordered the payment of the agreed amounts, plus the interest earned from the time of the conciliation to the time when the payments were made. The claimants in these proceedings were as follows:

Claimants	File number in the Antioquia Administrative Court	Ministry of de Defense Resolution
1. Next of kin of Luis Modesto Múnera: María Gloria Granda (spouse), Astrid Elena Munera Granda, María Clementina Múnera Granda, Aracelly Munera Granda, Gloria Emilse Munera Granda, Martha Consuelo Munera Granda, Juan Alberto Munera Granda and Martín Horacio Munera.	983184, judicial decision of March 3, 2005	No. 1459 of September 12, 2005
2. Next of kin of José Darío Martínez Pérez: María Esther Orrego, María Helena Martinez Orrego, Rosa Delfina Martinez Orrego, Carlos Arturo Martinez Orrego, Jose Edilberto Martinez Orrego, Edilson Dario Orrego, William Andres Orrego and Mercedes Rosa Patiño Orrego	983186, judicial decision of March 8, 2005	No. 1462 of September 12, 2005
3. Next of kin of Olcris Fail Díaz Pérez: Mercedes Rosa Perez de Diaz (mother), Luz Nelly Diaz Perez, Deicy Berenice Diaz Perez, Iraima Diaz Perez, Alexander de Jesús Diaz Perez and Nohelia Diaz Perez	983422, judicial decision of February 3, 2005	No. 1456 of September 12, 2005
4. Next of kin of Omar Iván Gutiérrez Nohavá: Jose Anibal Gutierrez Jaramillo (father), Rosa María Nohavá de Gutierrez (mother), Fabio Arley Gutierrez Nohava, Rosmira Gutierrez Nohava, María Luciria Gutierrez Nohava, Victor Manuel Tobon Nohava and Jésica Natalia Martinez Gutierrez (niece).	983932, judicial decision of February 3, 2005	No. 1456 of September 12, 2005
5. Next of kin of Marco Aurelio Areiza:	991783, judicial	No. 1456 of

Carlina Tobon de Areiza (spouse), Yonny Aurelio Areiza Tobon (son), Miryam Lucia Areiza Tobon (daughter), Mario Alberto Areiza Tobon (son), successors of Tobon Areiza (Carlina Tobon, Lilian Amparo, Miriam Lucia, Mario Alberto, Johnny Aurelio and Gabriela Areiza Tobon).	decision of February 3, 2005	September 12, 2005
6. Next of kin of Otoniel de Jesús Tejada Jaramillo: Danilo de Jesús Tejada Jaramillo (brother) and María Dolores Jaramillo (mother)	991276, judicial decision of January 25, 2005	No. 1458 of September 12, 2005
7. Nelson de Jesús Palacio Cárdenas: Gladys Helena Jaramillo Cano (companion), Alexander Palacio Jaramillo and Nelson Adrian Palacio Jaramillo (the victim's sons)	991270, judicial decision of March 8, 2005	No. 1460 of September 12, 2005
8. Wilmar de Jesús Restrepo Torres: Jesús María Restrepo (father)	991784, judicial decision of December 6, 2004	No. 1465 of September 12, 2005
9. Guillermo Andrés Mendoza Posso: Libardo Mendoza (father), Leticia Posso Molina (mother), Viviana Yanet Mendoza Posso, Magnolia Emilce Mendoza Posso, Jael Rocio Mendoza Posso, Beatriz Amalia Mendoza Posso, Rodrigo Alberto Mendoza Posso, Diego Fernando Mendoza Posso, Diana Patricia Mendoza Posso and Jovanny Alcides Mendoza Posso	983185, judicial decision of December 6, 2004	No. 1465 of September 12, 2005
10. Arcadio Londoño: Rodolfo Andres Londoño de la Espriella, Jorge Junior Londoño de la Espriella, Angélica María Londoño Aristizabal, Juan Manuel Londoño Aristizabal, Gilberto Londoño Velasquez, Liliana Andrea Londoño Vega and Diana Carolina Londoño Vega	993471, judicial decision of December 6, 2004	No. 1465 of September 12, 2005
11. Luis Humberto Mendoza Arroyave	991519, judicial decision of January 25, 2005	No. 1464 of September 12, 2005
12. Ricardo Alfredo Builes Echeverry	983482, judicial decision of February 3, 2005	No. 1456 of September 12, 2005
13. Francisco Eladio Ortiz Bedoya	991510, judicial decision of March 8, 2005	No. 1463 of September 12, 2005

125(102) On July 2, 2004, the Antioquia Administrative Court delivered judgment concerning a claim for direct reparation against the State for alleged omissions in the exercise of

its functions by the National Army that resulted in the death of Fabio Antonio Zuleta Zabala and Omar Ortiz Carmona in El Aro on October 22, 1997. The Administrative Court rejected the claims because the evidence provided during the proceedings did not allow "the administrative responsibility of the National Army to be presumed."

125(103) On September 2, 2004, the Antioquia Administrative Court delivered judgment concerning a claim for direct reparation against the State for alleged omissions in the exercise of its functions by the National Army that resulted in the death of Dora Luz Areiza Arroyave in El Aro on October 25, 1997. The Administrative Court found that the death of Dora Luz Areiza Arroyave had not been "duly proved, by an official death certificate, a piece of evidence that cannot be replaced by testimony," and therefore rejected the claim.

Internal displacement in Colombia and its consequences in the case of the municipal districts of La Granja and El Aro

125(104) The problem of internal forced displacement in Colombia, which started in the 1980s, affected large masses of the population and has grown progressively worse. According to Government sources, from 1995 to 2002, 985(2)12 displaced persons were recorded. According to the United Nations High Commissioner for Human Rights, although there has been a decrease in the number of new cases of displacement, in 2004 the total number of displaced increased in relation to previous years. The Social Solidarity Network has registered around 1.5 million displaced persons, [FN153] while other Government sources mention from 2.5 to 3 million displaced. [FN154]

[FN153] Cf. Displaced Peoples' Register, accumulated number of persons displaced to August 31, 2005 (http://www.red.gov.co/Programas/Apoyo_Integral Desplazados/Registro_SUR/Registro_SUR_Agos_31_2005/ Registro_SUR_Sept_10_web_Acumulado.htm).

[FN154] Cf. judgment T025 of January 22, 2004, issued by the Third Review Chamber of the Constitutional Court (file of attachments to the brief answering the application, tome III, Appendix 30, ff. 4363 to 4747hh); Informe Anual de Derechos Humanos y Derecho Internacional Humanitario 2002 and Avances Periodo Presidencial 2003, issued by the Ministry of National Defense of the Republic of Colombia, p. 81; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2005/10, February 28, 2005, para. 14; data from the United Nations Humanitarian Assistance Chamber, statistics from the Social Solidarity Network; and data provided by the Presidential Adviser for Social Action, Luis Alfonso Hoyos, http://eltiempo.terra.com.co/hist_imp/ HISTORICO_IMPRESO/ poli_hist/ 2005-05-19/ARTICULO-WEB-NOTE_ INTERIOR_HIST-2073692.html.

125(105) It has been determined that the humanitarian crisis caused by internal displacement is so great that it entails a "massive, prolonged and systematic" violation of several of this group's fundamental rights. [FN155]

[FN155] Cf. judgment T025 of January 22, 2004, issued by the Third Review Chamber of the Constitutional Court (file of attachments to the brief answering the application, tome III, Appendix 30, ff. 4363 to 4747hh).

125(106) The reasons for the accentuated vulnerability of the displaced and its manifestations have been described from different perspectives. This vulnerability is reinforced by the fact that most of the displaced come from rural areas; also serious psychological repercussions in those affected have been diagnosed. The problem affects women most, since they are usually the household heads and represent more than half the displaced population. In general, women, children and adolescents are those most affected by displacement. The internal displacement crisis causes, in turn, a security crisis because the groups of internally displaced become a new resource or source of recruitment for paramilitary, drug-trafficking and guerrilla groups. The return of the displaced to their homes is often characterized by the absence of the necessary safety and humanitarian conditions. [FN156]

[FN156] Cf. judgment T025 of January 22, 2004, issued by the Third Review Chamber of the Constitutional Court (file of attachments to the brief answering the application, tome III, Appendix 30, ff. 4363 to 4747hh); judgment T-721/03 of August 20, 2003, issued by the Eighth Review Chamber of the Constitutional Court; National Program for Integral Care for the Population Displaced by Violence – CONPES – Presidential Human Rights Council, document 2804 of September 13, 1995, National Planning Department of the Ministry of the Interior; Economic, Social and Cultural Rights, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, E/CN.4/2005/48, March 3, 2005, para. 38; and Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2003/13, February 24, 2003, para. 94.

125(107) The departments most affected by this factor have been: Antioquia, Santander, Meta, Córdoba and Boyacá, as regions “responsible for the expulsion” of most of the population concerned, while the departments of Cundinamarca, Santander, Antioquia, Córdoba, Norte de Santander, Boyacá and Atlántico have received most of the displaced. [FN157]

[FN157] Cf. National Program for Integral Care for the Population Displaced by Violence – CONPES – Presidential Human Rights Council, document 2804 of September 13, 1995, National Planning Department of the Ministry of the Interior, p. 3; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2003/13, February 24, 2003, and Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2001/15, March 20, 2001.

125(108) A wide variety of public policies have been implemented with regard to the problem of displacement, including many laws, decrees, documents of the National Economic

and Social Policy Council (CONPES) , presidential orders and resolutions, and cooperation programs run by national and international organizations and individuals. The most important of these are: Act 37 of July 18, 1997, "adopting measures for the prevention of forced displacement; the care, protection, social and economic stabilization and consolidation of the internally displaced by the violence in the Republic of Colombia"; Decree 250 of February 7, 2005, "issuing the National Plan for Integral Attention to the Population Displaced by Violence, and ordering other provisions"; and Decree 2007 of September 24, 2001, "partially regulating articles 7, 17 and 19 of Act 37 of 1997, concerning prompt attention to the rural population displaced owing to the violence, in the context of their voluntary return to their place of origin or their resettlement in another place, and adopting measures to prevent this situation." [FN158]

[FN158] Cf. judgment T025 of January 22, 2004, issued by the Third Review Chamber of the Constitutional Court (file of attachments to the brief answering the application, tome III, Appendix 30, ff. 4363 to 4747hh); Act 37 of 1997 (July 18), "adopting measures to prevent forced displacement; and Decree 250 of February 7, 2005, "issuing the National Plan for Integral Attention to the Population Displaced by Violence, and ordering other provisions."

125(109) Despite the actions of some State entities to mitigate the problems of the displaced and the significant progress achieved, it has not been possible to protect the rights of the displaced integrally owing, in particular, to the limited institutional capacity to implement State policies and the allocation of insufficient resources. [FN159]

[FN159] Cf. judgment T025 of January 22, 2004, issued by the Third Review Chamber of the Constitutional Court (file of attachments to the brief answering the application, tome III, Appendix 30, ff. 4363 to 4747hh).

125(110) The massacres that took place in La Granja and El Aro, added, inter alia, to the fear that similar events could be repeated, the intimidation by the paramilitary groups, the experiences during the days that the massacres occurred, and the damage suffered, resulted in the internal displacement of entire families from these districts.

125(111) Luis Humberto Mendoza Arroyave and Julio Eliver Pérez Areiza, who appear in the Displaced Persons' Register, together with their family groups, received financial assistance from the State, based on their status as displaced persons. [FN160]

[FN160] Report dated December 14, 2004, of the Technical Director of the Integral Attention Unit of the Program for the Displaced of the Social Solidarity Network of the Presidency of the Republic (file of attachments to the brief answering the application, tome III, folios 4629 to 4635).

125(112) The Displaced Persons' Register kept by the Human Rights Directorate of the Ministry of the Interior at the time of the facts does not contain complete information on the population that was displaced between 1996 and 1999. [FN161]

[FN161] Report dated December 14, 2004, of the Technical Director of the Integral Attention Unit of the Program for the Displaced of the Social Solidarity Network of the Presidency of the Republic (file of attachments to the brief answering the application, tome III, folios 4629 to 4635).

125(113) The displaced inhabitants of El Aro and La Granja, who have been identified in the proceedings before the Court, are described in Appendix IV of this judgment.

Concerning the damage caused to the next of kin of the alleged victims and the costs and expenses

125(114) Owing to the context in which the facts of this case occurred, the next of kin of the alleged victims, as well as the inhabitants of Granja and El Aro who survived, experienced profound anguish, and also pecuniary damage; in some case, their physical and mental health was affected, and their social and work relations, and their family dynamics were altered.

125(115) The Comisión Colombiana de Juristas and the Grupo Interdisciplinario de los Derechos Humanos have incurred expenses related to processing this case before the organs of the inter-American system for the protection of human rights, in representation of some of the next of kin of the alleged victims. [FN162]

[FN162] Cf. vouchers for the costs and expenses incurred by the Comisión Colombiana de Juristas and the Grupo Interdisciplinario por los Derechos Humanos (attachments to the requests and arguments brief, tome Appendix I 2, folios 3943 to 3967).

IX. ARTICLE 4 OF THE AMERICAN CONVENTION (RIGHT TO LIFE) IN RELATION TO ARTICLE 1(1) THEREOF

126. The State has acknowledged its responsibility for the violation of Article 4 (Right to Life) of the American Convention in this case (supra paras. 59, 64, 65 and 72). Nevertheless, as indicated in the section of this judgment entitled "Prior Considerations," the Court considers it essential to clarify some points relating to the obligations established in this article (supra para. 81).

127. Article 4(1) of the Convention stipulates that:

Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.

128. The right to life is a fundamental human right and its full enjoyment is essential for the enjoyment of all the other human rights. [FN163] If it is not respected, all the other rights lack meaning. Owing to this fundamental characteristic, restrictive approaches to it are inadmissible. [FN164] Article 27(2) of the Convention establishes that this right forms part of a group of rights that are non-derogable, because it is one of the rights that cannot be suspended in time of war, public danger or other emergency that threatens the independence or security of a State Party. [FN165]

[FN163] Cf. Case of Baldeón García, supra note 5, para. 82; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 150; and Case of the Pueblo Bello Massacre, supra note 9, para. 120.
[FN164] Cf. Case of Baldeón García, supra note 5, para. 82; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 150; and Case of the "Street Children" (Villagrán Morales et al.). Judgment of November 19, 1999. Series C No. 63, para. 144. Likewise, cf. Eur.C.H.R., Nachova and others v. Bulgaria [GC], nos. 43577/98 and 43579/98 Judgment of 6 July 2005, para. 94.
[FN165] Cf. Case of Baldeón García, supra note 5, para. 82; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 150; and Case of the Pueblo Bello Massacre, supra note 9, para. 119.

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129. Owing to the fundamental role assigned to it by the Convention, States are obliged to guarantee the creation of the necessary conditions to ensure that violations of this inalienable right do not occur, and also the obligation to prevent its agents, or private individuals, from violating it. [FN166] The object and purpose of the Convention, as an instrument for the protection of the human being, requires the right to life to be interpreted and applied in a way that ensures that its safeguards are practical and effective (effet utile). [FN167]

[FN166] Cf. Case of Baldeón García, supra note 5, para. 83; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 151; Case of the Pueblo Bello Massacre, supra note 9, paras. 120, 123 and 124. Likewise cf. Eur.C.H.R., Öneryildiz v Turkey, no. 48939/99, Judgment of 30 November 2004, para. 71.
[FN167] Cf. Case of Baldeón García, supra note 5, para. 83; Case of Hilaire. Preliminary Objections. Judgment of September 1, 2001. Series C No. 80, para. 83; Case of the Constitutional Court. Competence. Judgment of September 24, 1999. Series C No. 55, para. 36. Likewise, cf. Eur.C.H.R., McCann and Others v. the United Kingdom, Judgment of 27 September 1995, Series A no. 324, paras. 146-147.

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130. The Court has indicated in its consistent case law that compliance with the obligations imposed by Article 4 of the American Convention, in relation to Article 1(1) thereof, presumes not only that no one shall be deprived of their life arbitrarily (negative obligation), but also, in light of their obligation to ensure the full and free exercise of all human rights, that States adopt

all appropriate measures to protect and preserve the right to life (positive obligation) of those subject to their jurisdiction. [FN168]

[FN168] Cf. Case of Baldeón García, supra note 5, para. 84; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 152; and Case of the Pueblo Bello Massacre, supra note 9, para. 120. Likewise, cf. Eur.C.H.R., L.C.B. v. the United Kingdom, Judgment of 8 June 1998, para. 36.

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131. This active protection of the right to life by the State involves not only its legislators, but also all State institutions and those who should protect security, whether they are its police or its armed forces. Consequently, the State must adopt the necessary measures, not only at the legislative, administrative and judicial levels by the issue of penal norms and the establishment of a justice system to prevent, eliminate and punish the deprivation of life as a result of criminal acts, but also to prevent and protect individuals from the criminal acts of other individuals, and investigate such situations effectively. [FN169]

[FN169] Cf. Case of Baldeón García, supra note 5, para. 85; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 153; and Case of the Pueblo Bello Massacre, supra note 9, para. 120.

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132. In this case, it has been proved (supra para. 125(36) to 125(40) and 125(55) to 125(79)) and the State has acknowledged that, in June 1996 and as of October 1997, in the municipal districts of La Granja and El Aro, respectively, both located in the Municipality of Ituango, Department of Antioquia, Colombia, paramilitary groups perpetrated successive armed incursions, murdering defenseless civilians. The State's responsibility for these acts, which occurred in the context of a pattern of similar massacres, arises from the acts of omission, acquiescence and collaboration by members of the law enforcement bodies based in this municipality.

133. As the State has acknowledged (supra paras. 63 and 64), it has been proved that State agents were fully aware of the terrorist activities perpetrated by these paramilitary groups on the inhabitants of La Granja and El Aro. Far from taking measures to protect the population, members of the National Army not only acquiesced to the acts perpetrated by the paramilitary groups, but at times collaborated with and took part in them directly. Indeed, the participation of State agents in the armed raids was not limited to facilitating the entry into the region of the paramilitary groups, but they also failed to assist the civilian population during the incursions, leaving them totally defenseless. This collaboration between paramilitary groups and State agents resulted in the violent death of 19 inhabitants of La Granja and El Aro.

134. The Court recognizes that the State has adopted certain legislative measures to prohibit, prevent and punish the activities of the self-defense or paramilitary groups (supra para. 125(3) to 125(22)). Nevertheless, these measures did not translate into the concrete and effective

neutralization of the danger that the State itself had helped create. Owing to the interpretation given to the legal framework for several years, the State contributed to the creation of self-defense groups with specific purposes, but they exceeded their mandate and began to act illegally. Thus, by contributing to the establishment of these groups, the State objectively created a situation of danger for its inhabitants and did not adopt the necessary and sufficient measures to avoid such groups continuing to perpetrate acts such as those of the instant case. The declaration that these groups were illegal should have translated into the adoption of sufficient and effective measures to avoid the consequences of the danger that had been created. While it subsists, this situation of danger accentuates the State's special obligations of prevention and protection in the zones where paramilitary groups are present, as well as the obligation to investigate diligently, the acts or omissions of State agents and private individuals that endanger the civilian population.

135. The limited effectiveness in dismantling these paramilitary structures is also evident from the motives and characteristics of the legislation adopted as of 1989 (supra para. 125(4) to 125(22)), and also from examining the quantitative and qualitative intensity of the human rights violations committed by the paramilitary groups at the time of the facts and during the following years, acting alone or with the acquiescence and collaboration of State agents.

136. The Court considers that it is in this context in which the facts of this case occurred that the State's compliance with its Convention obligations to respect and guarantee the rights of the victims should be determined.

137. In this type of situation of systematic violence and grave violations of the rights in question in a zone of conflict (supra para. 125(23) to 125(25) and 125(28)), the State's obligation to adopt positive measures of prevention and protection is increased and is of cardinal importance within the framework of the obligations established Article 1(1) of the Convention.

138. For the reasons described in the preceding paragraphs, the Court concludes that the State failed to comply with its obligation to guarantee the right to life enshrined in Article 4 of the Convention, in relation to Article 1(1) thereof, to the detriment of William de Jesús Villa García, María Graciela Arboleda Rodríguez, Héctor Hernán Correa García, Jairo de Jesús Sepúlveda Arias, Arnulfo Sánchez Álvarez, José Darío Martínez Pérez, Olcris Fail Díaz Pérez, Wilmar de Jesús Restrepo Torres, Omar de Jesús Ortiz Carmona, Fabio Antonio Zuleta Zabala, Otoniel de Jesús Tejada Jaramillo, Omar Iván Gutiérrez Nohavá, Guillermo Andrés Mendoza Posso, Nelso0n de Jesús Palacio Cárdenas, Luis Modesto Múnera Posada, Dora Luz Areiza Arroyave, Alberto Correa, Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera.

X. ARTICLES 6 AND 7 OF THE AMERICAN CONVENTION (FREEDOM FROM SLAVERY AND RIGHT TO PERSONAL LIBERTY) IN RELATION TO ARTICLE 1(1) THEREOF

The Commission's arguments

139. The Inter-American Commission did not claim the alleged violation of Article 6 of the American Convention.

140. Regarding the alleged violation of Article 7 of the American Convention, the Commission indicated that:

(a) The State had accepted the Commission's claims in the application concerning the violation of Article 7 to the detriment of Jairo Sepúlveda, Marco Aurelio Areiza and Rosa Areiza (supra paras. 19); and
(b) The Commission did not submit arguments in relation to the possible violation of the right to personal liberty enshrined in Article 7 of the Convention to the detriment of the alleged victims indicated by the representatives in their requests and arguments brief.

The representatives' arguments

141. In relation to Article 6 of the American Convention the representatives argued that:

(a) The paramilitary group obliged some of the inhabitants of El Aro to collect and transfer the horses, mules and cattle that were stolen from the inhabitants of this district, for about 17 days, in order to "ensure the arbitrary appropriation of this property";
(b) 17 persons were obliged to herd the livestock;
(c) The herding "was carried out against their will and at the risk of being killed if they opposed it";
(d) "The certain and imminent threat to life looming over the peasant farmers of El Aro, following the murders committed by the paramilitary group that raided the district, meant that [the herdsmen] understood that if they did not accept the task imposed on them, it would result in a death sentence such as that suffered by several other villagers";
(e) The military authorities of Puerto Valdivia did not prevent the paramilitary group from obliging the inhabitants of El Aro to carry out forced labor. Furthermore, members of the Army knew about the theft of the livestock and, instead of protecting the peasants, they supported and promoted the imposition of forced labor and imposed a curfew to facilitate the theft of the livestock; and
(f) The ruling in first instance in the investigations carried out by the Office of the Delegate Attorney for Human Rights against Lieutenant Everardo Bolaños and First Corporal Germán Alzate Cardona indicated that the herdsmen were obliged to perform forced labor.

142. Regarding the alleged violation of Article 7 of the American Convention, the representatives indicated that:

(a) 15 people were deprived of their liberty by the paramilitary group;
(b) When the alleged victims had been "arbitrarily deprived of their liberty, they were taken to places far from where they lived";
(c) "Since they were deprived of their liberty, the alleged victims were also deprived of the possibility of being informed legally of the reasons for their detention and being taken promptly before a judicial authority";
(d) "The deprivation of liberty of the alleged victims occurred without observing any of the norms guaranteeing the legality and non-arbitrariness of the detention. To the contrary, they were deprived of liberty by a paramilitary group, which had no legal authorization or authority to do

this." The fact that the alleged victims were deprived of their liberty by members of a paramilitary group with the direct support of members of law enforcement bodies violated this fundamental provision safeguarding personal liberty; and
(e) The State is responsible for the violation of the right to liberty of the alleged victims "because its agents contributed to, supported and facilitated the actions of the paramilitary group during the events" of this case.

The State's arguments

143. In relation to the alleged violation of Article 6 of the Convention, the State declared that it "had not failed to comply with any Convention obligation derived from [this article]";

144. Regarding the alleged violation of Article 7 of the Convention, the State indicated that:

(a) It accepted the Commission's claims in the application as regards the violation of Article 7 of the Convention to the detriment of Jairo Sepúlveda, Marco Aurelio Areiza and Rosa Areiza (supra para. 19); and
(b) It did not submit arguments in relation to the possible violation of the right to personal liberty enshrined in Article 7 of the Convention to the detriment of the alleged victims mentioned by the representatives in their requests and arguments brief.

The Court's findings

145. Based on the contents of the chapter on Prior Considerations (supra para. 78(b) and 78(c)), this chapter will be limited to examining the alleged violations of Articles 6(2) (Freedom from Slavery) and 7 (Right to Personal Liberty) of the Convention to the detriment of those persons who have not been included in the State's acknowledgement of international responsibility.

146. The Court considers that it is opportune to examine together the alleged violations of Articles 6(2) and 7 of the Convention since, first, the representatives claimed the alleged violation of both articles to the detriment of the same people, with the exception of two people, regarding whom it only alleged the violation of Article 6 of the Convention and, second, the facts are closely related because the herdsmen were allegedly deprived of their liberty and then obliged to herd livestock.

147. The Court observes that the Commission did not submit allegations in relation to the alleged violations of Articles 6(2) and 7 of the American Convention, regarding the persons mentioned by the representatives. However, the Court's case law has established clearly that the representatives may allege violations other than those alleged by the Commission, provided these allegations relate to facts set out in the application. [FN170] In this regard, the Commission indicated in the section on the facts in the application that, from the "evidence it is clear that the paramilitary group obliged the 17 peasants from the zone to herd the livestock to their destination points." [FN171] In addition, in that section of the application, the Commission transcribed the two testimonies which refer to these "17" herdsmen. [FN172] Consequently, the Court finds that the representatives claimed the alleged violation of Article 6(2) of the

Convention, to the detriment of 17 alleged victims, based on the facts included in the application, and Article 7 of the Convention to the detriment of 15 of these same persons (supra paras. 141(b) and 142(a)).

[FN170] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 54; Case of García Asto and Ramírez Rojas, supra note 5, para. 219; and Case of the "Mapiripán Massacre", supra note 8, para. 57.
[FN171] Paragraph 55 of the Inter-American Commission's application.
[FN172] The testimony of Alfredo Torres Jaramillo, transcribed in paragraph 55 of the Commission's application, indicates: "and from all of us they had assembled there with them, and I don't remember their names, they chose 17 of use and sent us to gather cattle and other animals from the farms and collect them on one farm (...) they forced us, we had to herd them (...) we did not receive anything for this." Also, the testimony of Francisco Osvaldo Pino Posada, transcribed in paragraph 56 of the Commission's application, indicates: "we, the herdsmen, […] were obliged to herd the livestock; […] there were 17 of us, including Ricardo Barrera, Omar Torres, Román Salazar, Libardo Carvajal, Rodrigo Mendoza, Milcíades Crespo, etc."

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148. Article 6(2) of the American Convention establishes that "[n]o one shall be required to perform forced or compulsory labor. […]"

149. Article 7 of the Convention stipulates that:

1. Every person has the right to personal liberty and security.
2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
3. No one shall be subject to arbitrary arrest or imprisonment.
4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.
5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.
6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
[…]

150. The Court considers that it has been proved (supra para. 125(82) and 125(83)) that, during the incursion in El Aro, in order to facilitate the theft of from 800 to 1,200 head of

livestock (infra para. 176), the paramilitary group deprived 17 peasants of their liberty and obliged them, by threat (supra para. 125(82)), to herd the animals for 17 days along the public roads under the custody of members of the Army, who not only acquiesced to the acts perpetrated by the paramilitary group, but also directly participated and collaborated at times, even ordering a curfew in order to facilitate the theft of the livestock. The State acknowledged (supra para. 19), and the ruling of the Attorney General's Office of September 30, 2002, [FN173] also recognizes (supra para. 125(100)) that, after the paramilitary group that raided El Aro had perpetrated the massacre and the acts of intimidation, they stole the inhabitants' livestock and imposed on some of residents of this district the task of gathering the livestock and moving it for approximately 17 days.

[FN173] Cf. ruling of September 30, 2002, issued by the Attorney General's Office (file of attachments to the application, tome III, Appendix 62, folio 1382);

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151. The Court must decide whether these facts give rise to the State's international responsibility. This requires a careful examination of the conditions in which a specific act or omission that harms one or more of the rights embodied in the American Convention can be attributed to a State Party and, thus, entail its responsibility under international law.

152. The Court will now examine, first, the alleged violation of the right to personal liberty and then, the prohibition of forced labor, because the alleged violations occurred in that chronological order.

a) Deprivation of personal liberty

153. In this case, it has been proved (supra para. 125(84)) that 17 peasant from El Aro were deprived of their liberty for 17 days when they were detained by the paramilitary group that controlled the district at the time of the incursion. This incursion occurred with the acquiescence or tolerance of Colombian State agents. Those detained were deprived of their right to liberty in order to oblige them to gather and herd livestock stolen from throughout the region. The Court considers that these detentions occurred illegally and arbitrarily, because they were carried out without an arrest warrant signed by a competent judge or the existence of flagrant necessity.

b) Forced or compulsory labor

154. The representatives claimed the alleged violation of Article 6(2) of the Convention to the detriment of the persons who were detained and compelled to herd the livestock stolen during the paramilitary incursion in El Aro. When examining the content and scope of this article in the instant case, the Court will bear in mind the significance of the prohibition of forced or compulsory labor, in light of the general rules of interpretation established in Article 29 of the Convention.

155. On other occasions, both this Court [FN174] and the European Court of Human Rights [FN175] have indicated that human rights treaties are living instruments whose interpretation

must take into consideration changes over time and current conditions. This evolutive interpretation is consequent with the general rules of interpretation embodied in Article 29 of the American Convention, and in those established in the Vienna Convention on the Law of Treaties.

[FN174] Cf. Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 117; Case of the Indigenous Community Yakye Axa. Judgment June 17, 2005. Series C No. 125, para. 125; and Case of the Gómez Paquiyauri Brothers. Judgment of July 8, 2004. Series C No. 110, para. 165. Likewise, cf. The right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law. Advisory Opinion OC-16/97 of November 14, 1997. Series A No. 16, para. 114.

[FN175] Cf. Eur.C.H.R., Tyrer v. the United Kingdom, 5856/72, Judgment of 25 April 1978. Series A no. A26, para. 31.

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156. In this regard, the Court has affirmed that, the interpretation of a treaty must take into account not only the agreements and instruments related to the treaty (paragraph 2 of Article 31 of the Vienna Convention), but also the system of which it is part (paragraph 3 of Article 31 of that Convention). [FN176]

[FN176] Cf. Case of the Indigenous Community Yakye Axa, supra note 174, para. 126; Case of Tibi. Judgment of September 7, 2004. Series C No. 114, para. 144; and Case of the Gómez Paquiyauri Brothers, supra note 174, para. 164. Likewise, cf. The right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law, supra note 174, para. 113.

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157. In the instant case, when examining the scope of the said Article 6(2) of the Convention, the Court finds it useful and appropriate to use other international treaties than the American Convention, such as the International Labour Organization (hereinafter "ILO") Convention No. 29 concerning Forced Labour, to interpret its provisions in keeping with the evolution of the inter-American system, taking into consideration the developments on this issue in international human rights law. [FN177]

[FN177] In this regard, the Court has indicated that the corpus juris of international human rights law comprises a set of international instruments of varied content and juridical effects (treaties, conventions, resolutions and declarations). Its dynamic evolution has had a positive impact on international law in affirming and building up the latter's faculty for regulating relations between States and the individuals within their respective jurisdictions. This Court, therefore, must adopt the proper approach to consider this question in the context of the evolution of the fundamental rights of the individual in contemporary international law. Cf. Juridical Status and Rights of Undocumented Migrants. Advisory Opinion OC-18/03 of September 17, 2003. Series A No. 18, para. 120, and Cf. The right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law, supra note 174, para. 115.

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158. Article 2(1) of ILO Convention No. 29 contains the definition of forced labor examined in this case. This provision can throw light on the content and scope of Article 6(2) of the American Convention. The State ratified Convention No. 29 on March 4, 1969.

159. Article 2(1) of ILO convention No. 29 establishes that:

The term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

160. The Court observes that, according to the ILO Convention, the definition of forced or compulsory labour consists of two basic elements. First, the work or service is exacted "under the menace of a penalty." Second, it is performed involuntarily. Furthermore, the Court finds that, to constitute a violation of Article 6(2) of the American Convention, it is necessary that the alleged violation can be attributed to State agents, either due to their direct participation or to their acquiescence to the facts. The Court will proceed to examine the facts of this case in light of these three factors.

i) The menace of a penalty

161. For the effects of this case, the "menace of a penalty" can consist in the real and actual presence of a threat, which can assume different forms and degrees, of which the most extreme are those that imply coercion, physical violence, isolation or confinement, or the threat to kill the victim or his next of kin. [FN178]

[FN178] Cf. Global report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, "A Global Alliance against Forced Labour," International Labour Conference, 93rd session, 2005.

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162. The Court considers that "the menace of a penalty" is evident in this case in its most extreme form, which is a direct and implicit threat of physical violence or death addressed at the victim or his next of kin.

163. According to the statements submitted in this case, both before the Court and before the domestic instances, the herdsmen were explicitly threatened with death if they tried to escape. These direct threats were complemented by a context of extreme violence in which the herdsmen were deprived of their liberty, taken to localities that were far from their place of residence, at times, and then obliged to assemble stolen livestock by heavily-armed men who had just perpetrated the arbitrary execution of other villagers with the acquiescence or tolerance of members of the Army. In addition, far from protecting the life and liberty of the herdsmen, members of the Army received some of the stolen livestock, thus contributing to the herdsmen's feelings of defenselessness and vulnerability.

ii) Unwillingness to perform the work or service

164. "Unwillingness to perform the work or service" consists in the absence of consent or free choice when the situation of forced labor begins or continues. This can occur for different reasons, such as illegal deprivation of liberty, deception or psychological coercion.

165. In this case, the Court considers that the absence of free choice concerning the herding of the livestock has been proved. The herdsmen did not offer voluntarily to perform the work in question. To the contrary, they were deprived of their liberty, taken to remote places and obliged for at least 17 days to perform work against their will, to which they submitted to save their life. The herdsmen understood that they were compelled to perform the work imposed on them, because, if they did not agree, they could be murdered in the same way as several other villagers.

iii) Connection with State agents

166. Lastly, the Court considers that, in order to constitute a violation of Article 6(2) of the American Convention, it must be possible to attribute the alleged violation to State agents. In this case, the participation and acquiescence of members of the Colombian Army in the paramilitary incursion in El Aro and in the ordering of a curfew to facilitate the theft of the livestock has been proved. It has also been proved that State agents received stolen livestock from the herdsmen.

167. To identify the victims in this case in relation to the violation of Articles 6(2) and 7 of the Convention, the Court has used various criteria. First, the said alleged victims can be identified based on the application, because it included the facts relating to the alleged forced herding and the exact number of victims. The Commission indicated that "the paramilitary group compelled 17 peasants from the zone to herd the [stolen] livestock to the destination points." [FN179] Second, in the application, the Commission transcribed two testimonies which refer to these 17 herdsmen and mention the names of eight of them. [FN180] Third, the State acknowledged (supra para. 125(100)) and the ruling of September 30, 2002, issued by the Attorney General's Office also recognizes [FN181] that, after perpetrating the massacre and the acts of intimidation, the paramilitary group which raided El Aro stole the inhabitants' livestock and imposed on these 17 persons the work of assembling and moving the livestock during approximately 17 days. Fourth, various testimonies have been submitted at both the domestic level and before this Court, which prove repeatedly the identity of these 17 herdsmen. Lastly, the foregoing is reinforced by the fact that the representatives submitted the names of the "17" herdsmen mentioned in the application in the briefs they have presented to the Court.

[FN179] Cf. paragraphs 55 and 62 of the Inter-American Commission's application.
[FN180] Alfredo Torres Jaramillo, Francisco Osvaldo Pino Posada, Ricardo Barrera, Omar Torres, Román Salazar, Libardo Carvajal, Rodrigo Mendoza and Milcíades Crespo.
[FN181] Cf. ruling of September 30, 2002, issued by the Attorney General's Office (file of attachments to the application, tome III, Appendix 62, folio 1381).

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168. The Court considers that the victims of the violation of Article 7 of the Convention, owing to deprivation of their liberty in order to force them to herd the livestock are: 1) Francisco Osvaldo Pino Posada, 2) Omar Alfredo Torres Jaramillo, 3) Rodrigo Alberto Mendoza Posso, 4) Noveiri Antonio Jiménez Jiménez, 5) Milciades De Jesús Crespo, 6) Ricardo Barrera, 7) Gilberto Lopera, 8) Argemiro Echavarría, 9) José Luis Palacio, 10) Román Salazar, 11) William Chavarría, 12) Libardo Carvajal, 13) Eduardo Rua, 14) Eulicio García and 15) Alberto Lopera. The Court also considers that the State violated Article 6(2) of the Convention to the detriment of these same people, and also 16) Tomás Monsalve and 17) Felipe "Pipe" Gómez.

XI. ARTICLE 21 OF THE AMERICAN CONVENTION (RIGHT TO PROPERTY) ARTICLE 11(2), IN RELATION TO ARTICLE 21 THEREOF (RIGHT TO HONOR AND DIGNITY) ALL IN RELATION TO ARTICLE 1(1) THEREOF

The Commission's arguments

169. Regarding the alleged violation of Article 21 of the Convention, the Inter-American Commission alleged that:

(a) Before abandoning the district of El Aro, "the paramilitary group destroyed and set fire to almost all the houses in the urban center so as to cause terror and forced displacement";
(b) When they left El Aro, the paramilitary group "stole around 1,200 horses, mules and cattle belonging to the inhabitants";
(c) The acts of arson and theft of the property of the El Aro families "were perpetrated with the direct collaboration of members of law enforcement bodies"; and
(d) The alleged victims of the violation of Article 21, owing to "the theft of livestock or the loss of their homes," are: Libardo Egidio Mendoza, Luis Humberto Mendoza Arroyave, Ricardo Alfredo Builes Echeverri, Bernardo María Jiménez Lopera, Francisco Osvaldo Pino Posada and Omar Alfredo Torres Jaramillo.

The representatives' arguments

170. Regarding the violation of Article 21 of the American Convention, the representatives alleged that:

(a) The paramilitary group stole approximately 1,200 head of livestock from the farms of El Aro and other villages in the municipalities of Puerto Valdivia and Ituango;
(b) The paramilitary group set fire to at least 80% of the homes in El Aro, as well as others on the road to Puerto Valdivia;
(c) These acts were perpetrated "with the direct participation and support of agents of the National Army, under the permissive regard and omissive attitude of their superior civil and military authorities," who failed to adopt any measure to avoid the acts;
(d) "Law enforcement bodies had possession of the stolen livestock";
(e) The livestock was stolen to "benefit the paramilitary leaders and members of the Army" and to perpetrate acts of extreme cruelty against the civilian population, including children, women and the elderly, merely because they had been falsely accused of collaborating with the guerrilla";

(f) The departmental authorities did not help the alleged victims recover their livestock and did not go to the farm where it had allegedly been taken;
(g) The violation of property in El Aro was used as a means of ensuring that the inhabitants could not continue exercising their usual economic activities;
(h) In addition to the persons indicated by the Commission, the Court should consider that "the other people who lost property and livestock, and who are identified during the proceedings" are alleged victims.

The State's arguments

171. The State acknowledged its responsibility for the violation of the right to property enshrined in Article 21 of the Convention to the detriment of Luis Humberto Mendoza, Libardo Mendoza, Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Ricardo Alfredo Builes Echeverri and Bernardo María Jiménez Lópera. The State did not say anything with regard to the alleged violation of private property in relation to the other alleged victims mentioned by the representatives (supra paras. 19 and 20).

The Court's findings

172. The Court will proceed to examine the alleged violation of Article 21 (Right to Property) of the Convention in relation to the facts of El Aro.

173. Article 21 of the Convention establishes:

1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.
2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.
[…]

174. In its case law, the Court has developed a broad notion of property, which encompasses, among other matters, the use and enjoyment of "possessions," defined as appropriable material objects, as well as any right that can form part of a person's patrimony. This notion includes all movables and immovables, corporeal and incorporeal elements, and any other immaterial object that may be of value. [FN182]

[FN182] Cf. Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 121; Case of Palamara Iribarne. Judgment of November 22, 2005. Series C No. 135, para. 102; and Case of the Indigenous Community Yakye Axa, supra note 174, para. 137.
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175. The right to property is guaranteed in Article 58 of the Colombian Constitution.

176. In this case, the Court considers that it has been proved (supra para. 125(84)) that, during the incursion in El Aro, initiating at the start of their passage through the municipality of Puerto Validvia, the paramilitary group stole approximately 800 to 1,200 head of livestock from the farms along the way. It has also been proved, and acknowledged by the State (supra para. 19), that members of the Army were aware of the theft and transfer of the El Aro livestock and even imposed a curfew on the population so that the livestock could be taken away using the public highway, and that some soldiers benefited from the theft. In addition, the public authorities failed to assist the civilian population during the theft and transfer of the livestock in that district.

