

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF FEBRUARY 28, 2011**

**CASE OF VALLE JARAMILLO *v.* COLOMBIA
MONITORING COMPLIANCE WITH JUDGMENT**

HAVING SEEN:

1. The judgment on merits, reparations and costs (hereinafter “the judgment”) delivered by the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”) on November 27, 2008, whereby it ordered that:

[...]

13. The State must pay the amounts established in th[e] judgment for pecuniary and non-pecuniary damage, and for reimbursement of costs and expenses, within one year of notification of th[e] judgment, in the terms of paragraphs 207, 210, 216, 224 to 226 and 244 [t]hereof[.];

14. The State must investigate the facts that gave rise to the violations in the instant case, in the terms of paragraphs 231, 232 and 233 of th[e] judgment[:];

15. The State must publish once in the official gazette and once in another national newspaper with widespread circulation paragraphs 2 to 4, 6, 29, 47, 70 to 78, 80 to 97, 104 to 107, 109, 110, 115, 122, 125 to 128, 130, 132, 140 to 144, 147, 160, 161, 165 to 170, 176 to 180, 184, 190, 191, 196, 197 and 200 of th[e] judgment, without the corresponding footnotes but with the titles of the respective chapters, as well as its operative paragraphs, within one year of notification of th[e] judgment, in the terms of paragraphs 227, 231 and 234 [t]hereof[:];

16. The State must organize a public act to acknowledge its international responsibility for the violations declared in this case at the University of Antioquia within one year of notification of th[e] judgment, in the terms of paragraph 227 and 231 [t]hereof[:];

17. The State must place a plaque in memory of Jesús María Valle Jaramillo in the Palacio de Justicia of the Department of Antioquia within one year of notification of th[e] judgment, in the terms of paragraphs 227 and 231 [t]hereof[:];

18. The State must provide immediately and free of charge, through its specialized health care institutions, any psychological and psychiatric care required by the victims, in the terms of paragraphs 227, 231 and 238 of th[e] judgment[:];

19. The State must grant Nelly Valle Jaramillo and Carlos Fernando Jaramillo Correa an educational grant to study or train for a profession, within one year of notification of th[e] judgment, in the terms of paragraphs 227 and 231 [t]hereof[, and]

20. The State must guarantee the safety of Carlos Fernando Jaramillo Correa should he decide to return to Colombia, in the terms of paragraph 227 and 231 of th[e] judgment

2. The interpretation of the judgment on merits, reparations and costs (hereinafter "the interpretation of the judgment") delivered on July 7, 2009, whereby it decided, *inter alia*:

[...]

2. To determine the meaning and scope of the provisions of operative paragraphs 13, 15, 18, 19 and 20 and paragraph 230 of the judgment on merits, reparations and costs issued on November 27, 2008, pursuant to paragraphs 13, 23, 27, 28, 32, 36, 37, 38, 39, 40, 44 and 50 of the [...] judgment.

[...]

3. The order of the President of the Court (hereinafter "the order of the President") of April 29, 2010, in which he convened a joint private hearing on eight Colombian cases in relation to monitoring compliance with the reparation measure concerning medical and psychological care ordered in these cases. The hearing was held on May 19, 2010, at the seat of the Court in San Jose, Costa Rica.

4. The brief of May 5, 2009, whereby the representatives of the victims (hereinafter "the representatives") reported that "on April 22, 2009, [...] the self-confessed member of the paramilitary, Francisco Enrique Villalba, was murdered," as well as the information provided on this matter by the Republic of Colombia (hereinafter "the State" or "Colombia") on May 22, 2009, and the observations of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of June 3, 2009.

5. The brief of December 18, 2009, whereby the State reported on compliance with the judgment (*supra* having seen paragraph 1).

6. The brief of November 9, 2010, whereby the representatives of the victims presented their observations on the report submitted by the State (*supra* having seen paragraph 5).

7. The brief of April 26, 2010, whereby the representatives of the victims presented their observations on the report submitted by the State (*supra* having seen paragraph 5).

8. The order of the President of December 21, 2010, convening the State, the representatives, and the Inter-American Commission to a private hearing in order to obtain complete and updated information from the State concerning compliance with the measures of reparation ordered in the judgment (*supra* having seen paragraph 1), as well as to hear the respective observations of the Commission and the representatives.

9. The briefs of January 18, February 1 and 24, 2011, in which the State reported on compliance with the judgment (*supra* having seen paragraph 1).

10. The brief of February 22, 2011, whereby the Commission presented its observations on the information submitted by the State (*supra* having seen paragraph 9).

11. The note of the Secretariat of the Court (hereinafter "the Secretariat") of February 23, 2011, advising that the observations of the representatives on the information submitted by the State (*supra* having seen paragraph 9) had not been received.

12. The private hearing held by the Court at its seat in San José, Costa Rica, on February 25, 2011.¹

CONSIDERING THAT:

1. One of the inherent attributes of the jurisdictional functions of the Court is to monitor compliance with its decisions.

2. [Columbia has been a State Party to the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") since July 31, 1973, and accepted the compulsory jurisdiction of the Court on June 21, 1985.

