

Gutiérrez Soler v. Colombia

ABSTRACT¹

This is a case about the arbitrary arrest, detention and torture of a taxi-driver by the Colonel and a former Lieutenant of the Colombian National Police, in the National Anti-Extortion and Kidnapping Unit. Worthy of note is the Court's discussion of whether prejudice to the victim's life project should be taken into consideration in the decision of the quantum of damages.

I. FACTS

A. Chronology of Events

August 24, 1994: Mr. Wilson Gutiérrez Soler, formerly a mechanic, works as a taxi driver and participates in judicial auctions.² He lives with his wife, son, and mother-in-law.³ This afternoon, Mr. Gutiérrez Soler meets with Colonel Luis Gonzaga Enciso-Barón, a Commander from the National Anti-Extortion and Kidnapping Unit ("UNASE") of the National Police, and former Lieutenant Colonel Ricardo Dalel Barón, in Bogotá, Colombia.⁴ Mr. Dalel-Barón and Colonel Enciso Barón are also cousins.⁵

Colonel Enciso Barón and Mr. Dalel Barón arrest Mr. Gutiérrez Soler and take him to the basement of a UNASE building.⁶ Once there, Colonel Enciso Barón confiscates Mr. Gutiérrez Soler's cigarettes, matches, and money.⁷ The room in which Mr. Gutiérrez Soler is kept is only about three-meter wide and has only one light bulb.⁸ Colonel

1. Amy Choe, Author; Elise Cossart-Daly, Grace Kim, and Sascha Meisel, Editors; Sarah Frost, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. Gutiérrez Soler v. Colombia, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132, ¶ 41(a). (Sept. 12, 2005).

3. *Id.*

4. *Id.* ¶ 48(1).

5. *Id.*

6. *Id.*

7. Gutiérrez Soler v. Colombia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.291, ¶ 25 (Mar. 26, 2004).

8. *Id.* ¶ 48(2).

Enciso-Barón handcuffs Mr. Gutiérrez Soler to a water tank in the back of the room.⁹

While Mr. Gutiérrez Soler is handcuffed to the tank, Mr. Dalel Barón pressures him to confess that he had threatened to disclose Mr. Dalel Barón's business documents.¹⁰ Mr. Dalel Barón also interrogates Mr. Gutiérrez Soler about how he obtained the documents.¹¹

When Mr. Gutiérrez Soler says he does not have any such information, Mr. Dalel Barón asks him if he has any children.¹² When Mr. Gutiérrez-Soler says he has one, Mr. Dalel Barón replies that the child "will be the last you will have," then pulls Mr. Gutiérrez Soler's pants down and starts grazing Mr. Gutiérrez Soler's genitals with a lighted match.¹³

Though Mr. Gutiérrez Soler screams with pain, Mr. Dalel Barón continues to abuse Mr. Gutiérrez Soler using three more matches.¹⁴ Mr. Dalel Barón inserts a fourth match into Mr. Gutiérrez Soler's rectum.¹⁵ After three hours of torture,¹⁶ Mr. Gutiérrez Soler is numb with pain.¹⁷

Later, several officers from the Permanent Human Rights Office come to interview Mr. Gutiérrez Soler.¹⁸ The officers tell him that he must answer yes to every question they ask if he wants to live.¹⁹ There is no attorney or public counsel present while the officers question Mr. Gutiérrez Soler, nor do they attempt to find Mr. Gutiérrez Soler a legal representative, even though UNASE is located in downtown Bogotá where they could locate one relatively easily.²⁰ Instead, the law enforcement officers call a nun from a nearby religious institution to attend the interrogation²¹ and to accompany Mr. Gutiérrez Soler.²²

9. *Id.*

10. *Reabren Proceso Contra Coronel, por Tortura* [The Torture Case Involving the Colonel Reopens], EL TIEMPO, May 5, 2012 (Colom.).

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Gutiérrez Soler v. Colombia*, Merits, Reparations and Costs, ¶ 48(3).

17. *Reabren Proceso Contra Coronel, por Tortura* [The Torture Case Involving the Colonel Reopens], EL TIEMPO, MAY 5, 2012 (COLOM.).

18. *Gutiérrez Soler v. Colombia*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132, ¶ 48(3) (Sept. 12, 2005).

19. *Id.*

20. *Id.*

21. *Id.*

22. *Gutiérrez Soler v. Colombia*, Petition to the Court, Inter-Am. Comm'n H.R., Case No.

Under these conditions, Mr. Gutiérrez Soler is coerced into making incriminating statements.²³

At around 11:45 pm, a forensic physician from the Colombian National Forensic Medicine Institute examines Mr. Gutiérrez Soler's burns and concludes that they need medical treatment.²⁴ Mr. Gutiérrez Soler is bedridden for eighteen days following the torture.²⁵

August 25, 1994: Mr. Gutiérrez Soler reports the torture to the Regional Delegation of the Public Prosecution Office.²⁶ The Regional Prosecutor of UNASE records Mr. Gutiérrez Soler's physical injuries.²⁷ The Regional Prosecutor also checks and records Mr. Gutiérrez Soler's physical injuries.²⁸

August 26, 1994: Mr. Gutiérrez Soler files complaints against Colonel Enciso Barón and Mr. Dalel Barón with the Special Prosecutor for Human Rights Staff.²⁹ Legal action later commences against Colonel Enciso Barón under military criminal and disciplinary jurisdiction and against Mr. Dalel Barón under ordinary jurisdiction.³⁰

September 2, 1994: The Regional Justice prosecutes Mr. Gutiérrez Soler for extortion based on his forced confession and issues an order for him to be taken into custody.³¹

January 20, 1995: The Special Prosecutor at the Appellate Court revokes the custody order for Mr. Gutiérrez Soler, because the complaint against Mr. Gutiérrez Soler is unreliable.³² According to the Special Prosecutor, the complaint was "infested with contradictions" and was not credible.³³

February 7, 1995: The Military Criminal Examining Judge proceeds

12.291, ¶ 27 (Mar. 26, 2004).

23. Gutiérrez Soler v. Colombia, Merits, Reparations and Costs, ¶ 48(3).

24. *Id.* ¶ 48(5).

25. *Id.* ¶ 48(12).