177. The Court also considers that it has been proved and the State has acknowledged (supra para. 19) that, before leaving El Aro, the paramilitary group destroyed and set fire to the majority of the houses in the urban center – only a chapel and eight homes were saved – (supra para. 125(79)), in order to terrorize the population and cause its displacement.

178. The Court finds it opportune to underscore the particular gravity of the theft of the livestock of the inhabitants of El Aro and the surrounding areas. As the Commission and the representatives have emphasized, from the characteristics of the district and the daily activities of the inhabitants, it is clear that there was a close relationship between the latter and their livestock, because their main means of subsistence was cultivating the land and raising livestock. Indeed, the damage suffered by those who lost their livestock, from which they earned their living, is especially severe. Over and above the loss of their main source of income and food, the way in which the livestock was stolen, with the explicit and implicit collaboration of members of the Army, increased the villagers' feelings of impotence and vulnerability.

179. When examining the scope of the said Article 21 of the Convention in this case, the Court considers it useful and appropriate, in keeping with Article 29 thereof, to use international treaties other than the American Convention, such as Protocol II of the Geneva Conventions of August 12, 1949, relating to the protection of victims of non-international armed conflicts, to interpret its provisions in accordance with the evolution of the inter-American system, taking into account the corresponding developments in international humanitarian law. Colombia ratified the Geneva Conventions on November 8, 1961. On August 14, 1995, it acceded to the provisions of the Protocol II to the Geneva Conventions.

180. It has been proved, and the State has acknowledged, that the paramilitary incursion in El Aro, and also the theft of the livestock, happened with the acquiescence or tolerance of members of the Colombian Army, in the context of the internal armed conflict (supra paras. 63 and 64). In this regard, the Court observes that Articles 13 (Protection of the civilian population) and 14 (Protection of the objects indispensable to the survival of the civilian population) of Protocol II of the Geneva Conventions prohibit, respectively, "acts or threats of violence the primary purpose of which is to spread terror among the civilian population," and also "to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population."

181. The Court also wishes to record that the right to property is a human right whose violation in this case is particularly serious. In this regard, the Colombian Constitutional Court has established that "property shall be considered a fundamental right, provided it is so closely

related to the maintenance of basic living conditions, that its violation affects the right to equality and a decent life." [FN183]

[FN183] Cf. Constitutional Court of Colombia. First Review Chamber. Judgment No. T/506/92 of August 21, 1992.

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182. This Court also considers that setting fire to the houses in El Aro constituted a grave violation of an object that was essential to the population. The purpose of setting fire to and destroying the homes of the people of El Aro was to spread terror and cause their displacement, so as to gain territory in the fight against the guerrilla in Colombia (supra para. 125(26) to 125(103)). Therefore, the effect of the destruction of the homes was the loss, not only of material possessions, but also of the social frame of reference of the inhabitants, some of whom had lived in the village all their lives. In addition to constituting an important financial loss, the destruction of their homes caused the inhabitants to lose their most basic living conditions; this means that the violation of the right to property in this case is particularly grave.

183. Based on the above, this Court considers that the theft of the livestock and the destruction of the homes by the paramilitary group, perpetrated with the direct collaboration of State agents, constitute a grave deprivation of the use and enjoyment of property.

184. The Court has used various criteria to identify the victims of the violation of Article 21 of the Convention in this case. First, the alleged victims can be identified from the application, since it includes the facts relating to the alleged loss of property. In this regard, the Commission stated that "the paramilitary group destroyed and set fire to the majority of the houses in the urban center [of El Aro], and only a chapel and eight houses were saved." [FN184] The Commission also indicated in the application that "the paramilitary group stole 1,200 head of cattle, horses and mules." [FN185] In addition, the Commission's application transcribes several testimonies that provide evidence of the theft of the livestock belonging to several specific farms and persons. Based on the foregoing, the Commission concluded in the application that "effectively [...] the inhabitants of El Aro were robbed of their livestock, and their housing was destroyed by the fire set by the paramilitary group responsible for the incursion, with the acquiescence of law enforcement personnel." Second, the testimonies indicated by the Commission in its application, as well as several other testimonies included with the evidence forwarded by the Commission, prove that specific persons lost their property. Third, the State has acknowledged the facts described in the application in relation to the loss of property. In this regard, in its answer to the application, the State indicated that it "accept[ed] as certain" the theft of approximately 800 head of livestock, "a fact that was verified in the judgment of the Second Criminal Court of the Antioquia Specialized Circuit on April 22, 2003[…] and by the many decisions issued by the Attorney General's Office, in investigations arising from complaints filed in this matter[…]." The State also accepted the facts relating to the destruction of the houses in El Aro, [FN186] and provided as evidence in this respect the judgment of the Second Criminal Court of the Antioquia Specialized Circuit of April 22, 2003. [FN187] Fourth, regarding Arcadio Londoño, Francisco Eladio Ortiz Bedoya, Marco Aurelio Areiza Osorio, Nelson de Jesús Palacio Cárdenas and Omar Iván Gutiérrez Nohavá, the State forwarded evidence of the conciliation

agreements by which the State compensated them for pecuniary damage arising from the loss of their property. Fifth, several testimonies were provided at both the domestic level and before this Court that prove repeatedly the identity of the persons who lost their property in El Aro (supra para. 125(81)). Lastly, the foregoing is reinforced by the fact that the representatives mentioned these persons as alleged victims, presenting lists and evidence identifying the victims of the violation of the right to property in the briefs they submitted to the Court.

[FN184] Cf. paragraph 54 of the Inter-American Commission's application.
[FN185] Cf. paragraphs 55 and 88 of the Inter-American Commission's application.
[FN186] Cf. paragraph 28 of the brief answering the application submitted by the State.
[FN187] Cf. Judgment of the Second Criminal Court of the Antioquia Specialized Circuit of April 22, 2003, p. 3.

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185. In view of the above, the Court finds that, in addition to the six persons mentioned in the application and included in the State's acquiescence, the victims of the violation of Article 21 of the Convention are indicated in Appendix III of this judgment.

186. In the report it issued under Article 50 of the Convention, the Commission indicated the following twelve (12) persons and their next of kin as alleged victims of the violation of Article 21 (Right to Property) of the Convention: Jahel Esther Arroyave, Martha Olivia Calle, José Dionisio García, María Gloria Granada, José Edilberto Martínez Restrepo, Rosa María Nohavá, María Esther Orrego, Mercedes Rosa Pérez, Abdón Emilio Posada, Jesús María Restrepo, Danilo Tejada Jaramillo, and Magdalena Zabala. These 12 persons were not mentioned by the Commission or the representatives in their respective briefs submitted during the proceedings before this Court, and no evidence was presented in this regard. Therefore, the Court does not consider these 12 persons to be direct victims of the violation of Article 21 of the Convention, without prejudice to any of these persons being beneficiaries of the reparations ordered by the Court in their capacity as successors of the victims indicated in this judgment or in their capacity as victims of the violation of other articles of the Convention, if applicable.

187. Miriam Lucía Areiza was mentioned in the report issued by the Commission under Article 50 of the Convention as an alleged victim of the violation of Article 21 thereof. The representatives also indicated her name as an alleged victim of the violation of this article in their requests and arguments brief, as one of the successors of Marco Aurelio Areiza Osorio. The Court considers that Miriam Lucía Areiza will be a beneficiary of the reparations corresponding to Marco Aurelio Areiza Osorio in her capacity as one of his successors.

188. Jesús García was indicated by the representatives as an alleged victim of the violation of Article 21 of the Convention in their requests and arguments brief. In this brief the representatives alleged that Jesús García lost 36 head of cattle. However, there is no evidence in the file before the Court proving the loss of this property. Consequently, since the Court has no evidence in the case file in this regard, it does not consider Jesús García to be a victim of the violation of Article 21 of the Convention.

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189. Based on the de iura novit curia principle, the Court will examine the possible violation of Article 11(2) of the Convention, with regard to violation of the home, to the detriment of those whose homes were destroyed in El Aro.

190. Article 11(2) of the American Convention establishes that:

No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.

191. The Court observes that neither the Commission nor the representatives submitted arguments in relation to the alleged violation of Article 11(2) of the Convention. However, the Court is empowered to examine the possible violation of articles of the Convention that were not included in the briefs with the application and the answer to the application, or in the requests and arguments brief of the representatives, based on the iura novit curia principle. This is solidly supported by international case law and signifies that the judge has the authority and even the duty to apply the pertinent legal provisions in a case, even when the parties have not expressly invoked them, in the understanding that the parties have had the opportunity to express their respective positions in relation to the relevant facts. [FN188]

[FN188] Cf. Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 186; Case of the Pueblo Bello Massacre, supra note 9, para. 54; and Case of García Asto and Ramírez Rojas, supra note 5, para. 74.
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192. The Court has considered that, in this case, the violation of the right to property was particularly serious, since the homes of the inhabitants of El Aro were burnt down (supra para. 182). In view of the foregoing findings and the evolution of international human rights law on this issue, the Court considers it necessary to make some additional observations on the inviolability of the home and privacy, from the perspective of Article 11(2) of the Convention.

193. Article 11(2) of the Convention protects an individual's private life and home from arbitrary or abusive interference. It recognizes that there is a personal sphere that must be protected from interference by outsiders and that personal and family honor and the home must be protected against such interference.

194. The Court considers that the sphere of privacy is characterized by being exempt from and immune to abusive and arbitrary invasion or attack by third parties or the public authorities. In this regard, an individual's home and private life are intrinsically connected, because the home is the space in which private life can evolve freely.

195. In cases concerning similar facts to the instant case, the European Court of Human Rights has dealt with the issue of private property together with the right to respect for private and

family life and the home, which is guaranteed by Article 8 of the European Convention on Human Rights. [FN189]

[FN189] Article 8 ECHR (Right to respect for privacy and the family) establishes that: "1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

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196. For example, the Court deems it pertinent to indicate that in Ayder v. Turkey, [FN190] the European Court established that, in circumstances similar to the facts of the instant case, the deliberate destruction of homes and other properties by the Turkish armed forces, which meant that the victims were obliged to abandon their village, constituted a particularly grave and unjustified interference in private and family life, and in the peaceful use and enjoyment of their possessions. Likewise, in Bilgin v. Turkey, [FN191] the European Court declared that the right to property had been violated together with the right to respect for private and family life and the home, owing to the fire provoked by the Turkish security forces that destroyed the home and possessions of the victim, who, deprived of his livelihood, was forced to displace. Similarly, in Selçuk and Asker v. Turkey, [FN192] the European Court recognized that the deliberate destruction by the Turkish Army's security forces of the property of the victims, who were obliged to abandon their place of residence, constituted a violation of the right to property as well as an abusive and arbitrary interference in their private lives and home. [FN193]

[FN190] Cf. Eur.C.H.R., Ayder et al v. Turkey, No. 23656/94, Judgment of 8 January 2004, para. 119.
[FN191] Cf. Eur.C.H.R., Bilgin v. Turkey, No. 23819/94, Judgment of 16 November 2000, para. 108.
[FN192] Cf. Eur.C.H.R., Selçuk v. Turkey, No. 23184/94, Judgment of 24 April 1998, para. 86.
[FN193] Likewise, see also Eur.C.H.R., Xenides-Arestis v. Turkey, no. 46347/99, Judgment of 22 December 2005; Eur.C.H.R., Demades v. Turkey, no. 16219/90, Judgment of 31 October 2003; Eur.C.H.R., Yöyler v. Turkey, no. 26973/95, Judgment of 10 May 2001; Eur.C.H.R., Cyprus v. Turkey, no. 25781/94, Judgment of 10 May 2001; and Eur.C.H.R., Akdivar and Others v. Turkey, no. 21893/93, Judgment of 16 September 1996.

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197. In this case, recognizing the progress made on this issue in international human rights law, and based on the foregoing considerations, the Court finds that the destruction by the paramilitary group, with the collaboration of the Colombian Army, of the homes of the inhabitants of El Aro, and also of the possessions that were inside the homes, in addition to being a violation of the right to the use and enjoyment of property, constitutes a grave, unjustified and abusive interference in their private life and home. The alleged victims, who lost their homes,

also lost the place where their private life took place. Consequently, the Court finds that the Colombian State failed to comply with the prohibition to interfere arbitrarily and abusively in private life and home.

198. To determine the victims in this case in relation to the violation of Article 11(2) of the Convention, the Court has taken into account the criteria indicated above when determining the alleged victims of the violation of Article 21 of the Convention, provided that those criteria refer to the identification of those who lost their homes in El Aro. The Court considers that Bernardo María Jiménez Lópera, Libardo Mendoza, Luis Humberto Mendoza Arroyave and Omar Alfredo Torres Jaramillo are the victims of the violation of Article 11(2) of the Convention based on an additional factor applicable only to them. They were included in the State's acknowledgement of responsibility in relation to the violation of Article 21 of the Convention for the loss of their homes.

199. The Court considers that the victims of the violation of Article 11(2) of the Convention, in relation to Article 21 thereof, are the persons indicated as victims under this article in Appendix III of this judgment.

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200. Based on the above, the Court finds that the State is responsible for the violation of the rights embodied in:

(a) Article 21 (Right to Property) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the fifty-nine (59) persons who lost their possessions in El Aro, and who are indicated in Appendix III of this judgment; and
(b) Article 11(2) (Protection of Honor and Dignity) of the Convention, in relation to Articles 21 (Right to Property) and 1(1) (Obligation to Respect Rights) thereof, to the detriment of the forty-three (43) persons whose homes were destroyed in El Aro, and who are indicated in Appendix III of this judgment.

XII. ARTICLE 22 OF THE CONVENTION (FREEDOM OF MOVEMENT AND RESIDENCE) IN RELATION TO ARTICLE 1(1) THEREOF

The Commission's arguments

201. Regarding the alleged violation of Article 22 of the Convention, the Commission, in its final arguments brief, requested the Court to rule on this alleged violation, on "the same grounds and based on the allegations of the representatives of the [alleged] victims and their next of kin, and the precedent created on this issue by the Court's judgment in the Mapiripán Massacre case."

The representatives' arguments

202. Regarding the violation of Article 22 of the American Convention, the representatives argued that:

(a) The State is responsible for the violation of this article owing to the internal displacement which the next of kin of the alleged victims were forced to undergo;
(b) Following the facts in La Granja and El Aro, the inhabitants "were forced to abandon their homes," like "thousands" of Colombians during the last decade;
(c) "The difficulty of individualizing the victims of forced displacement, when this occurs massively, is one of the principle components of impunity in relation to this human rights violation";
(d) Despite the requests for protection made by the civic, political and social leaders of Ituango, armed agents "entered several of the Ituango municipal districts on repeated occasions and, by means of [...] selective murders and [...] threats, fostered the forced displacement of families and communities;
(e) The State is responsible for the forced displacement "owing to the departmental government's negligence in not preventing the human rights violations they had been warned about, and to the direct acts of its agents, who contributed to and participated in the multiple crimes committed by the paramilitary groups";
(f) Even though national and international non-governmental organizations and also inter-governmental entities and the Colombian Constitutional Court were aware of the displacement, the State "has neither developed any public policy to deal with the causes of forced displacements, nor [...] has it taken measures to avoid them." In the "few" laws relating to forced displacement, Colombia "has not tackled the causes of the problem but merely some of its effects; such laws deal fundamentally with registration, basic health programs and provisional shelter." Owing to the "inadequacy" of domestic laws, "on many occasions, the maximum constitutional tribunal, the Colombian Constitutional Court, has ruled on this grave human rights violation in relation to the right to protection;
(g) In addition, the State "has not ensured that these displaced persons and their families have identity documents and, in some cases, death certificates, so that they can exercise their rights and claim the corresponding protection and reparation from the authorities";
(h) Forced displacement "violates fundamental rights, including the right to freedom of movement and residence." Also, the displacement resulted in the people "being arbitrarily deprived of the right to education, because they had to find a new livelihood." The alleged victims have suffered "devastating" psychological effects;
(i) The violations of freedom of movement and residence established in Article 22 of the American Convention must be interpreted in the context of "three phases of displacement," which are:

i. "Prevention of the violation, which imposes on States the obligation to protect the population, in order to avoid its expulsion from its usual place of residence and so that it can exercise its fundamental rights";

ii. "The obligation to guarantee to those who have been victims of the violation the minimum conditions necessary for subsistence, which they were deprived of when they were displaced; this is simply food, housing and health care";

iii. Creation of "the conditions for the return of the displaced, not merely from a material point of view, but fundamentally [...] creating the conditions to ensure that the facts are not repeated in the place from which they were expelled; in other words, that the facts are investigated and those responsible are prosecuted and punished";

(j) 724 persons were obliged to abandon Ituango, 31 of whom were displaced from La Granja and 693 from El Aro;

(k) Judgment 1150 of 2000 delivered by the Colombian Constitutional, which examined the scope of Act 387 of July 18, 1997, stated that "forced displacement violates international instruments, particularly the American Convention, [and] the displaced status is not conferred by the formal registration ordained by law, but rather by the expulsion to which the displaced person was subjected"; and
(l) Judgment 025 of 2004 delivered by the Colombian Constitutional protected the fundamental rights of the displaced that were not recognized in Act 387 of July 18, 1997, or in the interpretation included in consolidated judgment 1150 of 2000.

The State's arguments

203. In relation to the alleged violation of Article 22 of the Convention, the State alleged that:

(a) "The information available to the State does not allow it to conclude that the regrettable and violent events which occurred in La Granja on June 11, 1996, were the cause of displacement, or that all the persons whose names are cited in the petitioners' brief were forced to leave their homes owing to the events in El Aro in October 1997";
(b) Specifically in the case of La Granja, "neither the evidence gathered by the domestic authorities, nor that alleged in these proceedings prove that the events led to the forced displacement of some of the residents";
(c) In the case of El Aro, the State is unaware of: (1) which of the persons indicated by the representatives "really" lived in El Aro; (2) what the inhabitants did for a living; (3) the composition of their families; (4) whether some of them "were really forced to displace to other zones"; (5) who returned to El Aro and when, and (6) who relocated to a new place;
(d) Several of the people who left El Aro "returned to their homes and their work a few weeks after the events occurred";
(e) Of the list of displaced persons provided by the petitioners, only Luis Humberto Mendoza Arroyave and Julio Eliver Pérez Areiza, together with their family group of nine people appear on the Displaced Persons' Register, and they received the corresponding State assistance;
(f) Currently, there is "a genuine public policy of prevention and protection of persons at risk, including the displaced or those who could become displaced," administered by the Presidential Advisory Service, entitled "Comprehensive care for the population displaced by violence";
(g) It has sought and received the support of the Office of the United Nations High Commissioner for Refugees (UNHCR), which has had an office in the country since 1997;
(h) The public policy has been assisted by "the high courts and the Constitutional Court and the Council of State [which contribute with] their case law to consolidate the extent and scope of the rights of the victims, especially the right to protection, based on the principle of solidarity as an obligation of society, since Colombia is a State where the good of society and the rule of law prevail";
(i) The system established by Act 37 of 1997 allowed: 1) "the precise identification of those displaced from their homes"; (2) "the elaboration of official records with information on age, sex, level of education, place of origin of the displaced, reasons for the displacement, etcetera"; (3) "the establishment of explicit channels for those affected by displacement to be able to claim from the State special measures of protection, emergency humanitarian assistance, and support for return or relocation, among other matters";

(j) Since it "has not failed to comply with any obligation arising from Articles 8 and 25" of the Convention, the "consequential" violation of Article 22 thereof is "groundless," particularly because the proceedings that "are underway [...] have produced satisfactory results";
(k) It provided assistance to the displaced through the Army. This is confirmed by the statement made by Luis Humberto Mendoza before officials of the Prosecutor's Office in 2002 when he stated that the Army helped them "with mattresses and food" in Puerto Valdivia; and
(l) The Jaramillo family "was given the use of communications equipment and was provided with tickets for air travel, travel expenses and financial support for relocation."

The Court's findings

204. The Court will examine the alleged violation of Article 22 of the Convention to the detriment of the persons displaced from La Granja and El Aro.

205. Paragraphs 1 and 4 of Article 22 of the American Convention establish that:

1. Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law.
4. The exercise of the rights recognized in paragraph 1 may also be restricted by law in designated zones for reasons of public interest. […]

206. The Court has stated that freedom of movement and residence is an essential condition for the free development of a person [FN194] and consists, inter alia, of the right of those who are legally within a State to move freely within this State and choose their place of residence. [FN195]

[FN194] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 168; Case of the Moiwana Community, supra note 12, para. 110; and Case of Ricardo Canese. Judgment of August 31, 2004. Series C No. 111, para. 115.
[FN195] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 168; Case of the Moiwana Community, supra note 12, para. 110; and Case of Ricardo Canese, supra note 194, para. 115. Likewise, cf. The United Nations Human Rights Committee, General comment No. 27 of 2 November 1999, paras. 1, 4, 5 and 19.

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207. Accordingly, using an evolutive interpretation of Article 22 of the Convention that takes into account the applicable interpretation norms, and in keeping with Article 29(b) thereof — which prohibits a restrictive interpretation of rights — the Court has considered that Article 22(1) of the Convention protects the right not to be forcibly displaced within a State Party to the Convention. [FN196]

[FN196] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 188.

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208. As has been proved (supra para. 125(104) to 125(110)), the facts of this case took place in a widespread situation of internal forced displacement that affected Colombia as a result of the internal armed conflict. Consequently, before deciding whether these facts constituted a violation by the State of Article 22 of the Convention to the detriment of the persons allegedly displaced owing to the events in La Granja and El Aro, the Court finds it necessary to examine, as it has in other cases, [FN197] the problem of forced displacement in light of international human rights law and international humanitarian law, as well as the manifestation of this phenomenon in the context of the internal armed conflict in Colombia.

[FN197] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 169.

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209. In this regard, the Court considers that the Guiding Principles on Internal Displacement issued by the Representative of the United Nations Secretary-General in 1998 are especially relevant to define the content and scope of Article 22 of the Convention in a context of internal displacement. [FN198] In addition, given the situation of internal armed conflict in Colombia, the displacement regulations contained in Protocol II to the 1949 Geneva Conventions are also particularly useful. Specifically, Article 17 of Protocol II, which prohibits ordering the displacement of the civilian population for reasons connected with the conflict, unless the security of the civilians involved or imperative military reasons so demand. And, in that case, "all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition." In this regard, the Colombian Constitutional Court has considered that "in the case of Colombia, the application of these rules by the parties in conflict is particularly urgent and important, because the armed conflict in the country has gravely affected the civilian population, as shown, for example, by the alarming data on forced displacement of persons." [FN199]

[FN198] Cf. the United Nations Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2 of February 11, 1998; see also, Case of the "Mapiripán Massacre", supra note 8, para. 171; Case of the Moiwana Community, supra note 12, paras. 113 to 120.
[FN199] Cf. judgment C-225/95 of May 18, 1995, delivered by the Constitutional Court, para. 33.

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210. Owing to the complexity of the phenomenon of internal displacement and the wide range of human rights affected and jeopardized, and taking into account the circumstances of special vulnerability and defenselessness in which those displaced usually find themselves, their situation can be understood as a de facto situation of lack of protection. In the terms of the American Convention, this situation obliges the States to grant the displaced preferential treatment and to adopt positive measures to reverse the effects of this situation of vulnerability and defenselessness, including vis-à-vis acts and practices of individual third parties. [FN200]

[FN200] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 179.

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211. The Colombian Constitutional Court has referred to this situation of vulnerability of the displaced as follows:

[…] Owing to the circumstances that surround internal displacement, the persons […] who are obliged "suddenly to abandon their place of residence and their usual economic activities, being forced to migrate to another place within national territory" to escape from the violence caused by the internal armed conflict and the systematic disregard for human rights or international humanitarian law, are exposed to a much higher level of vulnerability, which entails a grave, massive and systematic violation of their fundamental rights and, thus, merits that the authorities should grant them special care and attention. Those displaced due the violence are in a state of vulnerability that makes them deserve special treatment by the State. [FN201]

[FN201] Cf. judgment T025 of January 22, 2004, issued by the Third Review Chamber of the Constitutional Court (file of attachments to the brief answering the application, tome III, Appendix 30, ff. 4363 to 4747hh).

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212. The accentuated vulnerability of the displaced is increased by the fact that they come from rural areas and that women are usually more affected, since they are the household heads and represent more than half the displaced population. The internal displacement crisis leads, in turn, to a security crisis, since the groups of internally displaced persons become a new resource or a new source of recruitment for the paramilitary, drug-trafficking and guerrilla groups. [FN202]

[FN202] Cf. Economic, Social and Cultural Rights, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, E/CN.4/2005/48, of March 3, 2005, para. 38. Also, cf. Case of the "Mapiripán Massacre", supra note 8, para. 175.

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213. Other major negative effects of internal forced displacement include the loss of land and housing, marginalization, serious psychological repercussions, unemployment, increased poverty and the deterioration in living conditions, an increase in illnesses and mortality, loss of access to communal property, lack of food security, and social disintegration. [FN203]

[FN203] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 175

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214. The Court should emphasize that, to confront this problem of internal displacement, Colombia has adopted a series of measures at the legislative, administrative and judicial levels, including many laws, decrees, documents of the National Economic and Social Policy Council (CONPES), resolutions and presidential directives (supra para. 125(108) and 125(109)). For

example, Act 37 of July 18, 1997, established mechanisms for registration and emergency care for the displaced population. [FN204] However, the Court agrees with the opinion of the Colombian Constitutional Court, that "it is not official registration by governmental agencies that establishes an individual's status as a displaced person, but the mere fact of having been forced to abandon his usual place of residence." [FN205] In this regard, the Constitutional Court has stated that "an unconstitutional situation exists in relation to the displaced population owing to the discrepancy between, on the one hand, the gravity of the violations of constitutionally-recognized and legally-established rights and, on the other hand, the amount of resources effectively devoted to ensuring the genuine enjoyment of those rights and the institutional capacity to implement the corresponding constitutional and legal mandates." [FN206]

[FN204] Cf. Act 387 of July 18, 1997, Official gazette No. 43091 of July 24, 1997 (http://www.secretariasenado.gov. co/leyes/L0387_97.HTM).
[FN205] Cf. Judgment T025 of January 22, 2004, issued by the Third Review Chamber of the Constitutional Court (file of attachments to the brief answering the application, tome III, Appendix 30, ff. 4363 to 4747hh)
[FN206] Cf. Judgment T025 of January 22, 2004, issued by the Third Review Chamber of the Constitutional Court (file of attachments to the brief answering the application, tome III, Appendix 30, ff. 4363 to 4747hh).

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215. In light of the above-mentioned criteria and context, in the instant case the Court will examine whether the State has incurred in a violation of Article 22(1) of the Convention to the detriment of the inhabitants of La Granja and El Aro.

216. It has been proved that the massacres that occurred in La Granja and El Aro, and also the damage suffered as a result of the theft of the livestock and the destruction of the property of the inhabitants, added to the fear of similar events recurring, the intimidation, and the threats received by some of them from the paramilitary group, led to the internal displacement of many families (supra para. 125(110)).

217. In the case of La Granja, 31 member of the family group of Héctor Hernán Correa García, who was executed by the paramilitary group, were forced to displace to other municipalities of Antioquia, and one of the next of kin even had to leave the country for good because he received threats after denouncing the events. [FN207]

[FN207] Cf. statement made during a public hearing held during the sixty-eighth regular session on September 21, 2005; the name of the witness is kept confidential as requested by the parties (supra paras. 45 and 111).

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218. Likewise, it has been proved that the paramilitary group destroyed and set fire to 80% of the houses and property in El Aro, obliging 671 inhabitants to abandon their homes and places of work (supra para. 125(79)).

219. It is worth noting that, according to the ruling issued by the Office of the Delegate Attorney for Human Rights on September 30, 2002 (supra para. 125(100)), members of the Army took part in these acts by "collaborating with and knowingly – in other words, intentionally – facilitating the incursion made by the self-defense group during 18 days[;] an incursion that culminated in the violent death and ill-treatment of the victims [and] that forced more than 1,200 peasants from the zone to displace towards the municipalities of Ituango and Valdivia." [FN208]

[FN208] Cf. ruling issued by the Office of the Delegate Attorney for Human Rights on September 30, 2002 (file of attachments to the application, tome III, ff. 1310 to 1392).

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220. Some of these alleged 1,200 displaced persons have been identified in the proceedings before the Court. In particular, the representatives identified a total of 31 persons displaced by the events in La Granja and 671 persons displaced by the events in El Aro, for a total of 702 persons displaced in this case when they presented the useful evidence requested by the Court.

221. In this regard, the Court considers that the failure to identify all the persons who were displaced is due, in part, to the circumstances in which the massacres took place, including the fact that, in El Aro, 80% of the village was burned down, so that the identity documents of the displaced persons were also destroyed (supra para. 125(79)). This means that it is impossible to know with any certainty how many people were displaced in this case. Therefore, the Court can only assess the situation with regard to those who have been identified in the proceedings before it. Nevertheless, as previously indicated, [FN209] the Court records its profound concern that many other people are possibly faced with this situation and have not been identified in these proceedings.

[FN209] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 183.

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222. The Court deems it pertinent to mention that some of the displaced persons consider that they cannot return to Ituango until the State can ensure them safety and justice. Also, several of them have expressed their profound anxiety that they may suffer further attacks if they return to Ituango, which is located in an area with significant paramilitary presence (supra para. 125(26) to 125(28)). In other words, their right to personal safety is violated by the situation of displacement, [FN210] owing to the events they have experienced and also to the fact that the State has not ensured the necessary conditions for them to return to Ituango, should they so wish.

[FN210] Cf. Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, E/CN.4/2003/13, February 24, 2003, para. 94 (ap.ohchr.org/documents/alldocs.aspx?doc_id=3260).
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223. Nevertheless, the Court considers it a positive factor that the State has provided help or support to some of the displaced and their next of kin: Luis Humberto Mendoza Arroyave and Julio Oliver Pérez Areiza and nine members of their families, owing to their status as displaced (supra para. 125(111)).

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224. The Court has taken various criteria into account in order to determine the victims of the violation of Article 22 of the Convention in this case. First, the alleged victims can be determined because the facts concerning the forced displacement are included in the application, in which the Commission stated that the "acts of violence designed to terrorize the population obliged the families to displace. [FN211] In addition, in the application, the Commission transcribed testimonies and domestic judgments which refer to the "forced and massive displacement of approximately 1,200 peasants to jurisdictions of the municipalities of Ituango and Valdivia." [FN212] The Commission also stated in the application that the "surviving next of kin of the victims who were executed became victims of displacement." [FN213] Additionally, the Commission requested that, as a measure of reparation, the Court should order the Colombian State "to adopt the necessary measures to ensure the return to their place of origin of the victims of the incursion, forcibly displaced by the violence." [FN214] Moreover, there are the testimonies and expert opinions given in both the domestic sphere and before the Court, and a list relating to a census of the Ituango displaced persons, all of which mention the identity of the said displaced persons. Lastly, the foregoing is reinforced by the list of persons that was forwarded by the representatives as useful evidence presented at the Court's request.

[FN211] Paragraph 54 of the Inter-American Commission's application. See also paragraphs 2 and 150 of the Inter-American Commission's application.
[FN212] Paragraph 62 of the Inter-American Commission's application.
[FN213] Paragraph 133 of the Inter-American Commission's application. See also paragraph 134 of the Inter-American Commission's application.
[FN214] Paragraph 154, subparagraph (vii) of the Inter-American Commission's application.
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225. Based on the above, the Court finds that the State is responsible for the forced displacement of the persons mentioned in Appendix IV of this judgment.

226. The representatives mentioned other alleged victims of forced displacement who are not included in Appendix IV of this judgment. They indicated that "Leidy Carvajal" and "Viviana Carvajal" were victims of forced displacement; but, based on the body of evidence, the Court considers that both names refer to a single person called Leidy Viviana Carvajal, who is considered a victim in this case.

227. In addition, the representatives stated in their requests and arguments brief that Luis Ufrán Areiza Posso, Jael Esther Arroyave Posso, Eligio Pérez Aguirre, Lucelly Amparo Posso Múnera and María Esther Jaramillo Torres were victims of forced displacement. Since the Court does not have any evidence in this respect, it does not consider that these people are victims of the violation of Article 22 of the Convention, without prejudice to the provisions of paragraph 357 of this judgment.

228. The representatives also indicated that Iraima, Deicy and Nohelia Díaz Pérez, Kelly Tatiana and Sergio Harbey Osorio Díaz, and Luis Alberto Carmona Díaz were victims of displacement. However, according to the evidence provided, these persons lived in Barranquilla at the time of the events, so the Court does not consider them victims of the violation of Article 22 of the Convention, without prejudice to the provisions of paragraph 357 of this judgment.

229. Likewise, the representatives stated that the following were victims of displacement: Jael Rocío Mendoza Posso and Beatriz Amalia Mendoza Posso, siblings of Guillermo Andrés Mendoza Posso, who was executed in El Aro, and also Leidy Julieta Hidalgo Mendoza, this victim's niece. Nevertheless, according to the testimony of Rodrigo Alberto Mendoza Posso, the victim's brother, at the time of the facts Jael Rocío lived in Medellín, and Beatriz Amalia and Leidy Julieta Hidalgo Mendoza in Puerto Valdivia, so the Court does not consider them victims of the violation of Article 22 of the Convention, without prejudice to the provisions of paragraph 357 of this judgment.

230. The representatives also stated that Yuliana (or Luliana) Patricia Mora Gutiérrez, niece of Omar Iván Gutiérrez Nohavá, who was executed in El Aro, was a victim of forced displacement. However, according to the evidence provided, she lived in Medellín at the time of the events, so the Court does not consider her a victim of the violation of Article 22 of the Convention, without prejudice to the provisions of paragraph 357 of this judgment.

231. In addition, the representatives stated that Andrés Felipe Restrepo Mendoza was a victim of forced displacement. However, according to the evidence provided, he lived in Medellín at the time of the events; therefore the Court does not consider him a victim of the violation of Article 22 of the Convention, without prejudice to the provisions of paragraph 357 of this judgment.

232. The representatives also indicated that the following persons were victims of forced displacement: Gerardo Jaramillo "and children," Luz Marina Guerra, Juan José Jaramillo Posada, Ángela Patricia Jiménez, Gloria Emilse Jiménez, José Gilberto López Areiza, Edilia Rosa Martínez García, Julio Alveiro Pérez, Abdón Emilio Posada, Aura Posada, Danilo de Jesús Tejada Jaramillo and Edier Zapata George, and also Eliana Sirley, Geny Marisol, Luis Norbey, Luz Albeny and Niver Orley, all with the last names Tejada Quintero. However, the Court has no testimonial or documentary evidence in this regard, so that, in the instant case, they will not be considered victims of the violation of Article 22 of the Convention, without prejudice to the provisions of paragraph 357 of this judgment.

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233. The Court deems it necessary to state, as it has previously (supra para. 155), that human rights treaties are living instruments whose interpretation must evolve with the times and, in particular, actual living conditions. [FN215]

[FN215] Cf. Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 117; Case of the Indigenous Community Yakye Axa, supra note 174, para. 125; and Case of the Gómez Paquiyauri Brothers, supra note 174, para. 165. Likewise, cf. The right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law, supra note 174, para. 114.

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234. In this regard, the Court observes that the situation of internal forced displacement endured by the victims in this case cannot be separated from the other violations declared in this judgment. The circumstances of the case and the complex and special vulnerability of those who were displaced includes but transcends the content of the protection that States must provide in the context of Article 22 of the Convention. Indeed, the displacement originated from the lack of protection during the massacres, due not only to the violations of the right to life (Article 4 of the Convention) (supra paras. 126 to 138), to humane treatment (Article 5 of the Convention) (infra paras. 252 to 279) and to personal liberty (Article 7 of the Convention) (supra paras. 149 to 153 and 168), but also to the theft of the livestock and the destruction of the housing, in violation of the right to property (Article 21 of the Convention) (supra paras. 173 to 188) and the right to privacy (Article 11(2) of the Convention) (supra paras. 189 to 200). All these violated rights lead the Court to consider that, in addition to the provisions of Article 22 of the Convention, the situation of displacement examined has also affected the right of the victims and their next of kin to a decent life, [FN216] in the terms indicated above, in relation to the State's failure to comply with the obligation to respect and guarantee the rights embodied in these articles.

[FN216] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 186; Case of the Indigenous Community Yakye Axa, supra note 174, paras. 162 and 163; Case of the "Juvenile Reeducation Institute", supra note 12, para. 164; and Case of the "Street Children" (Villagrán Morales et al.), supra note 164, para. 191.

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235. Based on the foregoing, the Court finds that the State is responsible for the violation of the rights embodied in Article 22 (Freedom of Movement and Residence) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the seven hundred and two (702) persons displaced from El Aro and La Granja, who are indicated in Appendix IV of this judgment.

XIII. ARTICLE 19 OF THE AMERICAN CONVENTION (RIGHTS OF THE CHILD) IN RELATION TO ARTICLES 4(1), 5(1) AND 1(1) THEREOF

The Commission's arguments

236. In relation to the alleged violation of Article 19 of the Convention to the detriment of the child, Wilmar de Jesús Restrepo Torres, who was 14 years old at the time of his death, the Commission stated that:

(a) Article 19 of the Convention, more than a mere interpretative device, imposes special obligations on the State;
(b) He was not provided with the special measures of protection that his situation of 'vulnerability,' based on his age, required"; and
(c) The State agencies specifically responsible for the protection of children did not intervene to prevent or clarify the events.

The representatives' arguments

237. In relation to Article 19 of the Convention, the representatives indicated that:

(a) Wilmar de Jesús Restrepo Torres was "arbitrarily deprived of his right to life by the paramilitary group while he was performing agricultural labors. This paramilitary group acted with the acquiescence and collaboration of agents of law enforcement bodies";
(b) Not only did the Colombian State fail to guarantee the special measures of protection to which, as a child, Wilmar de Jesús Restrepo Torres had a right, but it also failed to comply with the obligation to respect them;
(c) In this case, given the circumstances in which the facts took place, the provisions of the Convention on the Rights of the Child should be underscored; they establish special measures of protection for children who live in areas where there is armed conflict;
(d) Based on the iura novit curia principle, the Court can rule on the violation produced with regard to the grandchildren of one of the alleged victims and "the children who lived in the district of El Aro and who were obliged to undergo the horror, anguish and suffering of the joint incursion of the paramilitary group and the law enforcement personnel";
(e) The allegations concerning Wilmar de Jesús Restrepo "are applicable to all the other children who were direct victims of the incursion by the paramilitary group and the agents of the Colombian State in La Granja and El Aro and also to the children who were members of the families who were victims of the violations committed during those events, inasmuch as the latter were deprived of several of their rights by the illegal and arbitrary acts of State agents"; and
(f) "The children who lived in the district of El Aro were deprived of their families to the extent that the fathers of some of them were executed and their mothers had to abandon their homes. The situation of forced displacement experienced by the inhabitants of El Aro, with the implications mentioned above, signified the failure to protect the children's most elementary rights."

The State's arguments

238. In relation to Article 19 of the Convention, the State affirmed that it "had not failed to comply with any obligation arising from Article 19" of the Convention. The violation of the right

to life of Wilmar de Jesús Restrepo Torres has been "covered by the rulings in the criminal proceedings and by the acknowledgement of international responsibility."

The Court's findings

239. Article 19 of the Convention stipulates that:

Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the State.

240. The Commission and the representatives alleged that the State had violated Article 19 of the Convention, which was not covered by the State's acknowledgement, to the detriment of the child, Wilmar de Jesús Restrepo Torres, who was executed in El Aro (supra paras. 72, 125(68) and 138). In addition, the representatives alleged this violation to the detriment of other children of La Granja and El Aro (supra paras. 78(d) and 237(d)).

241. In this regard, in this chapter, the Court considers that the victims are the children who can be ascertained from the facts indicated in the Commission's application.

242. The State accepted responsibility for the facts that caused the death of the child, Wilmar de Jesús Restrepo Torres, and acknowledged its respective responsibility for the violation of Article 4 of the Convention. However, the State did not consider that these facts constituted a complementary violation of Article 19 thereof (supra paras. 60 and 238).

243. In addition to the child, Wilmar de Jesús Restrepo Torres, the Court has identified the following children indicated in the Commission's application: Jorge Correa Sánchez (who witnessed the death of his uncle, Héctor Hernán Correa García), Omar Daniel Pérez Areiza, José Leonel Areiza Posada and Marco Aurelio Areiza Posada.

244. The Court considers that Article 19 of the American Convention should be understood as a complementary right that the Convention establishes for individuals who need special measures of protection, owing to their stage of physical and emotional development. [FN217] In this regard, cases such as this one are particularly serious, when the victims of human rights violations are children who have special rights, arising from their condition, which entail specific obligations on the part of the family, society and the State. [FN218] On this issue, the principle of the best interest of the child rules, and this is based on the dignity of the individual, on the special characteristics of children, and on the need to allow them to develop their full potential. [FN219]

[FN217] Cf. Juridical Status and Human Rights of the Child. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para. 54. Also, cf. Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 177; Case of the "Mapiripán Massacre", supra note 8, para. 152; and the Yean and Bosico Children case. Judgment of September 8, 2005. Series C No. 130, para. 133.