3. In accordance with the provisions of Article 67 of the American Convention, the State must comply fully and promptly with the Court's judgments. Furthermore, Article 68(1) of the American Convention stipulates that "the State Parties to the Convention undertake to comply with the Court's decisions in any case to which they are parties." To this end, States must ensure the domestic implementation of the provisions of the Court's decisions.²

4. The obligation to comply with the Court's rulings corresponds to a basic principle of international law, supported by international jurisprudence, in accordance with which States must abide by their international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has indicated and as established in Article 27 of the 1969 Vienna Convention on the Law of Treaties, a party may not invoke the

¹ The hearing was attended by: (a) for the Inter-American Commission: Lilly Ching Soto, Specialist Attorney for the Executive Secretariat; (b) for the representatives of the victims: John Arturo Cárdenas Mesa; Juliana Bravo Valencia; Erick Benjamín Aldana Mendoza and María Victoria Fallon Morales from the *Grupo Interdisciplinario por los Derechos Humanos (GIDH)*, and (c) for the State of Colombia: Juan Carlos Forero Ramírez, Assistant Prosecutor General; Hernán Jaime Ulloa Venegas, Director of the Presidential Human Rights Program; Francisco Javier Echeverri Lara, Director of Human Rights and International Humanitarian Law, Ministry of Foreign Affairs; Gloria Beatriz Gaviria Ramos, Head of the Cooperation and International Relations Office of the Ministry of Social Protection; Alex de Jesús Salgado Lozano, Director of Legal Affairs of the Ministry of National Defense; Elena Ambrosi Turbay, Director of Human Rights of the Ministry of National Defense; Hernando Castañeda Ariza, Head of the National Human Rights and International Humanitarian Law Unit of the Office of the Prosecutor General; Jorge Alexander Vargas Mesa, Executive Director for the National Housing Fund; Cesar Vergara Gutiérrez, Advisor to the Sub-Directorate for Attention to the Displaced Population – Social Action; Paulina Gómez Borda, Chargé d'affaires, Embassy of Colombia in Costa Rica; Felipe Medina Ardila, Coordinator of the Inter-institutional Task Force; Claudia Paola Redondo Polo, Advisor to the Inter-institutional Task Force; General Orlando Páez Barón, Inspector General of the National Police; Lieutenant Colonel John Henry Arango Alzáte, Coordinator of the Human Rights Group of the National Police, and Daniel Vásquez Franco, Director of the Housing System of the Vice Ministry for Housing and Territorial Development.

² Cf. *Case of Baena Ricardo et al. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 60; *Case of the Dismissed Congressional Workers (Aguado Alfaro et al.) v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 24, 2010, third considering paragraph, and *Case of Vargas Areco v. Paraguay. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 24, 2010, third considering paragraph.

provisions of its internal law as justification for its failure to perform a treaty.³ The treaty obligations of State Parties are binding on all powers and organs of the State.⁴

5. The States Parties to the Convention must ensure compliance with its provisions and their inherent effects (*effet utile*) within their respective domestic legal systems. This principle is applicable not only with regard to the substantive norms of human rights treaties (that is, those which contain provisions concerning the protected rights), but also with regard to procedural norms, such as those referring to compliance which must ensure compliance with the decisions of the Court. These obligations shall be interpreted and applied so that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.⁵

a) Regarding the obligation to pay the amounts established in the judgment for pecuniary and non-pecuniary damage, and reimbursement of costs and expenses (thirteenth operative paragraph of the judgment)

6. The State advised that the payments for compensation, costs and expenses were ordered by Resolution 5108 of the Ministry of National Defense of November 25, 2009, thus complying in full with this reparation measure. In this regard, the State attached three certifications of payment by the Treasury of the Ministry of National Defense that indicate: first, on April 20, 2010, the amount of two hundred and twenty-seven million six hundred and seventy-one thousand, four hundred and twenty-eight pesos (\$227,671,428.00) was paid into a financial institution in favor of Carlos Fernando Jaramillo Correa, Gloria Lucía Correa, Carlos Enrique Jaramillo Correa, María Lucía Jaramillo Correa, Ana Carolina Jaramillo Correa and Luis Eugenio Jaramillo Correa; second, on December 7, 2009, a payment of two hundred and sixteen million eight hundred and thirty-nine thousand seven hundred pesos (\$216,839,700.00) was ordered for the *Grupo Interdisciplinario por los Derechos Humanos*, in their capacity as representatives and, lastly, nineteen million eight hundred and twenty-four thousand seven hundred and thirty-nine pesos (\$19,824,739.00) was paid to Francisco Darío Valle Jaramillo as compensation on May 14, 2010.

7. The representatives advised that the State had complied with the payment of the compensation ordered by the Court for the victims. They stated that the victims Carlos Fernando Jaramillo Correa, his wife Gloria María Correa García, and their children Carlos Enrique, María Lucía and Ana Carolina Jaramillo Correa, as well as Luis Eugenio Jaramillo Correa had presented their request for payment of the amounts ordered in their favor in January 2010, and that these payments had been made. Lastly, they indicated that, although they are unaware of the payment made to Darío Valle Jaramillo, and the respective terms, since he had decided to process his payment separately, they "assume that the information [presented by the State] is accurate, and agree that compliance with this obligation should be declared."