26. *Id.* ¶ 48(6).

27. *Id.* ¶ 48(5).

28. *Id.*

29. *Id.* ¶ 48(6).

30. *Id.*

31. *Id.* ¶ 48(11).

32. *Id.*

33. *Id.*

with the assault and battery charges against Colonel Enciso Barón.³⁴ The investigation is transferred to the Office of Judge Advocate Number Sixty, who dismisses the case on the basis that Mr. Gutiérrez-Soler's allegations are baseless.³⁵

February 27, 1995: The Judicial Police Director exonerates Colonel Enciso Barón from disciplinary charges.³⁶

June 7, 1995: The Special Prosecutor for Human Rights decides that Mr. Gutiérrez Soler's claim against Colonel Enciso Barón has merit, but the General Prosecutor's Office refuses to take the case citing double jeopardy as Colonel Enciso Barón was exonerated in the decision of February 27, 1995.³⁷

August 29, 1995: The General Prosecutor opens a criminal case against Mr. Dalel Barón, because he was with Mr. Gutiérrez Soler while he was detained and because it was not possible that Mr. Gutiérrez Soler could have given himself the injuries he sustained.³⁸

August 8, 1996: The Forensic Psychology and Psychiatry Group of the Bogotá Regional Unit concludes that Mr. Gutiérrez Soler suffered permanent psychological disturbances from the 1994 torture.³⁹

January 15, 1998: The General Prosecutor's Office discontinues the criminal investigation against Mr. Dalel Barón, concluding that the testimonies of the police officers and Mr. Gutiérrez Soler are not credible.⁴⁰ Thereafter, the Constitutional Court, which has discretionary powers of review, also decides not to hear the case.⁴¹

January 18, 1998: The General Prosecutor discontinues the investigation against Mr. Dalel Barón.⁴² The prosecutor relies on the medical report that was written five hours after Mr. Gutiérrez Soler's

34. *Id.* ¶ 48(7).

35. *Id.*

36. *Id.* ¶ 48(8).

37. *Id.*

38. Gutiérrez Soler v. Colombia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.291, ¶ 32 (Mar. 26, 2004).

39. *Id.* ¶ 48(5).

40. *Id.* ¶ 48(9).

41. *Id.*

42. *Id.* ¶ 32.

torture occurred.⁴³ The medical report suggests that Mr. Gutiérrez Soler could have burned himself as there were no signs indicative of self-defense or resistance.⁴⁴

September 30, 1998: The Superior Military Court terminates the proceedings against Colonel Enciso Barón that affirm the February 7, 1995 decision.⁴⁵

May 6, 1999: Mr. Gutiérrez Soler is formally accused of the crime of extortion, but the arrest warrant against him is dismissed after his defense appeals.⁴⁶

June 8, 1999: The Appellate Court of the Judicial District of Bogotá confirms the January 15, 1998 decision of the General Prosecutor's Office to discontinue the prosecution of Mr. Dalel Barón because of "questionable testimonies."⁴⁷

November 28, 2000: Surgeon urologist Jorge Chavarro concludes that the 1994 torture left permanent damage on Mr. Gutiérrez Soler's body.⁴⁸

August 26, 2002: The Eighth Special Criminal Circuit Court of Bogotá acquits Mr. Gutiérrez Soler on the extortion charge.⁴⁹ The court rules that the August 24, 1994 arrest occurred under questionable circumstances.⁵⁰ Colonel Enciso Barón, as the cousin of Mr. Dalel Barón, could have been acting in the interest of Mr. Dalel Barón, especially considering that officers of his rank would not normally be involved in such a case.⁵¹ Moreover, according to a report issued by the National Institute of Legal Medicine and Forensic Sciences, Mr. Gutiérrez Soler appears to have been tortured because of the eighteen-day period during which he was bedridden.⁵²

43. *Id.*

44. *Id.*

45. *Id.* ¶ 30.

46. *Gutiérrez Soler v. Colombia*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132, ¶ 48(11) (Sept. 12, 2005).

47. *Gutiérrez Soler v. Colombia*, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.291, ¶ 32 (Mar. 26, 2004).

48. *Gutiérrez Soler v. Colombia*, Merits, Reparations and Costs, ¶ 48(5).

49. *Id.* ¶ 48(12).

50. *Id.*

51. *Id.*

52. *Id.*

B. Other Relevant Facts

[None]

II. PROCEDURAL HISTORY

A. Before the Commission

November 5, 1999: The “José Alvear Restrepo” Lawyers’ Collective files a petition with the Inter-American Commission on Human Rights (“Commission”) on behalf of Mr. Gutiérrez Soler.⁵³

August 31, 2004: The State files preliminary objections.⁵⁴ The State alleged that the proceedings impaired the State’s ability to defend itself, and that Mr. Gutiérrez Soler had not exhausted domestic remedies.⁵⁵

October 10, 2001: The Commission adopts Admissibility Report No. 76/01.⁵⁶ In the Report, the Commission rebuts the State’s argument that the domestic courts already ruled on Mr. Gutiérrez Soler’s case and that Mr. Gutiérrez Soler failed to submit his petition to the Commission in the appropriate time frame.⁵⁷ For the State’s first objection, the Commission finds that the State already recognized that Mr. Gutiérrez Soler’s exhausted domestic remedies.⁵⁸ For the State’s second objection, the Commission rules that Mr. Gutiérrez Soler’s petition was timely because the Executive Secretariat of the Court received his petition on November 5, 1999, which is within six months from the State domestic court’s date of judgment, June 10, 1999.⁵⁹

October 9, 2003: The Commission issues Report on the Merits No. 45/03.⁶⁰ The Commission finds the State responsible for the inhumane

53. *Id.* ¶ 5.

54. *Id.* ¶ 19.

55. *Id.*

56. *Id.* ¶ 6.

57. *Id.* ¶ 3.

58. *Id.* ¶ 19.

59. *Id.* ¶ 20.