[FN218] Cf. Juridical Status and Human Rights of the Child, supra para. 217, para. 54. Also, cf. Case of the "Mapiripán Massacre", supra note 8, para. 152; The Yean and Bosico Children case, supra note 217, para. 133; and Case of the "Juvenile Reeducation Institute", supra note 12, para. 147.
[FN219] Cf. Juridical Status and Human Rights of the Child, supra para. 217, para. 56. Also, cf. Case of the "Mapiripán Massacre", supra note 8, para. 152; the Yean and Bosico Children case, supra note 217, para. 134; and Case of the Indigenous Community Yakye Axa, supra note 174, para. 172.
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245. In this regard, the Court observes that the children, Wilmar de Jesús Restrepo Torres, Jorge Correa Sánchez, Omar Daniel Pérez Areiza, José Leonel Areiza Posada and Marco Aurelio Areiza Posada did not receive the special measures of protection they required, owing to their situation of vulnerability, because of their age.

246. When determining aggravated responsibility, it should be taken into consideration that the alleged victims in this case, indicated in the previous paragraph, were children. [FN220] Thus, the Court considers it necessary to call attention to the consequences of the brutality with which the facts in this case were committed in relation to the children of La Granja and El Aro, who experienced this violence in a situation of armed conflict, who have been partially orphaned, who have been displaced, and whose physical and psychological integrity has been violated. The special vulnerability, owing to their condition as children, is even more evident in a situation of internal armed conflict, as in this case, because children are less prepared to adapt or respond to this type of situation and suffer its excesses disproportionately. [FN221]

[FN220] Cf. Case of the Gómez Paquiyauri Brothers, supra note 174, para. 76.
[FN221] Cf. Juridical Status and Human Rights of the Child, supra para. 217, para. 82; and Case of the "Mapiripán Massacre", supra note 8, para. 156.
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247. From the body of evidence and, in particular, from the statements of the inhabitants of Ituango, it is clear that there were many children who witnessed the events of El Aro and La Granja. However, they were not individualized in the proceedings before the Court as children. Therefore, in the instant case, the Court does not have the evidence necessary to declare a violation of Article 19 of the Convention to the detriment of the children other than Wilmar de Jesús Restrepo Torres, Jorge Correa Sánchez, Omar Daniel Pérez Areiza, José Leonel Areiza Posada and Marco Aurelio Areiza Posada.

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248. Based on the above, the Court concludes that the State violated Article 19 of the American Convention, in connection with Articles 4(1), 5(1) and 1(1) thereof, to the detriment of Wilmar de Jesús Restrepo Torres, Jorge Correa Sánchez, Omar Daniel Pérez Areiza, José Leonel Areiza Posada and Marco Aurelio Areiza Posada.

XIV. ARTICLE 5 OF THE AMERICAN CONVENTION (RIGHT TO HUMANE TREATMENT) IN RELATION TO ARTICLES 1(1), 6, 7, 11(2), 21 AND 22 THEREOF

The Commission's arguments

249. In relation to the alleged violation of Article 5 of the American Convention, the Commission alleged that the State's acknowledgement of responsibility covered this violation to the detriment of Marco Aurelio Areiza Osorio and Rosa Areiza. The Commission did not formulate additional arguments in favor of other alleged victims for the violation of the right to humane treatment.

The representatives' arguments

250. In relation to Article 5(1) of the Convention the representatives stated that:

(a) The State is responsible for the violation of the right to humane treatment to the detriment of:

i. The persons who were executed in the districts of El Aro and La Granja, and their next of kin;

ii. The persons allegedly detained and obliged to herd livestock;

iii. The persons who allegedly lost their possessions in El Aro;

iv. The persons who allegedly were forced to displace from La Granja and El Aro; and

v. The inhabitants of La Granja and El Aro;

(b) One element that caused particular panic, terror and defenselessness among the inhabitants was the paramilitary group's accusation that the alleged victims, and the population in general, collaborated with the guerrilla. This accusation, in a context of armed conflict such as the one in which these facts occurred, caused a greater degree of vulnerability and fear; and

(c) The inhabitants of La Granja and El Aro were affected because they were threatened and terrorized, and also because they were forced to displace to safeguard their lives.

The State's arguments

251. The State acknowledged its responsibility for the violation of the right to humane treatment embodied in Article 5(1) to the detriment of Marco Aurelio Areiza and Elvia Rosa Areiza Barrera. The State did not present arguments regarding the violation of this article to the detriment of the other alleged victims mentioned by the representatives.

The Court's findings

252. Article 5(1) and 5(2) of the Convention establish:

1. Every person has the right to have his physical, mental, and moral integrity respected.
2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated regarding for the inherent dignity of the human person.

253. In this section, the Court will refer successively to the alleged violation of Article 5 of the Convention in relation to the victims who were executed in the massacres of La Granja and El Aro; their next of kin; the persons detained and obliged to herd livestock; the persons who lost their possessions; the persons displaced, and the inhabitants of La Granja and El Aro who do not fall into the previous categories.

a) Concerning the alleged violation of the right to humane treatment of the victims executed in the massacres of La Granja and El Aro

254. The Court notes that, according to the State's acknowledgement of responsibility, the massacres in La Granja and El Aro were perpetrated by a large number of heavily-armed individuals, using extreme violence on the population, intimidating the inhabitants by death threats, and executing people publicly and arbitrarily. The persons executed in La Granja and El Aro witnessed these threatening acts before their death, together with the violent death and torture of their companions. This context of violence and threats caused the victims who were subsequently executed, intense fear of suffering the same consequences (supra paras. 125(33) to 125(40) and 125(57) to 125(79)).

255. The Court has maintained that, when it is sufficiently real and imminent, the mere threat of a conduct prohibited by Article 5 of the American Convention may, in itself, violate this article. In other words, creating a threatening situation or threatening an individual with torture may, in some circumstances, constitute inhumane treatment. [FN222]

[FN222] Cf. Case of Baldeón García, supra note 5, para. 119; Case of Tibi, supra note 176, para. 147; and Case of the 19 Tradesmen. Judgment of July 5, 2004. Series C No. 109, para. 149. Likewise, cf. Eur.C.H.R., Campbell and Cosans, Judgment of 25 February 1982, Series A, No. 48, p. 12, § 26.

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256. In this case, it has been proved that the personal integrity of the 19 persons who lost their life in the Ituango Massacres was violated and that the treatment they received during the hours before their death was extremely violent, particularly when it is considered that the "paramilitary group" believed that these people collaborated with the guerrilla groups – in the context of the conflict in the zone, this could be interpreted as a serious threat to life. Also, we can infer that the way in which the massacres were perpetrated caused the alleged victims to fear and anticipate that they would be deprived of their life violently and arbitrarily, which constituted cruel and inhuman treatment.

257. Based on the above, the Court considers that, in this case, there are sufficient elements of proof to conclude that Colombia is responsible for the violation of the right to humane treatment to the detriment of the 19 persons who were executed in the massacres of La Granja and El Aro, who are listed in Appendix I of this judgment.

b) Concerning the alleged violation of the right to humane treatment of the next of kin of the victims executed in La Granja and El Aro

258. The next of kin of the victims executed in La Granja and El Aro suffered an intense psychological impact and have endured profound distress and grief as a direct result of the execution of their next of kin, and the circumstances of the massacres. These circumstances include witnessing the execution of their next of kin by heavily-armed men, hearing the cries for help while their family members were subjected to cruel and inhuman treatment, and the fear resulting from the extreme violence with which they were executed. The Court considers that all this has affected the social tissue of the next of kin of those executed in La Granja and El Aro. In addition, the accusation by the paramilitary group that the alleged victims and the population in general were collaborating with the guerrilla increased the villagers' level of defenselessness and anguish.

259. As indicated above, when it is sufficiently real and imminent, the mere threat of a conduct prohibited by Article 5 of the American Convention can violate this article (supra para. 255). [FN223]

[FN223] Cf. Case of Baldeón García, supra note 5, para. 119; Case of Tibi, supra note 176, para. 147; and Case of the 19 Tradesmen, supra note 222, para. 149. Likewise, cf. Eur.C.H.R., Campbell and Cosans, supra note 222, p. 12, § 26.

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260. Thus, the Court finds it particularly serious that it was the next of kin themselves, without the assistance of the corresponding authorities, who had to gather up the bodies of their loved ones in order to bury them, without being able to give them a burial in accordance with their traditions, values and beliefs. In addition, the paramilitary group perpetrated these acts against the population with absolute liberty, with the acquiescence or tolerance of the authorities.

261. Moreover, in this case, there has not been a complete and effective investigation into the facts, as examined in the section corresponding to Articles 8 and 25 of the American Convention (infra paras. 283 and ff.). In other cases, the Court has considered this absence of effective remedies to be an additional source of suffering and anguish for the alleged victims and their next of kin. [FN224]

[FN224] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 158; Case of the "Mapiripán Massacre", supra note 8, para. 145; Case of the Moiwana Community, supra note 12, para. 94.

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262. Over and above the foregoing, in a case such as the Ituango Massacres, the Court considers that no evidence is needed to prove the severe effects on the mental integrity of the next of kin of victims who have been executed. [FN225]

[FN225] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 146.

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263. Based on the above, the Court finds there is sufficient evidence in this case to conclude that Colombia is responsible for the violation of the right to humane treatment to the detriment of the next of kin of the victims executed in the La Granja and El Aro massacres.

264. In keeping with its case law, [FN226] the Court considers that the adequately-identified immediate next of kin are the direct descendents and ascendants of the alleged victim, namely: mother, father, children, and also siblings, and spouse or permanent companion, or those determined by the Court based on the characteristics of the case and the existence of some special relationship between the next of kin and the victim or the facts of the case. In this case, these people have proved their relationship by a document issued by a competent authority, such as a birth certificate, a baptismal certificate or a death certificate, [FN227] or by other proof, such as rulings in domestic proceedings, sworn statements or expert evidence.

[FN226] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 235; Case of the "Mapiripán Massacre", supra note 8, para. 257; and Case of the Moiwana Community, supra note 12, para. 178.

[FN227] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 257.

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265. The Court considers that the next of kin of the persons executed in La Granja and El Aro, who are victims of the violation of Article 5 of the Convention, are the persons indicated in Appendix I of this judgment, who have been identified as victims of the violation of this article.

266. Jesús María Restrepo was not indicated as an alleged victim or next of kin of a victim in this case. However, from the evidence provided to the Court, specifically the ruling in the administrative proceedings under file No. 991784 in relation to the death of the child, Wilmar de Jesús Restrepo Torres, it is clear that Jesús María Restrepo is the father of this child, who was executed in El Aro (supra para. 125(101)). The representatives and the Commission have not explained why Jesús María Restrepo was not indicated as an alleged victim in this case. However, the relationship of Jesús María Restrepo with the child, Wilmar de Jesús Restrepo Torres, victim executed in El Aro, has been clearly established by a ruling in the administrative jurisdiction under domestic law. In cases such as this, the damage suffered by the parents of a victim who has been executed is presumed.

267. Adán Antonio Arboleda and María Isabel Rodríguez, parents of María Graciela Arboleda Rodríguez; Israel Antonio Tejada, father of Otoniel de Jesús Tejada Jaramillo; Jesús María Ortiz, father of Omar de Jesús Ortiz Carmona; and Roberto Zuleta, father of Fabio Antonio Zuleta Zabala, were not indicated as alleged victims or next of kin of a victim in this case. However, from the evidence provided to the Court, it is clear that these persons were the parents of some of the victims executed in the massacres. The representatives and the Commission have not explained why these persons were not indicated as alleged victims in this case. However, their relationship with their family members has been clearly established by the evidence provided to

the Court. In cases such as this, the damage suffered by the parents of a victim who has been executed is presumed.

268. The representatives did not allege that Guido Manuel Restrepo Torres was a relative of Wilmar de Jesús Restrepo Torres, or that he was an alleged victim in this case. However, from the body of evidence it is clear that Guido Manuel was the brother of Wilmar de Jesús Restrepo Torres. It has also been proved that Guido Manuel Restrepo Torres died two years after the death of his brother in El Aro. Consequently, the Court considers that Guido Manuel Restrepo Torres was a next of kin of Wilmar de Jesús Restrepo Torres and will order reparations in his favor as such, and also as a victim of the violation of his personal integrity owing to the death of his brother. Any pecuniary compensation in his favor will be distributed in accordance with paragraph 363 of this judgment.

c) Concerning the persons detained and obliged to herd livestock

269. The Court considers that the persons who were detained and obliged to herd livestock under threat of death – a situation examined in the chapter on the violation of Articles 6 and 7 of the Convention (supra paras. 145 to 168) – suffered fear and degrading treatment. Consequently, the State has violated Article 5 of the Convention to the detriment of these persons. On this basis, the Court considers that the victims of the violation of Article 5 of the Convention, in relation to Articles 6 and 7 thereof, are the persons indicated in Appendix II of this judgment, who have been identified as victims of the violation of this article.

d) Concerning the persons who lost their possessions

270. In relation to the alleged violation of Article 5 of the Convention to the detriment of the persons who lost their possessions in El Aro, the Court considers that the State failed to respect the physical and moral integrity of these persons, who suffered immense emotional anguish owing to the loss of their belongings in a context of extreme violence, which has been examined in the chapter on the violation of Article 21 of the Convention (supra paras. 172 to 200). On this basis, the Court considers that the victims of the violation of Article 5 of the Convention, in relation to Article 21 thereof, are the persons indicated in Appendix III of this judgment, who have been identified as victims of the violation of Articles 5 and 21 of the Convention.

271. However, the Court considers that, since they lost their homes and their possessions, the persons whose houses were destroyed and who were forced to displace endured particularly severe suffering that merits further attention.

272. In this judgment, the Court has established that the paramilitary group, with the acquiescence and tolerance of State officials (supra paras. 63 and 64), destroyed and set fire to most of the houses in El Aro, which resulted in the displacement of its inhabitants. These acts of violence, particularly the destruction of the houses, were designed to terrorize the population and force the families to displace from El Aro. Those who lost their homes in the fires set by the paramilitary group and who were therefore forced to displace lost all possibility of returning to their homes, because these ceased to exist. The Court finds that these facts have aggravated the

situation of these persons vis-à-vis other people who were forced to displace, but whose homes were not destroyed.

273. In similar cases, the European Court of Human Rights has recognized that such facts can be considered inhuman treatment, which constitutes a violation of Article 3 of the European Convention on Human Rights. [FN228] In Ayder v. Turkey, [FN229] the European Court considered that it constituted inhuman treatment that the homes and possessions of the victims were burned before their eyes, depriving them of their shelter and livelihood, and bearing in mind that this forced them to leave the place where they had been living to build new lives elsewhere, which caused anguish to the victims and their next of kin. Also, in Bilgin v. Turkey, [FN230] the European Court considered that the destruction of the victim's home, perpetrated by the Turkish security forces, constituted inhuman treatment. Finally, in Selçuk v. Turkey, [FN231] the European Court considered that the destruction of the victims' homes and livelihood, leading to their displacement, constituted inhuman treatment.

[FN228] Article 3 ECHR (Prohibition of Torture) establishes: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment. "
[FN229] Cf. Eur.C.H.R., Ayder et al v. Turkey, No. 23656/94, Judgment of 8 January 2004, paras. 109 and 110.
[FN230] Cf. Eur.C.H.R., Bilgin v. Turkey, No. 23819/94, Judgment of 16 November 2000, para. 103.
[FN231] Cf. Eur.C.H.R., Selçuk v. Turkey, No. 23184/94, Judgment of 24 April 1998, paras. 77 and 78.

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274. In light of the above, and bearing in mind the particularly serious facts of this case, the Court finds that the inhabitants of El Aro who lost their homes and were therefore forced to displace, suffered inhuman treatment. The events of El Aro signified for these people not only the loss of their homes, but also the loss of their entire patrimony, and the possibility of returning home.

275. To determine the victims of the violation of Article 5 of the Convention, in relation to Article 11(2), 21 and 22 thereof, in this case, the criteria indicated above concerning the determination of the alleged victims of the violations of Article 11(2), 21 and 22 of the Convention (supra paras. 184, 198 and 224) has been taken into account, to the extent that these criteria relate to the determination of the persons who were displaced and lost their homes in El Aro.

276. Based on the above, the Court considers that the victims of the violation of Article 5 of the Convention, in relation to Article 11(2), 21 and 22 thereof, are the persons indicated in Appendix III of this judgment who have been identified as victims of the violation of Articles 5, 11(2), 21 and 22 of the Convention.

e) Concerning the displaced persons

277. The Court finds that the forced displacement of the population of El Aro and some families from La Granja caused them enormous suffering, which has been examined in the chapter on the violation of Article 22 of the Convention (supra paras. 204 to 235). Consequently the Court considers that the displaced persons individualized in Appendix IV of this judgment are victims of the violation of the right to humane treatment.

f) Concerning the inhabitants of La Granja and El Aro

278. In relation to the claim regarding the alleged violation of Article 5 of the Convention to the detriment of the general population of El Aro and La Granja, the Court considers that, owing to the severity of the suffering caused by the massacres in these districts and the generalized fear arising from the paramilitary incursions in this case, which took place in a context of similar massacres, the inhabitants of La Granja and El Aro who have not been indicated in the preceding paragraphs are victims of the violation of the right to humane treatment.

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279. Based on the foregoing, the Court finds that the State is responsible for the violation of the right enshrined in Article 5 (Right to Humane Treatment) of the Convention, in relation to Article 1(1) thereof, to the detriment of the inhabitants of La Granja and El Aro (supra para. 278), as well as the rights embodied in Article 5 (Right to Humane Treatment) of the Convention, in relation to Articles 6, 7, 11(2), 21, 22 and 1(1) thereof, to the detriment of the victims indicated in Appendixes I, II, III and IV of this judgment, who have been identified as victims of the violation of Article 5 of the Convention.

XV. ARTICLES 8(1) AND 25 OF THE AMERICAN CONVENTION IN RELATION TO ARTICLE 1(1) THEREOF (RIGHT TO A FAIR TRIAL AND RIGHT TO JUDICIAL PROTECTION)

The Commission's arguments

280. The Inter-American Commission considered that the State had violated Articles 8(1) and 25 of the American Convention, because:

(a) Nine years after the incursion in La Granja and eight years after the armed incursion in El Aro, "the State has not yet complied substantially with its obligation to clarify the facts, prosecute and punish those responsible effectively, and make adequate reparation to the alleged victims and their next of kin";
(b) The delay in the clarification of these cases not only violates the right to justice and reparation of the alleged victims and their next of kin, but contributes "to perpetuating acts of violence and intimidation against witnesses and prosecutors involved in clarifying the facts";
(c) Most of the decisions in the domestic proceedings in relation to the facts of this case are recent and investigations are still ongoing;
(d) Most of the authors have not been captured even if they have been prosecuted, and even when "final sentences against them exist and the whereabouts of some of those convicted is

known, they have not been detained." This is due, in part, to the existence of a law that suspends the capture of those persons who are taking part in negotiating procedures with the Government;
(e) The application of the Justice and Peace Act (Act 975 of 2005) is not a guarantee that the crimes perpetrated will be duly clarified; therefore, "the facts of many of them will never be know and the authors will enjoy impunity";
(f) The alleged victims and their next of kin promoted the investigation with the means available to them, despite the well-founded fear of reporting the facts and those responsible; and
(g) Of the eight disciplinary proceedings filed and, of the many complaints submitted by both private individuals and the judicial authorities themselves, "only one of them […] achieved any results, the rest were filed or declared time-barred."

i) Concerning the events that occurred in La Granja

(a) The investigation in this case was "officially opened" on June 17, 1999; namely three years after the facts took place;
(b) Today, more than nine years after the massacre, of the 20 people directly involved in its perpetration, neither the masterminds, nor even the one person convicted are in prison and the preventive measures ordered have never been executed; and
(d) Only Police Lieutenant José Vicente Castro has been sentenced in first instance on November 14, 2003. However, on July 12, 2004, the Antioquia Superior Court revoked the decision in first instance, declaring the only person who had been prosecuted to be innocent and ordering his immediate release.

ii) Concerning the events that occurred in El Aro

(a) Despite the decisions taken by the Attorney General's Office regarding the responsibility of State agents, Colombia has not made any significant progress in the criminal prosecution and punishment of the members of the Police and the National Army based in the zone of El Aro at the time of the facts;
(b) Of the 30 perpetrators and the masterminds, only one person investigated in the case is in prison for committing other crimes, since the State has demonstrated an unwillingness to execute the arrest warrants. Also, "no substantial progress has been made in determining the responsibility of the State agents involved"; and
(c) With the exception of Francisco Enrique Villalba, who is serving a prison sentence for other crimes, no other person is serving the sentence imposed by the Second Criminal Court of the Antioquia Specialized Circuit on April 22, 2003.

The representatives' arguments

281. In relation to Articles 8(1) and 25 of the American Convention, the representatives endorsed the arguments of the Inter-American Commission in relation to the status of the domestic investigations and stated that:

(a) Colombia has not provided the alleged victims and their next of kin with effective remedies that guarantee the right to the truth, justice and reparation for these grave human rights violations;

(b) The administrative proceedings have not achieved their purpose. Three complaints were filed against "the Colombian Nation – the National Army"; 11 proceedings are awaiting a ruling, and two have been decided against the interests of the complainants, rejecting the claims made in the complaint based on arguments of a formal nature that are being reviewed in appeal;
(c) The decisions taken by the administrative jurisdiction in Colombia are "totally insufficient" to be understood as reparations for the State's international responsibility because, in practice, in the case of human rights violations, they are restricted to ordering compensation and disregard restitution and measures of satisfaction;
(d) Regarding the disciplinary proceedings, the "efforts made by the Delegate Human Rights Attorney of the Attorney General's Office are commendable, but the consequences of this sanction have not had any impact on the criminal proceedings, thus failing to observe the obligation to coordinate and collaborate that should exist between State entities";
(e) The sanction of dismissal ordered by the State for those found guilty had no effect, because they had retired from the Army several years before this decision was issued, and other authorities were not investigated;
(f) The State has "organized its structures to keep the authors of these grave human rights violations beyond the reach of the law";
(g) Colombian criminal legislation expressly prevented a claimant for civil injury being present during the pre-trial investigation stage, a situation that only changed on April 3, 2002, when the Colombian Constitutional delivered judgment C-228 ordering the situation to be reversed;
(h) Colombia has adopted domestic laws that prevent the alleged victims of these grave facts from being guaranteed the right to the truth and to justice. The Justice and Peace Act will allow both the masterminds and the perpetrators of these serious crimes to receive minimum sentences compared to those they should receive in order to make amends to society; this fosters impunity and establishes special treatment for political crimes; and
(i) The criminal investigations have only resulted in a limited number of judgments; moreover, they have not been prompt, because they have taken more time that is reasonable.

i) Concerning the events that occurred in La Granja

(a) Even though about 20 men participated directly in the massacre, including members of a paramilitary group and an unknown number of "State agents who allowed and assisted the perpetration of the crimes committed," not one of them has been convicted, despite the fact that eight years have elapsed;
(b) The "adequate and essential" information to identify, prosecute and punish those responsible was available to the State immediately following the events but it disqualified itself from taking these measures; the complexity alleged by the State does not provide acceptable grounds or reasons for the failure to comply with its obligation to investigate;
(c) On August 31, 2001, the National Human Rights Unit of the Prosecutor's Office only indicted Police Lieutenant José Vicente Castro because, in the case of the other individuals included in the investigation, "some of them, who were well-known drug-traffickers with connections to the paramilitary groups, had been acquitted during the investigation";
(d) The first judgment delivered in these criminal proceedings was on November 14, 2003; in other words, six years after the events occurred in La Granja. However, it was revoked by the Antioquia Superior Court on July 12, 2004;

(e) A new judgment was delivered on July 8, 2005, almost nine years after the events had occurred; and
(g) Decree 128 of 2003 and Act 975 of 2005 contribute to the fact that the only judgment delivered in the La Granja case cannot be executed, because the domestic legal framework offers the authors of these grave human rights violations the possibility of a reduced sentence, and provides that those who have intervened in these facts and who have not yet been individualized are not obliged to plead guilty before the Colombian authorities.

ii) Concerning the events that occurred in El Aro

(a) Regarding the investigation of the facts, there are three elements that show that these criminal proceedings are not complying with the minimum requirements to consider that the procedural guarantees of the alleged victims have been respected: (a) not one member of the National Army has been included in the investigation; (b) impunity reigns, and (c) seven years have elapsed since the armed incursion in El Aro, a more than reasonable time for the delivery of a final judgment encompassing all those responsible for all the acts perpetrated;
(b) Only three civilians have been convicted for the many acts that occurred in this district, in which approximately 200 men took part;
(c) The judgment of the Second Criminal Court of the Antioquia Circuit of April 22, 2002, did not include all the crimes committed during the incursion in El Aro; and
(d) A financial conciliation process was carried out in several of the administrative proceedings, but as yet no payments have been made.

The State's arguments

282. The State alleged that it had not violated Articles 8(1) and 25 of the American Convention, because:

i) Concerning the recourses available in the domestic sphere

(a) Colombia has a genuine system for the protection of fundamental rights, with the constitutional mechanisms that comprise the judicial protection system, including the Ombudsman's Office, which, although it is not a judicial mechanism, is an institution for the protection of these rights. The constitutional mechanisms that comprise the system for the judicial protection of fundamental rights in Colombia are: habeas corpus; the "tutela" action (which is the maximum remedy of "amparo" [protection of constitutional rights])"; the enforcement action; class actions; habeas data; the right to review or response; the action for unconstitutionality, and the plea of unconstitutionality.
(b) The administrative actions with similar purposes are: the action for simple annulment of an administrative act; the action for annulment with re-establishment of the right; the action for direct reparation and enforcement, and the action to define administrative jurisdictions;
(c) Under the domestic legal system, the remedies that exist to protect the rights and freedoms whose violation is the subject of the Commission's application are absolutely appropriate; they have always been available to the alleged victims and their next of kin, "and they have been processed by the competent authorities in the way and in the terms established by domestic law"; and

(d) All these recourses are still ongoing. Decisions have already been issued in some of them that have protected the rights of the alleged victims and their next of kin and final decisions are awaited in others.

ii) Concerning the criminal investigations

(a) In the instant case, the investigations were conducted within a reasonable time, given the complexity involved in dealing with the "macro-criminality" revealed by the facts;
(b) The procedural activity of the petitioners in the domestic proceedings has been limited, particularly in the criminal proceedings, where they did not to file an action for compensation;
(c) Decree 2429 of 1998 established the Special Committee for the promotion of investigations into violations of human rights and international humanitarian law in order to avoid impunity in cases of human rights violations;
(d) A project to combat impunity is being implemented under the sponsorship of the European Union, coordinated and led by the Embassy of the Kingdom of the Netherlands, in the context of the activities of this Special Committee for the promotion [of human rights investigations];
(e) Regarding reparations, the creation of a high commissioner for victims is under consideration to coordinate and execute a comprehensive reparations policy; and
(f) Without doubt the Constitutional Court will soon be examining the Justice and Peace Act, because several complaints have been filed against its contents.

1. Concerning the events that occurred in La Granja

(a) On November 10, 2003, the National Human Rights and International Humanitarian Law Unit of the Prosecutor General's Office decided to issue an indictment against a National Army officer as probable author of the crime of conspiracy to commit a crime, to the detriment of public security, owing to the events that occurred in La Granja;
(b) According to the judgment of the First Specialized Court of November 14, 2003, the investigation into the events of La Granja commenced on June 12, 1996; namely, one day after they occurred;
(c) On September 2, 2005, the acting prosecutor in the La Granja case filed an action for review of judgment before the Supreme Court of Justice in relation to the ruling of the Antioquia Superior Court of July 12, 2004, absolving José Vicente Castro; and(d) In a judgment of July 8, 2005, one member of the Army and three civilians were convicted.

2. Concerning the events that occurred in El Aro

(a) The Prosecutor's Office began to take measures with regard to these events immediately after they occurred, at the end of October and beginning of November 1997;
(b) As a result of the decision of the Attorney General's Office of September 30, 2002, confirmed by a judicial decision of November 1 that year, two agents of the Colombian State were held responsible from a disciplinary perspective for intentionally "collaborating with and facilitating" the events, and for having intentionally "collaborated with and facilitated" the theft of approximately 1,000 head of livestock (cattle, horses and mules) from the region and neighboring areas by the United Self-Defense Forces of Colombia;

(c) Based on these disciplinary decisions, the Colombian State agreed to take measures and submitted conciliation proposals in the proceedings underway in the administrative jurisdiction, in anticipation of a judgment condemning the State for responsibility in the deaths for which the respective next of kin were claiming compensation, and also for the theft of the livestock, in accordance with the facts proved during these proceedings;
(d) Carlos Castaño and Salvatore Mancuso were clearly identified as participants in the events of El Aro, and sentenced to 40 years' imprisonment, while Francisco Enrique Villalba was sentenced to 33 years' imprisonment;
(e) On April 22, 2003, case number 05000-31-07-02-2002-0021-00 before the Second Criminal Court of the Medellín Specialized Circuit was concluded with an early judgment convicting Carlos Castaño Gil, Salvatore Mancuso Gómez and Francisco Enrique Hernández Villalba. This judgment is final and at the execution stage, so that some arrests are pending;
(f) Some arrest warrants have not been executed because "it is difficult to locate the criminals." In the specific case of Mancuso, he is one of the negotiators of a dialogue process commenced by the Government on the basis of Act 782 of 2002 (Act 418 of 1997 was extended by Acts 548 of 1999 and 782 of 2002). Consequently, the arrest warrants against him are suspended while he remains part of the process; and
(h) Regarding the State agents under investigation by the investigatory bodies as a result of the events of El Aro, judicial decisions have been taken that include Abelardo Bolaños Galindo, Army Lieutenant at the time, and Germán Antonio Alzate Cardona, Army First Corporal at the time, in the proceedings.

iii) Concerning the proceedings in the administrative jurisdiction

(a) The persons affected by the criminal facts that occurred in La Granja and El Aro filed several judicial proceedings designed to obtain full compensation for the pecuniary and non-pecuniary damage suffered;
(b) Some people who resorted to the international process to obtain compensation – among other matters – decided not to use the legal channels that domestic law offered for this purpose (autonomous civil action or an action for compensation filed within the criminal proceedings and the administrative action for direct reparation);
(c) Of the 239 persons who resorted to the international proceedings, 92 of them filed claims against the State before the national judges to obtain reparation for the damage they had been caused;
(d) Article 16 of Act 446 of 1998 refers to integral reparation; hence, it appears that the Colombian legal system is not opposed to seeking forms of reparation;
(e) The administrative proceedings filed have been conciliated and the respective payment authorizations will soon be issued; and
(f) Three of the proceedings were not conciliated; of these, two were decided by the Antioquia Administrative Court against the claimants; one of the judgments is not final and another is being reviewed on appeal.

iv) Concerning the Social Solidarity Network Program for Victims of Violence

(a) This program grants humanitarian assistance to the victims defined in article 15 of Act 418 of 1997, understanding as victims "those members of the civilian population whose life has

been jeopardized or who have suffered a grave deterioration of their personal integrity or that of their property, as a result of terrorist attacks, fighting, kidnappings, attacks or massacres in the context of the internal armed conflict";
(b) Regarding the events that occurred in La Granja and El Aro, five requests for humanitarian assistance were submitted, processed and responded to as a result of the events in La Granja by the next of kin of Jairo de Jesús Sepúlveda Arias, and four owing to the events in El Aro, by the next of kin of Marco Aurelio Areiza Osorio, Guillermo Andrés Mendoza Posso and Nelson de Jesús Palacio Cárdenas; and
(c) Another two similar requests for pecuniary reparations could not be accepted, that of Wilmar de Jesús Restrepo Torres, since it was submitted after the two-year time limit established by Colombian law, and that of Graciela Arboleda Rodríguez, because the minimum documentation required was not presented.

The Court's findings

283. Article 8(1) of the American Convention establishes:

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

284. Article 25 of the Convention stipulates:

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

285. During the processing of this case before the Court, the State asserted that it had not violated Articles 8(1) and 25 of the Convention. It argued that the domestic remedies should be assessed integrally, because it is the criminal, administrative and disciplinary proceedings that have jointly and effectively achieved the results to date. The Commission and the representatives affirmed that the State has violated these articles for a number of reasons that include the flawed and incomplete investigations, the time that the proceedings have taken, and the latter's lack of effectiveness and results, all of which have led to the partial impunity of those responsible for the massacres of La Granja and El Aro.

286. In continuation, the Court will refer, first, to considerations applicable to the facts of the La Granja and El Aro cases in relation to the obligations established in Articles 8(1) and 25 of the Convention. Then, in separate sections, it will examine the respective criminal,

administrative and disciplinary proceedings, indicating in each case the findings applicable to the investigations carried out into both events, and also the specific findings in each case.

287. The Court has affirmed that, under the American Convention, the States Parties are obliged to provide effective judicial remedies to the victims of human rights violations (Article 25), remedies that must be implemented according to the rules of due process of law (Article 8(1)), all within the general obligation of States to ensure to all persons subject to their jurisdiction free and full exercise of the rights established in the Convention (Article 1(1)). [FN232]

[FN232] Cf. Case of Baldeón García, supra note 5, para. 143; López Álvarez case. Judgment of February 1, 2006. Series C No. 141, para. 147; and Case of the Pueblo Bello Massacre, supra note 9, para. 169.

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288. In this regard, the Court has indicated that domestic law provides for many recourses, but not all of them are applicable in all circumstances. When the recourse is not adequate in a specific case, it is evident that there is no need to exhaust it, [FN233] without prejudice to the possibility that, in certain circumstances, all the recourses available under domestic laws may, collectively, satisfy the requirements established in Articles 8 and 25 of the Convention, even if none of them, individually, comply integrally with these provisions. [FN234]

[FN233] Cf. Velásquez Rodríguez case. Judgment of July 29, 1988. Series C No. 4, para. 64.
[FN234] Cf. mutatis mutandis, Eur.C.H.R., Öneryildiz vs. Turkey, No. 48939/99, Judgment of 18 June 2002, para. 100.

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289. In addition, the Court has indicated that the right of access to justice must ensure, within a reasonable time, the right of the alleged victim or his next of kin to every effort being made to learn the truth of what happened and to sanction those responsible. [FN235] With regard to the principle of reasonable time established in Article 8(1) of the American Convention, the Court has established that three elements must be taken into account in order to determine the reasonableness of the time within which the proceedings are held: (a) the complexity of the case; (b) the procedural activity of the party concerned, and (c) the conduct of the judicial authorities. [FN236] However, the pertinence of applying these three criteria to determine the reasonableness of the time of the proceedings depends on the circumstances of each case. [FN237] Thus, the Court will examine the reasonableness of the duration of each of the proceedings, when this is possible and pertinent, bearing in mind the characteristics of this case.

[FN235] Cf. Case of Baldeón García, supra note 5, para. 166; Case of the Pueblo Bello Massacre, supra note 9, para. 171; and Case of the “Mapiripán Massacre”, supra note 8, para. 216.

[FN236] Cf. Case of Baldeón García, supra note 5, para. 151; López Álvarez case, supra note 232, para. 132; and Case of the Pueblo Bello Massacre, supra note 9, para. 171.
[FN237] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 171.
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290. In the case sub judice it has been verified that proceedings were opened in the criminal, administrative and disciplinary jurisdictions (supra paras. 125(41) to 125(54) and 125(87) to 125(103)).

291. In this chapter the Court will therefore examine whether these official investigatory actions were executed with due diligence, as well as other elements, in order to determine whether the proceedings and procedures were conducted respecting the right to a fair trial and within a reasonable time, and whether they have constituted an effective recourse to ensure the rights of access to justice and the truth about the facts, and reparation for the next of kin.

a) Ordinary criminal jurisdiction

292. As stated above, the Court will now refer to findings applicable to the facts of La Granja and El Aro in relation to the proceedings opened in the ordinary criminal jurisdiction and will then examine the investigations conducted with regard to each of them.

293. Even though more than ten years and eight years have elapsed since the events took place in La Granja and El Aro, respectively, some of the criminal proceedings remain open. The Court recognizes that the matters investigated by the domestic judicial bodies in relation to the massacres of La Granja and El Aro are complex. Despite this, concrete results have been achieved in the investigations and in the different criminal proceedings and, although insufficient, they have resulted in the sentencing of members of the Army, as well as members of paramilitary groups, for their participation in the events that gave rise to this case (supra para. 125(51) and 125(93)). Nevertheless, the Court observes that some of those involved have been tried and convicted in absentia. Moreover, in view of the scope of the events and the number of people involved, the means used and the results achieved are insufficient to comply with the provisions of the American Convention. Consequently, the Court considers that, in this case, in addition to examining the reasonableness of the time that has elapsed during the investigations, the State's responsibility under Articles 8(1) and 25 of the Convention should be established by assessing the development and results of the different criminal proceedings; in other words, by assessing how effective the investigation of the facts has been in determining the truth of what happened, punishing those responsible, and repairing the violations committed to the detriment of the alleged victims. [FN238]

[FN238] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 170; and Case of the "Mapiripán Massacre", supra note 8, para. 222.
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294. The massacres were perpetrated in the context of the internal armed conflict in Colombia; they encompassed a large number of victims – who lost their possessions or were executed and,

in the case of El Aro, were compelled to carry out forced labor or displaced – and they occurred in a remote region, with difficult access, among other factors. However, even taking into account the complexity of the case, the effectiveness of the proceedings has been affected by several flaws in the investigation (supra para. 125(42), 125(43), 125(52), 125(87) and 125(93)). Hence, it is not possible to argue, as the State is trying to, that the investigations in the instant case were conducted within a reasonable time, given the complexity of having to deal with the "macro-criminality" implicit in the facts and the limited procedural activity of the petitioners in the domestic proceedings, particularly in the criminal proceedings where they are unable to bring a civil action (supra para. 282(ii)(a) and (b)).

295. In this regard, the representatives indicated that Colombian criminal legislation expressly prevented the claimant for civil injury from participating at the pre-trial investigation stage, a situation that changed as of April 3, 2002, when the Colombian Constitutional Court issued Judgment C-228, ordering this participation. Furthermore, the limited participation by the next of kin in the criminal proceedings, either as claimants for civil injuries or as witnesses, is also a result of their displacement and the fear of participating in these proceedings owing to the death or threats against people who took part in them or filed them, such as Jesús Valle Jaramillo, or several prosecutors who left the country (supra para. 125(95)).

296. In this respect, the Court has indicated that during the investigation process and the judicial proceedings, the victims of human violations or their next of kin should have ample opportunities to take part and be heard in the clarification of the facts and the sanction of those responsible, and also in seeking fair compensation. [FN239] However, the State is responsible for the effective search for the truth and this does not depend on the procedural initiative of the victim or his next of kin, or on his contribution of evidence. [FN240] Accordingly, it cannot be maintained, as the State has done (supra para. 282(ii)(b)), that, in a case such as this one, the procedural activity of the party concerned should be considered a determinant in defining the reasonableness of the time. It should be recalled that the case involves, inter alia, the extrajudicial execution of 19 persons. In such cases, the Court's case law is unequivocal: the State has the obligation to initiate ex officio, immediately, a genuine, impartial and effective investigation, which is not undertaken as a mere formality predestined to be ineffective. [FN241]

[FN239] Cf. Case of Baldeón García, supra note 5, para. 146; Case of the Pueblo Bello Massacre, supra note 9, para. 146; and Case of the "Mapiripán Massacre", supra note 8, para. 219.

[FN240] Cf. Case of Baldeón García, supra note 5, para. 93; Case of the Pueblo Bello Massacre, supra note 9, para. 144; and Case of the "Mapiripán Massacre", supra note 8, para. 219.

[FN241] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 143; Case of the "Mapiripán Massacre", supra note 8, para. 223; and Case of the Moiwana Community, supra note 12, para. 146.

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297. This obligation to investigate results from the general undertaking of States Parties to the Convention to respect and ensure the human rights embodied therein; in other words, the obligation established in its Article 1(1), together with the substantive right that must be

protected or ensured. Thus, when the right to life is violated, compliance with the obligation to investigate is a central element when determining the State's responsibility for the failure to respect due judicial guarantees and judicial protection.

298. In this regard, based on the United Nations Manual on the Effective Prevention and. Investigation of Extra-Legal, Arbitrary and Summary Executions, the Court has defined the guiding principles that should be observed when it is considered that a death may be due to extrajudicial execution. The State authorities that conduct an investigation must try, as a minimum, inter alia to: (a) identify the victim; (b) recover and preserve the probative material related to the death to contribute to any possible criminal investigation into those responsible; (c) identify possible witnesses and obtain their statements in relation to the death under investigation; (d) determine the cause, method, place and moment of death, as well any pattern or practice that could have caused the death, and (e) distinguish between natural death, accidental death, suicide and murder. In addition, the scene of the crime must be searched exhaustively, autopsies carried out and human remains examined rigorously by competent professionals using the most appropriate procedures. [FN242]

[FN242] Cf. Case of Baldeón García, supra note 5, para. 96; Case of the Pueblo Bello Massacre, supra note 9, para. 177; and Case of the "Mapiripán Massacre", supra note 8, para. 224. Likewise, United Nations Manual on the Effective Prevention and. Investigation of Extra-Legal, Arbitrary and Summary Executions, E/ST/CSDHA/12 (1991).