³ Cf. *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (Art. 1 and 2 of the American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35; *Case of the Dismissed Congressional Workers*, *supra* note 2, fifth considering paragraph, and *Case of Vargas Areco*, *supra* note 2, fourth considering paragraph.

⁴ Cf. *Case of Castillo Petruzzi et al. v. Peru. Monitoring Compliance with judgment*. Order of Court of November 17, 1999, considering paragraph 3; *Case of the Dismissed Congressional Workers*, *supra* note 2, fifth considering paragraph, and *Case of Vargas Areco*, *supra* note 2, fourth considering paragraph.

⁵ Cf. *Case of Ivcher Bronstein v. Peru. Competence*. Judgment of the Inter-American Court of Human Rights of September 24, 1999. Series C No. 54, para. 37; *Case of the Dismissed Congressional Workers*, *supra* note 2, considering paragraph 6, and *Case of Vargas Areco*, *supra* note 2, fifth considering paragraph.

8. The Commission stated that “the available information and the proof of payment sent by the State indicate that the State has fulfilled this aspect of the judgment.”

9. The Court observes that the information provided by the parties is consistent with regard to full compliance with this measure of reparation. Hence, the Court assesses positively the payments made by the State of the amounts awarded in the judgment (*supra* having seen paragraph 1) for pecuniary and non-pecuniary damage, and reimbursement of costs and expenses; consequently, Therefore, it considers that this operative paragraph has been complied with fully.

b) Regarding the obligation to investigate the facts that resulted in the violations in the case (fourteenth operative paragraph of the judgment)

10. The State indicated that it continues making every effort to investigate, prosecute and, as appropriate, punish those responsible. First, the State referred to appeal for review No. 29075, and advised that, in a decision of April 1, 2008, the Criminal Chamber of the Supreme Court of Justice had admitted the appeal for review filed by the Fifth Prosecutor of the National Human Rights and International Human Law Unit against the judgment of July 25, 2001, delivered by the Superior Tribunal of Medellin, which had confirmed the acquittal of two individuals accused of the crime of aggravated murder decided by the Third Criminal Court of the Medellin Special Circuit on March 15, 2001. This appeal for review was at the evidence stage in December 2008 and, as of December 12, 2010, “it had been forwarded to the parties concerned so that they could submit their respective final arguments.” The Prosecutor presented his arguments on January 11, 2011. With regard to criminal proceeding No. 2009-0184 before the Fourth Criminal Court of the Medellin Special Circuit, the State affirmed that the Fifth Special Prosecutor of the Human Rights and International Humanitarian Law Unit issued an indictment against two individuals alleged to be the masterminds of the aggravated murder and that, in a decision of November 17, 2009, the said court declared that the criminal action had extinguished, and that the whole procedure had concluded for one of the accused, because he had died on October 7, 2009. In addition, on September 17, 2010, this court handed down a sentence of 300 months imprisonment for one of the defendants as co-author of the aggravated murder of Jesús María Valle Jaramillo. This sentence is currently pending appeal before the Criminal Chamber of the Superior Court of Medellin. When presenting his arguments, the Prosecutor sought confirmation of the sentence. For its part, the State advised that criminal investigation No. 2100 is underway, and is currently being conducted by the Fifth Special Prosecutor of the National Human Rights and International Humanitarian Law Unit in order to identify and individualize other individuals allegedly responsible for the murder of Jesús María Valle Jaramillo. Lastly, on January 11, 2011, the Technical Investigation Unit (CTI) was asked to gather information from *Justicia y Paz* to identify and individualize other authors and, in particular, masterminds.

11. The representatives stated, regarding appeal for review No. 29075, that it had been admitted more than two years previously without any results to date. Also, regarding criminal action No. 2009-0184, they observed that, on September 17, 2010, one of the accused was sentenced to 300 months imprisonment for the aggravated murder of Jesús María Valle Jaramillo, a decision that was appealed by the defendant; hence it is still not final. They stressed that, more than 12 years after the murder of the human rights defender, justice has not been done, which makes it likely that the possible authors, whether or not they have been prosecuted, may die of natural causes without receiving the sentence corresponding to the crime committed. The

representatives stated that, “the obstacles to obtaining justice in this case” include the Justice and Peace Law and the impunity it created because of the refusal of the paramilitaries to testify before the ordinary justice system or the specialized human rights justice system; the extradition of the paramilitary leaders and the absence of an agreement with the United States of America; the absence of a State criminal justice policy aimed at investigating paramilitarism, its roots and infiltration within the institutional framework, and the murder of key witnesses. In short, the representatives stated that investigations “have not been conducted with the due diligence to identify the masterminds and co-authors” of the extrajudicial execution of Mr. Valle Jaramillo.

12. The Commission observed that the information provided by the State makes it possible to conclude that the “processing [of appeal for review No. 29075] is not being conducted with the required due diligence and promptness.” With regard to criminal proceedings 2900-0184, the Commission had assessed the updated information provided by the State and was waiting for information on other proceedings to identify and impose the appropriate punishments on all the masterminds and perpetrators of the facts. Regarding criminal investigation No. 2100, it observed that the State had not provided updated information. Finally, the Commission observed that there is no information to show that the Colombian system of justice is dealing with this investigation integrally, taking into account its complexity, and it has not presented a copy of the measures taken or a description of the investigation in the proceedings.