60. Gutiérrez Soler v. Colombia, Petition to the Court, Inter-Am. Comm’n H.R., Case No. 12.291, ¶ 20 (Mar. 26, 2004).

treatment of Mr. Gutiérrez Soler and failure to provide effective relief.⁶¹ Accordingly, it concludes that the State has violated articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 5(4) (Right of Accused to Be Segregated from Convicted Persons), 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 7(4) (Right to Be Informed of Reasons of Arrest and Charges), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), 7(6) (Right to Have Recourse before a Competent Court), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 8(2) (Right to be Presumed Innocent), 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), 8(2)(e) (Right to Assistance by Counsel Provided by State), 8(2)(g) (Right Not to Self-Incriminate), 8(3) (A Confession is Valid only if Not Coerced), and 25 (Right to Judicial Protection) all in relation to Article 1(1).⁶² Thus, the Commission recommends the State to take the necessary measures to prosecute those responsible for Mr. Gutiérrez Soler's torture, compensate Mr. Gutiérrez Soler, and guarantee that the State will not repeat similar acts in the future.⁶³ In response to the Commission's recommendations, the State requested an extension.⁶⁴

B. Before the Court

March 26, 2004: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁶⁵

1. Violations Alleged by Commission⁶⁶

To the detriment of Mr. Gutiérrez Soler and his next of kin: Kevin Daniel Gutiérrez Niño, María Elena Soler de Gutiérrez, Álvaro Gutiérrez Hernández (deceased), Ricardo Gutiérrez Soler, Yaqueline Reyes, Luisa Fernanda Gutiérrez Reyes, Paula Camila Gutiérrez Reyes,

61. *Id.*

62. *Id.*

63. *Id.*

64. *Id.*

65. *Id.* ¶ 1.

66. *Gutiérrez Soler v. Colombia*, Admissibility Report, Report No. 76/01, Inter-Am. Comm'n H.R., Case No. 12.291, ¶ 14 (Oct. 10, 2001).

Leonardo Gutiérrez Rubiano, Leydi Caterin Gutiérrez Peña, Sulma Tatiana Gutiérrez Rubiano, Ricardo Alberto Gutiérrez Rubiano, and Carlos Andrés Gutiérrez Rubiano:

Article 5(1) (Right to Physical, Mental and Moral Integrity)

in relation to:

Article 1(1) (Obligation to Respect Rights) of the American Convention.

To the detriment of Mr. Gutiérrez Soler:

Article 5(2) (Prohibition of Torture, Cruel, Inhuman or Degrading Treatment)

Article 5(4) (Right of Accused to Be Segregated from Convicted Persons)

Article 7(1) (Right to Personal Liberty and Security)

Article 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law)

Article 7(3) (Prohibition of Arbitrary Arrest or Imprisonment)

Article 7(4) (Right to Be Informed of Reasons of Arrest and Charges)

Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time)

Article 7(6) (Right to Have Recourse to a Competent Court)

Article 8(1) (Right to a Hearing Within Reasonable Time by Competent and Independent Tribunal)

Article 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel)

Article 8(2)(e) (Right to Assistance by Counsel Provided by State)

Article 8(2)(g) (Right Not to Self-Incriminate)

Article 8(3) (Confession is Valid Only if Not Coerced)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victims⁶⁷

67. Gutiérrez Soler v. Colombia, Merits, Reparations and Costs, ¶ 27. Viviana Krsticevic (Executive Director of the Center for Justice and International Law "CEJIL"); Roxana Altholz (attorney for CEJIL); Rafael Barrios (attorney for "José Alvear Restrepo" Lawyers' Collective); and Jomary Ortégón (attorney for the "José Alvear Restrepo" Lawyers' Collective) represented the victims.

Same Violations Alleged by Commission, plus:

Article 1 (Obligation to Prevent and Punish Torture)

Article 6 (Obligation to Take Effective Measures)

Article 8 (Obligation to Investigate) of the Convention to Prevent and Punish Torture.⁶⁸

June 18, 2004: The State appoints Ernesto Rey Cantor as *ad hoc* judge.⁶⁹

March 9, 2005: During a Court-held public hearing, the State recognizes international responsibility for the violation of Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 5(4) (Right of Accused to Be Segregated from Convicted Persons), 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 7(4) (Right to Be Informed of Reasons of Arrest and Charges), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), 7(6) (Right to Have Recourse before a Competent Court), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), 8(2)(e) (Right to Assistance by Counsel Provided by State), 8(2)(g) (Right Not to Self-Incriminate), 8(3) (A Confession is Valid only if Not Coerced), and 25 (Right to Judicial Protection) of the Convention.⁷⁰

March 11, 2005: The Court issued provisional measures and ordered the State to:

First, adopt the necessary measures to protect life, personal integrity and liberty of Mr. Gutiérrez Soler and his family.⁷¹ Second, the Court ordered the State to investigate the facts behind Mr. Gutiérrez Soler's case.⁷² Third, the Court required the State to include the

68. Gutiérrez Soler v. Colombia, Merits, Reparations and Costs, ¶ 53.

69. *Id.* ¶ 17.

70. *Id.* ¶ 26.

71. Gutiérrez Soler v. Colombia, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) "Resolved," ¶ 1 (Mar. 11, 2005).

72. *Id.* "Resolved" ¶ 2.

beneficiaries, or their representatives, in planning and implementing protective measures.⁷³ To ensure that the State complies with the provisional measures, the Court ordered the State to submit a bi-monthly report to the Court explaining the steps the State is taking to follow the Court's order.⁷⁴

III. MERITS

*A. Composition of the Court*⁷⁵

Sergio García Ramírez, President
 Alirio Abreu Burelli, Vice-President
 Oliver H. Jackman, Judge
 Antônio Augusto Cançado Trindade, Judge
 Manuel E. Ventura Robles, Judge
 Diego García-Sayán, Judge
 Ernesto Rey Cantor, Judge *ad hoc*

Emilia Segares Rodríguez, Deputy Secretary

B. Decision on the Merits

September 12, 2005: The Court issues its Judgment on Preliminary Objections, Merits, Reparations and Costs.⁷⁶

The Court found unanimously that Colombia had violated:

Article 5(1) (Right to Physical, Mental and Moral Integrity), Article 5(2) (Prohibition of Torture, Cruel, Inhuman or Degrading Treatment), and Article 5(4) (Right of Accused to Be Segregated from Convicted), in relation to Article 1(1) of the Convention, to the detriment of Mr. Gutiérrez Soler and his next of kin,⁷⁷ because:

Mr. Gutiérrez Soler was arrested without a warrant by an agent who

73. *Id.* "Resolved" ¶ 3.