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299. On repeated occasions, the Court has established that the State has the obligation to avoid and combat impunity, which the Court has defined as "the absence of any investigation, pursuit, capture, prosecution and conviction of those responsible for the violations of rights protected by the American Convention." [FN243] In this regard, the Court has established that the State has the obligation to combat impunity by all available legal means, because it encourages the chronic repetition of the human rights violations and the total defenselessness of the victims and their next of kin. [FN244]

[FN243] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 237; Case of the Moiwana Community, supra note 12, para. 203; and the Serrano Cruz Sisters case. Judgment of March 1, 2005. Series C No. 120, para. 170.

[FN244] Cf. Case of Baldeón García, supra note 5, para. 168; Case of the Pueblo Bello Massacre, supra note 9, para. 266; and Case of the "Mapiripán Massacre", supra note 8, para. 237.

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300. The Court appreciates the difficult circumstances that Colombia is experiencing, in which its population and its institutions are endeavoring to achieve peace. Nevertheless, the country's situation, however difficult, does not liberate the State Party to the American Convention from its obligations under this treaty, which subsist particularly in cases such as this one. [FN245] The Court has maintained that by implementing or tolerating actions aimed at carrying out

extrajudicial executions, failing to investigate them adequately and, when applicable, failing to punish those responsible effectively, the State violates its obligation to respect and ensure the rights established in the Convention and to guarantee their free and full exercise to both the alleged victims and their next of kin, prevents society from knowing what happened, [FN246] and reproduces the conditions of impunity for this type of acts to be repeated. [FN247]

[FN245] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 146; Case of García Asto and Ramírez Rojas, supra note 5, para. 170; and Case of the "Mapiripán Massacre", supra note 8, para. 238.

[FN246] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 146; Case of the "Mapiripán Massacre", supra note 8, para. 238; and Case of the Moiwana Community, supra note 12, para. 153.

[FN247] Cf. Case of Baldeón García, supra note 5, para. 195; Case of the Pueblo Bello Massacre, supra note 9, para. 266; and Case of Gómez Palomino. Judgment of November 22, 2005. Series C No. 136, para. 76.

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301. The Court will now examine the measures taken in the ordinary criminal investigation into the events of La Granja and, then, those corresponding to El Aro, to determine how the State failed to comply with its obligation under the Convention.

i) Criminal proceedings concerning the events in La Granja

302. In the case of La Granja it has been proved that the paramilitary group raided this district on June 11, 1996, and that the preliminary inquiry into the facts lasted three years. It was not until June 17, 1999, that the National Human Rights Unit of the Prosecutor General's Office decided to open the pre-trial proceedings (supra para. 125(43)).

303. It has been proved that more than 20 persons (supra para. 125(33)) took part in the incursion in La Granja and that they acted with the acquiescence and tolerance of the law enforcement bodies. However, ten years after these events, the State has only convicted four persons. Moreover, the arrest warrants issued against Carlos Castaño Gil, Isaías Montes Hernández and Fabio León Mejía Uribe, members of the paramilitary group, have not been executed, which renders the whole proceedings ineffective. The arrest of Orlando de Jesús Mazo Pino, who has been convicted, is also still pending (supra para. 125(52)).

304. During these ten years, the results of the criminal investigations concerning the La Granja massacre indicate that 16 people were investigated, one of whom was a member of the Army – Jorge Alexander Sánchez Castro – and another a member of the National Police – José Vicente Castro. Of the 16 people investigated, four have been convicted of the facts (supra para. 125(51)).

305. Specifically, on July 8, 2005, the First Criminal Court of the Antioquia Specialized Circuit sentenced Orlando de Jesús Mazo, a civilian, to 12 years' imprisonment for the crime of conspiracy to commit a crime, terrorism and extortion; Gilberto Antonio Tamayo Rengifo, a

civilian, to 12 years' imprisonment for the crimes of terrorism and extortion; Carlos Antonio Carvajal Jaramillo, a civilian, to 72 months' imprisonment charged with conspiracy to commit a crime and extortion; and Jorge Alexander Sánchez Castro, Army Captain, to 31 years' imprisonment for aggravated murder and conspiracy to commit a crime (supra para. 125(51)). The Court observes that Carlos Antonio Carvajal Jaramillo's sentence was suspended "owing to his age." According to the useful evidence presented by the State in its final arguments brief, that ruling was appealed. At the time this judgment is delivered, the Court has no information on this recourse or its results.

306. Of the other people convicted, only two of them have been imprisoned – the former officer, Jorge Alexander Sánchez Castro, and the civilian, Gilberto Antonio Tamayo Rengifo – one sentence was suspended and the arrest of the fourth persons who was convicted is still pending.

307. Regarding the other State agent investigated in relation to the events of La Granja, Police Lieutenant José Vicente Castro, the Court observes that he was convicted on November 14, 2003, and absolved on appeal by a decision of the Criminal Chamber of the Antioquia Superior Court of July 2, 2004, which considered that the first instance's assessment of the evidence was too generalized, which meant that the culpability of the accused had not been proved sufficiently. Furthermore, it excused the failure of the Police to intervene adducing that the lack of logistic and human resources to deal with the announced incursion had been proved. The Court has taken note of the comment by Colombia in its final arguments brief that, on September 2, 2005, the State filed an "action for review" of the appeal judgment that absolved José Vicente Castro, for the Supreme Court of Justice to take a decision on a new trial for the events that occurred in La Granja.

308. The existence of an unjustified judicial delay can be observed in the investigations into the events of La Granja. In this regard, the Court notes that, although certain measures were taken during the preliminary inquiry into the facts (supra para. 125(42)), the National Human Rights Unit of the Prosecutor General's Office only decided to open the pretrial investigation on June 17, 1999; that is, more than three years after the facts occurred. The First Criminal Court of the Antioquia Specialized Circuit itself noted in its judgment of July 8, 2005, that the investigation was opened in June 1999, "taking into account that the preliminary inquiry began on June 12, 1996, and 'as of that time significant indications existed in relation to specific individuals.'"

309. The Court finds that the proceedings and procedures in relation to the events of La Granja were not implemented regarding for due process of law, within a reasonable time, and have not constituted an effective recourse to ensure the rights of access to justice, the truth about the facts and to reparation of the alleged victims and their next of kin.

ii) Criminal proceedings concerning the events in El Aro

310. In the el Aro case it has been proved that the group of approximately 30 armed men who perpetrated the massacre remained in the district from October 22 to November 12, 1997 (supra para. 125(5) and 125(58)). From November 1997 to February 1998, the Prosecutor General's

Office received statements from several witnesses and next of kin of the alleged victims, ordered and conducted investigatory measures to determine the identity of the persons involved and carried out judicial inspections in the district (supra para. 125(88)). As a result, on March 19, 1998, the Prosecutor General's Office decided to issue a resolution to open the pre-trial investigation.

311. Eight years after the events, the State has only investigated seven individuals in the criminal investigation, and only convicted three civilians, one of whom is in prison; the proceedings against two members of the Army are still ongoing (supra para. 125(87) to 125(94)).

312. Specifically, on April 22, 2003, the Second Specialized Judge of the Antioquia Circuit delivered a judgment convicting the accused, Carlos Castaño Gil, Salvatore Mancuso and Francisco Enrique Villalba, of the murder of 15 persons, conspiracy to commit a crime, compounded by aggravated theft (supra para. 125(93)). These civilians, with the exception of Francisco Enrique Villalba, who was imprisoned in the Ituaguí Maximum Security Prison, were tried and sentenced in absentia and the arrest warrants against them have never been executed.

313. At December 2004, no member of the Army had been investigated, even though on February 6, 2004, the ruling of the Attorney General's Office of September 30, 2002, in the disciplinary proceedings, had been forwarded to the criminal investigation (supra para. 125(94)). This ruling ordered the dismissal of the soldiers, Lieutenant Everardo Bolaños Galindo and First Corporal Germán Alzate Cardona, for their participation in the facts, which could constitute crimes punishable under the criminal jurisdiction in addition to disciplinary offenses (supra para. 125(100)). In other words, no State agent was investigated in the criminal proceedings until seven years after the facts had occurred.

314. On March 1, 2005, the pre-trial detention of these two soldiers was ordered. However, the order was only executed in the case of Lieutenant Everardo Bolaños Galindo, who is imprisoned in the Cómbita Maximum Security Prison. The proceedings against both soldiers are still open.

315. In the El Aro case, the authorities' delay and lack of diligence in the proceedings is evident, because more than eight years have elapsed since these events, in which dozens of civilians took part with the acquiescence and tolerance of the law enforcement bodies, and most of those responsible have not yet been investigated in any criminal proceedings. The Court observes that an operation of this size could not have gone unnoticed by the authorities in the zone, and this has been acknowledged by the State in the proceedings before the Court.

316. The negligence of the judicial authorities responsible for examining the circumstances of the massacres by the opportune collection of evidence in situ cannot be rectified by the belated probative measures taken during the investigations. The shortcomings indicated can be considered serious failures in the obligation to investigate the facts that occurred in El Aro, because they have affected the successful determination of these facts.

317. The Court has noted that the State indicated that on September 19, 2005, "various measures were ordered to ascertain the names of the members of the National Army's Girardot

Battalion." This belated measure is one more example of the lack of diligence in the criminal investigation into the facts of this case.

318. Approximately eight years after the facts occurred, the possible role played by all those persons accused of participating in the facts of this case has not been determined. Even though around 30 people took part in this massacre, including members of a paramilitary group and of law enforcement bodies, proceedings have only been filed against three persons and, of these, only one is serving a prison sentence in relation to the events of El Aro. Regarding the facts of El Aro, where the collaboration and tolerance of members of law enforcement bodies is evident, the Court observes with concern that no proceedings have been filed against any of the latter who have been accused of participating in the event. The State has not provided evidence of any concrete measures taken to arrest the suspects or to make the convictions effective, or of the specific obstacles that it has encountered.

319. In this regard, the Court recalls that impunity encourages the repetition of human rights violations (supra para. 300); the State should therefore organize its whole apparatus to conduct a complete, impartial and effective investigation and, owing to the time that has elapsed since the events, this obligation should be implemented within a reasonable time.

320. Even though investigations have been conducted that have resulted in the conviction of some of the accused, impunity subsists in this case, to the extent that neither the whole truth about the facts has been determined, nor all those responsible identified. Another relevant fact is that some members of the paramilitary group who have been convicted are not serving their sentences, since the arrest warrants issued against them have not been executed.

321. The Court finds that the State did not ensure prompt justice for the victims of the events of El Aro, since impunity continues for many of the participants. Therefore, the Court finds that the proceedings and procedures in relation to the events of El Aro have not been implemented respecting the right to a fair trial, within a reasonable time, and have not constituted an effective recourse to ensure the rights of access to justice, the truth about the facts, and to reparation of the alleged victims and their next of kin.

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322. The Court finds that the delay in the investigations, prosecution and sentencing of all those responsible, and in the execution of the arrest warrants that were issued, contributed to perpetuating the acts of violence and intimidation against witnesses and prosecutors involved in clarifying the events of La Granja and El Aro. The case file shows that witnesses, lawyers and prosecutors have had to abandon the zone or the country for safety reasons (supra para. 125(95)).

323. In this case, the flaws in the criminal investigation have contributed to the impunity of most of those responsible for the violations perpetrated. These shortcomings have resulted in the subsequent lack of effectiveness of the ongoing criminal proceedings concerning the facts of the massacres, in which at least 20 members of a paramilitary group in La Granja and 30 in El Aro participated directly, with the collaboration, acquiescence and tolerance of members of the Colombian Armed Forces and Police.

324. The Court must recall, as it has in other cases against Colombia, [FN248] that the facts that are the object of this judgment form part of a situation in which a high level of impunity prevails for criminal acts perpetrated by members of paramilitary groups with the acquiescence and tolerance of member of the law enforcement bodies. The Judiciary has failed to provide an adequate response to these illegal actions of such groups in keeping with the State's international commitments, and this leads to the establishment of fertile ground for these groups, operating outside the law, to continue perpetrating acts such as those of the instant case.

[FN248] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 149; Case of the "Mapiripán Massacre", supra note 8, para. 235; and Case of the 19 Tradesmen, supra note 222, para. 257.

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325. In summary, the partial impunity and lack of effectiveness of the criminal proceedings in this case are reflected in two aspects: first, most of those responsible have not been investigated or have not been identified or processed – bearing in mind that the State has acknowledged its participation in the massacres and that the Court has established its responsibility, because they could not have been perpetrated without the knowledge, tolerance and acquiescence of the Colombian Army in the zones where the events occurred. Second, most of those who have been sentenced to imprisonment have not been arrested.

b) Disciplinary procedures

326. The Court will now refer to findings applicable in both cases in relation to the proceedings opened in the disciplinary jurisdiction and then examine the investigations into the events of La Granja and El Aro conducted in that jurisdiction.

327. Even though the next of kin of the alleged victims do not have access to this instance, the Court considers that decisions issued by the disciplinary jurisdiction are important, in view of the symbolic value of the message of censure that this sanction can convey within the public security forces. [FN249] Nevertheless, given the nature of the jurisdiction, the purpose of these investigations is restricted to determining individual responsibilities of a disciplinary nature for the acts committed by members of the State security forces. However, in view of the scale of the facts in this case, it is reasonable to presume that many public servants and officials in the region, as well as other members of the Armed Forces, who were involved in the events and whose function it was to guarantee the safety of the civilian population owing to their special status as police and military authorities in the region, were not examined by the disciplinary body.

[FN249] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 203; and Case of the "Mapiripán Massacre", supra note 8, para. para. 215.

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i) Concerning the La Granja disciplinary proceedings

328. Based on the events in La Granja, as of November 25, 1996, a disciplinary investigation was opened against Army Major Jorge Enrique Fernández Mendoza and Army Captain Jorge Alexander Sánchez Castro. The Delegate Attorney for the Armed Forces found that there were no grounds for sanctioning the officers who, at the time of the events, acted as officer in charge of training and military operations, and commander of the "Gavilán" company of Infantry Battalion No. 10 "Atanasio Girardot," respectively. In a decision of May 4, 2000, the Delegate Attorney ordered that the measures taken during the preliminary inquiry should be filed, and that the conduct of Police Captain José Vicente Castro, Commander of the Ituango Police Station at the time of the events should be investigated separately; to this end, he ordered that a certified copy of the case file should be forwarded to Antioquia Departmental Attorney's office so that it could hear the proceedings (supra para. 125(53)). On September 19, 2001, the Antioquia Departmental Attorney's Office ruled that the disciplinary action against José Vicente Castro, was time-barred, as more than five years had elapsed since the facts occurred (supra para. 125(54)).

329. It should also be noted that approximately four years elapsed between the first procedural activities until the decision by the Delegate Attorney for the Armed Forces.

ii) Concerning the El Aro disciplinary proceedings

330. Based on the events in El Aro, on September 30, 2002, the Office of the Delegate Attorney for the Defense of Human Rights issued a ruling finding two agents of the Colombian State, Lieutenant Everardo Bolaños Galindo and First Corporal Germán Antonio Alzate Cardona, disciplinarily responsible for having intentionally "collaborated with and facilitated" the incursion of a paramilitary group in this district for approximately 18 days. They were also found responsible for having intentionally "collaborated with and facilitated" the theft of approximately 1,000 head of livestock (supra para. 125(100)). The Court appreciates the seriousness and diligence of the investigation carried out by the Office of the Delegate Attorney for the Defense of Human Rights, when ordering the collection and reception of pertinent probative elements. [FN250] This ruling was confirmed by the Disciplinary Chamber of the Attorney General's Office on November 1, 2002.

[FN250] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 200.

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331. It should also be recalled that approximately five years elapsed from the first procedural activities initiated by Jesús Valle Jaramillo on November 4, 1997, until the ruling by the Attorney General's Office, so that it cannot be considered that this recourse was implemented within a reasonable time.

332. The Court notes that the file of the instant case contains information on other disciplinary proceedings in relation to events that occurred in El Aro, which were closed for lack of evidence (supra para. 125(96)).

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333. The Court observes that the purpose of the proceedings undertaken in this administrative jurisdiction was to determine the individual responsibility of public officials in relation to the performance of their official duties. Obviously, the existence of a unit within the Attorney General's Office for dealing with cases of human rights violations is very important from the perspective of protection and its results can be evaluated to the extent that they contribute to the clarification of the facts and the establishment of this type of responsibility. However, an investigation of this nature tends to protect the administrative function, and to correct and control public officials, so that it can complement, but not totally substitute, the function of the criminal jurisdiction in cases of serious human rights violations.

334. The Court finds it necessary to examine these proceedings given that, as stated above, this jurisdiction can only complement, but not totally substitute the function of the criminal jurisdiction in cases of serious human rights violations, since it does not constitute a complete investigation into the facts, and bearing in mind the inherent limitations of this type of proceedings – owing to the nature of the type of offenses investigated and the purpose of the body in charge of them.

c) Administrative proceedings

335. Regarding the administrative proceedings described in the case sub judice, the Court will refer in the following paragraphs to the juridical implications of these proceedings in the El Aro case, and will take their results into account when establishing reparations.

336. The Court's file of the case sub judice shows that 15 complaints were filed "against the Colombian Nation – the National Army" (supra para. 125(101)). The rulings in two of them were against the interests of the complainants: case No. 982290 concerning the family groups of Fabio Antonio Zuleta Zabala and Omar de Jesús Ortiz Carmona, and case No. 991277 concerning the family group of Dora Luz Areiza Arroyave (supra para. 125(102) and 125(103)). In the case of Dora Luz Areiza Arroyave, it was considered that the damage (death) had not been proved, because the only evidence of her death that the administrative court would accept was an official death certificate. The next of kin did not have this official certificate, even though they had asked the state authorities for it on several occasions, but the authorities did not exhume the body of the alleged victim.

337. In addition, it has been proved that conciliation hearings were held between some of the complainants and the State in the administrative jurisdiction, during which amounts were agreed for damage arising from the act or omission of State agents. This Court will take these into account when establishing the pertinent reparations (infra para. 376). The Court observes, however, that the conciliation memoranda signed do not contain a statement of State responsibility for the violation of rights such as the right to life and to humane treatment, which are embodied in the Convention. Likewise, they do not include elements relating to rehabilitation, truth, justice and the rescue of the historical memory, or measures to guarantee non-repetition.

338. As previously indicated, [FN251] when evaluating the effectiveness of the domestic recourses executed by the national administrative jurisdiction, the Court must determine whether the decisions taken in that jurisdiction have made an effective contribution to ending impunity by ensuring the non-repetition of the harmful acts and guaranteeing the free and full exercise of the rights protected by the Convention.

[FN251] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 206; and Case of the "Mapiripán Massacre", supra note 8, para. 210.

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339. In the Pueblo Bello Massacre and the "Mapiripán Massacre" cases, both against Colombia, the Court found that the comprehensive reparation of the violation of a right protected by the Convention cannot be reduced to the payment of compensation to the next of kin of the victim. [FN252] Hence, it took into account some of the results obtained in the administrative proceedings instituted by the next of kin of the victims in these cases, considering that the compensation established by those instances for pecuniary and non-pecuniary damage was included in the broadest concepts of pecuniary and non-pecuniary reparations. Accordingly, the Court indicated that those results could be considered when establishing the pertinent reparations, "on the condition that what was decided in those proceedings has been considered res judicata and is reasonable in the circumstances of the case." [FN253] When establishing the international responsibility of the State for the violation of the human rights embodied in Articles 8(1) and 25 of the American Convention, a substantial aspect of the dispute before the Court is not whether judgments were delivered at the national level or whether conciliation agreements were reached on the civil or administrative responsibility of a State body with regard to the violations committed to the detriment of the victims of human rights violations or their next of kin, but whether the domestic proceedings ensured real access to justice, in keeping with the standards established in the American Convention. [FN254]

[FN252] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 206; and Case of the "Mapiripán Massacre", supra note 8, para. 214. Likewise, cf. Eur.C.H.R., Yasa v. Turkey [GC], Judgment of 2 September 1998, Reports of Judgments and Decisions 1998-VI, § 74; and Eur.C.H.R., Kaya v. Turkey [GC], Judgment of 19 February 1998, Reports of Judgments and Decisions 1998-I, § 105.

[FN253] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 206; and Case of the "Mapiripán Massacre", supra note 8, para. 214.

[FN254] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 206; and Case of the "Mapiripán Massacre", supra note 8, para. 211.

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340. The Court has indicated that, in cases of human rights violations, the State has the obligation to make reparation, so that although the victims or their next of kin should have ample opportunity to seek just compensation, this obligation cannot rest exclusively on their procedural initiative or on the contribution of probative elements by private individuals. Thus, in the terms of the obligation to provide reparation that arises from a violation of the Convention (infra para.

346), the administrative proceedings do not constitute per se an effective and adequate recourse to repair that violation comprehensively. [FN255]

[FN255] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 109.

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341. Adequate reparation, within the framework of the Convention, requires measures of rehabilitation, satisfaction and guarantees of non-repetition. Recourses such as the action for direct reparation or the action for annulment and re-establishment of the right in the case of an administrative act that may have resulted in damage, have a very limited scope and conditions of access that are not appropriate for the purposes of reparation established in the American Convention. As the expert witnesses, Rodrigo Uprimny and Torres Corredor correctly stated (supra para. 111(d)(1) and 111(d)(2)), the judgment of a judicial authority in the administrative jurisdiction rules on the fact that an unlawful damage has been produced and not on the State's responsibility for failing to comply with human rights standards and obligations. As regards the scope of the judgment, the sole means of reparation the administrative jurisdiction can order when the damage has been proved is financial compensation.

342. Both expert witnesses who appeared before the Court emphasized the constraints of the administrative proceedings owing to procedural delays and congestion. The expert witness proposed by the State indicated that, in first instance, the proceedings could take an average of three to five years and, in second instance, four to eight years (supra para. 111(e)(1)). Other limits to genuine access to justice in the case of the action for direct reparation are that it has to be presented by a lawyer, it extinguishes inevitably after two years, and the lack of administrative courts in all geographical areas of the country.

343. In this case, however, the Court appreciates the importance of some of the results achieved by the administrative proceedings, which include several elements relating to reparations for pecuniary and non-pecuniary damage, and it will take this into account when establishing the pertinent reparations, on condition that the judgments in these proceedings are considered res judicata and that they are reasonable in view of the circumstances of the case.

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344. The Court concludes that the domestic proceedings and procedures have not constituted effective recourses to ensure access to justice and to the whole truth about the facts, or the investigation and punishment of those responsible, and the reparation of the consequences of the violations. Consequently, the State is responsible for the violation of Articles 8(1) and 25 of the Convention, in relation to Article 1(1) thereof, to the detriment of all those whose rights were violated, and who were not ensured full access to justice, and who are indicated in paragraphs 72, 138, 168, 200, 235, 248, 265, 269, 276 and 279 of this judgment.

XVI. REPARATIONS (APPLICATION OF ARTICLE 63(1) OF THE AMERICAN CONVENTION)

OBLIGATION TO REPAIR

345. Pursuant to the State's acknowledgement of responsibility (supra para. 19, 59, 63 and 64), and also the findings on merits described in the preceding chapters, the Court has declared the violation of Articles 4(1), 5(1) and 5(2), 6(2), 7(1) and 7(2), 8(1), 11(2), 19, 21, 22(1) and 25 of the American Convention, all in relation to Article 1(1) thereof. The Court has indicated repeatedly that any violation of an international obligation that has produced damage entails the obligation to repair it adequately. [FN256] To this end, Article 63(1) of the American Convention establishes that:

If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

[FN256] Cf. Case of Baldeón García, supra note 5, para. 174; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 195; and Case of Acevedo Jaramillo et al., supra note 12, para. 294.

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346. This article reflects a customary norm that constitutes one of the basic principles of contemporary international law on State responsibility. Thus, when an unlawful act occurs, which can be attributed to a State, this gives rise immediately to its international responsibility, with the consequent obligation to cause the consequences of the violation to cease and to repair the damage caused. [FN257]

[FN257] Cf. Case of Baldeón García, supra note 5, para. 175; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 196; and Case of Acevedo Jaramillo et al., supra note 12, para. 295.

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347. Whenever possible, reparation of the damage caused by the violation of an international obligation requires full restitution (restitutio in integrum), which consists in the re-establishment of the previous situation. If this is not possible, as in the instant case, the international Court must determine a series of measures to ensure that, in addition to guaranteeing respect for the violated rights, the consequences of the violations are remedied and, inter alia, compensation is established for the damage caused. [FN258] The responsible State may not invoke provisions of domestic law to modify or fail to comply with its obligation to provide reparation, all aspects of which (scope, nature, methods and determination of the beneficiaries) is regulated by international law. [FN259]

[FN258] Cf. Case of Baldeón García, supra note 5, para. 176; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 197; and Case of Acevedo Jaramillo et al., supra note 12, para. 296.
[FN259] Cf. Case of Baldeón García, supra note 5, para. 175; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 197; and Case of Acevedo Jaramillo et al., supra note 12, para. 296.
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348. Reparations consist of measures tending to eliminate the effects of the violations that have been committed. Their nature and amount depend on both the pecuniary and non-pecuniary damage that as been caused. Reparations should not make the victims or their successors either richer or poorer. [FN260]

[FN260] Cf. Case of Baldeón García, supra note 5, para. 177; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 198; and Case of Acevedo Jaramillo et al., supra note 12, para. 297.
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349. In light of these criteria and the circumstances of the instant case, the Court will proceed to examine the claims submitted by the parties regarding reparations, so as to order measures designed to repair the damage in this case.

A) Beneficiaries

The Commission's arguments

350. The Commission indicated that, in keeping with the nature of this case, the beneficiaries of the reparations were the persons described in Appendix B of the application.

The representatives' arguments

351. The representatives indicated that all those affected by the violation of their human rights and whose identity is established during the proceedings should be considered beneficiaries (supra para. 18).

The State's arguments

352. The State considered it inadmissible that many of those who had recourse to the Court did not opt for claiming reparations under the domestic legal system, and that some of them expect the international instance to grant them compensation for damage they did not include in their claims before the domestic courts.

The Court's findings

353. The Court will proceed to determine who should be considered an injured party in the terms of Article 63(1) of the American Convention and, consequently, merit the reparations established by the Court for both pecuniary and non-pecuniary damage, when applicable.

354. It should be recalled that in a contentious case before the Court, the party concerned must state who the beneficiaries are. [FN261] However, when establishing reparations, the Court observes that the grave facts of this case have had a series of effects. Consequently, the Court reserves the right to determine, in the corresponding section, other forms of reparation in favor of all the members of the villages affected by the facts of the case. Furthermore, the Court clarifies that the determination of reparations in this international instance does not obstruct or preclude the possibility of other next of kin of victims who have not be individualized or identified in these proceedings filing the pertinent claims before the national authorities.

[FN261] Cf. Case of the "Mapiripán Massacre", supra note 8, para. 252; Case of the Moiwana Community, supra note 12, para. 177; and Case of the Plan de Sánchez Massacre, supra note 12, para. 62.

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355. First, the Court considers that the persons whose rights the State has acknowledged its international responsibility for violating are the injured party:

(a) Alberto Correa, Arnulfo Sánchez Álvarez, Fabio Antonio Zuleta Zabala, Guillermo Andrés Mendoza Posso, Héctor Hernán Correa García, Jairo de Jesús Sepúlveda Arias, José Darío Martínez Pérez, Luis Modesto Múnera Posada, Marco Aurelio Areiza Osorio, María Graciela Arboleda Rodríguez, Nelson de Jesús Palacio Cárdenas, Olcris Fail Díaz Pérez, Omar de Jesús Ortiz Carmona, Omar Iván Gutiérrez Nohavá, Otoniel de Jesús Tejada Jaramillo, Elvia Rosa Areiza Barrera, Dora Luz Areiza Arroyave, William de Jesús Villa García and Wilmar de Jesús Restrepo Torres, as victims of the violation of the right to life enshrined in Article 4(1) (Right to Life) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, and regarding whom the Court also determined the violation of their right to humane treatment established in Article 5(1) thereof, in relation to Article 1(1) (Obligation to Respect Rights) thereof (supra para. 256);

(b) Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera, as victims of the violation of the right to humane treatment established in Article 5(1) (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof;

(c) Jairo de Jesús Sepúlveda Arias, Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera, as victims of the violation of the right to personal liberty enshrined in Article 7(1) (Right to Personal Liberty) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, and regarding whom the Court also determined the violation of their right to humane treatment established in Article 5(1) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof (supra para. 269); and

(d) Bernardo María Jiménez Lópera, Francisco Osvaldo Pino Posada, Libardo Mendoza, Luis Humberto Mendoza, Omar Alfredo Torres Jaramillo and Ricardo Alfredo Builes Echeverry, as victims of the violation of the right to property embodied in Article 21(1) (Freedom of Movement and Residence) of the Convention, in relation to Article 1(1) (Obligation to Respect

Rights) thereof, and regarding whom the Court also determined the violation of their right to humane treatment established in Article 5(1) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof (supra para. 270).

356. Furthermore, the Court considers that the immediate next of kin of the 19 victims executed are also injured parties as victims of the violation of the rights embodied in Articles 5(1) (Right to Humane Treatment) (supra para. 265), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention (supra para. 344), in relation to Article 1(1) (Obligation to Respect Rights) thereof. Their relationship has been determined by a document issued by the competent authority proving this, such as a birth certificate or a baptismal certificate, death certificate or identity card, or by acknowledgement of this relationship in the domestic proceedings. [FN262]

[FN262] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 237; Case of the "Mapiripán Massacre", supra note 8, para. 257; and Case of the Moiwana Community, supra note 12, para. 178.

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357. The next of kin of the victims are beneficiaries of the reparations established by the Court for non-pecuniary and/or pecuniary damage as victims of the violations of the Convention that have been declared, and also of the reparations established by the Court as successors of the 19 victims deprived of their life. [FN263]

[FN263] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 236.

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358. Regarding the immediate next of kin, concerning whom no official documentation has been submitted or the documentation submitted does not confirm the relationship, the Court establishes that the compensation that corresponds to them for the non-pecuniary damage suffered will conform to the parameters established for the next of kin of the victims who have been duly identified (supra para. 356 and 357 and infra para. 359), provided they submit the official information necessary to identify themselves and prove their relationship to the competent State authorities, within 24 months of notification of this judgment. [FN264]

[FN264] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 237; Case of the Moiwana Community, supra note 12, para. 178; and Case of the Plan de Sánchez Massacre. Reparations (Art. 63(1) American Convention on Human Rights). Judgment of November 19, 2004. Series C No. 116, para. 67.

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359. The compensation for pecuniary and non-pecuniary damage will be distributed among the next of kin of the persons deprived of life as follows: [FN265]

(a) Fifty per cent (50%) of the compensation will be shared in equal parts between the victim's children and the other fifty per cent (50%) of the compensation will be delivered to the person who was the spouse or permanent companion of the victim at the time he or she was deprived of life;
(b) In the case of a victim who had no children, spouse or permanent companion, the compensation will be distributed as follows: fifty per cent (50%) will be awarded to his/her parents. If one of them is deceased, the corresponding part will be added to the part awarded to the other. The other fifty per cent (50%) will be shared equally among the victim's siblings, and
(c) Should a victim have no next of kin in any of the categories defined in the preceding subparagraphs, the amount that would have corresponded to the next of kin in these categories will correspond proportionately to the part corresponding to the others.

[FN265] Cf. Case of Baldeón García, supra note 5, para. 182; Case of the Pueblo Bello Massacre, supra note 9, para. 240; and Case of Blanco Romero et al., supra note 5, para. 72.
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360. In accordance with these observations, the Court considers that the injured parties are the persons who were executed and their next of kin who have been identified in this proceeding, as victims of the violation of Articles 4 and 5(1) of the Convention, and who are indicated in Appendix I of this judgment.

361. Also, for the effects of this case, the following are considered injured parties:

(a) Wilmar de Jesús Restrepo Torres, Jorge Correa Sánchez, Omar Daniel Pérez Areiza, José Leonel Areiza Posada and Marco Aurelio Areiza Posada, as victims of the violation of Article 19 (Rights of the Child) of the Convention, in relation to Articles 1(1) (Obligation to Respect Rights), 4(1) (Right to Life) and 5(1) (Right to Humane Treatment) thereof;
(b) Alberto Lopera, Argemiro Echavarría, Eduardo Rua, Eulicio García, Francisco Osvaldo Pino Posada, Gilberto Lopera, José Luis Palacio, Libardo Carvajal, Milciades De Jesús Crespo, Noveiri Antonio Jiménez Jiménez, Omar Alfredo Torres Jaramillo, Ricardo Barrera, Rodrigo Alberto Mendoza Posso, Román Salazar and William Chavarría, as victims of the violation of Articles 5 (Right to Humane Treatment), 6 (Freedom from Slavery) and 7 (Right to Personal Liberty) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, and also Tomás Monsalve and Felipe "Pipe" Gomez, as victims of the violation of Articles 5 (Right to Humane Treatment) and 6 (Freedom from Slavery) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, who are indicated in Appendix II of this judgment;
(c) The fifty-nine (59) persons who lost their possession in El Aro, who are indicated in Appendix III of this judgment, as victims of the violation of Articles 5 (Right to Humane Treatment) and 21 (Right to Property) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof;
(d) The forty-three (43) persons whose homes were destroyed in El Aro, who are indicated in Appendix III of this judgment, as victims of the violation of Articles 5 (Right to Humane Treatment) and 11(2) (Right to Privacy) of the Convention, in relation to Articles 21 (Right to Property) and 1(1) (Obligation to Respect Rights) thereof;

(e) The seven hundred and two (702) persons displaced from El Aro and La Granja, who are indicated in Appendix IV of this judgment, as victims of the violation of Articles 5 (Right to Humane Treatment) and 22 (Freedom of Movement and Residence) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, and in relation to Article 19 of this instrument in the case of the children; and
(f) The twenty-seven (27) persons displaced whose homes were destroyed in El Aro, who are indicated in Appendix III of this judgment, as victims of the violation of Article 5 (Right to Humane Treatment) of the Convention, in relation to Article 11(2) (Right to Privacy), 21 (Right to Property), 22 (Freedom of Movement and Residence) and 1(1) (Obligation to Respect Rights) thereof.

362. The compensation determined by the Court shall be delivered to each beneficiary as a victim of the violations indicated in paragraphs 138, 168, 200, 235, 248, 279 and 344 of this judgment.

363. In the case of the victims or their next of kin, who are beneficiaries of the compensation established in this judgment and who are deceased or die before the respective compensation is delivered to them or who are subsequently identified, the criteria for the distribution of the compensation indicated in paragraph 362 apply.

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364. Before continuing on to the sections on reparations for pecuniary and non-pecuniary damage, the Court observes that some of the victims have obtained compensation through the mechanisms available in the domestic sphere (supra para. 125(101)). Bearing this in mind, the said amounts may be deducted by the State when paying these people the pecuniary reparations established in this judgment.

365. In this regard, the Court observes that it is possible that, in some cases, the amounts established in the domestic sphere may be substantially more than those established by the Court for pecuniary and non-pecuniary damage. One of the principal purposes of the Colombian administrative jurisdiction, through the action for direct reparation, is precisely to grant the corresponding pecuniary reparation when damage has been caused by an illegal act of a public official. In contrast, this Court seeks, above all, to determine whether, in the cases filed before it, the State is internationally responsible for the violation of the human rights of the persons subject to its jurisdiction. Also, in the international jurisdiction, the parties and the issue in dispute are, by definition, different from those in the domestic jurisdiction. [FN266] Should a human rights violation have been produced, the Court can order that the injured party be ensured the enjoyment of the right or freedom that has been violated and, when applicable, that the consequences of the measure or situation that violated the rights be repaired, either by the payment of compensation to the injured party or by other forms of reparation, which, owing to their nature, are more extensive than those ordered in the domestic sphere, taking into account the specific circumstances of each case.

[FN266] Cf. Case of the “Mapiripán Massacre”, supra note 8, para. 211

B) Pecuniary damage

The Commission's arguments

366. In relation to pecuniary damage the Commission indicated that:

(a) The Court should establish the amount of the compensation for indirect damage and loss of earnings, on grounds of equity;
(b) Many families suffered serious material losses because the paramilitary group that raided El Aro set fire to numerous homes, causing the loss of the movables and immovables of the families affected and the latter's displacement to other zones;
(c) When the paramilitary group withdrew from El Aro, it stole around 1,200 head of livestock belonging to various inhabitants;
(d) The victims who lost their possessions "helped support their families, whose living conditions were severely affected by the facts [of this case]. Also, the violation of the right to property has resulted in a material loss that can be attributed directly to the State";
(e) The displacement resulting from the massacres has had grave consequences for these family groups;
(f) The calculation of the damages must necessarily be proportionate to the gravity of the violations; and
(g) Regarding the amounts of compensation that the victims and their next of kin have a right to for pecuniary and non-pecuniary damage, the Commission considered that the representatives were in a better position to quantify their claims.

The representatives' arguments

367. In relation to pecuniary damage the representatives indicated that:

(a) The indirect damage should take into account that the alleged victims and their next of kin were peasant farmers, that their sustenance was derived from their agricultural activities and that the facts obliged them not only to abandon the place they had freely chosen to live, but also to abandon their livelihood. Consequently, and since there is no tangible evidence of their usual income, the Court should order, on grounds of equity, the payment of an amount to repair the indirect damage and loss of earning of the victims and their next of kin;
(b) To determine the compensation to which those who lost their immovables have a right, the Court should determine the value on grounds of equity, even though it has not been possible to determine the characteristics of the homes of some of the owners or the exact number of cattle, horses and mules they lost. However, there is ample evidence of the damage suffered;
(c) One factor to calculate the amount of the compensation for the persons who lost immovables is that, by Act 9 of 1989, the Colombian legal system established the concept of social housing and a quantitative standard to determine its value. This Act has been reformed several times and currently Act 812 of 2003 is in force. According to these criteria, "for villages such as El Aro, belonging to the municipality of Ituango, which has less than 500,000

inhabitants, the amounts for social housing range from 51 to 70 legal minimum wages; namely, from 19,075,000 pesos to 26,705,000 pesos (equivalent to US$8,293 to US$11.611)"; and
(d) Compensation should be established for the displaced victims who were identified in the proceedings and who are described in the table containing the names of 724 persons presented in the final arguments brief and with the useful evidence.

368. In their final written arguments, the representatives included a list of persons who have reached a conciliation agreement with the State to receive compensation in keeping with the criteria of national jurisprudence. The representatives consider that the said amounts are low compared to the criteria used by the Court and request that these agreements should be taken into account as part of the payment of compensation for both pecuniary and non-pecuniary damage determined by the Court.

The State's arguments

369. In relation to pecuniary damage the State indicated that:

(a) Regarding quantification and determination of the financial claims, these should be strictly adjusted to the Court's case law, particularly taking into account the specific conditions of the claimants as regards their social, professional and financial situation, and that reparations are supposed to provide compensation and not to enrich; and
(b) The reparations recognized by the State in the conciliation hearings in the administrative jurisdiction should be considered fair and sufficient, as regards the rights to life and property.

The Court's findings

370. In this section, the Court will determine what should be awarded for pecuniary damage and establish an amount that seeks to compensate the pecuniary consequences of the violations that have been declared in this judgment, bearing in mind the acknowledgement of international responsibility and the circumstances of the case, the evidence provided, its case law, and the relevant arguments submitted by the Commission, the representatives and the State. [FN267]

[FN267] Cf. Case of Baldeón García, supra note 5, para. 183; Case of Acevedo Jaramillo et al., supra note 12, para. 301; and López Álvarez case, supra note 232, para. 192.
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371. The Court considers that pecuniary damage should be calculated on the basis of probative elements that allow the real damage to be ascertained. [FN268] In the instant case, the Court is unable to determine the loss of earnings suffered by most of the victims. Indeed, there is insufficient evidence to determine the earnings they failed to perceive, the ages or the activities of most of the victims.

[FN268] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 247; Case of the "Mapiripán Massacre", supra note 8, para. 276; and Case of the "Juvenile Reeducation Institute", supra note 12, para. 288.

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372. Consequently, the Court will grant compensation, on grounds of equity, in favor of those victims whose loss of income was not proved specifically, without prejudice to the possibility of those persons using the mechanisms available under domestic law to receive the corresponding compensation. The Court will also determine compensation for non-pecuniary damage, and other forms of reparation in favor of these persons.

373. However, regarding the persons for whom the Court has some form of evidence about their age or the work they performed, based on the context and circumstances of the case, the Court will establish an amount for pecuniary damage, on grounds of equity, that takes into account this evidence and also, when applicable, life expectancy in Colombia in 1996 and 1997, and the agricultural activities carried out by most of the victims. [FN269]

[FN269] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 248; Case of Blanco Romero et al., supra note 5, para. 80; and Case of García Asto and Ramírez Rojas, supra note 5, para. 261.