13. The Court assesses positively the information provided by the State on this operative paragraph. It also assesses positively the different efforts made by the State, through the Prosecutor General’s Office, in relation to this matter, as well as the legal actions undertaken that, as an unfortunate consequence, have jeopardized the safety of its agents and officials.

14. Regarding appeal for review No. 29075 (the progress of which was reported by the State), this Court must recall that, as stated in the judgment (*supra* having seen paragraph 1), it had been admitted for processing by the Criminal Cassation Chamber of the Supreme Court of Justice on April 1, 2008. Since then, almost three years have passed without a final ruling being issued.

15. Furthermore, when assessing compliance with the obligation to investigate in this case, it must be recalled that, in the judgment (*supra* having seen paragraph 1), the Court stated that other cases before it “have revealed ‘the existence of numerous cases of connections between paramilitaries and members of law enforcement personnel with regard to facts similar to those that occurred in this case, as well as omissive attitudes of law enforcement personnel regarding the actions of these groups.’”⁶ In addition, in the instant case, the judgment emphasized that, one month before his death, Jesús María Valle Jaramillo had denounced collusion between members of State law enforcement personnel and paramilitaries, and one day before his death, he testified about these denunciations.⁷ The Court held that these

⁶ *Case of Valle Jaramillo et al. v. Colombia. Merits, reparations and costs.* Judgment of November 27, 2008. Series C No. 192, para. 76, citing *Case of the “Mapiripán Massacre” v. Colombia. Merits, reparations and costs.* Judgment of September 15, 2005. Series C No. 134, para. 96.19; *Case of the Pueblo Bello Massacre v. Colombia. Merits, reparations and costs.* Judgment of January 31, 2006. Series C No. 140, para. 128, and *Case of the Ituango Massacres v. Colombia. Preliminary objection, merits, reparations and costs.* Judgment of July 1, 2006. Series C No. 148, para. 125.24.

⁷ *Cf. Case of Valle Jaramillo et al. v. Colombia, supra* note 6, para. 94.

denunciations “to alert society to the links between paramilitarism and some State agents placed his life, and personal liberty and integrity in grave danger.”⁸

16. Meanwhile, the State agreed “[t]o take all measures to continue conducting an impartial and exhaustive investigation in order to prosecute and punish all the perpetrators and masterminds.”⁹ On this point, the judgment stated that “the obligation to investigate is one of means, rather than results, and these must be assumed by the State as its legal obligation and not as a mere formality, preordained to be fruitless.”¹⁰ Taking into account the specific events that put the life of Jesus Maria Valle Jaramillo at grave risk, the Court observes the lack of information on actions aimed at identifying, prosecuting and eventually punishing all the masterminds and perpetrators who may be linked to the facts of the case. In particular, it notes the absence of proceedings and investigations to verify the involvement of State agents and members of law enforcement personnel in the death of Jesús María Valle Jaramillo. An effective investigation of the facts must include the identification of all those involved; otherwise it violates the right to the truth of the victims and their families. As indicated in the judgment, “[the] right to the truth requires the procedural determination of the most complete historical truth possible, including the judicial determination of patterns of joint action and of all those who, in different ways, participated in these violations and the corresponding responsibilities.”¹¹

17. In this regard, the Court assesses positively the efforts made by the State, through the Office of the Prosecutor General and the Technical Investigation Unit (CTI), to gather information from the institutions responsible for the Justice and Peace mechanism. In this regard, it is essential to interrelate and cross-check the information from the investigations opened into the execution of Mr. Valle Jaramillo with the information from the investigations conducted in connection with the massacres of El Aro and La Granja, as well as to obtain any relevant information that may emerge from the procedures carried out under the Justice and Peace Law. Thus, the Court stressed the need for the different State institutions to collaborate in order to remove any obstacle that prevents the proper investigation of the facts, and to obtain information on the possible involvement of State agents or other private individuals in the planning or execution of the facts.

18. As for the extradition of the paramilitary leaders to the United States of America and the absence of agreements between Colombia and that country which would permit appropriate cooperation regarding this matter, the consistent case law of this Court should be recalled which establishes that no law or provision of domestic law may prevent a State from complying with the obligation to investigate and punish those responsible for human rights violations.¹² A State may not directly or indirectly provide protection to those prosecuted for crimes involving serious human rights

⁸ *Case of Valle Jaramillo et al. v. Colombia*, *supra* note 6, para. 95.

⁹ *Case of Valle Jaramillo et al. v. Colombia*, *supra* note 6, para. 227(a).

¹⁰ *Case of Valle Jaramillo et al. v. Colombia*, *supra* note 6, para. 100.

¹¹ *Case of Valle Jaramillo et al. v. Colombia*, *supra* note 6, para. 102.