74. *Id.* "Resolved" ¶¶ 2-3.

75. Judge Cecilia Medina-Quiroga was unable to attend the deliberations for this judgment. *Id.* n.*.

76. *Gutiérrez Soler v. Colombia*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132 (Sept. 12, 2005).

77. *See id.* "Declares" ¶ 1.

*lacked the jurisdiction to arrest him.*⁷⁸ *The State has an obligation to promptly launch an investigation to identify, try, and punish those responsible for an act of torture whenever there is a reliable accusation of torture.*⁷⁹ *As of the date of the Judgment, the State has not punished any person for the torture Mr. Gutiérrez Soler endured.*⁸⁰ *Mr. Gutiérrez Soler and his family were continuously in fear for their lives and of the family being separated due to a series of threats, harassment, surveillance and arrests following the torture and arrest of Mr. Gutiérrez Soler.*⁸¹ *His family continued to be threatened and harassed even after he left the country.*⁸²

Article 7(1) (Right to Personal Liberty and Security), Article 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Established Previously by Law), Article 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), Article 7(4) (Right to Be Informed of Reasons of Arrest and Charges), Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), Article 7(6) (Right to Have Recourse to a Competent Court), in relation to Article 1(1) of the Convention, to the detriment of Mr. Gutiérrez Soler,⁸³ because:

*Mr. Gutiérrez Soler was arrested without a warrant by an agent who lacked the jurisdiction to arrest him.*⁸⁴

Article 8(1) (Right to a Hearing Within Reasonable Time by Competent and Independent Tribunal), Article 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), Article 8(2)(g) (Right Not to Self-Incriminate), and Article 8(3) (Confession is Valid Only if Not Coerced), in relation to Article 1(1) of the Convention, to the detriment of Mr. Gutiérrez Soler,⁸⁵ because:

The State acknowledged responsibility for the violation of Articles 8(1) (Right to a Hearing Within Reasonable Time by Competent and Independent Tribunal), 8(2)(d) (Right to Self-Defense or Legal

78. *Id.* ¶ 52.

79. *Id.* ¶ 54.

80. *Id.*

81. *Id.* ¶¶ 56-57.

82. *Id.* ¶ 56.

83. *Id.* ¶ 127, “Declares” ¶ 3.

84. *Id.* ¶ 52.

85. *Id.* ¶ 127, “Declares” ¶ 4.

Assistance and to Communicate Freely with Counsel), 8(2)(g) (*Right Not to Self-Incriminate*) and 8(3) (*Confession is Valid Only if Not Coerced*).⁸⁶

Article 1 (Obligation to Prevent and Punish Torture), Article 6 (Obligation to Take Effective Measures), and Article 8 (Obligation to Investigate) of the Inter-American Convention Against Torture, to the detriment of Mr. Gutiérrez Soler,⁸⁷ because:

*States have an obligation to immediately begin an effective investigation into an accusation of torture and take steps to prevent and punish torturous acts within their jurisdiction.*⁸⁸ *Nevertheless, Colombia has not yet punished anyone involved in the torture of Mr. Gutiérrez Soler.*⁸⁹

C. Dissenting and Concurring Opinions

1. Separate Opinion of Judge Sergio García Ramírez

Judge García Ramírez discusses four general issues: out-of-court settlements between parties; government's acknowledgment of liability (acquiescence); criticism of double jeopardy; and the public nature of proceedings and publication of judgment.⁹⁰

Judge García Ramírez notes that a growing number of cases are being resolved through "friendly settlements," both before the Commission and the Court.⁹¹ He argues that, while the Courts may accept the agreements between parties, the acceptance or rejection of the agreement must follow certain requirements.⁹² Those requirements are that the parties' agreements be just, supported by established facts, and open to the possibility that the judicial system may decide some issues notwithstanding the private agreement.⁹³

Judge García Ramírez also comments on when a State acknowledges its own liability.⁹⁴ He states that acquiescence occurs

86. *Id.* ¶ 52.

87. *Id.* ¶ 127, "Declares" ¶ 5.

88. *Id.*

89. *Id.*

90. Gutiérrez Soler v. Colombia, Merits, Reparations and Costs, Separate Opinion of Judge Sergio García-Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 132, ¶ 1 (Sept. 12, 2005).

91. *Id.* ¶ 6.

92. *Id.* ¶ 4.

93. *Id.* ¶ 6.

94. *See id.* ¶ 11.

when a State acknowledges all or part of the violations the petitioners allege⁹⁵ and that in twenty-four percent of all cases filed with the Court the State acknowledged, totally or partially, human rights violations.⁹⁶ Judge García Ramírez notes that this is an encouraging trend because it shows that States are taking responsibility for their illegal actions while reducing unnecessary disputes on whether the State acted illegally.⁹⁷ He then notes that this case also involved governmental acquiescence, and commends the Colombian government for acknowledging and offering an apology to the victims in a March 9, 2005 hearing.⁹⁸ As an evidentiary matter, however, there is a debate on whether the Court should consider the acknowledgments as established facts parties should not question in court or factual issues that the parties should still settle.⁹⁹ On this issue, Judge García Ramírez notes that such acknowledgments are not binding in the Court and are not a legal assessment of the acts.¹⁰⁰ Since only the Court can make conclusive factual decisions, it may continue the proceedings despite the State's acquiescence.¹⁰¹

Judge García Ramírez went on to criticize the widespread “double-jeopardy” theory.¹⁰² He writes that sanctifying double jeopardy could impede an international human rights court's judicial process, because the rule would prohibit any court from overturning a final judgment of a domestic court.¹⁰³ While a State's final conclusion on a case should be respected, States should not abuse the double jeopardy principle to justify illegitimate judicial process.¹⁰⁴ The principle is valued only when State courts follow regular procedure and perform legitimate acts.¹⁰⁵

Finally, Judge García Ramírez elaborates on the public nature of the proceedings and the publication of the judgment remedy that the Court orders.¹⁰⁶ The Court orders governments to publish its judgments as a remedy for the victim or to prevent violations from recurring.¹⁰⁷ Judge García Ramírez notes that publishing the judgment requires caution, however, as revealing too much about the victim's experience

95. *Id.* ¶ 11.