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374. Regarding the persons whose livestock was stolen, there are no appropriate documents concerning its value. Consequently, the Court will grant compensation based on equity in favor of those victims whose loss of livestock was not specifically proved, without prejudice to the possibility of those persons using the mechanisms available under domestic law to receive the corresponding compensation. The Court will also determine compensation for non-pecuniary damage for those persons (infra para. 390(f)).

375. In addition, there are no appropriate documents concerning the value of the homes some of the victims lost. As already indicated, most of the victims had to displace after their property and also the local registry offices were destroyed by the paramilitary groups; hence, it is understandable that they do not have the necessary documentation. Accordingly, the Court will not establish compensation for pecuniary damage in favor of the persons who lost their homes and those who were displaced, because this damage will be repaired by other non-pecuniary forms of reparation (infra paras. 404 and 407).

376. Regarding the conciliation agreements presented as evidence to the Court, which had been settled during the administrative proceedings (supra para. 125(101)), the Court recalls the principle that reparations should not make the victims or their successors either richer or poorer. As indicated above (supra paras. 335 to 343), these agreements establish compensation for pecuniary and non-pecuniary damage that includes some of the elements covered by the reparations for these concepts granted by the Court. The Court will therefore take into account the cases of those who have benefited from these agreements in the administrative proceedings, in relation to both pecuniary and non-pecuniary damage, when applicable. Since the Court has no

evidence that the amounts granted at the domestic level in the administrative jurisdiction in relation to the facts of the massacre of El Aro have been paid, it will proceed to order reparations for pecuniary and non-pecuniary to the victims in this case who lived in that district, without prejudice to the State subtracting the amounts granted at the domestic level when paying the reparations ordered by the Court. Should the reparations granted in the administrative proceedings be greater than those ordered by the Court in this judgment, the State may not subtract this difference from the victim.

377. Regarding the proceedings for direct reparation filed by the victims in this case or their next of kin that are still pending before the Colombian administrative jurisdiction, the Court establishes pertinent reparations in this judgment irrespective of their current status. When the State makes the respective payments, it should inform the courts that are hearing these proceedings so they can take this into consideration in their decisions. [FN270]

[FN270] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 251.

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378. Regarding the displaced persons, when determining the corresponding reparations, the Court will take into account that some of them have received assistance from the State based on their situation.

379. Consequently, on grounds of equity, and taking into account the evidence provided and the arguments presented by the parties, the Court establishes the compensation for pecuniary damage to the victims who have been identified and who are listed in Appendix I of this judgment for the persons deprived of their life and in Appendix III for those who lost livestock.

C) Non-pecuniary damage

The Commission's arguments

380. Regarding non-pecuniary damage, the Commission indicated that:

(a) The Court should order the payment of compensation, on grounds of equity, and considering the characteristics of the context of the extrajudicial execution of the victims;
(b) Regarding the amounts of the compensation to which the victims and their next of kin have a right for non-pecuniary damage, their representatives are in a better position to quantify their claims; and
(c) The damage arising from the Ituango massacres had diverse consequences, including: physical and mental damage inflicted on the direct victims; moral damage inflicted on their close family; a detrimental effect on the material conditions of the next of kin of the victims who were executed, and the fear of the inhabitants.

The representatives' arguments

381. In the case of non-pecuniary damage, the representatives requested the Court to order the payment of compensation for non-pecuniary damage in favor of the victims and their next of kin, calculated on grounds of equity, to provide integral reparation for the humiliation and cruelty to which the victims were subjected, such as forced displacement, theft, forced labor, torture and violation of the right to life.

The State's arguments

382. Regarding non-pecuniary damage, the State indicated that the reparations agreed to by the State during the conciliation hearings in the administrative jurisdiction should be considered equitable and sufficient, in relation to the rights to life and property.

The Court's findings

383. Non-pecuniary damage can include the suffering and hardship caused to the direct victims, the harm of objects of value that are very significant to the individual, and also changes, of a non-pecuniary nature, in the living conditions of the victims. Since it is not possible to allocate a precise monetary equivalent for non-pecuniary damage, it can only be compensated in two ways in order to provide comprehensive reparation to the victims. First, by the payment of a sum of money determined by the Court by the reasonable exercise of judicial discretion and based on the principle of equity. And, second, by acts or projects with public recognition or repercussion, such as broadcasting a message that officially condemns the human rights violations in question and makes a commitment to efforts designed to ensure it does not happen again, and have the effect of recovering the memory of the victims, acknowledging their dignity and consoling their next of kin. [FN271] The first aspect of the reparation of non-pecuniary damage is examined in this section and the second in the section on other forms of reparation in this chapter.

[FN271] Cf. Case of Baldeón García, supra note 5, para. 188; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 219; and Case of Acevedo Jaramillo et al., supra note 12, para. 308.

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384. As the Court has indicated in other cases, [FN272] the non-pecuniary damage inflicted on the victims is evident, because it is inherent in human nature that all those subjected to brutal acts in the context of this case experienced intense suffering, anguish, terror and insecurity, so that this damage does not have to be proved.

[FN272] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 255; Case of the "Mapiripán Massacre", supra note 8, para. 283; and Case of Tibi, supra note 176, para. 244.

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385. As has been established, the conditions in which some family members and witnesses found the corpses reveals not only the atrocity and barbarity of the acts, but also that, in the least

cruel of the situations, the victims were subjected to grave psychological torture by witnessing the execution of other individuals and anticipating their own fate, when they were subjected to the context of terror that occurred in La Granja on June 11, 1996, and in El Aro from October 22 to November 12, 1997. Also, the victims suffered damage as a result of the executions, the forced labor, the arbitrary detention, the loss of their homes, livestock and other possessions, the lack of support from the State authorities, and the fear of finding themselves defenseless. The absence of a complete and effective investigation into the facts and the partial impunity constitute an additional source of suffering and anguish for the victims and their next of kin. All the foregoing, in addition to affecting their mental integrity, has had an impact on their social and labor relations, altered the dynamics of their families and the social network of the community.

386. With regard to the next of kin of the persons disappeared and deprived of life, the Court has presumed that the suffering or death of a person entails non-pecuniary damage for his children, spouse, companion, mother, father and siblings, so it is not necessary to prove this. [FN273]

[FN273] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 257; Case of the 19 Tradesmen, supra note 222, para. 229; and Maritza Urrutia case. Judgment of November 27, 2003. Series C No. 103, para. 169.

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387. International case law has established repeatedly that the judgment constitutes per se a form of reparation. [FN274] However, owing to the gravity of the facts in the instant case and the situation of partial impunity, the intensity of the suffering caused to the victims, the alterations in their living conditions, and the other consequences of a non-pecuniary nature, the Court considers it necessary to order the payment of compensation for non-pecuniary damage, based on the principle of equity. [FN275]

[FN274] Cf. Case of Baldeón García, supra note 5, para. 189; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 220; and Case of Acevedo Jaramillo et al., supra note 12, para. 309.

[FN275] Cf. Case of Baldeón García, supra note 5, para. 189; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 220; and López Álvarez case, supra note 232, para. 200.

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388. When assessing the non-pecuniary damage cause in the case sub judice, the Court has borne in mind that the witnesses declared in their sworn statements made before notary public or in their statements before the Court that the damage caused to them is representative of the damage caused to the rest of the victims, most of whom lived in or near Ituango. [FN276]

[FN276] Cf. Case of the “Mapiripán Massacre”, supra note 8, para. 286.

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389. Once again, the Court takes into account that, in the conciliation agreements reached in the administrative jurisdiction, compensation was established for non-pecuniary damage in favor of some of the next of kin of the victims executed and some of those who suffered loss of their property (supra para. 125(101)). Since this compensation was determined only in favor of the next of kin of these victims and it does not appear from the content of these agreements that the damage suffered directly by the persons who were executed will also be compensated, the Court will establish compensation for the non-pecuniary damage suffered directly by the latter.

390. Taking into account the different facts of the damage adduced by the Commission and the representatives, the Court establishes the value of the compensation for non-pecuniary damage, on grounds of equity; it must be delivered as stipulated in paragraphs 359 and 360 of this judgment, and using the following parameters:

(a) For each of the 19 personas executed in La Granja and El Aro, who are indicated in Appendix I of this judgment, the Court establishes the amount of US$30,000.00 (thirty thousand United States dollars);
(b) At the time of his death Wilmar de Jesús Restrepo Torres was a minor. Consequently, it can be presumed that the suffering caused by the facts of this case assumed particularly intense characteristics in relation to a child. Therefore, the damage referred to in the preceding paragraph should be compensated, on grounds of equity, by the amount of US$5,000.00 (five thousand United States dollars), to be added to the amount indicated above;
(c) For Jorge Correa Sánchez, Omar Daniel Pérez Areiza, José Leonel Areiza Posada and Marco Aurelio Areiza Posada, who were children at the time of the facts, the Court establishes the amount of US$2,500.00 (two thousand five hundred United States dollars);
(d) Some of the next of kin who lived through the events of the massacre have been identified and declared victims of the violation of their personal integrity (supra para. 265), which must be taken into account. Although the Court is unable to determine precisely which of the next of kin of the victims were in La Granja and El Aro on the days the facts occurred, whether or not they have been individualized, it is reasonable to presume that, in the circumstances of this case, all the next of kin of the persons executed, have suffered profoundly from the damage caused by the pain of losing a member of the family. In addition, some of the next of kin had to bury their loved ones without any help from the competent authorities. These next of kin have also suffered violations of judicial guarantees and the right to judicial protection (supra para. 344). Consequently, the Court considers that the corresponding damage should be compensated by the payment of the amounts indicated below to each of the next of kin of the persons executed, who are listed in Appendix I of this judgment:

i. US$10,000.00 (ten thousand United States dollars) in the case of the mother, father, spouse or permanent companion, and each child of the 19 victims executed;

ii. US$1,500.00 (one thousand five hundred United States dollars) in the case of each sibling; and

iii. These amounts will be increased by the payment of US$2,000.00 (two thousand United States dollars) to those who confirm before the State's competent authorities, by means of the necessary official information for their identification and proof of the relationship, that they were children at the time of the massacre and lost their next of kin, because their sufferings were increased owing to their status as minors and the State's failure to provide them with protection.

(e) US$4,000 (four thousand United States dollars) for each of the 17 persons obliged to herd livestock, indicated in paragraph 364(b) and who are listed in Appendix II of this judgment;
(f) US$3,500 (three thousand five hundred United States dollars) for each of the persons who lost their livestock in El Aro, indicated in Appendix III of this judgment;
(g) US$6,000 (six thousand United States dollars) for each of the persons who lost their home in El Aro, indicated in Appendix III of this judgment; and
(h) An additional US$2,500 (two thousand five hundred United States dollars) to be delivered to the persons who were declared victims of Article 5 in relation to Article 11(2), 21 and 22 of the Convention, who are indicated in Appendix III of this judgment.

391. When deciding on the reparations for non-pecuniary damage, the Court has taken into consideration the violation of Article 5 of the Convention suffered by the persons indicated in paragraphs 277 and 278 of this judgment.

392. Based on the foregoing, the compensation for non-pecuniary damage caused by the violations declared in the instant case is indicated in Appendixes I, II and III of this judgment.

D) Other forms of reparation (Measures of satisfaction and guarantees of non-repetition)

The Commission's arguments

393. In its final arguments brief, the Commission considered that, in order to determine the victims of the multiple violations perpetrated as a result of the massacres, two dimensions should be considered: a collective dimension and an individual dimension. These perspectives should be taken into account when ordering the necessary measures to guarantee to the victims the rights that had been violated. Thus, regarding other forms of reparation, the Commission requested that the following measures of satisfaction and guarantees of non-repetition should be ordered:

(a) A genuine, complete and effective investigation should be conducted to determine the identity of the masterminds and perpetrators of the violations committed to the detriment of the victims of La Granja and El Aro, thereby eliminating the impunity of those responsible;
(b) The results of the judicial proceedings should be published to contribute to the right to the truth of the victims' next of kin and of Colombian society as a whole;
(c) In consultation with the State and the victims' next of kin, a symbolic act of acknowledgement should be arranged to recover the historic memory of the victims. This apology should encompass all the victims in the case, because there was only partial acknowledgement in the apology made during the public hearing;
(d) The arrest warrants issued by the judicial authorities should be executed effectively;
(e) The necessary measures should be adopted for the victims' next of kin to receive adequate and opportune reparation for the pecuniary and non-pecuniary damage suffered, including measures of satisfaction and guarantees of non-repetition;
(f) Action should be taken to avoid the repetition of the facts that are the subject of the application, particularly with regard to the activities of paramilitary groups in collaboration with law enforcement personnel;
(g) The necessary measures should be adopted to guarantee the return to their place of origin of the victims of the incursion, forcibly displaced by the violence; and

(i) The facts of the case should be published in the State's official gazette and in another newspaper with national circulation.

The representatives' arguments

394. Regarding other forms of reparation, the representatives indicated that the Court should order the State:

(a) To conduct an investigation by an impartial court that is part of the ordinary jurisdiction to clarify the facts, and prosecute and sanction all those responsible;
(b) To establish a group of prosecutors, with the necessary and sufficient logistic support, to investigate all the crimes committed in the Municipality of Ituango and other municipalities in the north of the Department of Antioquia, a zone where the civilian population has been affected by the paramilitary violence;
(c) To honor the memory of the victims and their next of kin and the communities;
(d) That the President of the Republic of Colombia should apologize to the victims, their next of kin and the population affected, and "clarify that the victims of the massacres in La Granja and El Aro were honest, hardworking individuals who performed agricultural labors and owned livestock, who were falsely accused of collaborating with the guerrilla, and who were massacred by paramilitary groups with the support of State agents." This measure should pay special attention to those who were displaced and had their possessions stolen;
(e) To publicize the above measure of satisfaction in the regional and national media;
(f) To erect a plaque concerning the first three victims in the La Granja school and another in the "Jaime Isaza Cadavid" Polytechnic in the Municipality of Ituango to recover the memory of Héctor Hernán Correa García, María Graciela Arboleda Rodríguez, William de Jesús Villa García and Jairo de Jesús Sepúlveda;
(g) To establish a permanent university scholarship that benefits those who can prove that they live in or come from Puerto Valdivia, La Granja and El Aro;
(h) To publicize the Court's judgment in secondary schools and universities;
(i) To create, by law, a "special status" for the districts of La Granja and El Aro in order to establish effective mechanisms for the physical protection of the population from armed groups;
(j) To train the members of law enforcement bodies in the zone on human rights and inform them of the regrettable events;
(k) To implement actions to eliminate forced displacement. Colombia should adapt its law on forced displacement to its international obligations to protect and ensure human rights; and
(l) To maintain a public policy on forced displacement based on reports, diagnoses and evaluations produced by non-governmental, governmental, and inter-governmental human rights agencies.

The State's arguments

395. Regarding other forms of reparation, the State indicated that:

(a) The acknowledgement of responsibility constitutes per se a form of reparation;

(b) The criminal proceedings have provided an effective access to justice. Also, the following joint actions of the State bodies should be considered measures of satisfaction and guarantees of non-repetition:

i. The inclusion of the investigations into the El Aro and La Granja cases in the proceedings selected for support by the Special Committee for the Promotion of Human Rights Investigations;

ii. The public policy project to combat impunity for violations of human rights and international humanitarian law;

iii. The public policy project on displacement;

iv. The public policy project on witness protection;

v. The plan of action for the displaced population implemented as a result of judgment T-025 of 2004 of the Colombian Constitutional Court;

vi. The OAS-sponsored process of dialogue with the self-defense groups;

vii. The operational results achieved by law enforcement bodies against the illegal self-defense units; and

viii. The results of the administrative proceedings.

(c) As a result of the facts and violations acknowledged in the answer to the application, it was willing to submit a proposal for reparations negotiated with the petitioners who duly accredit their status.

The Court's findings

396. In this section the Court will determine measures of satisfaction that are not of a financial nature and that seek to repair the non-pecuniary damage, and will order measures of a public scope or repercussion. [FN277] These measures have special relevance in this case owing to the extreme gravity of the facts and the collective nature of the damage caused.

[FN277] Cf. Case of Baldeón García, supra note 5, para. 193; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 228; and Case of the Pueblo Bello Massacre, supra note 9, para. 264.

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397. The Court will not establish compensation for non-pecuniary damage in favor of the persons who were merely displaced from La Granja and El Aro and who are listed in Appendix IV of this judgment, because the Court considers it pertinent to grant reparations of a collective nature, which it will examine in this chapter.

398. As the State advised, the Special Committee for the promotion of investigations into violations of human rights and international humanitarian law has chosen this case for prompt attention to clarify the facts and punish those responsible (supra para. 395). The Court considers that this can contribute to compliance with these obligations.

a) The State's obligation to investigate the facts of the case, and to identify, prosecute and punish those responsible

399. The State must take the necessary measures to activate and complete effectively the investigations to establish the responsibility of all the authors of the massacre and the persons responsible by act or omission for failing to comply with the State's obligation to guarantee the violated rights. The State must conduct criminal proceedings concerning the Ituango massacres, so that the facts are clarified and those responsible punished. The results of these proceedings must be published by the State, so that Colombian society may know the truth about the facts of this case.

400. To comply with the obligation to investigate and sanction those responsible in this case, Colombia must: (a) remove all the obstacles, de facto and de jure, that maintain impunity; (b) use all available means to expedite the investigation and judicial proceedings, and (c) grant guarantees of adequate safety to the victims, investigators, witnesses, human rights defenders, judicial employees, prosecutors and other agents of justice, as well as the former and current inhabitants of Ituango. [FN278]

[FN278] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 268; and Case of the "Mapiripán Massacre", supra note 8, para. 299.

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401. However, the Court appreciates the following projects and public policies that the State has already implemented as other forms of reparation and which the State reported during the proceedings: public policy project to combat impunity for violations of human rights and international humanitarian law; public policy projects on displacement and on witness protection; and plan of action for the displaced population implemented as a result of judgment T-025 of 2004 of the Colombian Constitutional Court.

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402. The Court reiterates its consistent case law [FN279] to the effect that no law or provision of domestic legislation can prevent a State from complying with the obligation to investigate and punish those responsible for human rights violations. In particular, provisions regarding amnesty and the statute of limitations, and the establishment of mechanisms to exclude responsibility, which seek to impede the investigation and eventual punishment of those responsible for grave human rights violations, such as those in this case, are unacceptable. The Court reiterates that the State's obligation to investigate adequately and punish, if applicable, those responsible, must be fulfilled diligently in order to avoid impunity and the recurrence of this type of event

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[FN279] Cf. Case of Baldeón García, supra note 5, para. 201; Case of Blanco Romero et al., supra note 5, para. 98; and Case of Gómez Palomino, supra note 247, para. 140.

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b) Appropriate treatment for the victims' next of kin

403. The Court considers it necessary to order a measure of reparation that seeks to reduce the physical and psychological sufferings of all the next of kin of the victims executed. To help repair this damage, the Court orders the State to provide the appropriate treatment for these persons, once they have expressed their consent, through the national health services, free of charge and for the time necessary, including medication. When providing psychological care, the specific circumstances and needs of each person must be considered so that they are provided with collective, family or individual care, as agreed with each of them and following an individual evaluation.

c) State guarantees of security for the former inhabitants of the Municipality of Ituango who decide to return

404. The Court is aware that some inhabitants of Ituango do not wish to return to La Granja and El Aro, because they fear they will continue to be threatened by the paramilitary groups. It is possible that this situation will not change until an effective investigation has been completed and also judicial proceedings that result in the clarification of the facts and the punishment of those responsible. When the former inhabitants, who have not already done so, decide to return to Ituango, the State must guarantee their security, which should include monitoring the prevailing situation in a way and for the length of time that will guarantee this security. If it is not possible to establish these conditions, the State must provide the necessary and sufficient resources to ensure that the victims of forced displacement may resettle in similar conditions to those they had before these events, in a place they freely and voluntarily choose.

d) Public apology and acknowledgement of international responsibility

405. For the effects of a public apology to the survivors of the events of the Ituango massacres and the next of kin of the victims, the Court appreciates the partial acknowledgement of international responsibility made by the State during the public hearing held on September 23, 2005, in this case. On that occasion, the State affirmed that it:

Expresses its respect and consideration for the victims and their next of kin and apologizes for the improper and illegal conduct of some of its agents in relation to the facts of the instant case.

406. Nevertheless, owing to the scale of the events in this case, as a measure of satisfaction for the victims and a guarantee of non-repetition of the grave human rights violations that were committed, the State must acknowledge publicly, in the presence of senior authorities, its international responsibility for the facts of the massacres in El Aro and La Granja, and apologize to the next of kin of the persons disappeared and deprived of their life, for failing to comply with its obligations to guarantee the rights to personal liberty, humane treatment and life of those persons, as a result of the State's failure to comply with its obligations of prevention, protection and investigation, and also for the violation of their rights of access to justice, judicial protection and judicial guarantees.

e) Housing program

407. Since some of the inhabitants of La Granja and El Aro lost their homes as a result of the facts of this case (supra para. 125(81)), the Court considers that the State must implement a housing program to provide appropriate housing [FN280] to the surviving victims who lost their homes and who need this. The State must implement this program within five years of notification of this judgment.

[FN280] Cf. application of the International Covenant on Economic, Social and Cultural Rights, General Observation 4, The right to adequate housing (paragraph 1 of Article 11 of the Covenant), (Sixth session, 1991), U.N. Doc. E/1991/23.

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f) Plaque

408. In addition, the State must erect a plaque in an appropriate public place in La Granja and in El Aro, so that the new generations are aware of the events that took place in this case. The plaques must be installed within one year of notification of this judgment. The contents of these plaques must be agreed by the representatives of the victims and the State.

g) Human rights education

409. Considering that the Ituango massacres were perpetrated by a paramilitary group acting with the collaboration, tolerance and acquiescence of State agents, in violation of peremptory norms of international law, the State must adopt measures to provide training to members of its armed forces and its security agencies on the principles and norms of human rights protection and international humanitarian law, and on the limits to which they should be subjected. To this end, the State must implement, within a reasonable time, permanent training programs on human rights and international humanitarian law for the Colombian Armed Forces.

h) Publication of the pertinent parts of this judgment

410. The Court considers that, as a measure of satisfaction, the State must publish once, within six months of notification of this judgment, in the official gazette and in another newspaper with national circulation, the chapter of the judgment entitled Proven Facts, without the corresponding footnotes, and also the operative paragraphs hereof.

XVII. COSTS AND EXPENSES

The Commission’s arguments

411. In relation to the payment of the costs and expenses incurred by the next of kin of the victims to litigate this case in the domestic sphere and before the Commission and the Court, and the honoraria of their legal representatives, the Commission asked the Court to order the State to pay these expenses.

The representatives’ arguments

412. Regarding the payment of the costs and expenses incurred by the next of kin of the victims to litigate this case in the domestic sphere and before the Commission and the Court, and the honoraria of their legal representatives, the representatives indicated that:

(a) GIDH incurred expenses regarding the two cases, which were subsequently joindered during the proceedings before the Commission. These amount to US$11,074 for the measures taken at the international level and US$4,553 for those taken at the domestic level before the administrative and judicial authorities and for travel and interviews with the victims; for a total of US$15,627;
(b) The Comisión Colombiana de Juristas as co-petitioner in the case has taken measures before the Inter-American Commission since 1999 in the case of La Granja and since 2000 in the case of El Aro, and its expenses amount to US$4,895.70 (four thousand eight hundred and ninety-five United States dollars and seventy cents);
(c) The expenses relating to processing the case before the Court, consisting in the cost of the expert evidence and the transfer of the witnesses, expert witnesses and lawyers to San José, Costa Rica, for the public hearing before the Court amount to US$44,225.68 (forty-four thousand two hundred and twenty-five United States dollars and sixty-eight cents); and
(d) With regard to the costs or legal fees, in keeping with the domestic law, legal fees are established according to amounts established by the Lawyers' Professional Association. In article 16(2)3 of Resolution 1 of June 5, 2004, this Professional Association established that, in the case of actions for annulment or re-establishment of a right processed in the administrative jurisdiction, that is for the extra-contractual responsibility of the State, the minimum honoraria is 30% of the amount collected. When the action filed produces results in two instances, article 3(3) of this resolution establishes "as a minimum, 30% of the value of the honoraria agreed for the first instance." Consequently, this means 30% for the first instance and 9% for the second instance, for a total of 39%.

The State's arguments

413. Regarding the payment of costs and expenses, the State indicated that:

(a) In order to recognize an expense, it must be necessary and reasonable according to the characteristics of the case, and made in direction relation to the case;
(b) It is unable to accept the reimbursement of expenses unless there is a minimum certainty about the amounts and concepts;
(c) The costs arising from the administrative proceedings will have to be defined in the final judgments that are issued in these proceedings; and
(d) To the extent that the principle of gratuity rules in criminal matters, and that the next of kin of the victims have not filed specific actions within the investigation that is underway, there are no costs to be reimbursed in this respect.

The Court's findings

414. As the Court has indicated previously, [FN281] costs and expenses are included in the concept of reparations embodied in Article 63(1) of the American Convention, because the

activity deployed by the next of kin of the victims or their representatives in order to obtain justice at both the national and the international level entails expenditure that must be compensated when the State's international responsibility is declared in a judgment against it. Regarding their reimbursement, the Court must prudently assess their scope, which includes the expenses incurred in both the domestic and the inter-American jurisdiction, taking into account the authentication of the expenses incurred, the circumstances of the specific case and the nature of the international jurisdiction for the protection of human rights. This assessment may be based on the principle of equity and taking into account the expenses indicated and authenticated by the parties, provided the quantum is reasonable.

[FN281] Cf. Case of Baldeón García, supra note 5, para. 208; Case of the Sawhoyamaxa Indigenous Community, supra note 9, para. 237; and Case of Acevedo Jaramillo et al., supra note 12, para. 315.

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415. For the effects of this case, the concept of costs includes those corresponding to the stage of access to justice at the national level, and also those referring to justice at the international level before the two instances of the inter-American system for the protection of human rights: the Commission and the Court. [FN282]

[FN282] Cf. Case of Gómez Palomino, supra note 247, para. 151; Case of the "Mapiripán Massacre", supra note 8, para. 323; and Raxcacó Reyes case. Judgment of September 15, 2005. Series C No. 133, para. 137.

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416. The Court has noted that the victims and their next of kin acted through representatives, at both the domestic level and before the Commission and the Court. Owing to the number and dispersion of the victims in this case, it is not possible to assign compensation for costs and expenses directly to the next of kin of the victims for them to distribute it among those who have provided legal assistance, as has been the Court's practice in recent cases. [FN283] Hence, it considers it fair to order the State to reimburse the amounts corresponding to costs and expenses directly to the two non-governmental organizations that have represented the victims and their next of kin in this case. Accordingly, the State must pay the sum of US$15,000 (fifteen thousand United States dollars) or its equivalent in Colombian currency, to the Grupo Interdisciplinario por los Derechos Humanos and the sum of US$8,000 (eight thousand United States dollars) or its equivalent in Colombian currency to the Comisión Colombiana de Juristas for the costs and expenses they incurred in the domestic sphere and in the international proceedings before the inter-American system for the protection of human rights.

[FN283] Cf. Case of the Pueblo Bello Massacre, supra note 9, para. 285; Case of the "Mapiripán Massacre", supra note 8, para. 325; and Yatama case. Judgment of June 23, 2005. Series C No. 127, para. 265.

XVIII. MEANS OF COMPLIANCE

417. To comply with this judgment, Colombia must make the payments for compensation for pecuniary damage (supra paras. 371 to 379) and non-pecuniary damage (supra para. 390) and reimbursement of costs and expenses (supra para. 416), and erect commemorative plaques to recall the events of the Ituango massacres (supra para. 408) within one year of notification hereof. The State must also publish the pertinent parts of this judgment (supra para. 410) within six months of notification hereof. Also, Colombia must immediately take the necessary measures to activate and complete effectively, within a reasonable time, the investigation to determine the identity of the masterminds and perpetrators of the massacres and the persons whose acquiescence and collaboration made their perpetration possible (supra paras. 399 to 402). With regard to the appropriate treatment for the next of kin of the victims who were executed, this should be provided immediately and for the time necessary (supra para. 403). Lastly, the State must implement permanent education programs on human rights and international humanitarian for the Colombian Armed Forces, within a reasonable time (supra para. 409).

418. The payment of the compensations established in favor of the next of kin of the victims must be made as established in paragraphs 359, 363, 364 and 390(d) of this judgment.

419. The payments corresponding to the reimbursement of costs and expenses must be made as established in paragraphs 416 and 417 of this judgment.

420. The State must comply with its pecuniary obligations by payment in United States dollars or the equivalent amount in national currency, using the exchange rate between the two currencies in force on the New York, United States of America, market the day prior to payment to make the respective calculation.

421. The amounts allocated in this judgment for compensation for pecuniary and non-pecuniary damage, and for reimbursement of costs and expenses may not be affected, reduced or conditioned by current or future taxes or charges. Consequently, they must be delivered to the beneficiaries integrally, as established in this judgment.

422. In the case of the compensation ordered in favor of minors, the State shall deposit it in a solvent Colombian banking institute. The investment must be made within one year, in United States dollars, and in the most favorable financial conditions permitted by law and banking practice, until the beneficiaries come of age. It may be withdrawn by any of them when they come of age or previously, if this is in the best interests of the child, as established by a decision of a competent judicial authority. If the compensation has not been claimed 10 years after each child has come of age, it shall revert to the State with the accrued interest.

423. If, for reasons attributable to the next of kin of the persons disappeared and deprived of life who are the beneficiaries of the compensation, it is not possible for them to receive it within the period indicated, the State shall deposit the amount in their favor in an account or a deposit certificate in a solvent Colombian banking institute in United States dollars and in the most

favorable financial conditions permitted by law and banking practice. If, after 10 years, the compensation has not been claimed, it shall revert to the State with the accrued interest.

424. If the State falls into arrears, it shall pay interest on the amount owed, corresponding to banking interest on arrears in Colombia.

425. In accordance with its consistent practice, the Court will exercise the authority inherent in its attributes to monitor compliance with all the terms of this judgment. The case will be closed when the State has fully complied with all its terms. Within one year of notification of the judgment, Colombia shall provide the Court with a first report on the measures adopted to comply with the judgment.

XIX. OPERATIVE PARAGRAPHS

426. Therefore,

THE COURT,

DECIDES,

Unanimously,

1. To accept the State's acknowledgement of international responsibility for the violation of the rights embodied in Articles 4 (Right to Life) of the Convention, to the detriment of William de Jesús Villa García, María Graciela Arboleda Rodríguez, Héctor Hernán Correa García, Jairo de Jesús Sepúlveda Arias, Arnulfo Sánchez Álvarez, José Darío Martínez Pérez, Olcris Fail Díaz Pérez, Wilmar de Jesús Restrepo Torres, Omar de Jesús Ortiz Carmona, Fabio Antonio Zuleta Zabala, Otoniel de Jesús Tejada Jaramillo, Omar Iván Gutiérrez Nohavá, Guillermo Andrés Mendoza Posso, Nelson de Jesús Palacio Cárdenas, Luis Modesto Múnera Posada, Dora Luz Areiza Arroyave, Alberto Correa, Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera; 7 (Right to Personal Liberty) of the Convention, to the detriment of Jairo de Jesús Sepúlveda Arias, Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera; 5 (Right to Humane Treatment) of the Convention, to the detriment of Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera; and 21 (Right to Property) of the Convention, to the detriment of Luis Humberto Mendoza, Libardo Mendoza, Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Ricardo Alfredo Builes Echeverry and Bernardo María Jiménez Lopera, all in relation to Article 1(1) (Obligation to Respect Rights) thereof, in accordance with paragraphs 56 to 72 of this judgment, with the legal consequences concerning reparations.
2. To reject the preliminary objection filed by the State, in accordance with paragraphs 103 and 104 of this judgment

DECLARES,

Unanimously, that:

3. The State violated, to the detriment of William de Jesús Villa García, María Graciela Arboleda Rodríguez, Héctor Hernán Correa García, Jairo de Jesús Sepúlveda Arias, Arnulfo Sánchez Álvarez, José Darío Martínez Pérez, Olcris Fail Díaz Pérez, Wilmar de Jesús Restrepo Torres, Omar de Jesús Ortiz Carmona, Fabio Antonio Zuleta Zabala, Otoniel de Jesús Tejada Jaramillo, Omar Iván Gutiérrez Nohavá, Guillermo Andrés Mendoza Posso, Nelson de Jesús Palacio Cárdenas, Luis Modesto Múnera Posada, Dora Luz Areiza Arroyave, Alberto Correa, Marco Aurelio Areiza Osorio and Elvia Rosa Areiza Barrera, the Right to Life, enshrined in Article 4 (Right to Life) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, in the terms of paragraphs 126 to 138 of this judgment.

4. The State violated, to the detriment of Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Rodrigo Alberto Mendoza Posso, Noveiri Antonio Jiménez Jiménez, Milciades De Jesús Crespo, Ricardo Barrera, Gilberto Lopera, Argemiro Echavarría, José Luis Palacio, Román Salazar, William Chavarría, Libardo Carvajal, Eduardo Rua, Eulicio García, Alberto Lopera, Tomás Monsalve and Felipe "Pipe" Gomez, the right not to be required to perform forced or compulsory labor, enshrined in Article 6(2) (Freedom from Slavery) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, for the reasons described in paragraphs 145 to 148 and 154 to 168 of this judgment.

5. The State violated, to the detriment of Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Rodrigo Alberto Mendoza Posso, Noveiri Antonio Jiménez Jiménez, Milciades De Jesús Crespo, Ricardo Barrera, Gilberto Lopera, Argemiro Echavarría, José Luis Palacio, Román Salazar, William Chavarría, Libardo Carvajal, Eduardo Rua, Eulicio García and Alberto Lopera, the right to personal liberty, enshrined in Article 7 (Right to Personal Liberty) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, for the reasons described in paragraphs 145 to 153 of this judgment.

6. The State violated, to the detriment of the persons who lost their possessions in El Aro, who are indicated in paragraph 200(a) of this judgment, the Right to Property enshrined in Article 21 (Right to Property) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, as indicated in paragraphs 172 to 188 of this judgment.

7. The State violated, to the detriment of the persons whose homes were destroyed in El Aro, who are indicated in paragraph 200(b) of this judgment, the right established in Article 11(2) of the Convention concerning the prohibition of arbitrary or abusive interference in a person's private life and home, in relation to Articles 21 (Right to Property) and 1(1) (Obligation to Respect Rights) thereof, as indicated in paragraphs 189 to 199 of this judgment.

8. The State violated, to the detriment of the persons displaced from El Aro and La Granja, who are indicated in paragraphs 225 and 235 of this judgment, the right to freedom of movement and residence, enshrined in Article 22 (Freedom of Movement and Residence) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, as indicated in paragraphs 204 to 235 of this judgment.

9. The State violated, to the detriment of the children, Wilmar de Jesús Restrepo Torres, Jorge Correa Sánchez, Omar Daniel Pérez Areiza, José Leonel Areiza Posada and Marco Aurelio Areiza Posada, the right to the measures of protection required by their status as minors enshrined in Article 19 (Rights of the Child) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, for the reasons described in paragraphs 239 to 248 of this judgment

10. The State violated, to the detriment of the victims executed in El Aro and La Granja and their next of kin, who are indicated in paragraphs 257 and 265 of this judgment, the right to

humane treatment enshrined in Article 5 (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, as indicated in paragraphs 252 to 268 of this judgment.

11. The State violated, to the detriment of the persons indicated in paragraphs 269, 270, 276 and 277 of this judgment, the right to humane treatment enshrined in Article 5 (Right to Humane Treatment) of the Convention, in relation to Articles 6 (Freedom from Slavery), 7 (Right to Personal Liberty), 11(2) (Right to Privacy), 21 (Right to Property), 22 (Freedom of Movement and Residence) and 1(1) (Obligation to Respect Rights) thereof, as indicated in paragraphs 269 to 277 and 279 of this judgment.

12. The State violated, to the detriment of all the inhabitants of La Granja and El Aro, the right to humane treatment enshrined in Article 5 (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, as indicated in paragraphs 278 and 279 of this judgment.

13. The State violated, to the detriment of all the persons whose rights were violated and who were not guaranteed full access to justice, who are indicated in paragraph 344 of this judgment, the rights embodied in Articles 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, in accordance with paragraphs 283 to 344 of this judgment.

14. This judgment constitutes per se a form of reparation, in the terms of paragraph 387 hereof.

AND ORDERS,

Unanimously, that:

15. The State must take the necessary measures to provide justice in this case, in the terms of paragraphs 399 to 402 of this judgment.

16. The State must provide, free of charge, and through the national health services, the appropriate treatment required by the next of kin of the victims executed in this case, in the terms of paragraph 403 of this judgment.

17. The State must take the necessary measures to guarantee safe conditions for the former inhabitants of El Aro and La Granja, who were forced to displace, to return to El Aro or La Granja, as applicable and if they so desire, in the terms of paragraph 404 of this judgment.

18. The State must organize a public act to acknowledge international responsibility for the facts of this case, in the presence of senior authorities, in the terms of paragraphs 405 and 406 of this judgment.

19. The State must implement a housing program, to provide appropriate housing to the surviving victims who lost their homes and who require this, in the terms of paragraph 407 of this judgment.

20. The State must erect a plaque in an appropriate public place in La Granja and in El Aro, so that the new generations know about the events that took place in this case, in the terms of paragraph 408 of this judgment.

21. The State must implement, within a reasonable time, permanent training programs on human rights and international humanitarian law for the Colombian Armed Forces, in the terms of paragraph 409 of this judgment.

22. The State must publish once, within six months, in the official gazette and in another newspaper with national circulation, the chapter on the proven facts in this judgment, without the corresponding footnotes, and the operative paragraphs of the judgment, in the terms of paragraph 410 hereof.
23. The State must pay the persons indicated in Appendixes I and III of this judgment, within one year, in compensation for pecuniary damage, the amounts established in paragraph 379 and in Appendixes I and III of this judgment, in the terms of paragraphs 358, 359, 363, 364, 376, 377, 417 and 420 to 424 thereof.
24. The State must pay the persons indicated in Appendixes I, II and III of this judgment, within one year, in compensation for non-pecuniary damage, the amounts established in paragraph 390 and in Appendixes I, II and III of this judgment, in the terms of paragraphs 358, 359, 363, 364, 376, 377, 390, 417 and 420 to 424 hereof.
25. The State must pay, within one year, for the costs and expenses arising in the domestic sphere and in the international proceedings before the inter-American system for the protection of human rights, the amounts established in paragraph 416 of this judgment, which must be delivered, as applicable, to the Grupo Interdisciplinario de Derechos Humanos and the Comisión Colombiana de Juristas, in the terms of paragraphs 416, 417 and 419 to 421 of this judgment.
26. It will monitor full compliance with this judgment and will consider the case closed when the State has fully executed its operative paragraphs. Within a year of notification of this judgment, the State must send the Court a report on the measures adopted to comply with it, in the terms of paragraph 425 of this judgment.

Judges García Ramírez and Cançado Trindade informed the Court of their separate opinions, which accompany this judgment.

Done, in San José, Costa Rica on July 1, 2006, in Spanish and English, the Spanish version being authentic.

Sergio García-Ramírez
President

Alirio Abreu-Burelli
Antônio A. Cançado Trindade
Cecilia Medina-Quiroga
Manuel E. Ventura-Robles
Diego García-Sayán

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri

Secretary

SEPARATE OPINION OF JUDGE SERGIO GARCÍA RAMÍREZ CONCERNING THE JUDGMENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS OF JUNE 29, 2006, IN THE CASE OF THE ITUANGO MASSACRES

1. ACCEPTANCE OF FACTS AND CLAIMS, AND THE JUDGMENT OF THE COURT

1. On different occasions, I have referred to certain acts that take place during the international proceedings – specifically, during the judicial proceedings before the Inter-American Court of Human Rights – that have substantive and procedural relevance and, consequently, a direct impact on the progress of the proceedings, the decision on the facts (initially) in dispute, and the determination of the consequences. I am alluding to the confession, acquiescence, acknowledgement of responsibility or acceptance of the charges, each with its own juridical nature (not always delimited when such acts occur), even though they are frequently used as synonymous concepts. Essentially, they reveal the State's willingness to acknowledge its international responsibility for the facts attributed to it and, in a more limited sense, the juridical consequences.

2. In other types of proceedings, the confession of the facts and the acceptance of the claims would end the dispute; accordingly, it would exclude the arguments of the counterpart, the burden of proving what has been accepted – which therefore goes unquestioned – the description of the criminal facts, and the reassertion of the offenses committed. Thus, if a debtor acknowledges that he owes a debt in terms that are agreeable to the creditor, there is no point receiving evidence on the debt that has been recognized and describing how it was acquired and the failure to pay it.

3. This rule, which evidently simplifies and abbreviates the proceedings, cannot be used just as it is in proceedings on the violation of human rights. The latter deal with matters that are subject to the willingness of the parties – particularly the parties as possessors of substantive rights and obligations; but also entail issues external to this, which must be considered and resolved by the judicial authority responsible for the interpretation and application of the American Convention and the final decision concerning the State's observance of its international obligations, in light of the rights and freedoms established therein.