¹² *Cf. Case of Loayza Tamayo v. Peru. Reparations and costs.* Judgment of November 27, 1998. Series C No. 42, para. 168; *Case of Castillo Páez v. Peru. Reparations and costs.* Judgment of November 27, 1998. Series C No. 43, para. 105; *Case of Manuel Cepeda Vargas v. Colombia. Preliminary objections, merits, reparations and costs.* Judgment of May 26, 2010. Series C No. 213, para. 166; *Case of the “Dos Erres Massacre” v. Guatemala. Preliminary objection, merits, reparations and costs.* Judgment of November 24, 2009. Series C No. 211, para. 129.

violations by the undue application of legal concepts that violate the relevant international obligations. Consequently, the application of mechanisms such as extradition should not serve as a means of promoting, ensuring or guaranteeing impunity.¹³ Thus, when deciding on the application of these procedural mechanisms to any individual, the State authorities must ensure that the charges of serious human rights violations prevail.¹⁴ In any case, the State has the obligation to take the necessary steps to ensure that individuals involved in serious human rights violations, or those who may possess relevant information about such violations, are brought to justice, or cooperate with it, when they are required to do so.¹⁵ In this regard, the State is obliged to remove any obstacle that prevents it from complying with the obligation to investigate and punish those responsible for human rights violations.

19. Lastly, the Court is waiting for updated information on the outcome of the appeal filed by the person sentenced on September 17, 2010, to 300 months imprisonment for the aggravated murder of Jesus Maria Valle Jaramillo.

20. In sum, the Court emphasizes, as indicated in the judgment, that the right of access to justice means that the dispute must be settled within a reasonable time, since a long delay may become, in itself, a violation of judicial guarantees.¹⁶ In this case, the Court underscores that more than 13 years have passed since the facts occurred and the respective criminal proceedings are yet to be completed. Therefore, the Court deems that partial impunity subsists in this case, insofar as the whole truth about the facts has not been determined, in particular as regards determining and eventually punishing all the masterminds and perpetrators. To monitor this aspect, the State must continue to submit complete and current information on all of the measures taken. In addition, the State must publish the results of the proceedings, pursuant to paragraph 233 of the judgment, so that Colombian society may know the whole truth regarding the facts. Regarding the foregoing, the Court will continue to await the results of investigations in order to take the appropriate decision in this respect.

c) Regarding the State's obligation to publish certain paragraphs of the judgment and its operative paragraphs once in the Official Gazette and once in another national newspaper with widespread circulation (fifteenth operative paragraph of the judgment)

21. The State reported that the publication in the Official Gazette of the parts of the judgment ordered by the Court was made on July 29, 2009, and provided copies of the publication. Regarding the publication in a national newspaper, it indicated that, on July 15, 2009, it had sent the representatives a document with an alternative to the indicated paragraphs of the judgment in order to reach agreement on publication of a document that would be more readily understood by society in general. It indicated that, having received no response, it initiated the respective administrative procedures to publish the paragraphs specified by the Court. The publication was made in an insert in *El Espectador*, a newspaper "with extensive national circulation," on Sunday,

¹³ Cf. *Case of the Mapiripán Massacre v. Colombia. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of July 8, 2009, fortieth considering paragraph, and *Case of Manuel Cepeda Vargas v. Colombia*, *supra* note 12, para. 166.

¹⁴ *Case of the Mapiripán Massacre v. Colombia. Monitoring Compliance with Judgment*, *supra* note 13, forty-first considering paragraph, and *Case of Manuel Cepeda Vargas v. Colombia*, *supra* note 12, para. 166.

¹⁵ Cf. *Case of Manuel Cepeda Vargas v. Colombia*, *supra* note 12, para. 166.

¹⁶ Cf. *Case of Valle Jaramillo et al. v. Colombia*, *supra* note 6, para. 154.

September 26, 2010, "the day of the week with the highest circulation." Also, the first page of the newspaper included a note stating: "Today's edition includes an insert with excerpts from the judgment delivered by the Inter-American Court of Human Rights in the case of Valle Jaramillo *et al.* v. Colombia." The State attached a copy of this publication.

22. The representatives stated that the State had "made a proposal to reduce the content of the publication" ordered by the Court. It indicated that they were not obliged to accept this proposal because it lessened the obligations imposed on the State. According to the representatives, the Colombian State "made a publication in the *El Espectador* newspaper on Sunday, September 26, [2010.] They were "informed by a communication sent by fax on Friday, 24 [September 2010] at 5.40 p.m., a time at which, usually, it is virtually impossible to find any official available in an emergency in the Directorate of Human Rights and International Humanitarian Law, which was unfair to the victims and their representatives." Consequently, they indicated that the family of Jesús María Valle Jaramillo, the other victims acknowledged in the judgment, the representatives and the human rights community did not find out about the said publication in a timely manner. In short, the representatives stated that, "strictly speaking, the State has complied with the obligation, but they deeply regret that the State's way of fulfilling the obligations was through the violation and re-victimization of the people to whom it was supposed to be making reparation."

23. The Commission considered that the State had complied with this aspect of the judgment by making the publication in the Official Gazette and in a national newspaper. However, it noted the concern expressed by the representatives and recalled the spirit of this measure of reparation as regards the need for the publications to have effects for society as a whole as well as for the victims.