96. *Id.* ¶ 6.

97. *Id.* ¶ 7.

98. *Id.* ¶ 10.

99. *Id.* ¶ 15.

100. *Id.* ¶ 16.

101. *Id.*

102. *Id.* ¶ 17.

103. *Id.* ¶ 19.

104. *Id.* ¶ 20.

105. *Id.*

106. *Id.* ¶ 23.

107. *Id.* ¶ 24.

could cause them further damage.¹⁰⁸ Nevertheless, the publication of the judgment should include that the government is internationally liable for its violations and allow any interested person to access the facts of the case.¹⁰⁹

2. Separate Opinion of Judge Oliver H. Jackson

Judge Jackson wrote a separate opinion to emphasize that the Court should not create new “life project” damages that are separate from the existing “moral” or “non pecuniary” damages.¹¹⁰ The new damage category would “give the impression that the Court is too eager to find innovative methods to punish respondent States” and “does not respond to any identifiable legal need.”¹¹¹

3. Separate Opinion of Judge Antônio Augusto Cançado Trindade

Judge Trindade wrote that the Court should have more fully endorsed the concept of “life project” damages.¹¹² He argues that the Court should have helped establish a stronger legal foundation for the life project concept, as fulfilling one’s life project has inherent existential value.¹¹³ Judge Trindade believes that after-life is as fundamentally valuable as life projects.¹¹⁴ Both are directly related to people’s “inner life, beliefs in human destiny, and their relations with their dead.”¹¹⁵

Judge Trindade also stresses the importance of remembering the past.¹¹⁶ He writes that remembrance is an “ethical obligation,” as remembering allows people to express gratitude for the dead, who provide advice and care to later generations.¹¹⁷ Finally, Judge Trindade writes that remembering the past has become something of a trend.¹¹⁸

108. *Id.* ¶ 25.

109. *Id.*

110. Gutiérrez Soler v. Colombia, Merits, Reparations and Costs, Separate Opinion of Judge Oliver H. Jackson, Inter-Am. Ct. H.R. (ser. C) No. 132 (Sept. 12, 2005).

111. *Id.*

112. Gutiérrez Soler v. Colombia, Merits, Reparations and Costs, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 132, ¶ 2 (Sept. 12, 2005).

113. *Id.* ¶ 4.

114. *Id.* ¶ 8.

115. *Id.* ¶ 9.

116. *Id.* ¶ 11.

117. *Id.*

118. *Id.* ¶ 12.

Judge Trindade provides examples of from every continent of “expressions of human conscience” for human rights violations.¹¹⁹ For the American continent, Judge Trindade gives examples of Colombia and Chile, the Asian continent, Japan, the European continent, the Vatican, and the African continent, South Africa and Rwanda.¹²⁰

IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)

1. Investigate Perpetrators who Tortured Mr. Gutiérrez Soler

The Court found that the Colombian domestic courts should reopen the cases against Colonel Enciso Barón and Mr. Dalel Barón to investigate those who were responsible for torturing Mr. Gutiérrez Soler.¹²¹ The Court noted that Colombia allows courts to reopen previously adjudicated cases.¹²² The Court ordered the State of Colombia to publish the results of the investigations of Colonel Enciso Barón and Mr. Dalel Barón so that the public will know the truth.¹²³

2. Medical and Psychological Treatment

The Court ordered Colombia to provide free medical and psychological treatment to help repair the long-term physical and mental trauma Mr. Gutiérrez Soler and his next of kin suffered.¹²⁴ Since Mr. Gutiérrez Soler and his son reside in the United States, Colombia should pay Mr. Gutiérrez Soler \$25,000 for medical and psychological treatment for both men.¹²⁵

119. *Id.* ¶¶ 19-28.

120. *Id.*

121. *Id.* ¶¶ 96, 98.

122. *Id.* ¶ 99.

123. *Id.* ¶ 96.

124. *Id.* ¶ 102.

125. *Id.* ¶ 103.

3. Publish Relevant Sections of the Judgment

The Court ordered the State to publish the proven facts with footnotes, consisting of paragraphs fifty-one through fifty-nine of the Merits section and the operative paragraphs of the judgment.¹²⁶ The sections should be published at least once in the Official Gazette and at least once in another national daily newspaper.¹²⁷

4. Disseminate and Enforce the Inter-American Human Rights Protection Jurisprudence in Military Criminal Courts

The State must introduce training courses for the military criminal court and law enforcement staff to educate the staff about due process, judicial protection, and the limits of military court jurisdiction.¹²⁸

5. Implement Standards in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”)

The Court ordered the State to establish a training program that would educate physicians, medical professionals involved in law enforcement, judges, and prosecutors who try cases involving torture and cruel treatment about the Istanbul Protocol.¹²⁹ The Istanbul Protocol sets standards for conducting medical examinations and creating reports for victims of torture and other cruel, inhuman or degrading treatment or punishment.¹³⁰

6. Strengthen Control Over Arrest Centers

The Court ordered the State to implement control measures to help prevent and detect acts of torture or inhuman treatment.¹³¹ The Court ordered the State to conduct medical examinations of every arrestee or convict, according to standard medical practice.¹³² Specifically, the examinations should be conducted in private and never while in the

126. *Id.* ¶ 105.

127. *Id.*

128. *Id.* ¶ 106.

129. *Id.* ¶ 110.

130. *Id.* ¶ 109.

131. *Id.* ¶ 111.