4. In its decisions on this matter, the Inter-American Court has paid attention to the logic of the human rights proceedings, which can have different purposes (re-establishment of the legal order, restoration of the peace on which social relations are based, preservation and recovery of the rights and interests of the individual), and to the frequent request of the Inter-American Commission and the representatives of the victims (which the State itself, in the act to which I have been referring, has implicitly transformed from the "alleged" victims of the violations that it has acknowledged into the injured parties). Thus, the Court admits the presentation of the evidence on the facts, during the public hearing; refers, in a special chapter of the judgment to the proven facts, and announces in different declarations, the existence of violations of specific human rights and freedoms. This is the result of the specific nature of the proceedings for the

violation of human rights and, particularly, of the system for the protection of the fundamental rights, of which the Court is the reflection and instrument.

5. The apparently unnecessary reception of evidence and statements on the violations satisfies different purposes: (a) it proves the legality and the legitimacy, the veracity and the admissibility of the acknowledgement or confession, which the Court could reject if it considered that it was untrue or in any way contrary to the human rights protection system; (b) it contributes to the prevention of future violations before society and before the State itself, since it reveals the violations committed, which are often extremely serious; this prevention does not constitute a real measure of reparation, even though it is usually included in that category (I myself have supported this); (c) it provides the victim with the moral satisfaction that is unnecessary in most patrimonial litigations, but essential in human rights disputes; such disputes are of interest to society as a whole, have had a strong impact on the victim's life, and have a significant influence on the latter's experiences, feelings, capacities and expectations; this is why there is insistence that the judgment per se is a means of moral reparation; and (d) it responds to the individual and social need for truth and justice.

6. In the judgment delivered in the instant case, the Court has emphasized, once again, the value of the acknowledgement of the facts and of responsibility – even if this is partial – as an attestation of the ethics of the State, which thereby agrees to rectify a very grave deviation and, as in the criminal justice system, to pave the way for restorative justice that emerges from the difficult rapprochement of those in dispute – so unequal at this level – and not merely from the Court's decision. The Court describes the facts and defines their consequences, but does not necessarily reconstruct (as a settlement between the parties can) the relationship governed by understanding and justice that is the profound moral and political mainstay of dealings between the public authorities and the population.

7. I have already indicated and pondered before the political organs of the Organization of American States – the Commission on Juridical and Political Affairs and the General Assembly - the existence of a notable number of cases in which there is total or partial acquiescence – or acknowledgement of responsibility. This has ethical and juridical transcendence and announces a settlement mechanism that should be sought as often as possible. Obviously, decisions in this regard are the sole and exclusive competence of the States. The Inter-American Commission can encourage settlements and the Court, in turn, can and must record the fact and appreciate its advantages. It is worth noting that, in the regular session at which the judgment in the Ituango Massacres case was delivered, the three cases decided included to a greater or lesser extent – but usually to a greater extent – the acceptance of the facts and acknowledgement of responsibility: the Ituango case itself (Colombia), the Ximenes Lopes case (Brazil) and the Montero Aranguren case (Venezuela). This is a relevant and increasing element in the history of the inter-American jurisdiction.

8. The Court also took note of the various domestic proceedings leading to the clarification of the facts, the establishment of responsibilities – of different types – and the ordering of certain consequences. It is pertinent that these different mechanisms have been initiated under domestic laws, to the extent that they are designed to discover the truth and, on this basis, take the appropriate decisions.

9. The prosecution of those who must face the consequences of their conduct, under the concept of criminal responsibility, contributes to the obligation to guarantee the observance of rights, according to Article 1 of the Inter-American Convention on Human Rights. However, it not the only means to this end, if domestic law provides others of a concurrent or complementary nature that allow progress to be made on some points of law leading to the re-establishment of the order that has been disrupted and a response to the legitimate interests of the victims. It is possible that progress can be made on the path to justice using these other measures, regulated by national norms, in the understanding that this does not disregard or annul the criminal route, when the latter is applicable and according to the merits of the case. Evidently, the settlement of certain issues concerning pecuniary reparation, although not irrelevant, does not eliminate the other requirements for justice inherent in the State's obligation to guarantee respect for human rights.

2. VICTIM

10. The definition and identification of the victims, for the effects of the judicial ruling that must be based on law, gives rise to different considerations on which the Court has reflected. Evidently, the victim or injured party is the possessor of the legally-protected interest safeguarded by the right established in the American Convention: life, liberty, safety, property, integrity, etcetera. Thus, the victim is the person who suffers the harm of the respective right. At times, we have spoken of direct and indirect victims. Strictly speaking, there is only one relevant category for the purposes of the Convention: the victim or injured party, who merits the reparations authorized by the Convention that cannot be accorded to other categories of individuals, unless this is by the transfer of rights, a matter traditionally covered by domestic law.

11. When we speak of a direct victim, we refer to the individual against whom the illegal conduct of the State agent is directed immediately, explicitly and deliberately; the individual who loses his life, whose integrity or liberty is harmed, who is deprived of his patrimony, thereby violating the provisions of the Convention that establish these rights. And, when we refer to indirect victim, we allude to an individual who does not suffer this illegal conduct in the same way – immediately, directly and deliberately – but who also sees his own rights affected or violated, from the impact on the so-called direct victim. The damage suffered by the indirect victim is an effect of the damage suffered by the direct victim, but when the violation affects him, he becomes an injured party himself – rather than by derivation – based on the Convention and on the rights established therein.

12. Essentially, both are victims according to the strict meaning of the word; namely, direct victims or simply "victims," even though the violations that affect them, usually successively, are different. In the one case, for example, the person who loses his life or suffers torture is the original victim of the violation of Articles 4 and 5 of the Convention. His next of kin are, or may be, victims of the violation of Article 5 owing to the severe impairment of their physical or moral integrity as a result of the loss of life or torture. Finally, there may be victims of the aftereffects of the original act with their own entity; for example, owing to the denial of access to justice for the investigation and prosecution of those responsible. The individuals corresponding to these

three categories are all victims – without any need for further qualification – of the violation suffered.

13. The definition of the existence of victims and their identification – and, evidently, this does not necessarily have to be done by the first and last names recorded on a certification from the registry office in accordance with the strict formalities of domestic law – forms part of the presentation of the facts by the entity that submits the case to the consideration of the Inter-American Court. Hence, the Commission's application should include a list of the victims, together with all the facts of the case.

14. The Court's Rules of Procedure (the fourth version, resulting from the Court's observations and experience, in force in recent years) are explicit in this regard when they state that, in the application brief, the Commission "shall include [...] the name and address of the alleged victims…" (Article 33(1)). This provision should be related to the definition of the alleged victim contained in Article 2(30) of this instrument: "the person whose rights under the Convention are alleged to have been violated." Evidently, as the Court's case law has stated insistently, this does not prevent the victim or his representatives from submitting considerations on the violations committed, provided these refer to the facts set forth by the body authorized to file the international proceedings on human rights issues, in accordance with its attributes under the Convention.

15. The realism inherent in human rights proceedings, the purpose of knowing the historic truth, and the exclusion or avoidance of excessive formalities, does not excuse the Court from complying with its obligations in keeping with its jurisdictional function, or authorize it to conduct investigations or assume hypotheses that are the responsibility of the actor rather than the judge. It would be a cause for concern if the Court began to interpret at its own discretion – in reality, to modify – the terms of its attributes and thus generate legal uncertainty; this would impair the objectivity of the proceedings and the rights of the parties. The Court's conduct, within the framework of the competence attributed to it by the norms on which its powers are based, is the guarantee of legal certainty and, thus, justice. It expresses the rule of law and banishes any temptation to introduce discretionality or arbitrariness.

16. Exceeding these limits, even for (possibly) plausible reasons would erode or annul the trust that the Court deserves, which, in turn, has a favorable effect on justice and the justiciable facts. Evidently, in certain circumstances, it might be desirable to modify – and expand – the Court's jurisdiction, but this must be accomplished by reforming its regulations, also pursuant to the rule of law, and not by its own actions that lack legal basis, even though they may be attractive for some justiciable facts and for judges who embark of this dangerous route.

17. Although the formal presentation of a contentious case usually includes a precise indication of the alleged violations, the article of the Convention to which these violations refer, and the persons affected by them, there are some complex cases in which the application does not contain the elements to precisely – and I am not saying perfectly or absolutely – identify the individuals harmed by the violation. In such cases, the Court may and should examine the information in the application very carefully and respond as extensively as possible to the unresolved issues.

18. In this way, the Court complies with its duty and serves the cause of justice and the protection of human rights. What it cannot do, is exceed its powers, add facts to the application, motu proprio, and deliver a judgment that considers more than the facts submitted to it – which include the corresponding identification of the victims. After all, the Court is not the "owner" of the proceedings and cannot become a party, as well as the judge.

19. In the context of this reflection on the legal framework within which the Court acts, which establishes its powers and limits (a control characteristic of the rule of law to eliminate the possibility of arbitrariness with all its dangers), I wish to recognize the excellent work of synthesis carried out by the Commission when preparing the application. In many cases, particularly those that include abundant, complex facts and numerous participants (either as victims or perpetrators), this synthesis is not a simple task.

20. In the instant case, the Court deployed all possible efforts, without undermining the nature of its functions, to identify the victims and, thus, provide the most extensive satisfaction for the violations committed, taking into account the information obtained from a very thorough examination of the application and the probative elements in the case file.

21. It should be emphasized that, when establishing specific benefits for the victims of violations, the Court expressly protected the rights that, under domestic law and before the national authorities, could correspond to other persons affected by these violations. They have their own recourses and should abide by the terms of these, without expecting the judgment of the international organ to play a role in the corresponding satisfaction.

22. Furthermore, if, according to national law, certain victims identified in this judgment can obtain greater benefits than those established in the international ruling, I consider that they should be able to file a claim, as allowed by domestic law, for any complementary compensation or satisfaction to which they are legitimately entitled. Otherwise, the international legal action would eliminate an individual's rights or reduce their scope, and this would be totally inconsistent with the preservation of the maximum rights of the individual based on different norms, not only on the American Convention.

3. REASONABLE TIME

23. The matters examined in the Ituango Massacres case include one of the issues that is submitted most frequently to human rights jurisdictions: the reasonable time for implementing certain actions, the duration of a situation (for example, pre-trial detention), or the satisfaction of a right (such as the right to receive justice, and not only to request and await justice), in keeping with due process of law: in other words, to be heard within a reasonable time in order to obtain a decision on responsibilities, rights or situations that concern the rights and obligations of the individual. Justice would remain adrift, pending, unattained or illusory, if the decisions by which it is achieved were not produced promptly.

24. Promptness in processing the matters subject to jurisdictional consideration constitutes a central factor of justice. Evidently, promptness does not mean neglecting the rights and

guarantees inherent in the process, oversights in the assessment of the facts and the law, or inconsistency in judicial decisions. But delay in delivering the latter, while those involved in the case wait, losing time and hope, also openly violates the right of access to justice. Satisfying this right requires a special effort by the courts, which should achieve the highest productivity compatible with the accuracy of their rulings. It is not a question of winning a race against time, but of using time to make effective progress on the road to justice.

25. We often deal with reasonable time (an essential and well-established concept, but not a mathematical and constant formula), when we examine the conditions in which a defendant is held. In these cases, we assess the reasonableness of the time that has elapsed between the beginning and the end of the proceedings that have given rise to restrictions of rights or that will result in their enjoyment and exercise. In these circumstances, to guide our interpretation (since, as I have said, there are not and could not be unique quantitative rules, applicable in all circumstances), we consider certain elements taken from judicial experience, to which European case law has referred: the complexity of the case, the procedural activity of the parties, the conduct of the authorities, all of which are subject to a casuistic examination in function of their reasonableness and pertinence. These criteria are naturally influenced by the circumstances of each case.

26. I have suggested that another factor should be added to the assessment of reasonable time: the greater or lesser "real effect of the proceedings on the rights and obligations of the individual – in other words, his juridical situation," as I stated in my separate opinion in López Alvarez v. Honduras, judgment of February 1, 2006. I consider it necessary to merge this factor with the others we usually consider. Regarding the issue that we are now examining, the reasonableness of time must also be assessed (although not exclusively) from the perspective of the burden – from light to intolerable – that the passage of time imposes of the individual who awaits the solution of the conflict affecting him.

27. After all, the reasonableness of time for providing justice must be examined in relation to the objective sought and the best way to achieve this, taking into considering the different issues raised by all the aspects that the administration of justice must cover in order to achieve the possible and desirable goal: a judgment, following clarification of the facts, the ordering of adequate reparations based on the violations committed, and compliance with the decisions adopted to this end by the competent organs.

28. As I have indicated, in most cases we examine reasonable time from the point of view of the persons subjected to the proceedings (usually, the accused), rather than from the perspective of the other subject in the proceedings: the victim, the aggrieved party. The latter also has rights – above all, the right to justice and, through this, the right to the satisfaction of his legitimate interests, whose definition depends on the greater or lesser diligence of the State bodies called on to determine the facts, through effective investigations, prompt proceedings, and timely decisions.

29. Since we are faced by a problem of "reasonable time," we must delimit the extremes within which the time is calculated; in other words, the time for the solution of the matter submitted to specific authorities: the moment when it begins and the moment when it ends, even

though these definitions may be approximate, and without ever losing sight of the circumstances of each case, which dominate the corresponding solutions. In this regard, the prevailing procedural system is extremely important, and this is not a neutral factor, but an element that conditions and exerts pressure.

30. Under some trial systems, investigations are beyond the scope of the judicial authority and may be extremely prolonged while the investigator satisfies the legal requirements for filing the case before the jurisdictional body. In others, the investigation and trial have different stages, each of which has its own implications and characteristics; all of them carried out by different authorities. At other times, it may be the judge himself who conducts the investigation, although he must forward the results to the Attorney General's Office (Ministerio Público) to a judge with the appropriate competence for prosecution and, when applicable, sentencing. All of this influences the time that an individual is retained by the authority that hears – lato sensu – his case and, thus, the time within which the rights and obligations are defined, which is what really interests and affects the individual, above and beyond the technical aspects of the proceedings.

31. In my said opinion in López Alvarez v. Honduras, I referred to this problem in the terms that I now reproduce and confirm: "In this respect, the definition (namely, the beginning and end of the time period) is essential when we are confronted by different juridical systems with distinct procedural and judicial structures that are also subject to Convention provisions and must apply the criteria of reasonable time."

32. "In my opinion, the objective of the international human rights system is to ensure that the harm of individual rights, owing to the action or omission of the State, should not be prolonged without justification until it gives rise to a situation of legal uncertainty, inequity or injustice. The solution of this problem calls for a clarification through case law that can be used with different procedural systems" (para. 38).

33. I consider that the reasonable time for satisfying the right to justice cannot be conditioned by the mechanisms inherent in each procedural system, so that each one arrives at different and possibly misleading conclusions on the effective observance of the same right. Inequity lurks behind such mechanisms. The point is that the State authorities that (according to the procedural system adopted by the State) participate in the actions leading to the solution of a dispute should respect an acceptable rhythm – diligent, reasonable, adequate and pertinent, without disregarding the import of the circumstances.

34. Whether the process is divided up among diverse authorities or concentrated in a single body, whether, during the course of the proceedings, partial decisions (such as commitment to trial, when charges have been filed) are issued immediately after the accused has been investigated or when the victim files a complaint, or a long time after either of these moments, none of this should alter, deviate or conceal the requirement that a case should be resolved within a reasonable time from the occurrence of the facts that gave rise to the proceedings.

35. The first official act that affects the rights of the individual is the point of reference to calculate the reasonable time, measure its duration, compare it with the characteristics of the issue and the reasonable diligence of the State, and assess compliance or non-compliance with

the judicial guarantee of reasonable time. The case law of the Inter-American Court has ruled on this recently. Hence, it is sufficient that the individual is affected in this way for attention to be paid to assessing the reasonable time, even though, technically, the harm does not occur within the criminal "proceedings," but within a criminal "procedure." For the effects of the protection of human rights, the distinction between these two possibilities has no decisive relevance; in both cases, the liberty of the individual is affected by factors that imply interference in his sphere of free will.

36. To the contrary, it would be enough to fragment the prosecution, open up long periods of investigation, delay (at convenience) the opening of the trial, generate actions on which the qualification of the proceedings as a true proceedings or a simple preparation for this depends, etc. in order to prolong an inquiry, delay a trial or postpone the satisfaction of a right or compliance with an obligation, whether this unfavorably affects the accused, or harms the juridical interests of a victim. The content would be sacrificed to the form.

Sergio García-Ramírez
Judge

Pablo Saavedra-Alessandri
Secretary

SEPARATE OPINION OF JUDGE A.A. CANÇADO TRINDADE

1. I have voted in favor of the adoption of this judgment in the Case of the Ituango Massacres by the Inter-American Court of Human Rights. Given the particular gravity of the facts of the case, which once again reveal to the Court the genuine human tragedy endured by Colombia in recent years, I am obliged to record my reflections on the issues dealt with by the Court in this judgment as grounds for my respective position. To this end, in this separate opinion, I will refer to the following points, not necessarily circumscribed to this case, although related to it, and also as general reflections on the future work of the Court and as a contribution to the enhancement of contemporary international legal doctrine: (a) prior considerations; (b) the different manifestations of human cruelty in the execution of State policies; (c) the insensitivity of the State to the consequences of its own criminal practices; (d) the total defenselessness of the individual in the face of the State's criminal practices; (e) further reflections on the planning and execution of massacres as State crimes; (f) the right of access to justice lato sensu in the indivisibility between Articles 25 and 8 of the American Convention; and g) the reaction of the juridical conscience: the evolution of the notion of victim.

I. Prior considerations

2. In this judgment in the Case of the Ituango Massacres (resulting from the armed incursions in La Granja and El Aro), the Court defined the scope of the defendant State's partial acknowledgement of international responsibility for specific acts, noting that it did not encompass the claims of the complainants as regards reparations and costs (para. 73). One of the expert witnesses who gave evidence before the Court stated that the said massacres had been perpetrated with "extreme brutality" (including mutilation, torture and extrajudicial executions)

by “paramilitary groups acting in conjunction with the Colombian armed forces, or at least with their acquiescence or tolerance” (para. 110(a)(1)). The Court found that the brutality and the internal forced displacement in Colombia had been proved (paras. 125(1-113).

3. In the proceedings before the Court in this case, when affirming “the State’s responsibility for the acts of the paramilitary groups,” the victims’ representatives stated, in the public hearing of September 23, 2005, that:

"In Colombia, the paramilitary movement is a State strategy to combat the guerrilla groups; this strategy has consisted in promoting the actions of armed civilian groups which attack the civilian population that really or allegedly supports the insurgents, by means of selective assassination, forced disappearance, massacres and indiscriminate acts of violence against this civilian population.”
[FN1]

[FN1] Inter-American Court of Human Rights, Transcripción de la Audiencia Pública del 23.09.2005 en el caso de las Masacres de Ituango relativo a Colombia, p. 155 (statement by C. Rodríguez Mejía, internal document).

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4. According to the representatives, “the Colombian State’s responsibility” concerning the events of this case was constituted in the zone of Ituango, which was of strategic importance because the FARC guerrilla operated there:

"Not only because members of the Colombian law enforcement bodies participated actively, but also because [the events] were part of an agreed plan to combat the insurgents, which included terrorizing the civilian population in the zone in order to eliminate any real or alleged support for the guerrilla.” [FN2]

[FN2] Ibid., p. 157 (internal document).

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5. The victims’ representatives also stated that there had been additional violations of Articles 8(1) and 25 of the American Convention on Human Rights, when they added that:

“The Colombian State has not provided the victims and their next of kin with effective recourses that guarantee them the right to the truth, justice and the reparation of these grave human rights violations [...]. The Colombian State has organized its structures to keep the authors of these grave human rights violations beyond the reach of the law; and [...] the Colombian State has adopted domestic laws that prevent the victims of these grave facts from access to guarantees of the right to the truth and justice.” [FN3]

[FN3] Ibid., p. 158, and cf. p. 159 (statement of L.M. Monzón Cifuentes, internal document).

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6. In its final arguments brief before the Court, when asserting the international responsibility of the respondent State, the representatives concluded that:

"The promotion, creation, support and actions of the paramilitary groups are part of a policy to confront the insurgent groups designed by the Colombian State towards the end of the 1960s and implemented since then by the Colombian law enforcement bodies.
This counter-insurgency strategy was and is intended to attack individuals and groups that really or allegedly support the guerrilla groups in Colombia. [...] These paramilitary groups are appropriate for this purpose, insofar as, under the legal system, it is difficult for the regular forces (that is, the Colombian law enforcement bodies) to undertake direct combat activities against the civilian population. These attacks on the civilian population were classified as a 'dirty war' by the [United Nations] Special Rapporteur on extrajudicial, summary or arbitrary executions [S. Amos Wako,] who visited Colombia in 1989, and have also been acknowledged by the State itself in a report of October 25, 2002 (...).
The operations of the paramilitary groups were conducted on a very large scale at the end of the 1980s. [...] Not only were no actions taken against the paramilitary movement in Colombia, but an alternative legal framework was organized to protect the activities of the paramilitary groups, as a fundamental element in the counterinsurgency strategy of the Colombian law enforcement bodies." [FN4]

[FN4] Ibid., pp. 3-5 (final arguments, internal document).
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7. In this judgment in the Case of the Ituango Massacres, the Court considered it had been proved that the facts of the case "took place in a generalized situation of internal forced displacement that affected Colombia, caused by the internal armed conflict" (para. 208). The Court also noted the State's initiatives to prohibit, prevent and sanction the activities of the "self-defense" or paramilitary groups, which have, however, been ineffective "in dismantling the paramilitary structures" (paras. 134-135). The Court indicated significantly (para. 133):

"As the State has acknowledged (supra paras. 63 and 64), it has been proved that State agents were fully aware of the terrorist activities perpetrated by these paramilitary groups on the inhabitants of La Granja and El Aro. Far from taking actions to protect the population, members of the National Army not only acquiesced to the acts perpetrated by the paramilitary groups, but at times collaborated with and took part in them directly. Indeed, the participation of State agents in the armed raids was not limited to facilitating the entry into the region of the paramilitary groups, but they also failed to assist the civilian population during the incursions, leaving them totally defenseless. This collaboration between paramilitary groups and State agents resulted in the violent death of 19 inhabitants of La Granja and El Aro."

8. In addition, in this judgment, the Court determined the existence of aggravating circumstances in the human rights violations of which the inhabitants of La Granja and El Aro, who experienced intense suffering, were victims, owing to the context of "a pattern of similar

massacres" (para. 278). The Court also determined the "aggravated responsibility" of the defendant State based on the fact that the victims included children (para. 246). These factors lead me to the following personal reflections, which, as I have already said, are related to this case, but go beyond it, and perhaps can support the future work of the Court when it hears other cases relating to massacres.

II. The different manifestations of human cruelty in the execution of State policies

9. In this Court, we have already heard about every kind of cruelty (or, at least, we think so), and this leads us to infer, with profound concern, the unlimited imagination of the human being to perform evil deeds against his fellow men in the name of State policies. We have heard of young people thrown alive out of aircraft or helicopters into the sea and then transformed into "disappeared" by the "intelligence [sic] [FN5] and security forces." We have heard of entire rural populations exterminated after their land has been "razed" in implementation of State "counterinsurgency" policies (cf. infra). We have heard of systematic summary and extrajudicial executions by State security forces in "social cleansing" operations. We have heard of the systematic practice of different forms of torture, also in implementation of State security policies.

[FN5] The mere use of the term "intelligence" in official State communiqués is an insult to human intelligence.

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10. We have heard, in the so-called fight against terrorism, of State terrorism. We have heard of State security forces hiding the mortal remains of victims, and refusing to hand over these mortal remains to the victims' next of kin. We have heard of the cruelty of State security forces obliging the surviving next of kin of victims to coexist with the perpetrators.

11. In situations of armed conflict, we have heard of the systematic practice of the abduction or kidnapping of defenseless children by the State's armed forces [FN6] and the consequent disintegration of the family. We have heard of indescribable humiliations imposed by State agents on those who are tortured and isolated, totally destroying their self-esteem, their ability to relate to others, and their dignity as human beings. We have heard of official State policies for the deliberate destruction of the cultural identity of entire groups or populations.

[FN6] For reports in this respect, cf. Asociación Pro-Búsqueda de Niñas y Niños Desaparecidos, Historias para Tener Presente, San Salvador, UCA Edit., 2002, pp. 11-235; Asociación Pro-Búsqueda de Niñas y Niños Desaparecidos, El Día Más Esperado - Buscando a los Niños Desaparecidos de El Salvador, San Salvador, UCA Edit., 2005, pp. 11-309.

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12. We have heard of State policies systematically directed against certain ethnic minorities, to the point of damaging the crucial and beneficial communication between the surviving next of kin and their dead, in an attempt to destroy their culture. This has led me to propose, for the first

time in legal doctrine (at least, as far as I know), in my extensive separate opinion [FN7] in the Moiwana Community v. Suriname (judgment of June 15, 2005), the concepts of after-life project, above and beyond the life project, and of spiritual damage, above and beyond moral damage, with their own juridical content.

[FN7] Paragraphs 1-93.

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13. What else is there to hear concerning an individual's unlimited imagination to victimize his fellow men, or practice absolute evil in the name of State policies? Despite all this, most contemporary international case law continues insisting in implying that State crime does not exist. It closes its eyes to the acts of cruelty proved before an international human rights tribunal such as the Inter-American Court of Human Rights, and continues trying to persuade the unwary of the alleged impossibility of State crime. In its attachment to a dogma (societas delinquere non potest), it demonstrates its submission to the power of the State, its intellectual servility that can only generate the repudiation of the human conscience, and reveals the most complete insensitivity and indifference to human suffering.

III. The insensitivity of the State to the consequences of its own criminal practices

14. In this regard, those of us who work in the domain of the international protection of human rights continue the fight, based less on our knowledge of the discipline at the service of safeguarding the oppressed, but rather on the feeling of ineluctable indignation, and an inclination towards mysticism. After all, there appear to be no limits to human cruelty, and it seems that the extremes of human evil constantly exceed imagination itself. This vision is exhausting for anyone who is truly concerned about the fate of his fellow men.

15. In one of his last books, the erudite scholar, Isaiah Berlin, when observing that the "primary duty of politics" was to avoid "the extremes of suffering," noted the distressing fact that no era had witnessed "so much remorseless and continued slaughter of human beings by one another" as the twentieth century. [FN8] And, he added that, tragedy as distinct from disaster consisted in "conflicts of human actions, character or values," and that the "tragic element" was always due to "inevitable human errors." [FN9]

[FN8] I. Berlin, The Crooked Timber of Humanity, Princeton, University Press, 1997, pp. 17 and 175.

[FN9] Ibid., p. 185.

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16. Indeed, one of the unfortunate legacies of the twentieth century is to be found in the testimonies and reports of those who have suffered atrocities, some of them coldly calculated, planned and executed on a large scale by the State. These State crimes or atrocities reveal "the submission of the individual conscience to the ideology of the State." [FN10] At the end of his brief description of the twentieth century, a contemporary historian, among other scholars,

[FN11] confessed that he was able to confirm what so many suspected: at the end of the day, history amounts to, among other factors, the record of the "crimes and madness" of the human being. [FN12] The State crimes that have been committed are still insufficiently known and acknowledged today, at the beginning of the twenty-first century. The brutal and cruel acts perpetrated throughout the twentieth century continue today, at the beginning of the twenty-first century.

[FN10] A. Morton, On Evil, London, Routledge, 2004, pp. IX, 78-79 and 82, and cf. p. 125.
[FN11] Cf. the warnings of Bertrand Russell, "Knowledge and Wisdom", Essays in Philosophy (ed. H. Peterson), N.Y., Pocket Library, 1960 [reed.], pp. 498-499 and 502; and Karl Popper, The Lesson of This Century, London, Routledge, 1997, pp. 53-54; among others. Another major thinker of our times, Isaiah Berlin, confessed at the end of his life that, at 82 years of age, his life had spanned most of the twentieth century and he had no doubt that it was the "worst century" in terms of the "horrible" events for "our civilization"; during his life, he concluded "more terrible things have happened than had occurred in any other era of history." I. Berlin, "Return of the Volksgeist: Nationalism, Good and Bad", At Century's End (ed. N.P. Gardels), San Diego/Cal., Alti Publ., 1995, p. 94.
[FN12] E. Hobsbawm, Era dos Extremos - O Breve Século XX, 2nd. ed., São Paulo, Cia. das Letras, 1996, p. 561.
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17. However, it is and continues to be the obligation of all of us who are true to the principles and purposes of jus gentium to contribute to preserving and strengthening the legal grounds for the construction of a better world in which justice and, therefore, social peace can prevail. The universal juridical conscience – which, in the final analysis, as I have been maintaining in my writings and in my opinions within this Court, constitutes the material source of all law [FN13] - has at least achieved a degree of evolution that today allows it to identify the goals that must be attained to benefit humanity as a whole – in a renewed vote of confidence in human reason, perhaps the last hope.

[FN13] A.A. Cançado Trindade, A Humanização do Direito Internacional, Belo Horizonte/Brazil, Edit. Del Rey, 2006, pp. 3-96 and 385-409.

IV. The total defenselessness of the individual in the face of the State's criminal practices

18. The ancient Greeks were already fully aware of the tragic defenselessness of the human being in the face of arbitrariness. The coexistence with the irrational that prevails in the world was present in the Greek tragedies (for example, those of Euripides) and the "moral impotence of reason" was often acknowledged, especially in the face of brutal conduct. [FN14] The great twentieth-century Romanian playwright, Eugene Ionesco, when referring to the actuality of Sophocles and Euripides, stated that:

"The works of Euripides speak to us as if they had been written yesterday. It is comforting that his work proves to us that, throughout the centuries, a human identity is perpetuated. It is frustrating, because the human condition remains moving and tragic throughout history, throughout all the social upheavals. [...] Greek theater is much more truthful and human. It reconciles us to man's virtues and vices." [FN15] [In Spanish in the original.]

19. For Ionesco, everything in human existence is surrounded by mystery, the suffering and the happiness, the good and the bad and what is more surprising is that people become used to existence "so that it appears completely normal to us." [FN16] When speaking out against the totalitarianisms that he witnessed during his lifetime, and against which, as an honest intellectual, he rebelled, Ionesco wrote:

"(...) Now we are subjugated by the reason of State that allows all: genocides, assassinations, silencing the intellectuals. In other words, spiritual death.
The State defends crime. The State promotes crime, justifies crime. [...] Culture, which is the only element that can allow a man to breathe and give him a little liberty, is devoured by the State, and everything must belong to the State, every individual must only be mobilized by the State, [...] his dreams must be the dreams of the State and, it is then, [...] when everyone is the State, that the State no longer exists." [FN17] [In Spanish in the original.]

[FN14] E.R. Dodds, The Greeks and the Irrational, Berkeley/L.A., University of California Press, 1997 [reed.], pp. 29-30, 187 and 191-192.
[FN15] E. Ionesco, El Hombre Cuestionado, Buenos Aires, Emecé Ed., 2002 [reed.], p. 117, and cf. p. 116.
[FN16] Ibid., p. 154.
[FN17] Ibid., pp. 36 and 189-190.

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20. Many other acts and practices of extreme cruelty and brutality can be added to the above list of cases that we have heard and, even though they have not been submitted to our consideration, they are public knowledge and notorious. Under repressive regimes, grave human rights violations have been ordered by the State, [FN18] and "in many case, the State itself has enacted laws that ensure that such acts were not illegal when they were committed" and created "additional obstacles" for the prosecution of the perpetrators. [FN19] State crimes are characterized by "willful intent (dolus as the gravest degree of fault)." [FN20] These practices have occurred not only in our region, but throughout the world.

[FN18] For a penetrating and devastating criticism of the so-called raison d'État, cf. Ernst Cassirer, El Mito del Estado, Mexico, Fondo de Cultura Económica, 1996 (re-ed.), pp. 7-352; and, regarding the "international criminality" of war, cf. N. Politis, Les nouvelles tendances du Droit international, Paris, Libr. Hachette, 1927, pp. 126-127.
[FN19] C.S. Nino, Juicio al Mal Absoluto, Buenos Aires, Emecé Ed., 1997, p. 231.
[FN20] G. Arangio-Ruiz, "Seventh report on State responsibility", UN/ILC doc. A/CN.4/469, of 9 May 1995, para. 49.

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21. In Europe, for example, during the Stalinist era, the State, with painstaking efficiency, promoted an “explicit policy of institutionalized illegality,” which resulted in from 17 to 20 million persons being murdered for political motives or subjected to “the most atrocious conditions of imprisonment, deportation and detention.” [FN21] In the heart of Europe, the Holocaust revealed absolute evil, the extremes of human iniquity, a State crime that constituted one of the most horrendous pages in the history of the world, which many avoid mentioning (and today there are even the so-called historical “revisionists” who seek to denature it). More recently, the Serbian policy of “ethnic cleansing” including “the indiscriminate murder of unarmed civilians, at times as atrocious as running over children with trucks, the massive and systematic rape of women, torture and humiliations, the displacement of entire villages, and the destruction of property." [FN22]

[FN21] Ibid., p. 43.
[FN22] Ibid., p. 50.

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22. In State crime, there is not only acquiescence, but also planning by the State authorities, and illegal actions by numerous perpetrators of grave human rights violations and their collaborators. On the African continent, the 1994 Rwanda genocide, contrary to what some people may think, was not a “spontaneous ethnic war,” but rather a deliberately incited genocide, a State crime, with the complicity of a large number of perpetrators, collectively and jointly responsible for the atrocities committed. [FN23] The extermination apparatus assembled left thousands of human beings totally defenseless.

[FN23] J.E. Álvarez, "Crimes of States/Crimes of Hate: Lessons from Rwanda", 24 Yale Journal of International Law (1999) pp. 367, 400 and 467; the incitement to genocide came above all from Radio Televisión Libre des Mille Collines (RTLM); ibid., p. 423.

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23. Regarding defenselessness, I would just add that, against the Hegelian claim that the history of the world can continue, regardless of justice and injustice, Dostoyevsky uncovered human suffering in extremis, in Siberia; as revealed in The House of the Dead, the suffering and despair led him to experience the transcendent. The secularization of the Hegelian philosophy (which even transformed the State into the depository of all human liberty), led to the triumph – anticipated with sadness and lucidity by Dostoyevsky – of the “technical” and “pragmatic” solutions put in practice throughout the twentieth century, dispensing with all transcendence, and accompanied by manipulation and acts of barbarity and brutality [FN24] that made victims of millions of defenseless human beings.

[FN24] Cf. L. Földényi, Dostoyevski Lee a Hegel en Siberia y Rompe a Llorar, Barcelona, Galaxia Gutenberg, 2006, pp. 18-19, 25-26, 32-36, 38, 41 and 49-51.

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24. Throughout the twentieth century, and at the beginning of the twenty-first century, millions of human beings have been made victims of grave human rights violations perpetrated by State policies. They have been condemned to hunger and misery as a result of public policies; they have been subjected to torture and mistreatment by security and police forces during "social cleansing" operations, they have been victimized by State terrorism under the pretext of the "fight against terrorism"; they have been exterminated by "death squads" and by the illegal use of weapons of mass destruction by the State itself. [FN25] How can the existence of State crime continue to be denied – as in most contemporary international legal doctrine?

[FN25] Cf. P. Green and T. Ward, State Crime - Governments, Violence and Corruption, London, Pluto Press, 2004, pp. 1, 30-31, 66, 68, 107, 111, 117, 149, 153, 159, 201 and 209.

V. Further reflections on the planning and execution of massacres as State crimes

25. How is it that a broad current of contemporary international legal doctrine insists in denying the "possibility" of State crime? Regrettably, State crimes are committed repeatedly and the silent suffering of the numerous defenseless victims has not been able to generate any awareness in the minds of international jurists, who are mentally hostages of statism. Although most contemporary legal doctrine continues to suffer from an apparent mental lethargy in this respect, some voices are gradually being raised that maintain the existence and occurrence of State crime in certain circumstances. I have spoken out in this regard in my separate opinions in the following cases before the Court: Myrna Mack v. Guatemala (judgment of November 25, 2003), the Plan de Sánchez Massacre v. Guatemala (judgments of April 29, 2004, and November 19, 2004), the Mapiripán Massacre v. Colombia (judgment of March 7, 2004), and the massacre of the Moiwana Community v. Suriname (judgment of June 15, 2005). [FN26]

[FN26] I also referred to the aggravating circumstances in the cases of massacres submitted to the consideration of the Court in my separate opinion in Baldeón García v. Peru (Judgment of April 6, 2006).

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26. It is not my intention to reiterate here the legal arguments developed in those opinions to sustain my position; I merely wish to refer to them and add some additional elements and reflections. In a study published in 2003, J. Verhaegen, Professor Emeritus of the Catholic University of Louvain, systematically used the expression "State crime" (crime d'État) [FN27] when referring to certain systematic practices of grave human rights violations as part of a State policy. [FN28] Other studies identify a tendency towards the necessary criminalization of grave human rights violations in the recent application of certain human rights treaties and international humanitarian law. [FN29]

[FN27] Cf. J. Verhaegen, Le Droit international pénal de Nuremberg: acquis et régressions, Brussels, Bruylant, 2003, pp. 10-11, 22 and 62.
[FN28] Cf. ibid., pp. 51-53 and 86.
[FN29] Cf., e.g., S.R. Ratner and J.S. Abrams, Accountability for Human Rights Atrocities in International Law, Oxford, Clarendon Press, 1997, pp. 11, 13-15 and 22-23.
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27. Further studies have identified the criminality of the State and the need to determine its juridical consequences (for example, punitive damages). [FN30] The determination of State responsibility for grave human rights violations responds to a legitimate concern of the international community as a whole. [FN31] Studies published from 2002 to 2004 on the succession of genocides [FN32] and crimes against humanity committed throughout the twentieth century affirm that the massive human rights violations were accompanied by a State policy of "dehumanization" of the victims, in order to forge an alleged "right of the State to persecute or massacre." [FN33] In other words, to perpetrate an authentic State crime.

[FN30] Cf., e.g., N.H.B. Jorgensen, The Responsibility of States for International Crimes, Oxford, University Press, 2003, pp. 231, 264 and 278-283.
[FN31] Cf., e.g., R. Besné Mañero, El Crimen Internacional - Nuevos Aspectos de la Responsabilidad Internacional de los Estados, Bilbao, Universidad de Deusto, 1999, pp. 78-79, 186, 215, 218, 221 and 230-231. – Unfortunately, there is still a lack of clarity in contemporary international legal doctrine concerning the implications of the complementarity between the State's international responsibility and the international criminal responsibility of the individual; an illustration of this is to be found in the inadequate treatment, by more than one contemporary international tribunal, of the case of the bombing of Kosovo by NATO (1999); for a critical version, cf., e.g., P. Benvenuti, "The ICTY Prosecutor and the Review of the NATO Bombing Campaign against the Federal Republic of Yugoslavia", 12 European Journal of International Law (2001) pp. 526-527, and cf. pp. 503-529.
[FN32] Armenia, Soviet Russia, the Holocaust, Cambodia, the former Yugoslavia, Rwanda.
[FN33] B. Bruneteau, Le siècle des génocides - Violences, massacres et processus génocidaires de l'Arménie au Rwanda, Paris, A. Colin Éd., 2004, pp. 222 and 233. Regarding the "dehumanization" of the victims and the planning and execution of criminal policies by States, cf. Y. Jurovics, Réflexions sur la spécificité du crime contre l'humanité, Paris, LGDJ, 2002, pp. 52-53, 72-73, 92, 132-133, 93, 192, 198-199, 228-229, 279, 283, 375-376, 405 and 407.
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28. Another study on the same issue, published in 2004, also emphasized the propaganda campaigns to "dehumanize" victims, in addition to other strategies calculated and planned to perpetrate massive human rights violations such as: depriving them of their homes, property, housing, subsistence agriculture, their very modus vivendi and, in some cases, nationality, culminating in the dissemination of the perverse belief that the end justifies the means [FN34] - in the case of the perpetration of State crimes.

[FN34] B.A. Valentino, Final Solutions - Mass Killing and Genocide in the Twentieth Century, Ithaca/London, Cornell University Press, 2004, pp. 17, 49, 55, 57, 71, 195, 203, 235 and 150.