24. The Court notes that the State has provided documentation showing that publications were made in the Official Gazette on July 29, 2009, and in the insert in *El Espectador*, the newspaper with widespread circulation, on September 26, 2010. In this respect, the Court considers that the publications made by the Colombian State satisfy the obligation imposed by the Court and, therefore, declares that the State has complied fully with this reparation measure.

d) Regarding the obligation to organize a public act acknowledging its international responsibility in relation to the violations declared in the case at the University of Antioquia (sixteenth operative paragraph of the judgment)

25. The State indicated that the representatives had requested the proposed program for the act and that this was sent on August 19, 2010. In this regard, the State advised that it was taking the necessary steps to decide which senior State official would preside the public act and the possible dates on which it could be held. In addition, the State reiterated its absolute willingness to comply with this reparation measure, stating that "it is aware of its significance for the victims," and would therefore arrange a meeting to reach agreement on the details of each proposal and to ensure that the act was organized as soon as possible. Finally, the State reiterated its "willingness [...] to coordinate" with officials with decision-making authority and to continue discussions in order to hold the act as soon as possible.

26. The representatives stated that, together with the family of Jesús María Valle Jaramillo, they had "decided that a public act held within the University of Antioquia must include the active and positive participation of all levels of the university." They

also indicated that there is “consensus among the student representatives who have participated [in several meetings] regarding the need to ensure [...] that the event can be held without interference or hindrance of any kind.” Consequently, they had proposed several conceptual elements concerning the act to the State, as well as possible mechanisms to ensure its success, and were awaiting a response. In addition, they proposed the creation of a coordination committee with the participation of the State through its agents authorized to make decisions, representatives of the victims, and university authorities and delegates.

27. The Commission stressed the State’s willingness to implement this measure, and indicated that it hoped that “the parties reach agreement soon regarding the most appropriate mechanisms to implement the measures”; it emphasized the need for effective coordination to comply with the measures of reparation with the urgency required in this case.

28. The Court assesses positively the willingness shown by the parties to reach agreement in relation to the public act acknowledging responsibility. It also takes note of the commitment made during the hearing (*supra* having seen paragraph 12) that, within one month, the coordination committee between the parties would be established with the participation of different university authorities and levels. Consequently, the Court is awaiting further information as soon as possible regarding the measures taken to comply with this measure of reparation.

e) Regarding the obligation to place a plaque in memory of Jesús María Valle Jaramillo in the Palace of Justice of the Department of Antioquia (seventeenth operative paragraph of the judgment)

29. The State indicated that, in response to the proposal submitted by the representatives, it had made a counter-proposal in note DIDHD.GOI, No. 65412/2748 of November 3, 2010.¹⁷ In this regard, it indicated that, in a note of February 18, 2011, the representatives “accept[ed] the amendments to the main text made by the State and ask[ed] that the title of the plaque remain as it was in the original proposal.” They also requested “that the plaque be signed by the President of the Republic on behalf of the State.” In this regard, the State accepted the amendment proposed by the representatives and, regarding the signing of the plaque, indicated that it would be examined and agreed upon with them. Finally, the State indicated that it awaited the observations of the parties in order to initiate the administrative procedures and reach the necessary agreements to install the plaque.

¹⁷ The State presented the following counterproposal:

This plaque is placed in memory of Dr. Jesús María Valle Jaramillo, a criminal attorney, defender of the universal principles of due process and the right to justice, an ardent and courageous defender of human rights.

The State of Colombia deeply regrets the events of February 27, 1998 in which Dr. Jesús María Valle Jaramillo was murdered. The State apologizes to his family and society for the violation of human rights for which it was held internationally responsible by the Inter-American Court of Human Rights in the judgment handed down on November 27, 2008. While acknowledging that nothing can repair the pain his family has suffered, it trusts that this plaque can contribute to the path to justice, to recognize, promote and protect the work of human rights defenders, in the hope that such acts never happen again.

Let this be a place to remember him and to renew the commitment to the defense of human rights, proclaiming as he did: “Here we are and here we will always be, in the noise of battle or in the silence of death.”

30. The representatives indicated that they had “reached an agreement on the text of the plaque” and that they hope to decide, together with the State, how it should best be placed in the Palace of Justice of the Department of Antioquia.

31. The Commission assessed positively the State's willingness to reach a consensus and the willingness of the representatives to agree on the text, preparation, and installation of the plaque in memory of Jesús María Valle Jaramillo in the Palace of Justice of the Department of Antioquia.

32. The Court welcomes the willingness of the State and the representatives to implement this measure of reparation and highlights their readiness to achieve consensus. In this regard, the Court takes note of the agreements reached between the State and the representatives regarding the content of the text for the plaque. Thus, it urges the State to prepare the plaque and proceed to place it in the Palace of Justice of the Department of Antioquia as soon as possible, with the agreement and participation of the victims. Consequently, the Court considers that implementation of the seventeenth operative paragraph of the judgment has started and awaits information on its completion.

f) Regarding the obligation to provide immediately and free of charge, through its specialized health care institutions, any psychological and psychiatric care required by the victims (eighteenth operative paragraph of the judgment)

33. The Court received information from the State, the representatives of the victims, and the Inter-American Commission on the implementation of this measure of reparation during the private hearing on monitoring compliance in the present case (*supra* having seen paragraph 12). In this regard, the Court reiterates that this measure of reparation will be examined within the framework of the joint monitoring of compliance in eight Colombian cases (*supra* having seen paragraph 3). Consequently, the Court will rule in due course on all the information received, including the information aired during the hearing in this case.