132. *Id.*

presence of security staff or other government officials.¹³³ Such examinations shall be conducted as soon as possible after the arrested person arrives at their prison, and that thereafter medical care and treatment must be provided whenever necessary.¹³⁴ The State was also ordered to conduct regular psychological assessments of the staff in charge of the arrested persons, in order to ensure that they are in adequate mental health.¹³⁵ The State must also allow the staff of human rights organizations frequent access to prison centers to ensure the prisoners are appropriately protected from violations of their human rights.¹³⁶

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court ordered the State to pay \$ 60,000 to Mr. Gutiérrez Soler for loss of income on equitable grounds, as there is not enough evidence to accurately determine what his income was when the torture occurred.¹³⁷

The Court also awarded \$30,000 to Mr. Wilson Gutiérrez Soler, \$30,000 to Mr. Ricardo Gutiérrez Soler and \$15,000 to Ms. María Elena Soler de Gutiérrez for the suffering caused by Mr. Gutiérrez Soler's torture, such as going into exile, changing jobs, and moving homes.¹³⁸

2. Non-Pecuniary Damages

The State must pay \$90,000 to Mr. Gutiérrez Soler for his arbitrary arrest and torture, the doubts that were cast on his character throughout the eight years leading up to his acquittal, the harassment and threats that drove him out of the country, the dissolution of his family caused by the torture and subsequent events, the fact that those who inflicted torture on him remain unpunished, as well as all of the resulting physical and psychological effects of this experience.¹³⁹

133. *Id.*

134. *Id.*

135. *Id.*

136. *Id.* ¶ 112.

137. *Id.* ¶ 76.

138. *Id.* ¶ 78.

139. *Id.* ¶¶ 84-85.

The State must pay \$40,000 to Mr. Alvaro Gutiérrez Hernandez and Ms. Maria Elena Soler de Gutiérrez, Mr. Gutiérrez Soler's parents, for dealing with threats of violence, being forced to abandon their home after a bomb was planted there,¹⁴⁰ and spending years concerned about their children's safety.¹⁴¹ The compensation also accounts for the anguish suffered by Mr. Alvaro Gutiérrez Hernandez, now deceased, as he suspected that his son was involved in illegal business without ever knowing that his son had been tortured.¹⁴²

The State must pay \$20,000 to Kevin Daniel Gutiérrez Niño, Mr. Wilson Gutiérrez Soler's son, for being unable to see his father for years, which had devastating effects on their relationship.¹⁴³

The State must pay \$50,000 to Mr. Ricardo Gutiérrez Soler, Mr. Wilson Gutiérrez Soler's brother, for being the target of threats, surveillance, arrests, searches, and assaults because of his relentless support of his brother.¹⁴⁴ This affected Mr. Ricardo Gutiérrez Soler and his family's safety, as well as his ability to provide for his family.¹⁴⁵

The State must also pay \$8,000 for each of Mr. Gutiérrez Soler's next of kin: Yaqueline Reyes, Luisa Fernanda Gutiérrez Reyes, Paula Camila Gutiérrez Reyes, Leonardo Gutiérrez Rubiano, Leydi Caterin Gutiérrez Peña, Sulma Tatiana Gutiérrez Rubiano, Ricardo Alberto Gutiérrez Rubiano and Carlos Andrés Gutiérrez Rubiano, for the distress caused by the barrage of threats and attacks that led to them to live in a constant state of fear.¹⁴⁶

3. Costs and Expenses

The Court awarded \$20,000 to the "José Alvear Restrepo" Lawyers' Collective¹⁴⁷ and \$5,000 to CEJIL for the assistance they provided to Mr. Gutiérrez Soler and his next of kin.¹⁴⁸

4. Life Project

140. *Id.*

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

146. *Id.*

147. *Id.* ¶ 117.

148. *Id.* ¶ 105.

The Court considered but ultimately decided to not order monetary compensation for damage to Mr. Gutiérrez Soler's "life project."¹⁴⁹

5. Total Compensation (including Costs and Expenses ordered):

\$424,000

C. Deadlines

The State must publish the relevant sections of the Judgment within six months from the date of the Judgment.¹⁵⁰ All compensation must be paid within one year from the date of the notice of the Judgment.¹⁵¹ For all other measures ordered, the State must comply within a reasonable time.¹⁵²

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

July 16, 2007: The Supreme Court of Justice of Colombia admitted the Attorney General's appeal to review the investigation of those who tortured Mr. Gutiérrez Soler.¹⁵³

November 27, 2007: The Court issued its second judgment on provisional measures.¹⁵⁴ The Court addressed the State's request to rescind the Court's first judgment on provisional measures, as the State could not effectively provide remedies to beneficiaries residing outside the State.¹⁵⁵ The Court ordered the State to continue providing remedies to beneficiaries living in the State and to report on how the State is providing remedies in its next bimonthly report.¹⁵⁶ The Court reiterated

149. *Id.* ¶ 89.

150. *Id.* ¶ 105.

151. *Id.* ¶ 118.

152. *Id.*

153. *Gutiérrez Soler v. Colombia*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Considering" ¶ 7 (Jan. 31, 2008).

154. *Gutiérrez Soler v. Colombia*, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) (Nov. 27, 2007).

155. *Id.* "Whereas" ¶ 8.

156. *Id.* "Whereas" ¶¶ 11, 12.

that the State must continue complying with the first judgment on provisional measures.¹⁵⁷

December 3, 2008: The Court found that the State had published the relevant statements of the Judgment in the Official Gazette and one other national daily newspaper,¹⁵⁸ paid for the medical and psychological treatment of Mr. Gutiérrez Soler and his son, Kevin Daniel Gutiérrez,¹⁵⁹ implemented training programs for the military criminal court and police staff regarding the Inter-American System for Human Rights Protection,¹⁶⁰ adopted a training program that incorporates the Istanbul Protocol's international standards,¹⁶¹ and paid the pecuniary and non-pecuniary damages¹⁶² as well as the costs and expenses.¹⁶³

The Court found that the State of Columbia did not comply with the orders to investigate, identify and punish those who tortured Mr. Gutiérrez Soler;¹⁶⁴ provide free psychological and psychiatric treatment at a State appointed health institution for the beneficiaries of the decision;¹⁶⁵ and to implement necessary measures to strengthen existing control mechanisms in state arrest centers.¹⁶⁶

January 31, 2008: The Court found that the State had not yet fully complied with the order to investigate and punish the perpetrators of the torture.¹⁶⁷ In 2007, the Supreme Court decided to review cases considering those who tortured Mr. Gutiérrez Soler.¹⁶⁸ The State, however, did not exhaust all efforts to expedite the appeal process as required by the Judgment and thus, the State did not fully comply with the Judgment in this aspect.¹⁶⁹ The Court ordered the State to continue providing information about the appeals process.¹⁷⁰

157. *Id.* "Decides" ¶¶ 1-5.