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29. Recently, some truth commission reports have mentioned systematic patterns of crimes planned and perpetrated by the State itself (through its agents and collaborators), such as kidnappings, illegal detention (in clandestine prisons), torture, summary executions, forced disappearances – in the face of the silent and total submission of the individual to the absolute power of the State. [FN35] In his prologue to the report "Nunca Más" (1984), of the Argentine National Commission on the Disappearance of Persons, Ernesto Sábato, Doctor honoris causa of the Universidad Nacional de La Plata, stated with great lucidity that:

"(...) The Armed Forces responded to the crimes of the terrorists with an infinitely worse terrorism to the one they were combating, because since March 24, 1976, they were supported by the power and the impunity of the absolute State, kidnapping, torturing and murdering thousands of human beings. [...] The military dictatorship produced the greatest tragedy in our history, and the most savage. [...] Using the technique of disappearance and its consequences, all the ethical principles that the major religions and the most salient philosophies have constructed throughout thousands of years of suffering and catastrophes were trampled and cruelly disregarded.
(...) Human rights were violated organically by the State through the repressive acts of the Armed Forces. And, they were not violated sporadically but systematically, always in the same way, with similar kidnappings and identical tortures throughout the whole country. How can this not be attributed to a methodology of terror planned by the highest authorities. [...] How can this be called “individual excesses”?
(...)The kidnapping operations revealed a careful organization [...] From the moment of the kidnapping, the victim lost all his rights; deprived of all communication with the outside world, confined in an unknown place, subjected to infernal tortures, ignorant of his immediate or medium-term fate, susceptible to being thrown into a river or the sea with cement blocks tied to his feet or burnt to ashes [...]." [FN36] [In Spanish in the original.]

[FN35] T.G. Phelps, Shattered Voices - Language, Violence and the Work of Truth Commissions, Philadelphia, Univ. Pennsylvania Press, 2004, pp. 85-88 and 90.
[FN36] CNDP, Nunca Más - Informe de la Comisión Nacional sobre la Desaparición de Personas, 20a. ed., Buenos Aires, Edit. Univ. de Buenos Aires, 1995, pp. 7-8 and 10.

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30. How is it possible to deny the existence of State crime? Most international jurists who have done so have simply closed their eyes to the facts and revealed their absence of conscience by refusing to extract the juridical consequences from such facts. Their blind dogmatism has hindered the evolution and humanization of international law. State crimes – it cannot be denied – have been planned and perpetrated by State agents and collaborators, recurrently and on different continents. International jurists have the obligation to rescue the concept of State crime, merely to maintain the credibility of their profession.

31. There have been occasions – and this cannot be ignored – on which some States, in a frenzy of criminality, have cooperated among themselves to kill human beings under the pretext of State security. An example of this was the so-called “Operation Condor” between South American dictatorships (especially in the 1970s, and which today some people dare to discredit). In operations of this type, the States in question coordinate to ensure the effective extermination of segments of one of the elements that constitute the State, precisely the most important one: the population. In addition, the State machinery has sought, subsequently, to ensure the impunity of those responsible for the execution of its criminal policies - set up to perpetrate the extermination – in a monstrous inversion of values as regards the purposes of the State.

32. The extensive and significant report of the Guatemalan Historical Clarification Commission (CEH) proved unequivocally that the State’s security forces acted “in coordination with the Civil Self-Defense Patrols” within the framework of a “counterinsurgency strategy” drawn up by the Army in 1982, which formed the basis for the militarized repression of the Mayan communities; “the CEH reached the conclusion that it was not a case of isolated acts and sporadic excesses, but rather, above all, of a strategic plan.” [FN37] The State policy of repression and extermination led to massive human rights violations, such as “scorched earth operations, in which entire communities were massacred and eliminated; “in different ways, [these] massacres forced many thousands of Guatemalans to displace from their homes, as the only alternative to protect their lives.” [FN38]

[FN37] Comisión para el Esclarecimiento Histórico (CEH), Guatemala - Memoria del Silencio, tome III, 1a. ed., Guatemala, CEH, 1999, p. 27, and cf. pp. 29 and 100-101.
[FN38] Ibid., p. 212.

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33. In addition, the massacres affected “severely the collective right of these peoples to their own cultural life and to conserve and develop their own institutions and their customary law, to appoint their own authorities, and to have their own mechanisms of social control and response to illegal acts.” [FN39] The same report of the CEH stated that:

"Even though each massacre had its own characteristics, the recurrence of certain characteristics during several years (especially over the period 1978-1983) and in all the regions where many operations of this type took place, are factors which indicate that they did not respond to the mere excesses of a few officers, but formed part of a duly-planned strategy directed at the physical annihilation of thousands of defenseless persons and the terrorization of the survivors. The massacres were doubtlessly the most cruel and disproportionate element of the counterinsurgency war.” [FN40] [In Spanish in the original.]

[FN39] Ibid., p. 211. The Informe adds that “the Army systematically attacked cultural, spiritual and religious elements of profound significance for the population”; ibid., p. 272.
[FN40] Ibid., p. 272.

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34. Thus, the said massacres – authentic State crimes – were perpetrated with "extreme cruelty," in keeping with "the basic components of the national security doctrine," and a "strategy carefully planned by the State"; the principal object of this repression was the Mayan population, particularly in rural areas. [FN41] The different "counterinsurgency operations," described in detail in the said Report, [FN42] were carried out with extreme cruelty by the State's security forces and the "self-defense patrols." [FN43] The population had to be for or against the repressive forces, "there was no place for neutrality," and "the involvement of the civilian population in armed operations" formed "part of the State's counterinsurgency strategy." [FN44] The "massive involvement of the population" revealed "the high level of militarization of Guatemalan society."; the mechanisms of informing against and handing over neighbors and next of kin ruptured "the solidarity binding communities" and introduced "widespread discord, which seriously affected the integrity of the indigenous and rural communities" – and the State was responsible for all this. [FN45]

[FN41] CEH, Guatemala - Memoria del Silencio, tome II, 1a. ed., Guatemala, CEH, 1999, pp. 19-21.
[FN42] Cf. ibid., pp. 21-39.
[FN43] Ibid., p. 38.
[FN44] Ibid., pp. 21 and 226.
[FN45] Ibid., p. 227. For an in-depth study, cf., e.g., J. Perlin, "The Guatemalan Historical Clarification Commission Finds Genocide", 6 ILSA Journal of International and Comparative Law (2000) pp. 389-413.

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35. Confronted with these historically proven facts of the perpetration of State crime, how can it continue to be denied? How can most international jurists continue trying to elude this issue? It will become increasingly difficult for them to do so, especially now that cases of massacres are being heard by a tribunal such as the Inter-American Court of Human Rights. [FN46] The issue is also beginning to attract the attention of specialized bibliography. [FN47] Moreover, before this Court, there have been cases of defendant States acknowledging – although only partially – responsibility for facts that constitute crimes of this type: this occurred in the cases of the Plan de Sánchez Massacre, [FN48] the Mapiripán Massacre, [FN49] and the Ituango Massacres. Even in the Moiwana Community case, when this did not happen, Suriname affirmed that it had no objection "to issuing a public apology to the whole Nation, and to the survivors and their next of kin regarding the facts that occurred in the village of Moiwana." [FN50] If there have been cases of massacres, where the States in question have acknowledged responsibility, how can the occurrence of State crimes be denied?

[FN46] A.A. Cançado Trindade, "Complementarity between State Responsibility and Individual Responsibility for Grave Violations of Human Rights: The Crime of State Revisited", in International Responsibility Today - Essays in Memory of Oscar Schachter (ed. M. Ragazzi), Leiden, M. Nijhoff, 2005, pp. 253-269; and cf. A.A. Cançado Trindade, "General Course on Public International Law - International Law for Humankind: Towards a New Jus Gentium", 316

Recueil des Cours de l'Académie de Droit International de La Haye (2005), chap. XV (to be published).
[FN47] Cf., e.g., G. Citroni, "La Jurisprudencia de la Corte Interamericana de Derechos Humanos en Casos de Masacres", 21 Anuario de Derecho Internacional (2005) pp. 493-518.
[FN48] ICourtHR, Judgment of April 29, 2004, paras. 2 and 35-37.
[FN49] ICourtHR, Judgment of September 15, 2005, paras. 33-34 and 26.
[FN50] ICourtHR, Judgment of June 15, 2005, para. 216.
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36. One of the most extensive and recent reports of the truth commissions of our times, the Final Report of the Peruvian Truth and Reconciliation Commission (CVR), which covers the period from 1980 to 2000, reveals the tragic results of the so-called “fight against terrorism,” when the initial acts of terrorist groups [FN51] led the State, wrongfully, to practice the same terrorism. According to the general conclusions of this Final Report, this situation led to the collapse of the rule of law, and to the systematic practice, not only by the terrorist groups but also by the State itself, of torture and cruel, inhuman and degrading treatment, extrajudicial executions, massacres, forced disappearances, prohibition of burials, and massive and grave violations of human rights and international humanitarian law, constituting at times crimes against humanity. [FN52]

[FN51] Sendero Luminoso and MRTA.
[FN52] Comisión de la Verdad y Reconciliación (CVR), Informe Final - Conclusiones Generales, Lima, CVR, 2003, pp. 11-19, and cf. pp. 20, 24 and 26-29.
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37. The aftereffects of this unrestrained situation have been identified by the CVR: injustice, lack of protection, and impunity (with the implosion of the Judiciary and the Legislature, and also the Attorney General’s Office (Ministerio Público), and the authoritarian hypertrophy of the Executive), the painful process of the uprooting and impoverishment of thousands of persons, the virtual impossibility of overcoming the wounds of the past (for example, as a result of the murders of the innocent), the depths of corruption of the autocracy, the profound mistrust in the public authorities, the “moral decomposition,” and the “weakening of the social and institutional tissue.” [FN53] In summary, to the crimes of terrorist groups are added, on a vast scale, the crimes of the State.

[FN53] Ibid., pp. 30 and 34-43. And for a recent evaluation of the implementation of the recommendations of the said Informe Final of the CVR of Peru, cf. Defensoría del Pueblo, A Dos Años de la Comisión de la Verdad y Reconciliación, Lima, DP/Informe Defensorial n. 97, 2005, pp. 17-333.
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38. And, regrettably, the latter are continually repeated in different latitudes, amidst the manipulation or fabrication of so-called “public (of published) opinion.” The “post-modern” human being seems to have lost his memory and, consequently, State crimes continue to be

repeated. Thus, the invasion and occupation of Iraq in 2003, perpetrated by the so-called "coalition" of States, contrary to the Charter of the United Nations and in one of the most flagrant violations of international law of recent decades, has been followed by the killing of innocent people, arbitrary detentions (even in secret prisons), the systematic practice of torture and cruel, inhuman and degrading treatment, and severe and systematic violations of human rights and international humanitarian law, notorious and public and reliably proved, [FN54] in implementation – evidently wrongful – of a State policy (the so-called "war [sic] [FN55] on terror"). Since its judgments in Cantoral Benavides v. Peru (of August 18, 2000, paras. 95-96) and Maritza Urrutia v. Guatemala (of November 27, 2003, para. 89), the Inter-American Court has consistently maintained the absolute prohibition of torture and ill-treatment, under any circumstances, including war, threat of war, counter-terrorism activities, internal conflicts, or internal states of emergency or instability.

[FN54] Cf., very recently, e.g.: United Nations/Committee against Torture, Consideration of Reports Submitted by States Parties under Article 19 of the Convention - United States of America: Conclusions and Recommendations of the Committee against Torture, document CAT/C/USA/CO/2, of 18 May 2006, pp. 1-11; Council of Europe/Parliamentary Assembly - Committee on Legal Affairs and Human Rights, Alleged Secret Detentions in Council of Europe Member States - Memorandum (rapporteur D. Marty), document AS/JUR/2006/03.rev, of January 22, 2006, pp. 1-25; Council of Europe/Parliamentary Assembly - Committee on Legal Affairs and Human Rights, Alleged Secret Detentions and Unlawful Inter-State Transfers Involving Council of Europe Member States - Report (rapporteur D. Marty), document AS/JUR/2006/16/Part II, of June 7, 2006, pp. 1-71.

[FN55] A term inadequately used with ominous consequences.

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39. Throughout the centuries, it has been the thinkers and poets, rather than the jurists, who have warned of the absurdity and the criminality of war. Here, I would like to recall the alert sounded by three nineteenth-century authors who dealt with the issue with particular lucidity. In "Russia 1812", Victor Hugo, wrote:

"They were no longer living men and troops,
but a dream drifting in a fog, a mystery,
mourners parading under the black sky".

40. While, in "The Charge of the Light Brigade", Lord Tennyson lamented that:

"Their's not to make reply,
Their's not to reason why,
Their's but to do and die".

And, finally, Stephen Crane, wrote penetratingly:

"These men were born to drill and die.
The unexplained glory flies above them, (...)

A field where a thousand corpses lie. (...)
These men were born to drill and die.
Point for them the virtue of slaughter,
Make plain to them the excellence of killing
And a field where a thousand corpses lie" [FN56].

[FN56] Texts in: The Oxford Book of War Poetry (ed. J. Stallworthy), Oxford, University Press, 2003 [reed.], pp. 89, 115 and 132, respectively.

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41. Successive State crimes – those that have already been identified and proved, and those that are not yet known – continue to occur, before the complacent and indifferent eyes of most contemporary international jurists. State crimes have not ceased to exist because they affirm that State crime does not and cannot exist. To the contrary, State crime does exist and should not exist, and international jurists should make an effort to combat and sanction it as such. Most contemporary international legal doctrine has been omissive, by seeking to elude the issue. [FN57] It cannot continue to do so, because to ensure non-repetition the atrocities have fortunately been examined in recent reports [FN58] and the memory has been preserved by the growing number of publications by the survivors of massacres that were State crimes.

[FN57] The best thing the United Nations International Law Commission could do, in my opinion, would be to re-open, in 2007-2008, its consideration of its articles on international State responsibility, abandon the strictly State-centered and anachronic cosmovision that permeates them, remove the dust from and rescue the concept of State crime, and once again include it in the said articles, with the legal consequences (punitive damages). By doing this, the said work of the ILC would, I believe, gain in credibility and provide a service to the international community and, ultimately, to all humanity.

[FN58] Cf. collections: Masacres - Trazos de la Historia Salvadoreña Narrados por las Víctimas, 1a. ed., San Salvador, Ed. Centro para la Promoción de Derechos Humanos "M. Lagadec", 2006, pp. 17-390; Los Escuadrones de la Muerte en El Salvador, 2nd ed., San Salvador, Edit. Jaraguá, 2004, pp. 11-300; and cf. also A. Guadalupe Martínez, Las Cárceles Clandestinas, 8th ed., San Salvador, UCA Edit., 2004, pp. 27-456; S. Carranza (ed.), Mártires de la UCA, 6a. ed., San Salvador, UCA Edit., 2001, pp. 15-457; J.M. Tojeira, El Martirio Ayer y Hoy - Testimonio Radical de Fe y Justicia, 2nd. ed., San Salvador, UCA Edit., 2005, pp. 29-187; L. Binford, El Mozote: Vidas y Memorias, San Salvador, UCA Edit., 2005, pp. 15-338.

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42. There is irrefutable historic evidence that broad segments of the population acquiesced to and, at times, participated in some of the most serious State crimes (as a result of a prolonged process of indoctrination, at times intergenerational, and of propaganda on a vast scale). [FN59] I am not trying to suggest that this is a common trait of all State crimes; however, I do maintain that State crimes, planned and executed by the State and perpetrated in keeping with State policies (which vary in each case), can be attributed to the State as a juridical person of

international public law, and entail unavoidable judicial consequences for the State (such as punitive damages, as a form of reparation).

[FN59] D.J. Goldhagen, Hitler's Willing Executioners - Ordinary Germans and the Holocaust, N.Y., Vintage, 1997 [re-ed.], pp. 5 ff.

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43. In my opinion, the State does not constitute an "abstract entity" – as some traditional international and criminal legal doctrine insists – particularly, in the case of the perpetration of international crimes and offenses. It assembles a whole structure of repression and violence, within the framework of which international illegal acts are committed. One factor that has not been noted – or has been insufficiently taken into account to date – relates to the considerable difficulty of dismantling or "demobilizing" these different structures (for example, secret police, information and "intelligence" or informer services, death squads, "paramilitary groups," civil patrols, police battalions, State security agents, clandestine prisons, and other similar ones). [FN60]

[FN60] Cf. A.A. Cançado Trindade, "General Course on Public International Law - International Law for Humankind: Towards a New Jus Gentium", 316 Recueil des Cours de l'Académie de Droit International de La Haye (2005), chap. XV (to be published).

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44. But this is almost never mentioned. The truth is that crimes have been committed using these structures of repression, not only in the name of the State, but by the State itself, through its own agents or third parties supported by the latter (the "procurement" of cruelty). And they have been committed with the tolerance or acquiescence of society at times. In short, contrary to what has been thought over recent centuries, "the king can - indeed - do wrong", and societas delinquere potest.

VI. The right of access to justice lato sensu and the indivisibility between Articles 25 and 8 of the American Convention.

45. Another of the central issues examined by the Court in this judgment is access to justice lato sensu, consubstantiated in the indivisibility between Articles 25 and 8 of the American Convention, which I have been maintaining within this Court for many years. In this regard, in my recent and extensive separate opinion in the Pueblo Bello Massacre v. Colombia (judgment of January 31, 2006), I dealt, in a logical sequence, with the broad scope of the general guarantee obligation (Article 1(1) of the American Convention) and the obligations erga omnes of protection (paras. 2-13), the genesis, ontology and hermeneutics of Articles 25 and 8 of the American Convention (paras. 14-21), the irrelevance of the allegation of difficulties arising from domestic law (paras. 22-23), the right to an effective recourse in the case law of the Inter-American Court (paras. 24-27); then, I examined the indivisibility of access to justice (the right to an effective recourse) and the guarantees of due process of law (Articles 25 and 8 of the American Convention) (paras. 28-34), and concluded that this indivisibility, revealed in the

consistent case law of the Court to date (paras. 35-43), constituted “the legal heritage of the inter-American protection system and of the peoples of our region,” so that “I am firmly opposed to any attempt to dismantle it” (para. 33).

46. In my separate opinion the Pueblo Bello Massacre case, I stated that this indivisibility between Articles 25 and 8 of the American Convention was an “inviolable advance in case law" (paras. 44-52). [FN61] I then referred to the right of access to justice lato sensu, observing that:

"In the Reports I submitted to the competent organs of the Organization of American States (OAS) when President of the Inter-American Court, e.g., on April 19, 2002, and October 16, 2002, I emphasized my understanding as regards the broad scope of the right of access to justice at the international level; the right of access to justice lato sensu. [FN62] This right is not reduced to formal access, stricto sensu, to the judicial instance (both domestic and international), but also includes the right to a fair trial and underlies interrelated provisions of the American Convention (such as Articles 25 and 8), in addition to permeating the domestic law of the States Parties. [FN63] The right of access to justice, with its own juridical content, means, lato sensu, the right to obtain justice. In brief, it becomes the right that justice should be done.
One of the main components of this right is precisely direct access to a competent court, by means of an effective, prompt recourse, and the right to be heard promptly by this independent, impartial court, at both the national and international levels (Articles 25 and 8 of the American Convention). As I indicated in a recent publication, here we can visualize a true right to law; that is, the right to a national and international legal system that effectively safeguards the fundamental rights of the individual. [FN64]" (paras. 61-62).

[FN61] In the same separate opinion, I also referred to overcoming the vicissitudes regarding the right to an effective recourse in the development of the case law of the European Court of Human Rights (paras. 53-59).
[FN62] Cf. also A.A. Cançado Trindade, "El Derecho de Acceso a la Justicia Internacional y las Condiciones para Su Realización en el Sistema Interamericano de Protección de los Derechos Humanos,” 37 Revista del Instituto Interamericano de Derechos Humanos (2003) pp. 53-83; A.A. Cançado Trindade, "Hacia la Consolidación de la Capacidad Jurídica Internacional de los Peticionarios en el Sistema Interamericano de Protección de los Derechos Humanos," 37 Revista del Instituto Interamericano de Derechos Humanos (2003), pp. 13-52.
[FN63] In this regard, cf. E.A. Alkema, "Access to Justice under the ECHR and Judicial Policy - A Netherlands View," in Afmaelisrit pór Vilhjálmsson, Reykjavík, Bókaútgafa Orators, 2000, pp. 21-37.
[FN64] A.A. Cançado Trindade, Tratado de Direito Internacional dos Direitos Humanos, tome III, Porto Alegre/Brazil, S.A. Fabris Ed., 2002, chap. XX, p. 524, para. 187.
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47. Finally, in the same separate opinion in the Pueblo Bello Massacre, I reiterated my understanding that the right to law constitutes an “imperative of jus cogens":

"The indivisibility between Articles 25 and 8 of the American Convention that I maintain (supra) leads me to characterize access to justice, understood as the full realization of justice, as forming

part of the sphere of jus cogens; in other words, that the inviolability of all the judicial rights established in Articles 25 and 8 considered together belongs to the sphere of jus cogens. There can be no doubt that the fundamental guarantees, common to international human rights law and international humanitarian law, [FN65] have a universal vocation because they are applicable in any circumstance, constitute a peremptory right (belonging to jus cogens), and entail obligations erga omnes of protection. [FN66]

Following its historic Advisory Opinion OC-18/03 on the Juridical Status and Rights of Undocumented Migrants, the Court could and should have given this other qualitative step forward in its case law. I dare hope that it will do so as soon as possible, if it truly continues with its forward-thinking case law – instead of trying to halt it – and extends the advance courageously achieved in this Advisory Opinion with the continuing expansion of the material content of jus cogens" (paras. 64-65).

[FN65] E.g. Article 75 of Protocol I (1977) to the 1949 Geneva Conventions on international humanitarian law.

[FN66] Cf., likewise, see, e.g., M. El Kouhene, Les garanties fondamentales de la personne en Droit humanitaire et droits de l'homme, Dordrecht, Nijhoff, 1986, pp. 97, 145, 148, 161 and 241.

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48. I am particularly satisfied that, in this judgment on the Ituango Massacres, the Inter-American Court has, unanimously, remained true to its most lucid consistent case law in this respect, reiterating with great clarity its understanding that Articles 25 and 8 of the American Convention are ineluctably indivisible, as can be seen unequivocally from paragraphs 309 and 344 of this judgment. Likewise, paragraph 339 of this judgment observes correctly that:

"(...) When establishing the international responsibility of the State for the violation of the human rights embodied in Articles 8(1) and 25 of the American Convention, a substantial aspect of the dispute before the Court is not whether judgments were delivered at the national level or whether conciliation agreements were reached on the civil or administrative responsibility of a State body with regard to the violations committed to the detriment of the victims of human rights violations or their next of kin, but whether the domestic proceedings ensured real access to justice, in keeping with the standards established in the American Convention."

VII. The reaction of the juridical conscience: the evolution of the notion of victim

49. The case of the Ituango Massacres gives rise to another line of reflection. The next of kin of the deceased and the surviving victims of the massacre have finally found justice before this international judicial instance. Through this judgment, those who were murdered have had their suffering recognized and their memory honored. The Court has also assessed positively the initiative of the defendant State in this dispute acknowledging its international responsibility for certain facts (although, I am surprised it did not extend that acknowledgment before this international jurisdiction to the juridical consequences of those facts). In brief, the juridical conscience (source of all law) was awakened to do justice to the victims of the Ituango massacre, which was inserted in a pattern of massacres that have plagued the country in question.

50. We must not forget that the notion of victim – on which I have been reflecting for many years [FN67] - continues to evolve in international human rights law. This judgment of the Court bears witness to this, because following the line of thinking that expands the notion of victim in cases of massacres (paras. 92-95), it has considered that all those affected to different degrees by the Ituango massacre are victims, reflecting the differences in their situation in the different forms of reparation. All are victims, even though the reparations vary in keeping with the specific circumstances of each of them.

[FN67] Cf., e.g., A.A. Cançado Trindade, "Co-Existence and Co-Ordination of Mechanisms of International Protection of Human Rights (At Global and Regional Levels)", 202 Recueil des Cours de l'Académie de Droit International de La Haye (1987), chap. XI: "The Evolution of the Notion of Victim or of the Condition of the Complainant in the International Protection of Human Rights", pp. 243-299; A.A. Cançado Trindade, "O Esgotamento dos Recursos Internos e a Evolução da Noção de `Vítima' no Direito Internacional", 3 Revista del Instituto Interamericano de Derechos Humanos (1986) pp. 5-78.

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51. This judgment of the Court has thus, in my opinion, correctly contributed to expanding the concept of victims of grave human rights violations: all those affected by the massacre are victims, with juridical consequences that vary from one case to another. Consequently, the reparations are also different; they include, for example the guarantee of voluntary return of those forcibly displaced as a form of collective non-pecuniary reparation (and I consider that this is extremely important in the context of the immense human tragedy that afflicts Colombia). [FN68] In this way, an effort is made to mitigate the anguish of the surviving victims (whose lives will never be the same after the Ituango massacres), and to enhance their connection with their dead, by honoring the memory of the latter. And, finally, an effort was also made to reaffirm the necessary primacy of law over brute force.

[FN68] In this judgment, the Court observed correctly that “the situation of internal forced displacement endured by the victims in this case cannot be separated from the other violations declared in this judgment." (para. 234), so that it also considered as victims the 702 (seven hundred and two) persons displaced from El Aro and La Granja (para. 238).

Antônio Augusto Cançado Trindade
Judge

Pablo Saavedra-Alessandri
Secretary

Appendix I. Judgment. Case of the Ituango Massacres

No.	Victim / Next of Kin	Articles CADH	Relationship	Reparation for Pecuniary	Reparation for Non-

		violated		Damages - Lucrum Cessans (USD$)(N/A = not applicable)	Pecuniary Damages (USD$)
LA GRANJA	LA GRANJA	LA GRANJA	LA GRANJA	LA GRANJA	LA GRANJA
1	William de Jesús Villa García	4y 5	Executed Victim	$ 63.000,00	30.00
1,1	Luis Alfredo Villa Zuleta	5	Father	**	10.000,00
1,2	Carmen Emilia García	5	Mother	**	10.000,00
1,3	Miryam Henao Carmona	5	Spouse	**	10.000,00
2	María Graciela Arboleda Rodríguez	4y 5	Executed Victim	$ 42.000,00	30.000,00
2,1	Adán Antonio Arboleda	5	Father	**	10.000,00
2,2	María Isabel Rodríguez	5	Mother	**	10.000,00
3	Jairo de Jesús Sepúlveda Arias	4y 5	Executed Victim	$ 43.500,00	30.00
3,1	Abraham Sepúlveda	5	Father	**	10.000,00
3,2	María Inés Arias	5	Mother	**	10.000,00
4	4Héctor Hernán Correa García	4y 5	Executed Victim	$ 45.000,00	30.000,00
4,1	María Libia García de Correa	5	Mother	**	10.000,00
4,2	Adán Enrique Correa García	5	Father	**	10.000,00
4,3	Dora Luz Correa García	5	Sister	**	1.500,00

4,4	Olga Regina Correa García	5	Sister	**	1.500,00
4,5	Jorge Enrique Correa García	5	Brother	**	1.500,00
4,6	Alba Cecilia Correa García	5	Sister	**	1.500,00
4,7	Nubia de los Dolores Correa García	5	Sister	**	1.500,00
4,8	Gloria Lucía Correa García	5	Sister	**	1.500,00
4,9	Luis Gonzalo Correa García	5	Brother	**	$ 1.500,00
4.10.	Samuel Antonio Correa García	5	Brother	**	$ 1.500,00
4,11	Jorge Wbeimar Correa Sánchez	5y 19	Nephew	**	$ 12.500,00
EL ARO	EL ARO	EL ARO	EL ARO	EL ARO	EL ARO
5	Wilmar de Jesús Restrepo Torres	4y 5	Executed Victim	$ 79.500,00	$ 35.000,00
5,1	María Edilma Torres Jaramillo	5	Mother	**	$ 10.000,00
5,2	Jesús María Restrepo Ospina	5	Father	**	$ 10.000,00
5,3	Diana Maryory Restrepo Torres	5	Sister	**	$ 1.500,00
5,4	Yuber Arley Restrepo Torres	5	Brother	**	$ 1.500,00
5,5	Miladis del Carmen Restrepo Torres	5	Sister		$ 1.500,00
5,6	Nicolás Albeiro	5	Brother		$

	Restrepo Torres				1.500,00
5,7	Gema Inés Restrepo Torres	5	Sister	**	$ 1.500,00
6	Olcris Fail Díaz Pérez	4y 5	Executed Victim	$ 61.500,00	$ 30.000,00
6,1	Mercedes Rosa Pérez de Díaz	5	Mother	**	$ 10.000,00
6,2	Heriberto Díaz Díaz	5	Father		$ 10.000,00
6,3	Luz Nelly Díaz Pérez	5	Sister		$ 1.500,00
6,4	Deicy Berenice Díaz Pérez	5	Sister	**	$ 1.500,00
6,5	Iraima Díaz Pérez	5	Sister		$ 1.500,00
6,6	Alexander de Jesús Díaz Pérez	5	Brother	**	$ 1.500,00
6,7	Nohelia Díaz Pérez	5	Sister		$ 1.500,00
7	Otoniel de Jesús Tejada Jaramillo	4y 5	Executed Victim	$ 40.500,00	$ 30.000,00
7,1	María Eugenia Gaviria Vélez	5	Spouse	**	$ 10.000,00
7,2	Israel Antonio Tejada	5	Father	**	$ 10.000,00
7,3	María Dolores Jaramillo Oquendo	5	Mother	**	$ 10.000,00
7,4	Danilo de Jesús Tejada Jaramillo	5	Brother	**	$ 1.500,00
8	Nélson de Jesús Palacio Cárdenas	4y 5	Executed Victim	N/A	$ 30.000,00
8,1	Gladiz Elena	5	Partner	**	$

	Jaramillo Cano				10.000,00
8,2	Alexander Palacio Jaramillo	5	Son	**	$ 10.000,00
8,3	Nelson Adrián Palacio Jaramillo	5	Son	**	$ 10.000,00
8,4	John Fredy Palacio Posso	5	Son	**	$ 10.000,00
9	Guillermo Andrés Mendoza Posso	4y 5	Executed Victim	N/A	$ 30.000,00
9,1	Libardo Mendoza	5	Father	**	$ 10.000,00
9,2	María Leticia Posso Molina	5	Mother	**	$ 10.000,00
9,3	Diego Fernando Mendoza Posso	5	Brother	**	$ 1.500,00
9,4	Diana Patricia Mendoza Posso	5	Sister	**	$ 1.500,00
9,5	Yovanny Mendoza Posso	5	Brother	**	$ 1.500,00
9,6	Viviana Janeth Mendoza Posso	5	Sister	**	$ 1.500,00
9,7	Jael Rocío Mendoza Posso..	5	Sister	**	$ 1.500,00
9,8	Magnolia Emilsen Mendoza Posso	5	Sister	**	$ 1.500,00
9,9	Beatriz Amalia Mendoza Posso	5	Sister	**	$ 1.500,00
9.10.	Rodrigo Alberto Mendoza Posso	5	Brother	**	$ 1.500,00
10	Omar Iván Gutiérrez Nohavá	4y 5	Executed Victim	N/A	$ 30.000,00

10,1	José Aníbal Gutiérrez Jaramillo	5	Father	**	$ 10.000,00
10,2	Rosa María Nohavá de Gutiérrez	5	Mother	**	10.000,00
10,3	Eliana Juliet Gutiérrez Jiménez	5	Daughter	**	10.000,00
10,4	Juliana Andrea Gutiérrez Jiménez	5	Daughter	**	10.000,00
10,5	Fabio Arley Gutiérrez Nohavá	5	Brother	**	1.500,00
10,6	Rosmira Gutiérrez Nohavá	5	Sister	**	1.500,00
10,7	María Luciria Gutiérrez Nohavá	5	Sister	**	1.500,00
10,8	Víctor Manuel Tobón Nohavá5	5	Half brother from Mother	**	1.500,00
10,9	Jair Ovidio Tobón Nohavá5	5	Half Brother from Mother		1.500,00
10.10.	Walter Alirio tobón Nohavá5	5	Medio hermano por parte de madre		1.500,00
10,11	Francisco Daniel Córdoba Gutiérrez	5	Nephew	**	10.000,00
10,12	Yésica Natalia Martínez Gutiérrez	5	Niece	**	10.000,00
11	Dora Luz Areiza Arroyave	4y 5	Executed Victim	$ 81.000,00	30.000,00

11,1	Luis Ufrán Areiza Posso	5	Father	**	10.000,00
11,2	Jael Esther Arroyave Posso	5	Mother	**	10.000,00
11,3	Noelia Estella Areiza Arroyave	5	Sister	**	1.500,00
11,4	Freidon Esteban Areiza Arroyave	5	Brother	**	1.500,00
11,5	Robinson Argiro Areiza Arroyave	5	Brother	**	1.500,00
12	Marco Aurelio Areiza Osorio	4y 5	Executed Victim	N/A	30.000,00
12,1	Carlina Tobón de Areiza	5	Spouse	**	$ 10.000,00
12,2	Gabriela Patricia Areiza Tobón	5	Daughter	**	$ 10.000,00
12,3	Yonny Aurelio Areiza Tobón5Son	5	Son	**	$ 10.000,00
12,4	Miryam Lucía Areiza Tobón	5	Daughter	**	$ 10.000,00
12,5	Mario Alberto Areiza Tobón5Son	5	Son	**	$ 10.000,00
12,6	Lillyam Amparo Areiza Tobón	5	Daughter	**	$ 10.000,00
12,7	José Leonel Areiza Posada	5y 19	Son	**	$ 12.500,00
12,8	Marco Aurelio Areiza Posada	5y 19	Son	**	$ 12.500,00
12,9	Rosa María Posada George	5	Partner	**	$ 10.000,00
13	Luis Modesto Múnera Posada	4y 5	Executed Victim	N/A	$ 30.000,00

13,1	María Gloria Granda	5	Spouse	**	$ 10.000,00
13,2	Astrid Elena Múnera Granda	5	Daughter	**	$ 10.000,00
13,3	María Clementina Múnera Granda	5	Daughter	**	$ 10.000,00
13,4	María Aracelly Múnera Granda	5	Daughter	**	$ 10.000,00
13,5	Gloria Emilsen Múnera Granda	5	Daughter	**	$ 10.000,00
13,6	Marta Consuelo Múnera Granda	5	Daughter	**	$ 10.000,00
13,7	Juan Alberto Múnera Granda	5	Son	**	$ 10.000,00
14	José Darío Martínez Pérez	4y 5	Executed Victim	N/A	$ 30.000,00
14,1	María Ester Orrego	5	Spouse	**	10.000,00
14,2	María Elena Martínez Orrego	5	Daughter	**	10.000,00
14,3	Rosa Delfina Martínez Orrego	5	Daughter	**	10.000,00
14,4	Carlos Arturo Martínez Orrego	5	Son	**	10.000,00
14,5	José Edilberto Martínez Orrego	5	Son	**	10.000,00
14,6	Edilson Darío Orrego	5	Illegitimate Child	**	10.000,00
14,7	William Andrés Orrego	5	Illegitimate Child	**	10.000,00
14,8	Mercedes Rosa Patiño Orrego	5	Daughter	**	10.000,00

14,9	Heraldo Enrique Martínez Pérez	5	Brother	**	1.500,00
15	Omar de Jesús Ortíz Carmona	4y 5	Executed Victim	$ 55.500,00	30.000,00
15,1	María Livia Carmona de Ortiz	5	Mother	**	10.000,00
15,2	Jesús María Ortiz	5	Father	**	10.000,00
15,3	Rosángela Ortiz Carmona	5	Sister	**	1.500,00
15,4	Gudiela del Carmen Ortiz Carmona	5	Sister	**	1.500,00
15,5	María Oliva Calle Fernández	5	Partner	**	10.000,00
15,6	Omar Alveiro Calle Fernández o Omar Alveiro Ortiz Calle	5	Son	**	10.000,00
15,7	Juan Carlos Calle Fernández o Juan Carlos Ortiz Calle	5	Son	**	10.000,00
15,8	Deisy Tatiana Calle Fernández o Deisy Tatiana Ortiz Calle	5	Illegitimate Child	**	10.000,00
15,9	Johan Daniel Calle Fernández o Johan Daniel Ortiz Calle	5	Illegitimate Child	**	10.000,00
15.10.	Cristian de Jesús Calle Fernández	5	Illegitimate Child	**	10.000,00

16	Fabio Antonio Zuleta Zabala	4y 5	Executed Victim	$ 19.500,00	30.000,00
16,1	Roberto Zuleta	5	Father	**	10.000,00
16,2	María Magdalena Zabala Mesa	5	Mother	**	10.000,00
16,3	Margarita Zuleta Zabala	5	Sister	**	1.500,00
16,4	Rodrigo de Jesús Zuleta Zabala	5	Brother	**	1.500,00
16,5	Orlando Antonio Zuleta Zabala	5	Brother	**	1.500,00
16,6	Celia Monsalve Zabala	5	Half Sister from Mother	**	2.000,00
16,7	Aracelly de Jesús Zuleta Zabala	5	Sister	**	1.500,00
16,8	María Graciela Cossio Jaramillo	5	Partner	**	10.000,00
16,9	Jeison Andrés Zuleta Cossio	5	Son	**	1.500,00
16.10.	Carlos Adrián Zuleta Cossio	5	Son	**	1.500,00
16,11	Juan Felipe Zuleta Cossio	5	Son	**	1.500,00
17	Rosa Areiza Barrera	4y 5	Executed Victim	$ 67.500,00	30.000,00
17,1	Eligio Pérez Aguirre	5	Spouse	**	10.000,00
17,2	Yamilcen Eunice Pérez Areiza	5	Daughter	**	10.000,00
17,3	Julio Eliver Pérez Areiza	5	Son		10.000,00
17,4	Eligio de Jesús	5	Son		10.000,00

	Pérez Areiza				
17,5	Omar Daniel Pérez Areiza	5y 19	Son	**	12.500,00
17,6	Ligia Lucía Pérez Areiza	5	Daughter	**	10.000,00
17,7	Gabriel Ángel Areiza	5	Father	**	10.000,00
17,8	Mercedes Rosa Barrera	5	Mother	**	10.000,00
18	Arnulfo Sánchez Álvarez	4y 5	Executed Victim	$ 1.500,00	$ 30.000,00
18,1	Teresa del Niño Jesús Álvarez Palacio	5	Spouse	**	$ 10.000,00
18,2	Vilma Ester Sánchez Álvarez	5	Daughter	**	$ 10.000,00
19	Alberto Correa	4y 5	Executed Victim	$ 1.500,00	$ 30.000,00
19,1	Mercedes Barrera	5	Spouse	**	$ 10.000,00

Appendix II. Judgment. Case of the Ituango Massacres			
No.	Name of the Victim	Articles of the CADH violated	Reparation for Non-Pecuniary Damages
1	Alberto Lopera	5, 6y7	$ 4.000,00
2	Argemiro Echavarría	5, 6y7	$ 4.000,00
3	Eduardo Rúa	5, 6y7	$ 4.000,00
4	Eulicio García	5, 6y7	$ 4.000,00
5	Felipe Gómez	5y 6	$ 4.000,00
6	Francisco Osvaldo Pino Posada	5, 6y7	$ 4.000,00
7	Gilberto Lopera	5, 6y7	$ 4.000,00
8	José Luis Palacio	5, 6y7	$ 4.000,00
9	Libardo Carvajal	5, 6y7	$ 4.000,00
10	Milciades de Jesús Crespo	5, 6y7	$ 4.000,00
11	Noveiri Antonio Jiménez Jiménez	5, 6y7	$ 4.000,00

12	Omar Alfredo Torres Jaramillo	5, 6y7	$	4.000,00
13	Ricardo Barrera	5, 6y7	$	4.000,00
14	Rodrigo Alberto Mendoza Posso	5, 6y7	$	4.000,00
15	Román Salazar	5, 6y7	$	4.000,00
16	Thomas Monsalve	5y 6	$	4.000,00
17	William Chavarria	5, 6y7	$	4.000,00

Appendix III. Judgment. Case of the Ituango Massacres					
NO.	Victim	Rights of the CADH violated	Reparation for Pecuniary Damages (USD$) (N/A = not applicable)	Reparation for Non-Pecuniary Damages (USD$)	Other forms of reparation (N/A = not applicable)
1	Bernardo María Jiménez Lópera	5, 11.2, 21 y 22	$ 12.000,00	$ 12.000,00	N/A
2	Francisco Osvaldo Pino Posada	5 y 21	$ 2.000,00	$ 3.500,00	N/A
3	Libardo Mendoza	5, 11.2, 21 y 22	$ 8.000,00	$ 12.000,00	N/A
4	Luis Humberto Mendoza Arroyave	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 12.000,00	House Program
5	Omar Alfredo Torres Jaramillo	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
6	Ricardo Alfredo Builes Echeverri	5 y 21	N/A	$ 3.500,00	N/A
7	Albeiro Restrepo	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
8	Alfonso Gómez	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
9	Amparo Posada	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
10	Antonio Muñóz	5, 11.2 y 21	$ 3.000,00	$ 6.000,00	House Program
11	Arcadio Londoño	5, 11.2 y 21	N/A	$ 3.500,00	N/A
12	Argemira Crespo	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
13	Argemiro González	5y 21	$ 3.000,00	N/A	N/A
14	Aurelio Sepúlveda	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
15	Berta Inés Mendoza	5, 11.2, 21 y 22	$ 2.000,00	$ 12.000,00	House Program

	Arroyave				
16	Carlos Gutiérrez	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
17	Carlos Mendoza	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
18	Clara López	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
19	Dario Mora	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
20	Fabio de Jesús Tobón Gutiérrez	5y 21	$ 3.000,00	$ 3.500,00	N/A
21	Francisco Eladio Ortiz Bedoya	5 y 21	$ 3.000,00	$ 3.500,00	N/A
22	Gilberto Lópera	5, 11.2 y 21	$ 3.000,00	$ 9.500,00	House Program
23	Gildardo Jaramillo	5 y 21	$ 5.000,00	N/A	N/A
24	Gustavo Adolfo Torres Jaramillo	5, 11.2, 21 y 22	$ 1.500,00	$ 12.000,00	House Program
25	Hilda Uribe	5y 21	$ 3.000,00	$ 3.500,00	N/A
26	Jaime Posso	5y 21	$ 3.000,00	$ 3.500,00	N/A
27	José Gilberto López Areiza	5 y 21	$ 3.000,00	$ 3.500,00	N/A
28	José Noe Pelaez Chavarría	5 y 21	$ 1.500,00	$ 3.500,00	N/A
29	José Torres	5 y 21	$ 3.000,00	$ 3.500,00	N/A
30	Javier García	5y 21	$ 3.000,00	$ 3.500,00	N/A
31	Lucelly Torres Jaramillo	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 12.000,00	House Program
32	Luis Argemiro Arango Torres	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
33	Luis Carlos Mendoza Rúa	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 9.500,00	House Program
34	Marco Aurelio Areiza Osorio	5 y 21	N/A	$ 3.500,00	N/A
35	María Edilma Torres Jaramillo	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
36	María Esther Jaramillo Torres	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program

37	María Vásquez	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
38	Mercedes Jiménez	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
39	Miguel Chavaría	5, 11.2, 21 y 22	$ 3.000,00	$ 12.000,00	House Program
40	Miguel Ángel Echavarría	5, 11.2, 21 y 22	$ 3.000,00	$ 12.000,00	House Program
41	Miriam Cuadros	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
42	Nelson de Jesús Palacio Cárdenas (familiares)	5, 11.2, 21 y 22	N/A	$ 8.500,00	N/A
42,1	John Fredy Palacio Posso	heredero	$ 3.000,00	N/A	N/A
43	Omar Iván Gutiérrez Nohavá (familiares)	5, 11.2, 21 y 22	N/A	$ 12.000,00	N/A
43,1	Juliana Andrea Gutiérrez Jiménez	heredero	$ 3.000,00	N/A	N/A
43,2	Eliana Judith Gutiérrez Jiménez	heredero	$ 3.000,00	N/A	N/A
44	Rafael Ángel Piedrahita Areiza	5, 11.2, 21 y 22	$ 10.000,00	$ 12.000,00	N/A
45	Rafael Ángel Piedrahita Henao	5, 11.2, 21 y 22	$ 1.000,00	$ 12.000,00	House Program
46	Rafael Posada	5y 21	$ 3.000,00	$ 3.500,00	N/A
47	Ramón Molina Torres	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
48	Ramón Posada	5, 11.2, 21 y 22	$ 3.000,00	$ 12.000,00	House Program
49	Ricardo Barrera	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
50	Rodrigo Alberto Mendoza Posso	5y 21	$ 3.000,00	$ 3.500,00	N/A
51	Samuel Martínez	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
52	Santiago Serna	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
53	Vicente Posada	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 12.000,00	House Program

54	Armando Jaramillo Cano	5, 11.2, 21 y 22	N/A (See "Other forms of reparation")	$ 8.500,00	House Program
55	Hermilda Correa	5, 11.2 y 21	N/A (See "Other forms of reparation")	$ 6.000,00	House Program
56	Judith Molina	5, 11.2 y 21	$ 3.000,00	$ 9.500,00	House Program
57	Santiago Martínez	5, 11.2, 21 y 22	$ 5.000,00	$ 8.500,00	N/A
58	Servando Antonio Areiza	5, 11.2, 21 y 22	$ 5.000,00	N/A	N/A
59	Marcelino Barrera	5, 21 y 22	$ 2.000,00	$ 12.000,00	House Program

	Appendix IV. Judgment. Case of the Ituango Massacres	
	(victims of the violation of Articles 5 y 22 of the Convention)	
	LAST NAME	FIRST NAME
1	ARANGO CORREA	EVER ANDRÉS
2	ARANGO CORREA	MÓNICA LINEY
3	AREIZA	ALBEIRO
4	AREIZA	ANA DE JESÚS
5	AREIZA	ARÍSTIDES
6	AREIZA	CARLOS ARTURO
7	AREIZA	DANIEL AMPARO
8	AREIZA	DORA ÁNGELA
9	AREIZA	FABIÁN HUMBERTO
10	AREIZA	FELIPE ANTONIO
11	AREIZA	JAIDER
12	AREIZA	JAIRO J.
13	AREIZA	JESÚS MARÍA
14	AREIZA	JOHN FRANCY
15	AREIZA	JUAN DE DIOS
16	AREIZA	LUZ MARY
17	AREIZA	LUZNIDIA
18	AREIZA	MARÍA NINFA
19	AREIZA	MARTHA FABIOLA
20	AREIZA	MAURICIO
21	AREIZA	NINFA AMPARO
22	AREIZA	ROCÍO
23	AREIZA	SANDRA LI LI ANA
24	AREIZA	SEFERINO
25	AREIZA	SEFERINO
26	AREIZA	YOVANI
27	AREIZA A.	CÉSAR
28	AREIZA ARROYAVE	FREIDON ESTEBAN

29	AREIZA ARROYAVE	NOELIA ESTELA
30	AREIZA ARROYAVE	ROBINSON ARGIRO
31	AREIZA BETANCUR	OMAIRA
32	AREIZA GIRALDO	EDGAR DARÍO
33	AREIZA GUTIÉRREZ	DAVINSON DANIEL
34	AREIZA GUTIÉRREZ	ROBINSON ALDEMAR
35	AREIZA HERNÁNDEZ	JOSÉ ALDEMAR
36	AREIZA JARAMILLO	GILDARDO
37	AREIZA JARAMILLO	PEDRO PABLO
38	AREIZA M.	MARÍA DORALBA
39	AREIZA MONSALVE	JESÚS
40	AREIZA PINO	SERVANDO ANTONIO
41	AREIZA POSADA	JOSÉ LEONEL
42	AREIZA POSADA	MARICOAURELIO
43	AREIZA POSSO	GEORGINA
44	AREIZA POSSO	LIGIAAMADA
45	AREIZA POSSO	MARÍA BERNARDA
46	AREIZA POSSO	MARÍA DORALBA
47	AREIZA SUCERQUIA	LUZ DARY
48	AREIZA TOBON	JOHNYAURELIO
49	AREIZA ZAPATA	TATIANA
50	BARRERA	ANA MARÍA
51	BARRERA	BEATRIZ ELENA
52	BARRERA	FERNANDINA
53	BARRERA	FRANCISCO ARTURO
54	BARRERA	JAVIER NORBEY
55	BARRERA	JOSÉ MARÍA
56	BARRERA	MARCELINO
57	BARRERA	MERCEDES
58	BARRERA	MERCEDES ROSA
59	BARRERA	OMAR ANDRÉS
60	BARRERA	PABLO EMILIO
61	BARRERA	PEDRO JULIO
62	BARRERA	ROSA MARGARITA
63	BARRIENTOS	DELFINAS.
64	BETANCUR	ALBA ROSA
65	BETANCUR	DEISY TATIANA
66	BETANCUR	DUAN
67	BETANCUR	JUAN ESTEBAN
68	CALLE FERNÁNDEZ	CRISTIAN DE JESÚS
69	CALLE FERNÁNDEZ	DEICY TATIANA
70	CALLE FERNÁNDEZ	JUAN CARLOS
71	CALLE FERNÁNDEZ	MARÍA OLVIA
72	CALLE FERNÁNDEZ	OMARALVEIRO

73	CALLEJAS	YANCELLY
74	CALLEJAS	YAZMÍN
75	CANO	LEONARDO
76	CANO GUERRA	ELIAS
77	CANO GUERRA	GLORIA
78	CANO GUERRA	MANUEL SALVADOR
79	CANO GUERRA	OMAIRA
80	CANO JARAMILLO	MANUEL SALVADOR
81	CANO MENDOZA	CINDY DANIELA
82	CANO MÚNERA	GERALDINE
83	CARMONA DE ORTÍZ	MARÍA LIBIA
84	CARVAJAL	BERTHA
85	CARVAJAL	GILBERTO
86	CARVAJAL	JAIME DE JESÚS
87	CARVAJAL	LEIDYVIVIANA
88	CARVAJAL	LUIS DAVID
89	CARVAJAL	WILBERARVEY
90	CARVAJAL	WILMARALBEIRO
91	CHAVARRÍA	ALBEIRO ANTONIO
92	CHAVARRÍA	ANA LUCÍA
93	CHAVARRÍA	ÁNGELA MARÍA
94	CHAVARRÍA	BERNARDO
95	CHAVARRÍA	CLAUDIA CATALINA
96	CHAVARRÍA	ELIDIAVIVIANA
97	CHAVARRÍA	FLOR MARINA
98	CHAVARRÍA	GLORIA LUZ
99	CHAVARRÍA	JUAN GABRIEL
100	CHAVARRÍA	LINA MARÍA
101	CHAVARRÍA	LUIS ALFONSO
102	CHAVARRÍA	LUIS REINALDO
103	CHAVARRÍA	LUZ STELLA
104	CHAVARRÍA	MARÍA CRISTINA
105	CHAVARRÍA	MARIO JAVIER
106	CHAVARRÍA	MIGUEL ÁNGEL
107	CHAVARRÍA	NEVIO MAURICIO
108	CHAVARRÍA	RAÚL ANTONIO
109	CHAVARRÍA	ROSAAMPARO
110	CÓRDOBA GUTIÉRREZ	FRANCISCO DANIEL
111	CORREA	ESTHER ÚBITER
112	CORREA	GABRIEL ÁNGEL
113	CORREA	LAURA ROSA
114	CORREA AREIZA	VÍCTOR EMILIO
115	CORREA CORREA	ALINA PATRICIA
116	CORREA CORREA	DIANA CECILIA

117	CORREA CORREA	GENNYYOHANA
118	CORREA CORREA	JUAN DANIEL
119	CORREA GARCÍA	ADAN ENRIQUE
120	CORREA GARCÍA	ALBA CECILIA
121	CORREA GARCÍA	DORA LUZ
122	CORREA GARCÍA	GLORIA LUCÍA
123	CORREA GARCÍA	JORGE ENRIQUE
124	CORREA GARCÍA	LUIS GONZALO
125	CORREA GARCÍA	NUBIA DE LOS DOLORES
126	CORREA GARCÍA	OLGAREGINA
127	CORREA GARCÍA	SAMUEL ANTONIO
128	CORREA MENDOZA	ALBA
129	CORREA MENDOZA	ALBELIDA
130	CORREA MENDOZA	ELOLISOMAIRA
131	CORREA MENDOZA	LUZ NEDY
132	CORREA SÁNCHEZ	ANGY VANESA
133	CORREA SÁNCHEZ	JORGE WEIMAR
134	CORREA TOBON	MARÍA ELENA
135	CORREA TOBON	OLGACRISTINA
136	COSSIO JARAMILLO	MARÍA GRACIELA
137	CRESPO	MILICIADESDE JESÚS
138	CUADRO	ANDRÉS
139	CUADRO	DUBER ALFREDO
140	CUADRO	GIRLEZA DEL SOCORRO
141	CUADRO	HILDA DEL SOCORRO
142	CUADRO	ISNEDA DEL CARMEN
143	CUADRO	JAIBER ALFONSO
144	CUADRO	MIRIAM DEL CARMEN
145	CUADRO	NORMA
146	CUADROS	ARCADIO
147	CUADROS	DORAEMILSEN
148	CUADROS	ELÍAS
149	CUADROS	FREDYHUMBERTO
150	CUADROS	JAIME DE JESÚS
151	CUADROS	LUIS ALBERTO
152	CUADROS	MILVIAROSA
153	CUADROS	OSCAR DARÍO
154	CUADROS	ROSANA
155	CUADROS PÉREZ	NUBIA
156	CUADROS ZAPATA	AUGUSTO
157	CUADROS ZAPATA	OMAR DANIEL
158	DELCALLEJACH.	EUNICE
159	DÍAZ	HERIBERTO
160	DIAZ PÉREZ	ALEXANDER

161	DIAZ PÉREZ	LUZ NELLY
162	DIAZ NARANJO	DUMAR DANEY
163	DIAZ NARANJO	EDISON LEANDRO
164	DIAZ NARANJO	FRANCIA MARICELA
165	DIAZ NARANJO	KELY DURLEY
166	DIAZ PÉREZ	JAIRO HUMBERTO
167	ECHAVARRÍA	MARÍA GENIVERA
168	ECHAVARRÍA H.	ROSALBA
169	ECHAVARRÍA POSADA	PIEDAD
170	ESCOBAR	ANA LUCÍA
171	ESCOBAR	MARÍA JOSÉFINA
172	ESCOBAR	RAMÓN EMILIO
173	ESPINOSA	HILDUARA
174	ESPINOSA	LETICIA
175	ESPINOSA	MAGDALENA
176	ESPINOSA	OSCAR DE JESÚS
177	ESPINOSA PEÑA	LUIS CARLOS
178	ESPINOSA TORRES	BLANCAARNOBIA
179	ESPINOSA TORRES	CARLOS ELI ÉCER
180	ESPINOSA TORRES	DIEGO FERNANDO
181	ESPINOSA TORRES	FABIÁN ALONSO
182	ESPINOSA TORRES	FREDY
183	ESPINOSA TORRES	GILBERTO ELIAS
184	ESPINOSA TORRES	MARTHA ELENA
185	ESPINOSA TORRES	MÓNICA VIVIANA
186	ESPINOSA TORRES	YAELI
187	FLORES VEGA	SANDRA MILENA
188	GARCÍA	ALDEMAR
189	GARCÍA	CÉSAR DE JESÚS
190	GARCÍA	CRISTIAN ANDRÉS
191	GARCÍA	DANIEL ORLAY
192	GARCÍA	DENIS JAVIER
193	GARCÍA	EIDEZYORVEI
194	GARCÍA	GABRIEL
195	GARCÍA	GLORIA CECILIA
196	GARCÍA	JAIME DE JESÚS
197	GARCÍA	JANETH ANDREA
198	GARCÍA	JESÚS MARÍA
199	GARCÍA	JOSÉ GUSTAVO
200	GARCÍA	JULIÁN
201	GARCÍA	LUZ MIRIAM
202	GARCÍA	MARIANO ARCADIO
203	GARCÍA	NATALY VIVIANA
204	GARCÍA	NEIRA DEL SOCORRO

205	GARCÍA	NELSON ALDEMAR
206	GARCÍA	OMAR DARÍO
207	GARCÍA	SILVIA ELENA
208	GARCÍA	VERÓNICA MARELIS
209	GARCÍA	VÍCTOR HUGO
210	GARCÍA	VICTORIA JAZMÍN
211	GARCÍA	WILLIAM IVAN
212	GARCÍA	YANET MARÍA
213	GARCÍA DE CORREA	MARÍA LIBIA
214	GARRO MOLINA	FANNY DEL SOCORRO
215	GAVIRIA	CARLOS MARIO
216	GAVIRIA	GILBERTO ANTONIO
217	GEORGE	ADIER DE JESÚS
218	GEORGE	AICARDO
219	GEORGE	ALFONSO
220	GEORGE	CATALINA
221	GEORGE	CELMIRA DEL SOCORRO
222	GEORGE	CRISTIAN ALONSO
223	GEORGE	DEISON
224	GEORGE	DORAN
225	GEORGE	EDILMA
226	GEORGE	EIDER HUMBERTO
227	GEORGE	ELDA ROSA
228	GEORGE	ELIANA DEL SOCORRO
229	GEORGE	ELIÉCER
230	GEORGE	FABIÁN ALFONSO
231	GEORGE	FRANCIDI A
232	GEORGE	GLORIA EMILSEN
233	GEORGE	HERNANDOARGIRO
234	GEORGE	HUMBERTO
235	GEORGE	JAIME ALFONSO
236	GEORGE	JOAQUÍN EDUARDO
237	GEORGE	JUAN
238	GEORGE	JULIO
239	GEORGE	JULIO ARCÁNGEL
240	GEORGE	LAZARO
241	GEORGE	LINA MARÍA
242	GEORGE	MARGARITA
243	GEORGE	MARÍA NOHEMY
244	GEORGE	NANCY DEL SOCORRO
245	GEORGE	NEILA ROSA
246	GEORGE	NIDIA DEL CARMEN
247	GEORGE	NONATO
248	GEORGE	PEDRO LUIS

249	GEORGE	RODRIGO ESTEBAN
250	GEORGE	ROSA MARINA
251	GEORGE	SAÚL ARTURO
252	GEORGE	WALTER
253	GEORGE	YAIR DE JESÚS
254	GEORGE	YOBAIRA
255	GEORGE	YOHANY
256	GEORGE	YOLANDA
257	GEORGE	YULIANA
258	GEORGE GEORGE	JOAQUÍN
259	GEORGE GEORGE	NONATO
260	GEORGE HERNÁNDEZ	FERNANDO ELÍAS
261	GEORGE HERNÁNDEZ	YESSICA
262	GEORGE P.	MARTHA INÉS
263	GEORGE PÉREZ	HUGO
264	GEORGE PÉREZ	SOCORRO
265	GIRALDO	JUAN ARCÁNGEL
266	GIRALDO POSADA	ALEXIS
267	GIRALDO POSADA	BAUDILIO
268	GIRALDO POSADA	DIBIA
269	GIRALDO POSADA	ELISENIA
270	GIRALDO POSADA	NELLY EUGENIA
271	GIRALDO POSADA	YESI
272	GÓMEZ	MARÍA DEL CARMEN
273	GÓMEZ	ROSA NELLY
274	GRAN DA	MARÍA GLORIA
275	GUERRA	MARÍA REGINA
276	GUERRA	SANDRA MILENA
277	GUERRA MÚNERA	MIRIAM
278	GUTIÉRREZ	DAIMER JAIR
279	GUTIÉRREZ	DIANA MARICELA
280	GUTIÉRREZ	ERIKA MARCELA
281	GUTIÉRREZ	FABIO ARLEY
282	GUTIÉRREZ	FERNANDO ARCÁNGEL
283	GUTIÉRREZ	GILDARDOALCIDES
284	GUTIÉRREZ	HÉLIDA ESTHER
285	GUTIÉRREZ	JOSÉANIBAL
286	GUTIÉRREZ	LEIMAN EFRAÍN
287	GUTIÉRREZ	LUZMILA DEL CARMEN
288	GUTIÉRREZ	MARCOS FIDEL
289	GUTIÉRREZ	MARTHA ISABEL
290	GUTIÉRREZ	ADRIÁN ESTEBAN
291	GUTIÉRREZ NARANJO	MARTHA ISABEL
292	GUTIÉRREZ NOHAVÁ	FABIO ARLEY

293	GUTIÉRREZ NOHAVÁ	MARÍA LUCIRIA
294	GUTIÉRREZ NOHAVÁ	ROSMIRA
295	HENAO	DIANA CRISTINA
296	HENAO	ROSA ANGÉLICA
297	HERNÁNDEZ	LUCIRIAM DEL CARMEN
298	HIDALGO	ARON ALEXIS
299	HIDALGO	DUBAN ARLEY
300	JARAMILLO	DAVINSON JESÚS
301	JARAMILLO	GLADYS
302	JARAMILLO	HERNÁN J.
303	JARAMILLO	LIDA
304	JARAMILLO	LUIS OCARIS
305	JARAMILLO	MÓNICA MILENA
306	JARAMILLO	GERARDO
307	JARAMILLO CANO	AMADO
308	JARAMILLO CORREA	ANA CAROLINA
309	JARAMILLO CORREA	CARLOS ENRIQUE
310	JARAMILLO CORREA	CARLOS FERNANDO
311	JARAMILLO GEORGE	ARLEY
312	JARAMILLO GEORGE	EUCLIDES
313	JARAMILLO GEORGE	HUBER ALBERTO
314	JARAMILLO GEORGE	RUBÉN ANTONIO
315	JARAMILLO HENAO	ARNULFODE J.
316	JARAMILLO POSADA	ÁNGELA PATRICIA
317	JARAMILLO POSADA	JUAN JOSÉ
318	JIMÉNEZ	ALBA LUZ
319	JIMÉNEZ	ÁLVARO
320	JIMÉNEZ	ÁNGELA PATRICIA
321	JIMÉNEZ	ARACELLY
322	JIMÉNEZ	CARLOS YOVANI
323	JIMÉNEZ	DELCIN DUBAN
324	JIMÉNEZ	ELI
325	JIMÉNEZ	FABER JONEDY
326	JIMÉNEZ	GLORIA EMILSE
327	JIMÉNEZ	HÉCTOR JOSÉ
328	JIMÉNEZ	HERALDO DE JESÚS
329	JIMÉNEZ	JANIER
330	JIMÉNEZ	JOHN FREDY
331	JIMÉNEZ	JOSÉ TRANSITO
332	JIMÉNEZ	LEDYS PATRICIA
333	JIMÉNEZ	LUIS BERNARDO
334	JIMÉNEZ	LUIS EDUARDO
335	JIMÉNEZ	MARÍA CATALINA
336	JIMÉNEZ	MARÍA NINFA

337	JIMÉNEZ	NELSON ORLEY
338	JIMÉNEZ	OMAR DARÍO
339	JIMÉNEZ	OMAR JOSÉ
340	JIMÉNEZ	OSCAR DARÍO
341	JIMÉNEZ	RODRIGO ALBERTO
342	JIMÉNEZ	TERESITA
343	JIMÉNEZ	TERESITA
344	JIMÉNEZ	YAIRA EUGENIA
345	JIMÉNEZ	YORLEDIS ANTONIO
346	JIMÉNEZ JIMÉNEZ	BEATRIZ ELENA
347	JIMÉNEZ JIMÉNEZ	DIOMEDES JAVIER
348	JIMÉNEZ JIMÉNEZ	ELIASAR DE JESÚS
349	JIMÉNEZ JIMÉNEZ	EMERIDA DEL CARMEN
350	JIMÉNEZ JIMÉNEZ	ERIKA
351	JIMÉNEZ JIMÉNEZ	EUGENIODE JESÚS
352	JIMÉNEZ JIMÉNEZ	FABIÁN DE JESÚS
353	JIMÉNEZ JIMÉNEZ	FRANCISCO
354	JIMÉNEZ JIMÉNEZ	MARÍA NATIVIDAD
355	JIMÉNEZ JIMÉNEZ	NICANOR DE JESÚS
356	JIMÉNEZ JIMÉNEZ	NOBEIRES ANTONIO
357	JIMÉNEZ JIMÉNEZ	OTONIEL
358	JIMÉNEZ LOPERA	BERNARDO MARÍA
359	JIMÉNEZ SERNA	ROSA ADELA
360	LOPERA	MARÍA
361	LOPERA MENDOZA	JUAN
362	LÓPEZ	ALBA DONELIA
363	LÓPEZ	FRANCISCO LUIS
364	LÓPEZ	GILBERTO
365	LÓPEZ	HERNÁN
366	LÓPEZ G.	JOSÉ BELISARIO
367	LÓPEZ GARCÍA	CLARA ROSA
368	LÓPEZ SUCERQUIA	MANUEL JOSÉ
369	LÓPEZ T.	OMAR IVÁN
370	LÓPEZ TORRES	LUZMARIBETH
371	LÓPEZ ZAPATA	DARLYYINED
372	LÓPEZ ZAPATA	DEISY DEL SOCORRO
373	MARTÍNEZ	ALBA ALICIA
374	MARTÍNEZ	ALDUVAR
375	MARTÍNEZ	CARLOS ALBERTO
376	MARTÍNEZ	DAI RON
377	MARTÍNEZ	EDISON DARÍO
378	MARTÍNEZ	EVER
379	MARTÍNEZ	FERNANDO
380	MARTÍNEZ	HÉCTOR SAÚL

381	MARTÍNEZ	IRALVIA
382	MARTÍNEZ	JAIME
383	MARTÍNEZ	JEISON
384	MARTÍNEZ	MIGUEL ÁNGEL
385	MARTÍNEZ	PEDRO
386	MARTÍNEZ	SANTIAGO
387	MARTÍNEZ	WILLIAM ANDRÉS
388	MARTÍNEZ CHICA	ROSALBA
389	MARTÍNEZ GUTIÉRREZ	YESICA NATALIA
390	MARTÍNEZ ORREGO	CARLOS ARTURO
391	MARTÍNEZ ORREGO	JOSÉ EDI LBERTO
392	MARTÍNEZ ORREGO	MARÍA ELENA
393	MARTÍNEZ ORREGO	ROSAEDELFINA
394	MARTÍNEZ TORO	MARTHA OFELIA
395	MAZO	RAFAEL
396	MAZO	RAMÓN NONATO
397	MELÉNDEZ	WILLIAM
398	MENDOZA	LIBARDO
399	MENDOZAARROYAVE	BERTA INÉS
400	MENDOZAARROYAVE	LIBIA
401	MENDOZAARROYAVE	LUISHUMBERTO
402	MENDOZA CORREA	EDGAR HUMBERTO
403	MENDOZA GARRO	FANNY EUGENIA
404	MENDOZA GARRO	JUAN CARLOS
405	MENDOZA GARRO	JUAN CARLOS
406	MENDOZA POSSO	CLAUDIA CRISTINA
407	MENDOZA POSSO	DIANA PATRICIA
408	MENDOZA POSSO	DIEGO FERNANDO
409	MENDOZA POSSO	LULIANA MARCELA
410	MENDOZA POSSO	MAGNOLIA EMILCEN
411	MENDOZA POSSO	RODRIGO ALBERTO
412	MENDOZA POSSO	VIVIANA JANETH
413	MENDOZA POSSO	YOVANNI ALCIDES
414	MENESES	ADRIANA MARÍA
415	MENESES	ALBA NELLY
416	MENESES	MORELIA DEL CARMEN
417	MOLINA	ESTHER GARRO
418	MOLINA POSADA	RAMÓN ADRIAN
419	MOLINA TORRES	RAMÓN
420	MONSALVE ZABALA	CELIA ROSA
421	MORA	GERMÁN ANTONIO
422	MORA	GLORIA CECILIA
423	MORA	JAIME DE JESÚS

424	MORA	JORGE ANDRÉS
425	MORA	MEDARDO ANTONIO
426	MORA PATIÑO	ELENA DEL SOCORRO
427	MÚNERAGRANDA	ADRIANA MARÍA
428	MÚNERAGRANDA	ALBA LUCÍA
429	MÚNERAGRANDA	ARACELLY
430	MÚNERAGRANDA	ASTRID ELENA
431	MÚNERAGRANDA	DEIBY FABIÁN
432	MÚNERAGRANDA	DIEGO ARLEY
433	MÚNERAGRANDA	ELVIA CONSUELO
434	MÚNERAGRANDA	GLORIA EMILSE
435	MÚNERAGRANDA	JUAN ALBERTO
436	MÚNERAGRANDA	JUAN ESTEBAN
437	MÚNERAGRANDA	JUAN GABRIEL
438	MÚNERAGRANDA	LILIANA PATRICIA
439	MÚNERAGRANDA	MARÍA CLEMENTINA
440	MÚNERAGRANDA	MARÍA MARLENE
441	MÚNERAGRANDA	MARTA CONSUELO
442	MÚNERAGRANDA	RAMIROALONSO
443	MUÑETÓN M.	CARLOS MARIO
444	MUÑETÓN M.	EDISON ESTEBAN
445	MUÑETÓN M.	ISAILHUMBERTO
446	MUÑETÓN M.	LUZ PATRICIA
447	MUÑETÓN M.	NIDIA DEL SOCORRO
448	MUÑETÓN M.	ROSA YANET
449	MUÑETÓN M.	WILBERYOHANI
450	MUÑETÓN TORRES	GEOVER
451	MUÑOZ	VIVIANA PATRICIA
452	MUÑOZ PÉREZ	MARÍA ADELA
453	NARANJO	ABELARDO
454	NARANJO	DARWIN
455	NARANJO	LUIS JOSÉ
456	NARANJO	ORLEY
457	NARANJO	VIRTUD
458	NARANJO AREIZA	JOSÉAICARDO
459	NARANJO CORREA	EDWIN AI CAR DO
460	NARANJO G.	SONIA STELLA
461	NARANJO J.	ALEXANDRA
462	NARANJO JIMÉNEZ	DEIMER
463	NARANJO JIMÉNEZ	DILSA
464	NARANJO JIMÉNEZ	JEISON
465	NOHAVÁ	ROSA MARÍA
466	OCHOA CORREA	JAVIER MAURICIO
467	OCHOA CORREA	MARIO ENRIQUE

468	OCHOA CORREA	MARTHA CECILIA
469	OLARTE	MIGUEL ÁNGEL
470	OQUENDO	FRANCISCO LUIS
471	ORREGO	MERCEDES ROSA
472	ORREGO PÉREZ	MARÍA ESTHER
473	ORTÍZ CARMONA	GUDIELA DEL CARMEN
474	ORTÍZ CARMONA	ROSÁNGELA
475	PALACIO JARAMILLO	ALEXANDER
476	PALACIO JARAMILLO	NELSON ADRIAN
477	PÉREZ	ANA FRANCISCA
478	PÉREZ	ARTURO JOSÉ
479	PÉREZ	ASTRID MARÍA
480	PÉREZ	BERNARDO DE JESÚS
481	PÉREZ	BLANCA ROSA
482	PÉREZ	ERIKAJOHANA
483	PÉREZ	FLOR MARÍA
484	PÉREZ	FREDYS ANTONIO
485	PÉREZ	GABRIEL ÁNGEL
486	PÉREZ	GILDARDO DE J.
487	PÉREZ	LINEYCRISTINA
488	PÉREZ	LUIS CARLOS
489	PÉREZ	LUZNEIRA
490	PÉREZ	MAGDALENAYANET
491	PÉREZ	MARI LUZ
492	PÉREZ	MARÍA EMILSEN
493	PÉREZ	MERCEDES ROSA
494	PÉREZ	NEIDA DEL SOCORRO
495	PÉREZ	RAMÓN EDUARDO
496	PÉREZ	WILLIAM
497	PÉREZ	WILLIAM HERNANDO
498	PÉREZ AREIZA	ELIGIODE JESÚS
499	PÉREZ AREIZA	JULIO ELIVER
500	PÉREZ AREIZA	LIGIA LUCÍA
501	PÉREZ AREIZA	OMAR DANIEL
502	PÉREZ AREIZA	YAMILCEN EUNICE (Also Yamile Eunice Pérez Ar
503	PÉREZ AREIZA	YAMILE EUNICE (Also Yamilcen Eunice Pérez Ar
504	PÉREZ G.	CARLOS FERNANDO
505	PÉREZ G.	DEISY LILLIANA
506	PÉREZ G.	FRANCISCO ARBEY
507	PÉREZ G.	JAIR ALFREDO
508	PÉREZ G.	JOSÉ EUSEBIO
509	PÉREZ G.	MARTHA ODILA

510	PÉREZ G.	MIRIAM ROSA
511	PÉREZ G.	REGOBERTO
512	PÉREZ G.	WILMAR ANDRÉS
513	PÉREZ G.	YANET MARÍA
514	PÉREZ GEORGE	DAIRO
515	PÉREZ JIMÉNEZ	CARLOS MARIO
516	PÉREZ JIMÉNEZ	JAIME
517	PÉREZ JIMÉNEZ	ROGELIO
518	PÉREZ JIMÉNEZ	RUBÉN DARÍO
519	PÉREZ MAZO	JORGE
520	PÉREZ ROJAS	ARSENIO
521	PÉREZ ZAPATA	ELKIN
522	PÉREZ ZAPATA	RUBIELA
523	PIEDRAHITA	CARLOS
524	PIEDRAHITA	DIDIERA.
525	PIEDRAHITA	ESTEBAN
526	PIEDRAHITA	JULIO CÉSAR
527	PIEDRAHITA	SANDRA ARGENIS
528	PIEDRAHITA	YENI FABIÁNA
529	PIEDRAHITA	YOLANDA
530	PIEDRAHITA AREIZA	RAFAEL ÁNGEL
531	PIEDRAHITA CHAVARRÍA	JULIÁN
532	PIEDRAHITA ECHAVARRÍA	SANDRA
533	PIEDRAHITA ECHAVARRÍA	YENI
534	PIEDRAHITA HENAO	ALEJANDRO
535	PIEDRAHITA HENAO	FRANCISCO ADOLFO
536	PIEDRAHITA HENAO	LUIS CARLOS
537	PIEDRAHITA HENAO	MATILDE
538	PIEDRAHITA HENAO	MORELIA
539	PIEDRAHITA HENAO	RAFAEL
540	PIEDRAHITA HENAO	RAFAEL ÁNGEL
541	PIEDRAHITA HENAO	ROBERTO BELARMINO
542	PIEDRAHITA HENAO	RODRIGO
543	PIEDRAHITA HENAO	SUSANA
544	PIEDRAHITA T.	ALEXANDER
545	PIEDRAHITA T.	ANTONIA
546	PIEDRAHITA T.	CLAUDIA AMPARO
547	PIEDRAHITA T.	ESTHER YANET
548	PIEDRAHITA T.	MILVIA
549	PIEDRAHITA TORRES	ELENA
550	PIEDRAHITA TORRES	RAFAEL
551	PINO	ANA DELIA
552	PINO	DEISYYULIANA
553	PINO	ELKINALONSO

554	PINO	FABIO ENRIQUE
555	PINO	GLORIA CELINA
556	PINO	JAIME HUMBERTO
557	PINO	JOHN JAIRO
558	PINO	LIGIA AMPARO
559	PINO	LUZ ELENA
560	PINO	ODILADELSOCORRO
561	PINO	RAMÓN ÁNGEL
562	PINO POSADA	FRANCISCO OSVALDO
563	POSADA	ALBEIRO
564	POSADA	AMPARO
565	POSADA	CARLOS ANDRÉS
566	POSADA	DAIRO
567	POSADA	ELVIA LUZ
568	POSADA	FRANCY STELLA
569	POSADA	JOSÉREIMUNDO
570	POSADA	LUZ DEL SOCORRO
571	POSADA	MARÍA ANDREA
572	POSADA	MARTHA
573	POSADA	MARTHA ISABEL
574	POSADA	NANCY YOHANA
575	POSADA	OLGA ELCY
576	POSADA	OSCAR HUNVEIRO
577	POSADA	RAMÓN
578	POSADA	RAULARTURO
579	POSADA	ROSA MARÍA
580	POSADA	RUBÉN DARÍO
581	POSADA	VICENTE
582	POSADA	VICENTE ANTONIO
583	POSADA C.	MARÍA ROCÍO
584	POSADA CANO	JANETH LORENA
585	POSADA MOLINA	ROCIO AMPARO
586	POSSO DE AREIZA	MARÍA RESFA
587	POSSO MOLINA	LETICIA
588	POSSO MOLINA	LUCELLY AMPARO
589	POSSO MÚNERA	AURA ESTELA
590	QUINTERO	DAVINSON ANDRÉS
591	RENDÓN	CÉSAR DARÍO
592	RENDÓN	HÉCTOR JULIO
593	RENDÓN	LAURA ROSA
594	RENDÓN	TOBIAS
595	RESTREPO	LUZENITH
596	RESTREPO ESPINOSA	LIBARDO
597	RESTREPO TORRES	DIANA MARYORI

598	RESTREPO TORRES	GEMAINÉS
599	RESTREPO TORRES	GUI DO MANUEL
600	RESTREPO TORRES	JOAN SEBASTIÁN
601	RESTREPO TORRES	MILADIS DEL CARMEN
602	RESTREPO TORRES	NICOLÁS ALBEIRO
603	RESTREPO TORRES	YUBERARLET
604	RIOS	GABRIEL ÁNGEL
605	RODRÍGUEZ SÁNCHEZ	GUILLERMO
606	ROJAS CHAVARRÍA	LUCÍA
607	SAN PEDRO	JESSICA YURANI
608	SAN PEDRO	JOSÉ ALBERTO
609	SAN PEDRO	LEDYSENA
610	SEPÚLVEDA	CÉSAR ALBERTO
611	SEPÚLVEDA	DIOSA EDILMA
612	SEPÚLVEDA LEGARDA	MARCO
613	SEPÚLVEDA MORA	ARLEY ESTEBAN
614	SEPÚLVEDA MORA	CLAUDIA
615	SEPÚLVEDA MORA	DORALBA
616	SEPÚLVEDA MORA	ILMA DEL SOCORRO
617	SEPÚLVEDA MORA	ROSALBA
618	SIERRA TEJADA	LEDYSAMPARO
619	TAPIAS	JESÚS ANTONIO
620	TEJADA SIERRA	ALFREDO ANTONIO
621	TOBON NOHAVÁ	JAIROVIDIO
622	TOBON NOHAVÁ	VICTOR MANUEL
623	TOBON NOHAVÁ	WALTER ALIRIO
624	TORO MARTÍNEZ	AURORA PATRICIA
625	TORO MARTÍNEZ	DIEGO LUIS
626	TORO MARTÍNEZ	MARIENDELSOCORRO
627	TORO MARTÍNEZ	RAFAELARCÁNGEL
628	TORO ZAPATA	LUIS ENRIQUE
629	TORRES	ALBEIRO J.
630	TORRES	ELBA
631	TORRES	NIDIAAMPARO
632	TORRES JARAMILLO	GLADISAMPARO
633	TORRES JARAMILLO	GUSTAVO ADOLFO
634	TORRES JARAMILLO	LUCELLY DEL SOCORRO
635	TORRES JARAMILLO	MARÍA EDILMA
636	TORRES JARAMILLO	OMAR ALFREDO
637	TORRES PÉREZ	LUZEMILDA
638	TORRES POSADA	BEATRIZ LILIANA
639	TORRES POSADA	JUAN GUILLERMO
640	TORRES POSADA	OMAR ESTEBAN
641	TORRES POSADA	SANTIAGO

642	TORRES POSSO	DIANA ISABEL
643	TORRES POSSO	PAULA ESTEFANÍA
644	TORRES TORRES	YULEMA
645	URIBE	HÉCTOR FABIO
646	URIBE	JAIRO
647	URIBE	JOHN FREDYS
648	VÁSQUEZ	HEIDI YOHANA
649	VÁSQUEZ	MARÍA DEL CARMEN
650	VÁSQUEZ	MIGUEL ÁNGEL
651	VÁSQUEZ NARANJO	MARTHA
652	ZABALA	JEISONDE JESÚS
653	ZABALA	LENEY YOHANA
654	ZABALA	OSVALDO
655	ZABALA MESA	MARÍA MAGDALENA
656	ZAPATA	ALEX JAVIER
657	ZAPATA	ALICIA AMPARO
658	ZAPATA	ALVARO WILTON
659	ZAPATA	ANDRÉS HUMBERTO
660	ZAPATA	CARLOS ELI ÉCER
661	ZAPATA	CARLOS ELVER
662	ZAPATA	CARLOS MARIO
663	ZAPATA	CLAUDIA PATRICIA
664	ZAPATA	EIDER ADOLFO
665	ZAPATA	EMILIA
666	ZAPATA	FRANCO YONAI
667	ZAPATA	JORGE ELIÉCER
668	ZAPATA	JOSÉARÍSTIDES
669	ZAPATA	JOSUÉ NORBEY
670	ZAPATA	LUIS ALBERTO
671	ZAPATA	LUIS ALFREDO
672	ZAPATA	MARÍA DEL CARMEN
673	ZAPATA	MÓNICA YANET
674	ZAPATA	NINFACONSUELO
675	ZAPATA	ROFER DANIEL
676	ZAPATA	ROSMIR DELFA
677	ZAPATA	SILFIDALENIS
678	ZAPATA	YAISURYYAMID
679	ZAPATA	YAMIL LEANDRO
680	ZAPATA	YOBAN ESTEBAN
681	ZAPATA	YORMER ESTEBAN
682	ZAPATA B.	YOHANI ALBERTO
683	ZAPATA B.	YORFAN ELENA
684	ZAPATA BETANCUR	LEONEL
685	ZAPATA CORREA	ADRIAN FELIPE

686	ZAPATA CORREA	OLGA ELENA
687	ZAPATA CORREA	RODRIGO ALEXANDER
688	ZAPATA CORREA	SERGIO ANDRÉS
689	ZAPATA CORREA	YOLIMASIRLEY
690	ZAPATA G.	HUMBERTO
691	ZAPATA GEORGE	DIDIER
692	ZAPATA GEORGE	NORALBA
693	ZAPATA LOPERA	DIEGO LEÓN
694	ZAPATA LOPERA	JOHN FREDY
695	ZAPATA LOPERA	LUZ ELENA
696	ZULETACOSSIO	CARLOS ADRIÁN
697	ZULETACOSSIO	JEISON ANDRÉS
698	ZULETACOSSIO	JUAN FELIPE
699	ZULETA ZABALA	ARACELLY DE JESÚS
700	ZULETA ZABALA	MARGARITA
701	ZULETA ZABALA	ORLANDO ANTONIO
702	ZULETA ZABALA	RODRIGO DE JESÚS