g) Regarding the obligation to award Nelly Valle Jaramillo and Carlos Fernando Jaramillo Correa an educational grant to study or train for a profession (nineteenth operative paragraph of the judgment)

34. The State expressed its willingness “to comply with this measure of reparation and to remedy, to some degree, the suffering and needs that María Nelly Valle Jaramillo and Carlos Fernando Jaramillo Correa have faced.” It stressed that, in the interpretation judgment of July 7, 2009, the Court had indicated “that the State's compliance with this obligation entail[ed], in part, that the beneficiaries take certain actions aimed at exercising their right [in relation to] this reparation measure.” The State also indicated that the representatives had proposed, in a communication of August 19, 2010, “that the scholarships that [the Court] ordered for Nelly Valle Jaramillo and Carlos Fernando [Jaramillo Correa] can be used and enjoyed by their children, who are currently at the stage of receiving university training.” Therefore, they proposed “the one-time payment of a subsidy, the amount of which would be agreed upon, and which could be based on the average cost of tuition for 10 semesters of an undergraduate program.” In response to the representatives' proposal, the State offered “to pay for a specialization course or a master's degree in a Colombian university for one of Carlos Fernando Jaramillo's children and for one of Nelly Valle Jaramillo's children,” specifying that they themselves would have to carry out “the admissions procedures for the program they choose.” Subsequently, on February 18,

2011, the representatives made another proposal. The State indicated that the scholarship proposal was viable (tuition and living expenses) for the son of Nelly Valle Jaramillo, who was pursuing a master's degree at a Bogota university, but stressed that, in order to award the same amount of money to Carlos Jaramillo Correa's son, a mechanism would have to be established to ensure that the money was really used to study or learn a profession, in order to comply with this measure of reparation relating the damage caused to the life project and the change in the living conditions of the victims who are beneficiaries. Consequently, the State indicated that, when it had received the relevant documentation, the measure would be implemented through the Ministry of Education, the Colombian Institute for the Evaluation of Education (ICFES) and the Colombian Institute for Student Loans and Technical Studies Abroad (ICETEX).

35. The representatives considered that the State's approval of the scholarship for the son of Nelly Valle Jaramillo was positive. Consequently, they asked the Court to "endorse this proposal, [which] indicates that the payment will be made without any conditions other than demonstrating enrolment in the university [or] the payment of tuition; in other words, conditions related to the studies." They also considered it necessary that, "first, the entity responsible for complying with this obligation must be established."

36. The Commission took note of the State's intention and assessed positively the fact that Colombia had given its opinion with regard to the damage to the life project, underscoring the coordination between the representatives and the State and the agreements reached concerning Nelly Valle Jaramillo's son, as well as the willingness to achieve a viable solution for the son of Carlos Fernando Jaramillo Correa.

37. The Court assesses positively the willingness and readiness of the State to enter into dialogue and to collaborate with the representatives in to order implement the nineteenth operative paragraph of the judgment. In this regard, the Court considers it feasible to endorse the agreement reached between the representatives of the victims and the State, taking into account that it does not denature the reparative spirit of the measure and helps redress the damage caused to the life project and the change in the living conditions of the victims who are beneficiaries. However, in keeping with the observations made during the hearing, the Court awaits the presentation of a document with the specific terms of the agreement, in order to consider it and eventually endorse it. Consequently, it asks the parties to report, as soon as possible, on the steps taken to implement this measure in order to assess its eventual compliance.

h) Regarding the obligation to guarantee the safety of Carlos Fernando Jaramillo Correa if he decides to return to Colombia (twentieth operative paragraph of the judgment)

38. The State reiterated its willingness to comply with this measure of reparation, and indicated that it is waiting for Carlos Fernando Jaramillo Correa to indicate his intention to return to Colombia, either temporarily or permanently, in order to reach agreement with him on the measures necessary to comply with the decision of the Court. During the hearing, the State expressed its "complete commitment to ensuring the safety of Carlos Fernando [Jaramillo Correa] and his family when he decides to return to Colombia." Finally, the State considered that it could establish a coordination committee and that, based on some possible return dates, reach agreement on security and other measures that the State could provide to guarantee his return.

39. The representatives observed that the State has always insisted that Carlos Fernando and his family must first advise whether they wish to return to Colombia so as to, at that time, ensure appropriate security measures. They indicated that the reasons to fear for the life of the victims still remain, and that the State has not taken effective measures to truly transform the difficult conditions that exist in the municipality of Ituango. Consequently, they asked the Court not to place a limit on the time within which Mr. Jaramillo Correa and other next of kin who sought asylum in Canada can request security from the State to return to their places of origin. Subsequently, the representatives indicated that this measure cannot be limited to protection of the personal safety of Mr. Jaramillo Correa and his family in terms of a security plan, but rather this measure of reparation must include the creation of suitable conditions for their return and, if that is not possible, then the recovery of their socio-economic situation and their family group should be guaranteed, wherever they may be.

40. The Commission expressed its concern over the time limit indicated by the State and stressed the need to implement a mechanism for dialogue and coordination before their return to ensure a safe return. This mechanism must include the opportune design of the respective security plan, in keeping with the needs for protection.