158. Gutiérrez Soler v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., ¶ 7 (Dec. 3, 2008).

159. *Id.*

160. *Id.*

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.*

167. Gutiérrez Soler v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Considering" ¶ 8, "Declares" ¶ 2 (Jan. 31, 2008).

168. *Id.* "Considering" ¶ 7.

169. *Id.* "Considering" ¶ 8.

170. *Id.* "Considering" ¶ 9.

The State also did not provide free psychological and psychiatric treatment to the beneficiaries of the judgment.¹⁷¹ The State requested for an alternative way to treat the beneficiaries who live abroad.¹⁷² The Court stated that the State should use its best efforts to provide treatment to the beneficiaries, as there has been a communication failure between the parties about the promised treatments.¹⁷³

The State has not strengthened its existing control mechanisms in state arrest centers.¹⁷⁴ The State implemented some control mechanisms, such as human right defenders and daily medical examinations for inmates at arrest centers.¹⁷⁵ Nevertheless, the Court ordered the State to establish more control mechanisms in provisional detention facilities or police departments where human rights violations could occur.¹⁷⁶

June 30, 2009: The Court found that the State had not yet fully complied with the order to:

Comply with the Court's order to investigate and punish the perpetrators.¹⁷⁷ The Supreme Court of Justice voided the Military Criminal Court's decision on Colonel Enciso Barón, that ruled his actions were innocent.¹⁷⁸ For Mr. Dalel Barón, the State reported that the Prosecutor's Office is planning to file an action for review.¹⁷⁹ Since the State has not pursued action against Mr. Ricardo Dalel Barón as actively as against Colonel Enciso Barón, the Court ruled that the State has not fully complied with the Court's orders.¹⁸⁰ The Court ordered the State to continue reporting its progress on compliance.¹⁸¹

The Court ordered the State to provide free psychological and psychiatric treatment to beneficiaries of the judgment.¹⁸² The State said that they were prepared to provide such treatment to beneficiaries when they require the treatment.¹⁸³ The beneficiaries had mentioned they

171. *Id.* "Considering" ¶ 16.

172. *Id.* "Considering" ¶¶ 11, 15.

173. *Id.* "Considering" ¶ 12.

174. *Id.* "Declares" ¶ 2.

175. *Id.* "Considering" ¶ 29.

176. *Id.* "Considering" ¶ 31.

177. *Gutiérrez Soler v. Colombia*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Declares" ¶ 2 (June 30, 2009).

178. *Id.* "Considering" ¶ 8.

179. *Id.*

180. *Id.* "Declares" ¶ 2.

181. *Id.* "Considering" ¶ 14.

182. *Id.* "Considering" ¶ 19.

183. *Id.* "Considering" ¶ 16.

would like to discuss with Mr. Gutiérrez Soler before seeking treatment.¹⁸⁴ The Court ordered the State to take all necessary steps to ensure that all victims participate in effectively ensuring the State fully complies.¹⁸⁵

The Court also ordered the State to strengthen existing control mechanisms in arrest centers.¹⁸⁶ The Court ruled that the State partially complied with this measure and must still adopt measures that include medical and psychological check-ups and procedures to periodically evaluate the psychological condition of arrest center officers who provide treatment to detainees.¹⁸⁷ The Court ordered the State to adopt “all necessary measures” to strengthen the control mechanisms.¹⁸⁸

July 9, 2009: In its third judgment on provisional measures, the Court reaffirmed its previously issued judgments.¹⁸⁹

As for the beneficiaries residing outside Colombia, the Court held the State should provide remedies to each and every one who returns to Colombia until the “situation of extreme gravity and urgency” ends.¹⁹⁰ The Court ordered the representatives to inform Colombia when the beneficiaries return to Colombia and to devise methods to implement protective measures as mentioned in previous measures.¹⁹¹

As for the beneficiaries living in Colombia, the State should provide measures of protection to them if a “situation of extreme gravity and urgency” still exists.¹⁹² Accordingly, the Court would continue to evaluate the effectiveness of those measures.¹⁹³

The Court ordered the State to continue complying with the previously ordered provisional measures.¹⁹⁴

June 30, 2011: The Court issued its fourth judgment on provisional measures, in which it discussed protective measures for both the out-of-state and in-state beneficiaries.¹⁹⁵

184. *Id.*

185. *Id.* “Considering” ¶ 19.

186. *Id.* “Considering” ¶ 27.

187. *Id.* “Considering” ¶ 26.

188. *Id.* “Considering” ¶ 27.

189. Gutiérrez Soler v. Colombia, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) (July 9, 2009).

190. *Id.* “Considering” ¶ 21.

191. *Id.* “Considering” ¶ 25.

192. *Id.* “Considering” ¶ 26.

193. *Id.*

194. *Id.* “Decides” ¶ 3.

195. Gutiérrez-Soler v. Colombia, Provisional Measures, Order of the Court, Inter-Am. Ct.

As for the out-of-State beneficiaries, including Yaqueline Reyes, Luisa Fernanda Gutiérrez Reyes, Paula Camila, Gutiérrez Reyes, Leonardo Gutiérrez Rubiano, Sulma, Tatiana Gutiérrez Rubiano, and Ricardo Alberto Gutiérrez Rubiano,¹⁹⁶ the State reported that there was no information that these beneficiaries were experiencing threats to life and personal integrity outside Colombia.¹⁹⁷ The Court urged these beneficiaries and their representatives to report to the State, as they are the most knowledgeable about their situation.¹⁹⁸

The Court also considered in-state beneficiaries, including María Elena Soler de Gutiérrez, Leydi Caterin Gutiérrez Peña, Carlos Andrés Gutiérrez Rubiano,¹⁹⁹ Mr. Gutiérrez Soler and his son.²⁰⁰ According to a Colombian State advisory body, the Regulation and Risk Assessment Committee (“CRER”), which is part of the Human Rights Protection Program under the Ministry of the Interior and Justice, Mr. Gutiérrez Soler and his son are under an “extremely high level of risk” now that they have returned to Colombia.²⁰¹ Therefore, CRER plans to improve the safety of Mr. Gutiérrez Soler’s home and provide a vehicle and two private bodyguards for him and his family for six months.²⁰² The State reported that they were awaiting risk assessment results for Carlos Andrés Gutiérrez Rubiano and Leydi Caterin Gutiérrez Peña to determine if they need protection.²⁰³ The Court ordered the State to gather more information about Kevin Daniel Gutiérrez Niño and María Elena Soler de Gutiérrez.²⁰⁴ As for Carlos Andrés Gutiérrez Rubiano and Leydi Caterin Gutiérrez Peña, the Court ordered the State to gather more information that they were still undergoing “circumstances of extreme gravity and urgency.”²⁰⁵

The Court ruled that only situations of extreme gravity justify continued provisional measures.²⁰⁶ Noting that the Court lacks information indicating which beneficiaries remain in situations of extreme gravity, the Court decided to issue provisional measures on the following individuals: Ricardo Gutiérrez Soler, Yaqueline Reyes,

H.R. (ser. E), “Considering” ¶ 7 (June 30, 2011).

196. *Id.*

197. *Id.* “Considering” ¶¶ 7, 14

198. *Id.* “Considering” ¶ 20.

199. *Id.* “Considering” ¶ 7.

200. *Id.*

201. *Id.* “Considering” ¶¶ 8, 9.

202. *Id.* “Considering” ¶ 8.

203. *Id.* “Considering” ¶ 10.

204. *Id.* “Considering” ¶ 17.

205. *Id.* “Considering” ¶ 19.

206. *Id.* “Considering” ¶ 21.

Leonardo, Gutiérrez Rubiano, Ricardo Gutiérrez Rubiano, Sulma Tatiana Gutiérrez Rubiano, Paula Camila Gutiérrez Reyes, Luisa Fernanda Gutiérrez Reyes, Carlos Andrés Gutiérrez Rubiano and Leydi Caterin Gutiérrez Peña.²⁰⁷

February 8, 2012: The President of the Court ordered a private hearing on February 23, 2012, with the State of Colombia, the Commission and the victims' representatives present to discuss the State's compliance with medical and psychological reparation measures.²⁰⁸

October 23, 2012: The Court issued another provisional measure, lifting a previous measure from March 11, 2005.²⁰⁹ In that order, the Court first required the State to adopt measures that are necessary to protect the life, personal integrity and personal liberty of Mr. Gutiérrez Soler and his family.²¹⁰ The Court then ordered the State to fully investigate Mr. Gutiérrez Soler's case and punish the perpetrators.²¹¹ Finally, the Court ordered the State to include the case's beneficiaries in planning and implementing protective measures.²¹²

The State argued that it satisfied the first order of the 2005 provisional measure by providing vehicles and protection service for Mr. Gutiérrez Soler and his family.²¹³ Furthermore, the State explained that it had not received any reports from the victims or beneficiaries indicating new threats that would require the State to intervene.²¹⁴ For the second order, the State pointed out that the Courts have commenced legal proceedings against Colonel Enciso Barón.²¹⁵ For the third and final order, the State showed that it held several meetings to communicate with the victims and beneficiaries in an effort to implement the provisional measures.²¹⁶ The victims and beneficiaries agreed with the State's positions.²¹⁷

Although the Court lifted previous provisional measures, it cautioned that the Court may re-order provisional measures if the State

207. *Id.* "Considering" ¶ 23.

208. *Id.*

209. *Id.* "Decides" ¶ 1.

210. *Gutiérrez Soler v. Colombia*, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) "Resolved" ¶ 1 (Mar. 11, 2005).

211. *Id.* "Resolved" ¶ 2.

212. *Id.* "Resolved" ¶ 3.

213. *Id.* ¶¶ 6-7.

214. *Id.* ¶ 8.

215. *Id.* ¶ 6.

216. *Id.* ¶ 12.

217. *Id.* ¶ 13.

does not continue to protect the victim and beneficiary's rights.²¹⁸

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations, and Costs

[Gutiérrez Soler v. Colombia, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 132 \(Sept. 12, 2005\).](#)

[Gutiérrez Soler v. Colombia, Merits, Reparations, and Costs, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. \(ser. C\) No. 132, ¶ 2 \(Sept. 12, 2005\).](#)

[Gutiérrez Soler v. Colombia, Merits, Reparations, and Costs, Separate Opinion of Judge Sergio García-Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 132 \(Sept. 12, 2005\).](#)

[Gutiérrez Soler v. Colombia, Merits, Reparations, and Costs, Separate Opinion of Judge Oliver H. Jackson, Inter-Am. Ct. H.R. \(ser. C\) No. 132 \(Sept. 12, 2005\).](#)

3. Provisional Measures

[Gutiérrez Soler v. Colombia, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Oct. 23, 2012\).](#)

[Gutiérrez Soler v. Colombia, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 30, 2011\).](#)

[Gutiérrez Soler v. Colombia, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(July 9, 2009\).](#)

[Gutiérrez Soler v. Colombia, Provisional Measures, Order of the Court,](#)

218. *Id.* ¶ 21.

[Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 27, 2007\).](#)

[Gutiérrez Soler v. Colombia, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Mar. 11, 2005\) \(Available only in Spanish\).](#)

4. Compliance Monitoring

[Gutiérrez Soler v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 8, 2012\).](#)

[Gutiérrez Soler v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(June 30, 2009\).](#)

[Gutiérrez Soler v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Dec. 3, 2008\) \(Available only in Spanish\).](#)

[Gutiérrez Soler v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Jan. 31, 2008\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Gutiérrez Soler v. Colombia, Petition No. 12.291, Inter-Am. Comm'n H.R. (Nov. 5, 1999).

2. Report on Admissibility

[Gutiérrez Soler v. Colombia, Admissibility Report, Report No. 76/01, Inter-Am. Comm'n H.R., Case No. 12.291 \(Oct. 10, 2001\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[None]

5. Application to the Court

[Gutiérrez Soler v. Colombia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.291 \(Mar. 26, 2004\) \(Available only in Spanish\).](#)

VIII. BIBLIOGRAPHY

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Reabren Proceso Contra Coronel, por Tortura [The Torture Case Involving the Colonel Reopens], EL TIEMPO, May 5, 2012 (Colom.).