41. The Court notes that this measure of reparation must be implemented in accordance with the provisions of Chapter X of the interpretation judgment (*supra* having seen paragraph 2), where it decided that:

44. In paragraph 227(g) of the judgment, the Court pointed out that the State has undertaken "to guarantee the safety of Carlos Fernando Jaramillo should he consider returning to Colombia permanently [and] to facilitate the process of return to their places of origin for the victims". Taking into account the commitments made by the State, in paragraph 231 of the judgment this Court accepted the offer made by the State and ordered the said measures, since it considered that such measures constitute a way of providing satisfactory reparation for the consequences of the violations declared in this judgment, that they are in keeping with the Court's case law and that they represent a positive contribution by Colombia to compliance with its obligation to repair the damage caused. Therefore, in the twentieth operative paragraph, the Court ordered the State "to guarantee the safety of Carlos Fernando Jaramillo Correa should he decide to return to Colombia," and in paragraph 231 established the term of one year, as of notification of the judgment, for compliance with this measure. Even though the term established in the judgment for compliance with this measure is clear, the Court acknowledges that this compliance by the State implies, in part, that the beneficiary must indicate his willingness to return to Colombia. Therefore, this Court deems it pertinent to clarify that the State and the beneficiary must agree, within the term established in the twentieth operative paragraph of the Judgment, on the pertinent measures to comply with what was ordered, in case Mr. Jaramillo Correa considers returning to Colombia. The Court notes that the uncertainty as to the date, if applicable, of the return of Carlos Fernando Jaramillo Correa to Colombia may lead to complications in compliance with this measure. However, the Court considers that, if there are difficulties related to the method of complying with this obligation, they must be resolved within the procedure to monitor compliance with the Judgment.

42. Consequently, based on the information presented during the hearing by both the State and the representatives, as well as the willingness of the parties to reach agreement on the necessary and effective coordination measures to create security and socio-economic conditions designed to ensure the safe return of Mr. Jaramillo Correa and his family to Colombia, the Court awaits updated information regarding the steps being taken to comply with the twentieth operative paragraph of the judgment, as established above.

43. When monitoring compliance with the pending aspects of this case, the Court assesses positively the usefulness of the hearing held in this regard, which has been reflected in the goodwill and spirit of cooperation shown by the parties. The Court will consider the general status of compliance with the pending aspects of the judgment in this case, when it receives the relevant information.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its decisions in accordance with Articles 33, 62(1), 67, and 68(1) of the American Convention on Human Rights, 24 and 30 of its Statute, and 31(2) and 69 of its Rules of Procedure,

DECLARES THAT:

1. As indicated in considering paragraphs 9 and 24 of this order, the State has complied with the following operative paragraphs of the judgment:

a) Payment of the amounts established in the judgment for pecuniary and non-pecuniary damage, and reimbursement of costs and expenses (*thirteenth operative paragraph of the judgment*); and,

b) Publication of certain paragraphs of the judgment, and its operative paragraphs, once in the Official Gazette and once in another national newspaper with widespread circulation (*fifteenth operative paragraph of the judgment*).

2. It will keep open the procedure of monitoring compliance in relation to the following pending aspects:

a) Investigation of the facts that gave rise to the violations in the case (*fourteenth operative paragraph of the judgment*);

b) Organization of a public act to acknowledge its international responsibility for the violations declared in the case, at the University of Antioquia (*sixteenth operative paragraph of the judgment*);

c) Placing of a plaque in memory of Jesús María Valle Jaramillo in the Palace of Justice of the Department of Antioquia (*seventeenth operative paragraph of the judgment*);

d) Award to Nelly Valle Jaramillo and Carlos Fernando Jaramillo Correa of a scholarship to study or learn a profession (*nineteenth operative paragraph of the judgment*), and

e) Guarantee of safety if Carlos Fernando Jaramillo Correa should decide to return to Colombia (*twentieth operative paragraph of the judgment*).

3. In accordance with the provisions of considering paragraph 33 of this order, the Court will monitor jointly, by monitoring compliance with the measure of reparation

concerning medical and psychological care in eight Colombian cases, the following operative paragraph of the judgment:

- a) To provide immediately and free of charge, through its specialized health care institutions, any psychological and psychiatric care required by the victims (*eighteenth operative paragraph 18 of the judgment*).

AND DECIDES:

1. To request the State of Colombia to take all necessary measures to comply effectively and promptly with the aspects pending compliance indicated in the second declarative paragraph *supra*, in accordance with Article 68(1) of the American Convention on Human Rights.
2. To request the State of Colombia to submit a report to the Inter-American Court of Human Rights by April 19, 2011, at the latest, indicating all the measures adopted to comply with the reparations ordered by this Court that remain pending compliance, as indicated in considering paragraphs 13 to 20, 28, 32, 37 and 42, as well as in the second declarative paragraph of this order.
3. To request the representatives and the Inter-American Commission on Human Rights to submit their observations on the State's report mentioned in the preceding operative paragraph, within two and four weeks respectively, of notification of this report.
4. To require the Secretariat to notify this order to the State, the Inter-American Commission, and the representatives of the victims.

Diego García-Sayán
President

Leonardo A. Franco

Manuel Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary