

# Ituango Massacres v. Colombia

## ABSTRACT<sup>1</sup>

*This case is about a series of massacres by members of the Autodefensas Unidas de Colombia (“AUC”), a paramilitary group, in the region of Ituango. The massacres are part of the ongoing internal conflict and the fights against the Fuerzas Armadas Revolucionarias de Colombia. The State eventually admitted responsibility during proceedings before the Court.*

## I. FACTS

### A. Chronology of Events

**December 24, 1965:** Guerilla groups aiming to overthrow the government emerge in Colombia and disrupt public order.<sup>2</sup> The State adopts legislation that authorizes the creation of “self-defense groups” in response to the emergence of the guerilla groups.<sup>3</sup> This legislation permits the self-defense groups to carry and own weapons to assist law enforcement and to defend themselves against the guerrilla organizations.<sup>4</sup>

**1985:** Many self-defense groups stop following the purpose of the enacted legislation, and instead become criminal groups, known as paramilitary groups.<sup>5</sup>

**1996:** Different sectors of society report their concerns about the possibility of an armed paramilitary incursion in the town of Ituango, in the Colombian department of Antioquia, to the departmental authorities.<sup>6</sup> The Army sets up roadblocks in strategic locations to monitor all en-

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1. Jonathan Arjonilla, Author; Justine Schneeweis, Editor; Hayley Garscia, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Ituango Massacres v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 148, ¶ 125(1) (July 1, 2006).

3. *Id.*

4. *Id.*

5. *Id.* ¶ 125(2).

6. *Id.* ¶ 125(30).

trances into the town.<sup>7</sup>

**June 10, 1996:** The Commander of the Girardot Battalion, Mr. Jorge Alexander Sánchez Castro, orders most of the Army units stationed in Ituango to withdraw.<sup>8</sup> He deploys them to Santa Lucía and other villages far from La Granja.<sup>9</sup>

**June 11, 1996:** About twenty-two heavily armed members of a paramilitary group head towards the municipality of Ituango, passing a police station in the municipality of San Andrés de Cuerquia on their way.<sup>10</sup> The police do nothing to stop them.<sup>11</sup>

The paramilitary group arrives in the municipal district of La Granja and orders public establishments to close.<sup>12</sup> The paramilitary group begins to shoot people, and encounters no resistance from law enforcement bodies.<sup>13</sup>

The paramilitary group goes to twenty-five-year-old Mr. William de Jesús Villa García's workplace, and fatally shoots him with ten bullets from a machine gun.<sup>14</sup>

The paramilitary group barges into the home of Mr. Adán Enrique Correa, the father of the next victim, thirty-seven-year-old Mr. Héctor Hernán Correa García.<sup>15</sup> The paramilitary group murders Mr. Correa García, an unmarried and mentally disabled man, while his ten-year-old nephew, Jorge Correa Sánchez, is home.<sup>16</sup>

The armed members then arrive at Mr. Hugo Espinal López's farm and shoot forty-seven-year-old Ms. María Graciela Arboleda Rodríguez several times and stab her with a knife, killing her.<sup>17</sup> The group interrogates Ms. Arboleda Rodríguez about the whereabouts of Mr. Espinal López before murdering her.<sup>18</sup>

The paramilitary group leaves La Granja, goes to the Colombia Polytechnic Institute Jamie Isaza Cadavid, and seizes the Institute's Co-

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7. *Id.* ¶ 125(31).

8. *Id.* ¶ 125(32).

9. *Id.*

10. *Id.* ¶ 125(33).

11. *Id.*

12. *Id.* ¶ 125(35).

13. *Id.*

14. *Id.* ¶ 125(36).

15. *Id.* ¶ 125(37).

16. *Id.*

17. *Id.* ¶ 125(38).

18. *Id.*

ordinator, thirty-eight-year-old Mr. Jairo de Jesús Sepúlveda Arias.<sup>19</sup>

**June 12, 1996:** The body of Mr. Sepúlveda Arias is found shot to death by four bullets between Ituango and Medellín, in El Líbano.<sup>20</sup> After the paramilitary group carries out the selective executions, it leaves La Granja without any opposition from law enforcement personnel.<sup>21</sup>

The police, the Ituango Sectional Prosecutor's Office, and the Antioquia Office of the Attorney General open a preliminary inquiry following the events in La Granja, including a preliminary inquiry into the death of Mr. Sepúlveda Arias.<sup>22</sup>

**June 19, 1996:** The State adds the death of Mr. Villa Garcia, Mr. Correa García, and Ms. Arboleda Rodríguez to the existing preliminary inquiry.<sup>23</sup>

**November 20, 1996:** The Prosecutor General's Office transfers the investigation to the National Human Rights Unit.<sup>24</sup>

Following the incursion in La Granja, members of civil society of Ituango send numerous communications to different state authorities informing them of the presence of the illegal groups in the region, and request that measures be adopted to guarantee the life and safety of civilians against the paramilitary groups.<sup>25</sup>

**January 20, 1997:** The former Inter-Congregational Commission of Justice and Peace (*Comisión Intercongregacional de Justicia y Paz*) sends out a request for protection against the activities of the paramilitary groups to the departmental and state authorities, as well as the national authorities.<sup>26</sup>

**October 22, 1997:** Approximately thirty armed men in military clothing arrive at Mr. Omar de Jesús Ortiz Carmona's farm, in the municipal district of Puerto Valdivia, Department of Antioquia.<sup>27</sup> The armed men gather all the workers and ask them about the guerrilla, then murder

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19. *Id.* ¶ 125(39).

20. *Id.*

21. *Id.* ¶ 125(40).

22. *Id.* ¶ 125(41).

23. *Id.*

24. *Id.*

25. *Id.* ¶ 125(55).

26. *Id.*

27. *Id.* ¶ 125(58).

thirty-year-old Mr. Ortiz Carmona and fifty-four year-old Mr. Fabio Antonio Zuleta Zabala by shooting them several times.<sup>28</sup>

Later that day, the armed group murders an elderly man, Mr. Arnulfo Sánchez Álvarez, on the *La Planta* farm.<sup>29</sup>

**October 23, 1997:** The paramilitary group walks to the municipal district of El Aro and murders thirty-two-year-old Mr. Omar Iván Gutiérrez Nohavá in front of his entire family at the home of his wife, Mrs. Martha Cecilia Jiménez in Puerto Escondido.<sup>30</sup> The group loots Ms. Cecilia Jiménez's store, steals ninety heads of cattle, and loots Mr. Gutiérrez Nohavá's general store and warehouse.<sup>31</sup>

Upon leaving the dock that same day, the group murders twenty-six-year-old Mr. Olcris Fail Díaz Pérez, forty-six-year-old Mr. José Darío Martínez Pérez, and forty-year-old Mr. Otoniel de Jesús Tejada Jaramillo.<sup>32</sup>

During the incursion on El Aro, the paramilitary group also murders fourteen-year-old Wilmar de Jesús Restrepo Torres and Mr. Alberto Correa while they work on the *Mundo Nuevo* farm.<sup>33</sup>

**October 25, 1997:** The paramilitary group gathers all the inhabitants of El Aro in the central park of the village and murders twenty-one-year-old Mr. Guillermo Andrés Mendoza Posso, sixty-year-old Mr. Luis Modesto Múnera Posada and Mr. Nelson de Jesús Palacio Cárdenas.<sup>34</sup>

The group compels sixty-four-year-old Mr. Marco Aurelio Areiza Osorio to accompany them to a place near the cemetery, ties him up, and tortures him until he dies.<sup>35</sup>

The paramilitary group tortures and murders thirty-year-old Ms. Elvia Rosa Areiza Barrera in a room attached to the church in El Aro.<sup>36</sup>

**October 30, 1997:** The paramilitary group murders twenty-one-year-old Ms. Dora Luz Areiza Arroyave.<sup>37</sup>

Before leaving El Aro, the paramilitary group destroys and sets

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28. *Id.* ¶ 125(58).

29. *Id.* ¶ 125(61).

30. *Id.* ¶¶ 125(62)-(63).

31. *Id.* ¶ 125(63).

32. *Id.* ¶¶ 125(64)-(67).

33. *Id.* ¶ 125(68).

34. *Id.* ¶¶ 125(71)-(73).

35. *Id.* ¶ 125(75).

36. *Id.* ¶ 125(76).

37. *Id.* ¶ 125(77).

fire to most of the houses in the urban center, leaving only a chapel and eight homes.<sup>38</sup> Fifty-nine people lose their property in El Aro.<sup>39</sup>

The terrorists threaten to kill seventeen residents of El Aro if they refuse to help them herd stolen livestock.<sup>40</sup> The seventeen residents are forced to herd from 800 to 1,200 head of livestock for seventeen days until they arrive in La Caucana, a district of the municipality of Tarazá.<sup>41</sup> Members of the Army are aware of the theft, and purposefully impose a curfew so that no witnesses would see the livestock being moved on public roads.<sup>42</sup> Some soldiers are given cattle in return for their assistance to the paramilitary group.<sup>43</sup> Entire families are uprooted from their homes in La Granja and El Aro because the inhabitants fear the paramilitary groups will return to carry out similar massacres in the future.<sup>44</sup>

**November 20, 1997:** The Prosecutor General's Office reassigns the investigation into the events of El Aro to the Medellín Regional Prosecutor's Office.<sup>45</sup>

38. *Id.* ¶ 125(79).

39. *Id.* ¶ 125(81). The people who lose their property in El Aro are Mr. Bernardo María Jiménez Lópera, Mr. Francisco Osvaldo Pino Posada, Mr. Libardo Mendoza, Mr. Luis Humberto Mendoza Arroyave, Mr. Omar Alfredo Torres Jaramillo, Mr. Ricardo Alfredo Builes Echeverri, Mr. Albeiro Restrepo, Mr. Alfonso Gómez, Ms. Amparo Posada, Mr. Antonio Muñoz, Mr. Arcadio Londoño, Ms. Argemira Crespo, Mr. Argemiro González, Mr. Aurelio Sepúlveda, Ms. Berta Inés Mendoza Arroyave, Mr. Carlos Gutiérrez, Mr. Carlos Mendoza, Ms. Clara López, Mr. Dario Mora, Mr. Fabio de Jesús Tobón Gutiérrez, Mr. Francisco Eladio Ortiz Bedoya, Mr. Gilberto Lópera, Mr. Gildardo Jaramillo, Mr. Gustavo Adolfo Torres Jaramillo, Ms. Hermilda Correa, Ms. Hilda Uribe, Mr. Jaime Posso, Mr. Javier García, Mr. José Gilberto López Areiza, Mr. José Noe Pelaez Chavarría, Mr. José Torres, Ms. Judith Molina, Ms. Lucelly Torres Jaramillo, Mr. Luis Argemiro Arango, Mr. Luis Carlos Mendoza Rúa, Mr. Marcelino Barrera, Mr. Marco Aurelio Areiza Osorio, Ms. María Edilma Torres Jaramillo, Ms. María Esther Jaramillo Torres, Ms. María Vásquez, Ms. Mercedes Jiménez, Mr. Miguel Chavarría, Mr. Miguel Ángel Echavarría, Ms. Miriam Cuadros, Mr. Nelson de Jesús Palacio Cárdenas, Mr. Omar Iván Gutiérrez Nohavá, Mr. Rafael Ángel Piedrahita Areiza, Mr. Rafael Ángel Piedrahita Henao, Mr. Rafael Posada, Mr. Ramón Molina Torres, Mr. Ramón Posada, Mr. Ricardo Barrera, Mr. Rodrigo Alberto Mendoza Posso, Mr. Samuel Martínez, Mr. Santiago Martínez, Mr. Santiago Serna, Mr. Vicente Posada, Mr. Amado Jaramillo Cano, and Mr. Servando Antonio Areiza. *Id.*

40. *Id.* ¶ 125(82). The seventeen residents include Mr. Francisco Osvaldo Pino Posada, Mr. Omar Alfredo Torres Jaramillo, Mr. Rodrigo Alberto Mendoza Posso, Mr. Noveiri Antonio Jiménez Jiménez, Mr. Milciades de Jesús Crespo, Mr. Ricardo Barrera, Mr. Gilberto Lopera, Mr. Argemiro Echavarría, Mr. José Luis Palacio, Mr. Román Salazar, Mr. William Chavarría, Mr. Libardo Carvajal, Mr. Eduardo Rua, Mr. Eulicio García, Mr. Alberto Lopera, Mr. Tomás Monsalve and Mr. Felipe Gómez. *Id.*

41. *Id.* ¶¶ 125(82)-(84).

42. *Id.* ¶ 125(85).

43. *Id.*

44. *Id.* ¶ 125(110).

45. *Id.* ¶ 125(87).

**March 19, 1998:** The Prosecutor General's Office orders a preliminary inquiry and investigation of Mr. Carlos Castaño Gil and Mr. Francisco Enrique Vaillalba Hernández.<sup>46</sup>

**December 7, 1998 & December 11, 1998:** The Cauca Provincial Attorney's Office closes several disciplinary proceedings related to the events in El Aro, reasoning that a paramilitary group, and not members of the Army, committed the crimes.<sup>47</sup>

**June 4, 1999:** The Prosecutor General's Office declares that Mr. Castaño Gil cannot be found.<sup>48</sup> Mr. Vaillalba Hernández gives his statement.<sup>49</sup>

**June 17, 1999:** Three years after the massacre in La Granja, the National Human Rights Unit of the Prosecutor General's Office decides to investigate Mr. Hernando de Jesús Álvarez Gómez, Mr. Manuel Remigio Fonnegra Piedrahita and Mr. Castaño Gil, and orders their arrest.<sup>50</sup> The National Human Rights Unit of the Prosecutor General's Office also orders the investigation and preventive detention of the Commander of the Police in Ituango, Mr. José Vicente Castro, and the National Army Lieutenant and Commander of the Giaradot Battalion based in Ituango, Mr. Sánchez Castro, for assisting the paramilitary groups in violating human rights.<sup>51</sup>

**July 1, 1999:** The Prosecutor General's Office issues an arrest warrant for Mr. Castaño Gil and Mr. Vaillalba Hernández for murder and the establishment of private justice groups.<sup>52</sup>

**July 23, 1999:** The Medellín Regional Prosecutor's Office transfers the investigation into the events that took place in El Aro to the National Human Rights Unit of the Prosecutor General's Office.<sup>53</sup>

**May 4, 2000:** The Delegate Attorney for the Armed Forces closes the

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46. *Id.* ¶ 125(89).

47. *Id.* ¶ 125(96).

48. *Id.* ¶ 125(89).

49. *Id.*

50. *Id.* ¶ 125(43).

51. *Id.* ¶ 125(44).

52. *Id.* ¶ 125(89).

53. *Id.* ¶ 125(87).

preliminary inquiry opened against Mr. Sánchez Castro.<sup>54</sup>

**June 2, 2000:** The National Human Rights Unit of the Prosecutor General's Office issues an order to investigate Mr. Jhon Jairo Mazo Pino, Mr. Lider Yamil Concha Rengifo, Mr. Gilberto Antonio Tamayo Rengifo and Mr. Jorge Alberto Muletón Montoya, members of the United Self-Defense Forces of Colombia (*Autodefensas Unidas de Colombia*, "AUC").<sup>55</sup>

**February 23, 2001:** The Prosecutor General's Office issues arrest warrants for Mr. Salvatore Mancuso Gómez and Mr. Alexander Mercado Fonseca after it was declared on September 21, 2000 that neither could be found after being summoned to appear in relation to the investigation.<sup>56</sup>

**August 10, 2001:** The Attorney General's Office closes disciplinary proceedings against Major General Carlos Ospina Ovalle and other members of the Army, for the events that took place in El Aro, due to insufficient evidence.<sup>57</sup>

**August 30, 2001:** The National Human Rights Unit of the Prosecutor General's Office issues an indictment against the Commander of the Ituango Police Station, Mr. Vicente Castro.<sup>58</sup>

**September 10, 2001:** The acting Prosecutor indicts Mr. Castaño Gil, Mr. Vaillalba Hernández, Mr. Mancuso Gómez, and Mr. Mercado Fonseca for conspiracy to commit a crime along with aggravated murder and aggravated theft.<sup>59</sup>

**September 19, 2001:** The Antioquia Regional Office of the Attorney General declares that any disciplinary action against Mr. Vicente Castro is time-barred because more than five years have elapsed since the events that occurred in La Granja on June 11, 1996.<sup>60</sup>

**January 28, 2002:** The Office of the Delegate Attorney for the Defense

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54. *Id.* ¶ 125(53).

55. *Id.* ¶ 125(45).

56. *Id.* ¶ 125(91).

57. *Id.* ¶ 125(97).

58. *Id.* ¶ 125(46).

59. *Id.* ¶ 125(92).

60. *Id.* ¶ 125(54).

of Human Rights disqualifies itself from the disciplinary investigation it opened on July 30, 2001, against Lieutenant Captain Germán Morantes Hernández.<sup>61</sup> The Office of the Delegate Attorney for the Defense of Human Rights brings disciplinary charges against Lieutenant Everardo Bolaños Galindo and First Corporal Germán Antonio Alzate Cardona.<sup>62</sup>

**August 20, 2002:** The National Human Rights Unit of the Prosecutor General's Office orders the pre-trial detention of Mr. Álvarez Gómez, Mr. Mazo Pino, Mr. Tamayo Rengifo, and Mr. Muletón Montoya.<sup>63</sup>

**September 30, 2002:** The Office of the Delegate Attorney for the Defense of Human Rights sanctions Mr. Bolaños Galindo and Mr. Alzate Cardona, dismissing them from their positions for collaborating with the paramilitary incursion in El Aro.<sup>64</sup>

**April 22, 2003:** The Second Criminal Court of the Antioquia Specialized Circuit sentences Mr. Castaño Gil and Mr. Mancuso Gómez to forty years' imprisonment, and Mr. Vaillalba Hernández to thirty-three years' imprisonment, for murdering fifteen people and conspiracy to commit a crime, compounded by aggravated theft.<sup>65</sup>

The arrest warrants against Mr. Castaño Gil and Mr. Mancuso Gómez are not executed, and Mr. Vaillalba Hernández only serves his sentence because he was already imprisoned on other charges.<sup>66</sup>

**November 10, 2003:** The Prosecutor's Office issues indictments against Mr. Álvarez Gómez, Mr. Tamayo Rengifo, and Mr. Orlando de Jesús Mazo Mazo, for the conspiracy to commit a crime, terrorism, and extortion.<sup>67</sup> The Prosecutor's Office also issues indictments against Mr. Carlos Antonio Carvajal Jaramillo for crimes of conspiracy to commit a crime and extortion, as well as against Mr. Sánchez Castro, for conspiracy to commit a crime, aggravated murder, and aggravated extortion.<sup>68</sup>

**November 14, 2003:** The First Criminal Court of the Antioquia Specialized Circuit sentences Mr. Vicente Castro to thirty-one years' impris-

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61. *Id.* ¶¶ 125(98)-125(99).

62. *Id.* ¶ 125(99).

63. *Id.* ¶ 125(47).

64. *Id.* ¶ 125(100).

65. *Id.* ¶ 125(93).

66. *Id.*

67. *Id.* ¶ 125(49).

68. *Id.*



onment for negligence in the crimes committed by the paramilitary group.<sup>69</sup>

**July 12, 2004:** The Antioquia Superior Court revokes the decision to sentence Mr. Vicente Castro to prison.<sup>70</sup>

**March 1, 2005:** After failing to appear at criminal proceedings in relation to the events in El Aro, an arrest warrant is issued against Army Lieutenant, Mr. Bolaños Galindo, and First Corporal, Mr. Alzate Cardona.<sup>71</sup> Mr. Bolaños Galindo is imprisoned in the Cóbbita maximum-security prison.<sup>72</sup> Witnesses, lawyers, and prosecutors that are investigating the events of El Aro either flee the zone or the country entirely for safety reasons.<sup>73</sup>

**July 8, 2005:** The Antioquia First Specialized Court sentences Mr. Sánchez Castro, the National Army Lieutenant, to thirty-one years' imprisonment for the conspiracy to commit a crime and aggravated murder.<sup>74</sup> The Antioquia First Specialized Court also sentences Mr. Tamayo Rengifo and Mr. Mazo Mazo to twelve years' imprisonment for conspiracy to commit a crime and aggravated murder, and Mr. Carvajal Jaramillo to seven years' imprisonment for the same offenses.<sup>75</sup> The court abandons further proceedings against Mr. Álvarez Gómez because he was deceased.<sup>76</sup>

**September 2, 2005:** The Prosecutor's Office files an appeal for review of the July 12, 2004 ruling before the Supreme Court of Justice.<sup>77</sup>

#### *B. Other Relevant Facts*

[None]

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69. *Id.* ¶ 125(46).

70. *Id.*

71. *Id.* ¶ 125(94).

72. *Id.*

73. *Id.* ¶ 125(95).

74. *Id.* ¶ 125(51).

75. *Id.*

76. *Id.*

77. *Id.* ¶ 125(46).

## II. PROCEDURAL HISTORY

## A. Before the Commission

**July 14, 1998:** The Interdisciplinary Group for Human Rights (*Grupo Interdisciplinario por los Derechos Humanos*, "GIDH") and the Colombian Commission of Jurists (*Comisión Colombiana de Juristas*, "CCJ") file a petition with the Inter-American Commission on Human Rights on behalf of the victims and their next of kin alleging the violations that took place in La Granja.<sup>78</sup>

**March 3, 2000:** The GIDH and CCJ submit another petition to the Commission alleging the violations that occurred in El Aro.<sup>79</sup>

**October 2, 2000:** The Commission declares the case concerning the incidents in La Granja admissible, and adopts Admissibility Report No. 57/00.<sup>80</sup>

**October 10, 2001:** The Commission declares the case dealing with the alleged violations in El Aro admissible, and adopts Admissibility Report No. 75/01.<sup>81</sup>

**November 14, 2001:** The Commission makes itself available to the parties and invites them to begin the friendly settlement process.<sup>82</sup>

**March 11, 2004:** The Commission adopts joint Admissibility Report No. 23/04 and consolidates the two cases of La Granja and El Aro because the petitioners were identical and the facts formed a sequential relationship between the reported violations.<sup>83</sup>

The Commission concludes that the State violated Articles 4 (Right to Life), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection), in association with Article 1(1) (Obligation to Respect Rights) of the American Convention to the prejudice of Mr. Villa García, Ms. Arboleda Rodríguez, and Mr. Correa García based on the facts that oc-

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78. *Id.* ¶ 6.

79. *Id.* ¶ 8.

80. *Id.* ¶ 7.

81. *Id.* ¶ 9.

82. *Id.*

83. *Id.* ¶¶ 10-11.

curred in La Granja.<sup>84</sup>

The Commission also finds the State responsible for violating Articles 4 (Right to Life), 7 (Right to Personal Liberty), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection), in association with Article 1(1) (Obligation to Respect Rights) of the American Convention to the detriment of Mr. Sepúlveda Arias.<sup>85</sup>

The Commission determines that the State violated Articles 4 (Right to Life), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection), in association with Article 1(1) (Obligation to Respect Rights) of the American Convention to the prejudice of Mr. Sánchez Álvarez, Mr. Martínez Pérez, Mr. Díaz Pérez, Mr. Ortiz Carmona, Mr. Zuleta Zabala, Mr. Tejada Jaramillo, Mr. Gutiérrez Nohavá, Mr. Mendoza Posso, Mr. Palacio Cárdenas, Mr. Múnera Posada, Ms. Areiza Arroyave and Mr. Alberto Correa, as well as Article 19 (Rights of the Child), to the detriment of Wilmar de Jesús Restrepo Torres based on the facts that took place in El Aro.<sup>86</sup>

Lastly, the Commission finds the State to be in violation of Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection), in association with Article 1(1) (Obligation to Respect Rights) of the American Convention to the detriment of Mr. Areiza Osorio and Ms. Areiza Barrera, as well as Article 21 (Right to Property) to the detriment of twenty-three families.<sup>87</sup>

### *B. Before the Court*

**July 30, 2004:** The Commission submits the case to the Court, after the State failed to adopt its recommendations.<sup>88</sup>

#### 1. Violations Alleged by Commission<sup>89</sup>

Article 4 (Right to Life)

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84. *Id.* ¶ 11(a).

85. *Id.* ¶ 11(b).

86. *Id.* ¶ 11(c).

87. *Id.* ¶ 11(d).

88. *Id.* ¶ 14.

89. *Id.* ¶¶ 3(a)-(f).

Article 5 (Right to Humane Treatment)  
Article 7 (Right to Personal Liberty)  
Article 8 (Right to a Fair Trial)  
Article 19 (Rights of the Child)  
Article 21 (Right to Property)  
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 Victims<sup>90</sup>

Same Violations Alleged by Commission, plus:

Article 6 (Freedom from Slavery)  
Article 22 (Freedom of Movement and Residence) of the American Convention.

**November 12, 2004:** The State proposes that Mr. Jaime Enrique Granados Peña be appointed judge *ad hoc*.<sup>91</sup>

**January 14, 2005:** The State submits its preliminary objection claiming that domestic remedies had not been exhausted.<sup>92</sup> The State includes in its preliminary objection that it did not fail to comply with Articles 6 (Freedom from Slavery), 8 (Right to a Fair Trial), 19 (Rights of the Child), 22 (Freedom of Movement and Residence), and 25 (Right to Judicial Protection) of the American Convention.<sup>93</sup>

The State acknowledges international responsibility for violating Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), and 21 (Right to Property) of the American Convention.<sup>94</sup>

**June 28, 2006:** Judge *ad hoc* Granados Peña advises the Court that, due to unforeseen circumstances, he is unable to attend the deliberation of the judgment in this case.<sup>95</sup>

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90. GIDH and CCJ serve as representatives of the alleged victims and their next of kin. *Id.* ¶¶ 18(c), 18(f).

91. *Id.* ¶ 17.

92. *Id.* ¶ 100(b).

93. *Id.* ¶ 20.

94. *Id.* ¶ 19.

95. *Id.* ¶ 53.

**June 29, 2006:** The Court decides to continue hearing the case without Judge *ad hoc* Granados Peña's participation.<sup>96</sup>

**July 1, 2006:** The Court unanimously rejects the preliminary objections of the State.<sup>97</sup> The Court concludes that the State waived the preliminary objections filed because the State implicitly accepted the Court's full jurisdiction to hear this case when it acknowledged its responsibility in the case.<sup>98</sup> The State's preliminary objections were closely related to the merits of the case and the Court will rule on the arguments of the parties in its judgment on the merits.<sup>99</sup>

### III. MERITS

#### A. *Composition of the Court*<sup>100</sup>

Sergio García Ramírez, President  
 Alirio Abreu Burelli, Vice-President  
 Antônio Augusto Cançado Trindade, Judge  
 Cecilia Medina Quiroga, Judge  
 Manuel E. Ventura Robles, Judge  
 Diego García-Sayán, Judge

Pablo Saavedra Alessandri, Secretary  
 Emilia Segares Rodríguez, Deputy Secretary

#### B. *Decision on the Merits*

**July 1, 2006:** The Court issues its Judgment on Preliminary Objection, Merits, Reparations and Costs.<sup>101</sup>

The Court found unanimously that Colombia had violated:

Article 4 (Right to Life), in relation to Article 1(1) of the Convention, to the detriment of Mr. Villa García, Mr. Correa García, Ms. Arbo-

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96. *Id.* ¶ 54.

97. *Id.* "Decides" ¶ 2.

98. *Id.* ¶ 104.

99. *Id.*

100. Judge Oliver Jackman and Judge *ad hoc* Jaime Enrique Granados Peña did not partake in the deliberation of the Judgment for reasons beyond their control. *Id.* n.\*\*.

101. *Ituango Massacres v. Colombia, Preliminary Objections, Merits, Reparations and Costs,*

leda Rodríguez, Mr. Sepúlveda Arias, Mr. Ortiz Carmona, Mr. Zuleta Zabala, Mr. Sánchez Álvarez, Mr. Gutiérrez Nohavá, Mr. Díaz Pérez, Mr. Martínez Pérez, Mr. Tejada Jaramillo, Wilmar de Jesús Restrepo Torres, Mr. Alberto Correa, Mr. Mendoza Posso, Mr. Múnera Posada, Mr. Palacio Cárdenas, Mr. Areiza Osorio, Ms. Areiza Barrera, and Ms. Areiza Arroyave,<sup>102</sup> because:

*The State's agents participated in the murders of the nineteen victims during the incursions of the AUC in La Granja and El Aro.*<sup>103</sup>

*Article 4 (Right to Life) provides that everyone has the right to have his or her life respected and protected since conception, and to not be randomly killed.*<sup>104</sup> *If the fundamental human right to life is not protected, then all the other rights are meaningless.*<sup>105</sup> *Because Article 4 (Right to Life) is so essential to the enjoyment of other human rights, it is one of the rights that cannot be suspended even in time of war, public danger, or other emergency that threatens the independence or security of a State Party.*<sup>106</sup> *The State's obligations imposed by Article 4 (Right to Life) not only consists of the negative obligation to ensure that no one's life is frivolously taken away, but also includes the positive obligation for the State to adopt all appropriate measures to protect and preserve the lives of the human beings subject to its jurisdiction from the criminal acts of others.*<sup>107</sup> *In addition, should a violation of Article 4 (Right to Life) occur, the State is obligated to effectively investigate such criminal act.*<sup>108</sup>

*In June 1996 and October 1997, a paramilitary group murdered defenseless civilians in the municipal districts of La Granja and El Aro.*<sup>109</sup> *The State admitted that members of the law enforcement bodies based in Ituango helped the paramilitary organization enter the region and did not provide any assistance to the civilian population during the incursions.*<sup>110</sup> *A total of nineteen inhabitants of La Granja and El Aro were violently murdered as a result of the State agents' collaboration with*

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102. *Id.* "Declares" ¶ 3.

103. *Id.* ¶¶ 59, 64-65, 72.

104. *See id.* ¶ 127.

105. *Id.* ¶ 128.

106. *Id.*

107. *Id.* ¶¶ 129-131.

108. *Id.* ¶ 131.

109. *Id.* ¶ 132.

110. *Id.* ¶¶ 132-133.

the paramilitary group.<sup>111</sup>

*The Court recognized that the State adopted legislative measures to protect the right to life from these paramilitary organizations, but the State's action did not effectively put an end to the danger the State itself helped create through these events.<sup>112</sup> The State initially facilitated the establishment of these self-defense groups, then subsequently failed to adopt sufficient measures to prevent the groups from committing the exact acts that occurred in this case when the groups started to exceed their mandate and act illegally.<sup>113</sup> As long as these paramilitary organizations exist, the State has a special obligation to protect regions where the groups are present, and diligently investigate their criminal acts because the State itself created this danger, and is therefore responsible for its consequences.<sup>114</sup> Accordingly, the State violated Article 4 (Right to Life) because the paramilitary group violently massacred these nineteen individuals, and State actors participated.<sup>115</sup>*

Article 6(2) (Prohibition of Forced or Compulsory Labor), in relation to Article 1(1) of the Convention, to the detriment of Mr. Pino Posada, Mr. Torres Jaramillo, Mr. Mendoza Posso, Mr. Jiménez Jiménez, Mr. Crespo, Mr. Barrera, Mr. Gilberto Lopera, Mr. Echavarría, Mr. Palacio, Mr. Salazar, Mr. Chavarría, Mr. Carvajal, Mr. Rua, Mr. García, Mr. Alberto Lopera, Mr. Monsalve, and Mr. Gómez,<sup>116</sup> because:

*State authorities not only permitted the paramilitary group to rob the inhabitants of their livestock, but also directly facilitated the theft by ordering a curfew so that no one would see the stolen livestock being moved by seventeen enslaved residents of El Aro.<sup>117</sup> Article 6(2) (Prohibition of Forced or Compulsory Labor) establishes that no one can be forced to perform labor against their will.<sup>118</sup>*

*The State acknowledged that after the paramilitary organization raided El Aro and massacred fifteen of its residents, the armed group stole the*

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111. *Id.* ¶ 133.

112. *Id.* ¶ 134.

113. *Id.*

114. *Id.*

115. *Id.* ¶ 138.

116. *Id.* “Declares” ¶ 4.

117. *Id.* ¶ 150.

118. *Id.* ¶ 148.

inhabitants' livestock.<sup>119</sup> Through acts of intimidation, the paramilitary group forced seventeen residents to gather the livestock and move it for seventeen days.<sup>120</sup> The Court recognized that to constitute a violation of Article 6(2) (Prohibition of Forced or Compulsory Labor), the act of forcing someone to perform labor against their will must be attributed to State agents in some fashion.<sup>121</sup>

The Court found the violation of Article 6(2) (Prohibition of Forced or Compulsory Labor) could be attributed to members of the Army because they participated in making these seventeen victims involuntarily perform work by ordering a curfew so that nobody would witness the stolen livestock being moved from one destination to another.<sup>122</sup> The Court also concluded that State agents benefited from collaborating with the paramilitary organization because they received some of the stolen livestock.<sup>123</sup> Consequently, the Court determined that the State violated Article 6(2) (Prohibition of Forced or Compulsory Labor) because State authorities not only knew that the victims were being compelled to move stolen livestock under the threat of death, but they also helped the paramilitary group complete the theft while reaping some rewards in the process.<sup>124</sup>

As a result, the State violated Article 6(2) (Prohibition of Forced or Compulsory Labor) to the detriment of the seventeen enslaved residents of El Aro.<sup>125</sup>

Article 7 (Right to Personal Liberty), in relation to Article 1(1) of the Convention, to the detriment of Mr. Pino Posada, Mr. Torres Jaramillo, Mr. Mendoza Posso, Mr. Jiménez Jiménez, Mr. Crespo, Mr. Barrera, Mr. Gilberto Lopera, Mr. Echavarría, Mr. Palacio, Mr. Salazar, Mr. Chavarría, Mr. Carvajal, Mr. Rua, Mr. García, Mr. Alberto Lopera<sup>126</sup> because:

*State agents played a direct role in the unlawful detention of these fifteen residents of El Aro by assisting the paramilitary group steal live-*

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119. *Id.* ¶ 150.

120. *Id.*

121. *Id.* ¶ 166.

122. *Id.* ¶¶ 166-67.

123. *Id.* ¶ 166.

124. *Id.* ¶¶ 163, 166-68.

125. *Id.* ¶ 168.

126. *Id.* "Declares" ¶ 5.



stock with the forced labor of the inhabitants.<sup>127</sup> Article 7 (Right to Personal Liberty) provides that every person has the right to personal liberty and security, and no one can be arbitrarily deprived of their physical liberty except under specified conditions.<sup>128</sup>

The paramilitary organization deprived these fifteen victims of their liberty when they detained the victims and ordered them to gather livestock that was stolen from the inhabitants.<sup>129</sup> The Court considered these detentions to be illegal because the paramilitary group carried them out without an arrest warrant signed by a competent judge, or under a specific necessity.<sup>130</sup> The paramilitary group explicitly threatened the victims with death if they attempted to escape after just carrying out the execution of other villagers.<sup>131</sup> Instead of protecting the life and liberty of the herdsmen, members of the Army acquiesced to the executions and the theft of the livestock, and even received some of the stolen cattle.<sup>132</sup> The Army members thus unlawfully denied these fifteen victims their physical liberty by failing to act when the paramilitary organization forced the fifteen victims to submit to herding livestock to places far from the victims' place of residence.<sup>133</sup> Furthermore, the Army facilitated the illegal group's endeavors, thus contributing to the victims' feelings of defenselessness and vulnerability.<sup>134</sup>

As a result, the Court found that the State violated Article 7 (Right to Personal Liberty) to the detriment of these fifteen residents.<sup>135</sup>

Article 21 (Right to Property), in relation to Article 1(1) of the Convention, to the detriment of the fifty-nine victims,<sup>136</sup> because:

*Members of the Army were aware that the paramilitary group stole livestock and destroyed a majority of the houses in El Aro, yet failed to assist the civilian population.*<sup>137</sup> Article 21 (Right to Property) establishes

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127. *Id.* ¶ 150.

128. *See id.* ¶ 149.

129. *Id.* ¶ 153.

130. *Id.*

131. *Id.* ¶ 163.

132. *Id.*

133. *Id.* ¶¶ 163, 165, 168.

134. *Id.* ¶ 163.

135. *Id.* ¶¶ 163, 165, 168.

136. *Id.* "Declares" ¶ 6.

137. *Id.* ¶¶ 176-177.

*that everyone has the right to use and enjoy his or her property, and no one can have his or her property taken away unless such deprivation is for a societal interest and he or she is justly compensated.*<sup>138</sup>

*The Court found that not only did the facts prove that the paramilitary incursion in El Aro included inhabitants being robbed of their livestock and destruction of homes, but also that the State acknowledged that members of the Army knew of the crimes being committed and took no action to protect or help the inhabitants of the district.*<sup>139</sup> *The Court considered that the destruction of the homes and theft of the livestock by the paramilitary organization constituted a particularly grave deprivation of the use and enjoyment of property because the loss of one's house is a loss of one's most basic living conditions, and the livestock was the main source of income and food.*<sup>140</sup> *As such, the Court concluded that the State violated Article 21 (Right to Property) to the detriment of the fifty-nine victims because its agents collaborated with the paramilitary group to destroy the victims' homes and steal their livestock, unlawfully depriving them of their property.*<sup>141</sup>

Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity), in relation to Articles 21 and 1(1) of the Convention, to the detriment of the forty-three victims who lost their homes,<sup>142</sup> because:

*The State's Army failed to protect the civilian population from the paramilitary group that destroyed the homes of the inhabitants of El Aro, which constituted an abusive interference in the inhabitants' private lives and homes.*<sup>143</sup> *Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) protects everyone's private life, home, and personal and family honor from arbitrary or abusive interference by third parties or public authorities.*<sup>144</sup> *The Court recognized that not only did the residents of El Aro lose their homes, but they also lost possessions that were inside their homes and the places where their private*

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138. *Id.* ¶ 173.

139. *Id.* ¶¶ 180, 184.

140. *Id.* ¶¶ 178, 182.

141. *Id.* ¶¶ 184-185, 200(a).

142. *Id.* "Declares" ¶ 7.

143. *Id.* ¶ 197.

144. *Id.* ¶¶ 190, 193-194.

lives took place.<sup>145</sup> Thus, the Court determined that the State failed to comply with its obligation to prohibit arbitrary and abusive interference with the private life and home of the forty-three victims because State authorities essentially permitted the paramilitary organization to destroy and rob the victims' homes in violation of Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity).<sup>146</sup>

Article 22 (Freedom of Movement and Residence), in relation to Article 1(1) of the Convention, to the detriment of the 702 victims from La Granja and El Aro,<sup>147</sup> because:

*State authorities intentionally took part in facilitating the paramilitary incursion, culminating in death, ill treatment, and residents being forcibly moved from their homes and livelihood.*<sup>148</sup> Article 22 (Freedom of Movement and Residence) establishes that every person has the right to not be forcibly displaced within the borders of a territory that he or she is lawfully in, except when exercise of this right is restricted for reasons of public interest.<sup>149</sup>

*The Court took notice that the victims' representatives identified a total of 702 displaced persons owing to the events that took place in La Granja and El Aro.*<sup>150</sup> A total of thirty-one persons were identified as being displaced by the events in La Granja; 671 persons were identified as being displaced by the events in El Aro.<sup>151</sup> The Court found it impossible to know with any certainty the exact amount of people who were displaced in this case.<sup>152</sup> Therefore, the Court only assessed the situation with regard to the persons identified.<sup>153</sup>

*The massacres and destruction of property in La Granja and El Aro, as well as the threats received by some of the inhabitants, directly added to the fear that this horrific tragedy could happen to them again.*<sup>154</sup> This

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145. *Id.* ¶ 197.

146. *Id.* ¶¶ 197, 199, 200(b).

147. *Id.* "Declares" ¶ 8.

148. *Id.* ¶ 219.

149. *Id.* ¶¶ 205-207.

150. *Id.* ¶ 220.

151. *Id.*

152. *Id.* ¶ 221.

153. *Id.*

154. *Id.* ¶ 216.

*fear that the intimidated residents felt led to many families being internally displaced.*<sup>155</sup> *The Court found that Army members knowingly aided the paramilitary group in committing their criminal acts, which ultimately forced hundreds of people from their homes.*<sup>156</sup> *Therefore, the Court found that the State violated Article 22 (Freedom of Movement and Residence) to the detriment of the 702 victims from La Granja and El Aro because State authorities directly contributed to the events that occurred in those districts.*<sup>157</sup>

Article 19 (Rights of the Child), in relation to Article 1(1) of the Convention, to the detriment of Wilmar de Jesús Restrepo Torres, Jorge Correa Sánchez, Omar Daniel Pérez Areiza, José Leonel Areiza Posada, and Marco Aurelio Areiza Posada,<sup>158</sup> because:

*Wilmar de Jesús Restrepo Torres, Jorge Correa Sánchez, Omar Daniel Pérez Areiza, José Leonel Areiza Posada, and Marco Aurelio Areiza Posada were vulnerable minor children that did not receive the special measures of protection the State was obligated to provide.*<sup>159</sup> *Article 19 (Rights of the Child) stipulates that every minor child's family, society, and State must provide measures of protection appropriate for his or her age.*<sup>160</sup>

*The Court noted that while many children witnessed the brutal events of La Granja and El Aro, it did not have sufficient evidence to declare a violation of Article 19 (Rights of the Child) to the detriment of children other than the five mentioned above.*<sup>161</sup> *Wilmar de Jesús Restrepo Torres was fourteen-years-old when he was murdered in El Aro.*<sup>162</sup> *Jorge Correa Sánchez witnessed the death of his uncle.*<sup>163</sup> *Because these victims were children, they were especially vulnerable to the effects of the brutal events they witnessed.*<sup>164</sup> *Children suffer even more from these events because they are not physically and psychologically devel-*

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155. *Id.*

156. *Id.* ¶ 219.

157. *Id.* ¶¶ 219, 235.

158. *Id.* "Declares" ¶ 9.

159. *Id.* ¶ 245.

160. *Id.* ¶ 239.

161. *Id.* ¶ 247.

162. *Id.* ¶ 240.

163. *Id.* ¶ 243.

164. *Id.* ¶ 246.

oped to process the violence they witnessed.<sup>165</sup> Accordingly, the Court concluded that the State violated Article 19 (Rights of the Child) because it failed to ensure that Wilmar de Jesús Restrepo Torres, Jorge Correa Sánchez, Omar Daniel Pérez Areiza, José Leonel Areiza Posada, and Marco Aurelio Areiza Posada received the required protection needed during the incursions of La Granja and El Aro.<sup>166</sup>

Article 5 (Right to Humane Treatment), in relation to Article 1(1) of the Convention, to the detriment of the nineteen executed victims, their next of kin, and all inhabitants of La Granja and El Aro,<sup>167</sup> because:

*The State was culpable for the intense fear, extreme violence, death, and destruction that the inhabitants of La Granja and El Aro experienced.<sup>168</sup> The Army made no efforts to stop the paramilitary organization from intimidating the population with death threats and executing people in front of countless witnesses and family members.<sup>169</sup>*

*Article 5 (Right to Humane Treatment) provides that every individual's physical, mental, and moral integrity must be respected, no one can be tortured, and anyone deprived of his or her liberty must still be treated with the inherent dignity that all human beings possess.<sup>170</sup> The Court has maintained that even the mere threat of conduct prohibited by Article 5 (Right to Humane Treatment) may violate the article, if the threat is sufficiently real and imminent.<sup>171</sup> The Court found it necessary to separately discuss the alleged violation as it pertained to the people who were executed, the executed victims' next of kin, and all inhabitants of La Granja and El Aro generally.<sup>172</sup>*

*First, the nineteen people who died were subjected to extremely violent treatment, which violated their personal integrity, just hours before the paramilitary group carried out their gruesome murders.<sup>173</sup> The manner in which the massacres took place caused the victims to fear that they*

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165. *Id.*

166. *Id.* ¶ 248.

167. *Id.* “Declares” ¶ 10.

168. *Id.* ¶¶ 254, 257-258, 263, 278-279.

169. *Id.* ¶ 254.

170. *Id.* ¶ 252.

171. *Id.* ¶ 255.

172. *Id.* ¶ 253.

173. *Id.* ¶ 256.

too would be murdered.<sup>174</sup> This fear that they would be senselessly deprived of their life constituted cruel and inhumane treatment.<sup>175</sup>

Second, the next of kin of the victims who were killed witnessed the executions of their loved ones, saw their relatives being subjected to extreme violence before their deaths, and heard their family members' cries for help as their imminent death loomed.<sup>176</sup> The massacres directly resulted in the next of kin suffering a severe psychological impact and enduring intense grief over the loss of their loved ones.<sup>177</sup> The State was responsible for the violation of Article 5 (Right to Humane Treatment) because the paramilitary organization carried out these atrocious acts with impunity, and encountered no resistance from State authorities.<sup>178</sup>

Third, the paramilitary incursions spawned a generalized fear for all inhabitants of La Granja and El Aro.<sup>179</sup> The State was responsible for allowing the general population of the respective districts to suffer from such severe and inhumane treatment.<sup>180</sup>

For the foregoing reasons, the Court concluded that the State violated Article 5 (Right to Humane Treatment) to the detriment of the nineteen executed victims, their next of kin, and all inhabitants of La Granja and El Aro.<sup>181</sup>

Article 5 (Right to Humane Treatment), in relation to Articles 6, 7, 11(2), 21, 22, and 1(1) of the Convention, to the detriment of Mr. Pino Posada, Mr. Torres Jaramillo, Mr. Mendoza Posso, Mr. Jiménez Jiménez, Mr. Crespo, Mr. Barrera, Mr. Gilberto Lopera, Mr. Echavarría, Mr. Palacio, Mr. Salazar, Mr. Chavaría, Mr. Carvajal, Mr. Rua, Mr. García, Mr. Alberto Lopera, Mr. Monsalve and Mr. Gómez, the fifty-nine victims who lost their possessions, and the 702 displaced victims,<sup>182</sup> because:

*The State was blameworthy for victims being compelled to herd live-*

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174. *Id.*

175. *Id.*

176. *Id.* ¶ 258.

177. *Id.*

178. *Id.* ¶¶ 260, 263.

179. *Id.* ¶ 278.

180. *Id.*

181. *Id.* ¶ 279.

182. *Id.* "Declares" ¶¶ 11-12.

stock, the destruction of residents' homes and possessions, and residents being forcibly displaced.<sup>183</sup> Article 5 (Right to Humane Treatment) prohibits cruel and degrading treatment to all human beings, and requires that every person's physical, mental, and moral integrity be respected.<sup>184</sup> The Court found it necessary to separately discuss the alleged violation as it pertained to the people who were detained and compelled to herd livestock, the inhabitants who lost their property, and the residents that were forcibly displaced.<sup>185</sup>

First, the persons who were wrongfully held against their will and compelled to herd livestock under the threat of death suffered fear and degrading treatment.<sup>186</sup> The State was responsible for allowing these persons to have their personal integrity violated.<sup>187</sup>

Second, the paramilitary organization set fire to most of the houses in El Aro to terrorize the population.<sup>188</sup> The people who lost their homes and their possessions suffered not only immense emotional anguish, but also lost all possibility of ever returning home.<sup>189</sup> The State failed to respect the physical and moral integrity of the people who lost their possessions amidst the intense violence in El Aro.<sup>190</sup>

Third, as a result of the paramilitary group's criminal acts in La Granja and El Aro, numerous persons were cast out of their residences and experienced tremendous suffering.<sup>191</sup> The State was at fault for permitting the victims who were displaced to suffer such inhumane treatment.<sup>192</sup>

As a result, the Court concluded that the State violated Article 5 (Right to Humane Treatment) to the detriment of the aforementioned victims.<sup>193</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protec-

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183. *Id.* ¶¶ 269-270, 276-277.

184. *Id.* ¶ 252.

185. *Id.* ¶ 253.

186. *Id.* ¶ 269.

187. *Id.*

188. *Id.* ¶ 272.

189. *Id.* ¶¶ 270, 274.

190. *Id.* ¶¶ 270, 276.

191. *Id.* ¶ 277.

192. *Id.*

193. *Id.* ¶ 279.

tion), in relation to Article 1(1) of the Convention, to the detriment of all previous victims identified in above articles,<sup>194</sup> because:

*The State failed to fulfill its obligation to ensure full access to justice, to diligently investigate the truth of what happened, to punish those responsible, and to issue appropriate reparations to the victims.*<sup>195</sup> Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) establishes that human rights violations must be heard by a natural judge and competent court, with remedies implemented in accordance with due process of law.<sup>196</sup> Article 25 (Right to Judicial Protection) stipulates that everyone who has suffered a human rights violation has the right to prompt and effective judicial remedies from a competent court.<sup>197</sup>

*The State's investigation into the extrajudicial killings, destruction of property, forced labor, and displacement perpetrated against a large number of victims had numerous flaws, which led to ineffective proceedings.*<sup>198</sup> Because the State did not meet its obligations to investigate, pursue, capture, prosecute, and convict the perpetrators, it has effectively sent a message to the victims and their next of kin that their perpetrators will get away unpunished, that these types of acts are tolerated, and that they may happen again.<sup>199</sup>

*The Court noted that more than three years passed between the incidents that occurred in La Granja and the opening of the initial investigation into the facts.*<sup>200</sup> After ten years the State managed only a handful of convictions, even fewer arrests and imprisonments, and several arrest warrants that were issued were not executed.<sup>201</sup> Similarly, the State's failure to promptly investigate what happened in El Aro adversely affected its ability to determine the true facts.<sup>202</sup> Since the events of El Aro, the State filed criminal proceedings against only three civilians, which resulted in only one being imprisoned.<sup>203</sup> Arrest warrants

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194. *Id.* "Declares" ¶ 13.

195. *Id.* ¶¶ 293, 344.

196. *Id.* ¶¶ 283, 287.

197. *Id.* ¶¶ 284, 287.

198. *Id.* ¶ 294.

199. *See id.* ¶¶ 299-300.

200. *Id.* ¶¶ 302, 308.

201. *See id.* ¶¶ 303-306.

202. *Id.* ¶ 316.

203. *Id.* ¶ 318.



*have been issued against some of the alleged violators, including members of the paramilitary group, but they are not serving their sentences because the warrants have not been executed.*<sup>204</sup>

*Most of the people responsible for the El Aro and La Granja events were not investigated, identified, or processed.*<sup>205</sup> *Most of those who were sentenced to imprisonment were not even arrested.*<sup>206</sup> *Although the investigations into these events were complex, the State could not shun its responsibility to implement proceedings and procedures within a reasonable time to ensure the rights of access to justice, truth about the facts, and reparations to the victims and their next of kin.*<sup>207</sup> *As such, the Court determined that the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection) because its domestic proceedings and procedures failed to satisfy its obligation to ensure full access to justice.*<sup>208</sup>

### *C. Dissenting and Concurring Opinions*

#### *1. Separate Opinion of Judge Sergio García Ramírez*

Judge García Ramírez wrote separately to discuss the significance of states accepting responsibility for its violations, the importance of defining and including all victims on applications to the Court, and the factors the Court should focus on when assessing whether justice is satisfied within a reasonable time.<sup>209</sup> First, Judge García Ramírez highlighted the difference between judicial proceedings before the Inter-American Court of Human Rights and other types of proceedings when it comes to a party that admits fault for harming the other side. In other types of proceedings, an admission from one side ends the dispute, and it is pointless to receive evidence that seeks to prove what the party has already confessed.<sup>210</sup> But for proceedings on human rights violations, the Court serves numerous purposes by still going through seemingly

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204. *Id.* ¶¶ 312, 320.

205. *Id.* ¶ 325.

206. *Id.*

207. *Id.* ¶¶ 293, 300, 309.

208. *Id.* ¶ 344.

209. *See* Ituango Massacres v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Separate Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 148, ¶¶ 1, 10, 23 (June 29, 2006).

210. *Id.* ¶ 2.

unnecessary evidence despite the State admitting liability.<sup>211</sup> Judge García Ramírez noted that when a State acknowledges it violated human rights, doing so further confirms the State truthfully admitted to all its violations, contributes towards preventing the violations from occurring again, is a moral victory for the victim to have his or her hardship recognized, and satisfies a need for truth and justice.<sup>212</sup> Also, Judge García Ramírez noted that a State's acceptance of responsibility is valuable in that it opens up the path towards settlement, which should be sought as often as possible.<sup>213</sup>

Second, Judge García Ramírez considered that there were three categories of victims that the Commission should include on its application. The two categories of direct victims should either be the persons who suffered the torture and lost their lives, or the original victims' next of kin who suffered a violation as a result of the torture or loss of life of the original victim.<sup>214</sup> The final category is referred to as the indirect victim because this person does not suffer directly from the illegal conduct, but rather suffers from the aftermath of the original act committed against the direct victim.<sup>215</sup> Judge García Ramírez acknowledged that when cases are complex, the application might not contain the identity of all the individuals who have suffered a violation.<sup>216</sup> Judge García Ramírez pointed out that when the Court is confronted with incomplete applications, it is within the Court's power to respond to the unresolved issues, so long as the Court does not add or consider facts that were not included in the application.<sup>217</sup> Judge García Ramírez recognized the Commission for its stellar work in preparing the application.<sup>218</sup> Furthermore, Judge García Ramírez emphasized that persons who were not included in the Court's judgment, but were affected by the Ituango massacres, should not be prevented from seeking relief through the State's domestic remedies.<sup>219</sup> In addition, victims identified in the judgment still had the option to pursue greater benefits than what was awarded in the judgment, if their domestic law allow for the greater recovery.<sup>220</sup>

Third, Judge García Ramírez suggested that the Court should take

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211. *Id.* ¶¶ 3, 5.

212. *Id.* ¶ 5.

213. *Id.* ¶ 7.

214. *Id.* ¶¶ 11, 12.

215. *Id.*

216. *Id.* ¶ 17.

217. *Id.* ¶¶ 17-18.

218. *Id.* ¶ 19.

219. *Id.* ¶ 21.

220. *Id.* ¶ 22.

into account the burden imposed on the aggrieved party when a solution is not provided within a reasonable time.<sup>221</sup> Judge García Ramírez argued that the Court should shift from focusing on the State's behavior in its interpretation of whether the State complied with its obligations, and instead view the reasonableness in time from the victim's perspective.<sup>222</sup> Judge García Ramírez believed that each State's justice system should not be allowed to dictate whether the given State has provided the right to justice within a reasonable time.<sup>223</sup> Instead, the clock starts ticking from the time the facts that give rise to the proceedings take place.<sup>224</sup> The Court then takes into account the characteristics of the issue and the reasonable diligence of the State to assess compliance with the judicial guarantee of reasonable time.<sup>225</sup>

## 2. Separate Opinion of Judge Antônio Augusto Cançado Trindade

In a separate opinion, Judge Cançado Trindade discussed how the facts of the case were particularly heinous, how the incidents affected him, and his reflections on the good the Court is doing to prevent similar atrocities from reoccurring.<sup>226</sup> Judge Cançado Trindade observed that the facts of this case fit within a bigger picture that illuminated the serious problems that plagued the State when it comes to massacres.<sup>227</sup> The facts of this case were so disturbing that Judge Cançado Trindade needed to find some silver lining, which was that the work the Court is doing could prevent these types of massacres from ever happening again.<sup>228</sup>

Next, Judge Cançado Trindade acknowledged the disturbing events that have come before the Court over the years.<sup>229</sup> Judge Cançado Trindade critiqued the notion that States do not have policies that systematically commit human rights violations.<sup>230</sup> Judge Cançado Trindade believed that because most recent international case law refuses to recognize that State crime exists, tribunals are sending a message that

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221. *Id.* ¶ 26.

222. *Id.* ¶ 28.

223. *Id.* ¶ 33.

224. *Id.* ¶ 34.

225. *Id.* ¶ 35.

226. *See Ituango Massacres v. Colombia*, Preliminary Objections, Merits, Reparations and Costs, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 148, ¶ 1 (June 29, 2006).

227. *See id.* ¶ 8.

228. *Id.*

229. *See id.* ¶¶ 9-12.

230. *Id.* ¶ 13.

they are submissive to the State and are indifferent to the human suffering that is taking place.<sup>231</sup>

Further, Judge Cançado Trindade acknowledged that because humans are evidently capable of harming each other in so many ways, it is concerning for those who truly value and seek to protect human rights.<sup>232</sup> Unfortunately, the twentieth century will be remembered as a time when States deliberately participated in carrying out senseless crimes.<sup>233</sup> Although the violence of the twentieth century has bled into the twenty-first century, goals that benefit humanity as a whole have been identified, and offer hope that the situation will improve.<sup>234</sup>

Judge Cançado Trindade acknowledged that these extreme acts of cruelty are not just limited to the Americas, but are felt worldwide, including Europe and Africa.<sup>235</sup>

Judge Cançado Trindade then reflected on the disastrous impact that massive human rights violations have on its victims, and the dehumanizing aspect that States are responsible for such pain and suffering.<sup>236</sup> Judge Cançado Trindade repeated his belief that turning a blind eye to the fact that States have planned crimes all over the world stunts the growth of international law.<sup>237</sup> International jurists will find it increasingly more difficult to evade the reality that State crimes exist when cases of States admitting to collaborating in massacres have been brought before the Court.<sup>238</sup>

In addition, Judge Cançado Trindade noted that Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) should be inseparable because together they establish customary international law.<sup>239</sup>

Last, Judge Cançado Trindade found that the Court correctly expanded its concept of victims by finally affording the next of kin of the deceased and the survivors of the massacres some justice.<sup>240</sup> The notion of victim in massacre cases included all those affected by the incidents, not just those who lost their lives.<sup>241</sup> Of course, the reparations vary per victim, but at least the State can lessen the suffering of the persons now

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231. *Id.*

232. *Id.* ¶ 14.

233. *Id.* ¶ 16.

234. *Id.* ¶ 17.

235. *Id.* ¶¶ 20-22.

236. *Id.* ¶ 27.

237. *Id.* ¶ 30.

238. *Id.* ¶ 35.

239. *Id.* ¶¶ 46-47.

240. *Id.* ¶ 49.

241. *Id.* ¶ 50.

included in the expanded concept of who classifies as a victim.<sup>242</sup>

#### 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, Prosecute, and Punish Those Responsible

The State must complete an effective investigation that identifies all the engineers behind the massacre and the members of the Army who failed to uphold the State's obligation to guarantee the victims' rights.<sup>243</sup> The State must also conduct criminal proceedings to uncover the facts and punish the people responsible for the massacres to avoid the recurrence of this type of incident.<sup>244</sup> The State must publish the true facts that the criminal proceeding reveals.<sup>245</sup>

In addition, the State must implement public policies to eliminate obstacles that facilitate impunity, expedite the investigation and judicial proceedings, and guarantee safety to the victims, investigators, witnesses, human rights defenders, judicial employees, prosecutors and other agents of justice.<sup>246</sup> The State must ensure adequate safety to the former and current inhabitants of Ituango as well.<sup>247</sup>

###### 2. Provide Medical Treatment

The State must supply treatment and medication through the national health services, free of charge,<sup>248</sup> for the time necessary to all the next of kin of the victims executed. In addition, each victim that informs the State of his or her intention to receive psychological care must be individually assessed and provided with treatment based on his

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242. *Id.* ¶ 51.

243. *Ituango Massacres v. Colombia*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 148, ¶ 399 (July 1, 2006).

244. *Id.* ¶¶ 399, 402.

245. *Id.* ¶ 399.

246. *Id.* ¶ 400.

247. *Id.*

248. *Id.* ¶ 403.

or her specific needs.<sup>249</sup>

### 3. Guarantee Safety if Former Inhabitants Return Home

This measure of reparation was contingent on whether the former inhabitants of La Granja and El Aro returned to the State.<sup>250</sup> If they do, the State must guarantee their safety, and monitor the situation for the length of time necessary that will guarantee this security.<sup>251</sup> If the State cannot comply with the necessary security measures, then it must provide the displaced victims with sufficient resources to resettle in the location they choose.<sup>252</sup>

### 4. Publicly Acknowledge International Responsibility

The State must publicly acknowledge its international responsibility for the massacres that transpired in La Granja and El Aro, and apologize to the next of kin of the victims and survivors of the events for failing to comply with its obligation to protect their rights.<sup>253</sup>

### 5. Implement Housing Program

The State must provide appropriate housing to the surviving victims who lost their homes and are in need of a home.<sup>254</sup>

### 6. Erect a Commemorative Plaque at Massacre Sites

The State must put up a commemorative plaque in a public place in La Granja and in El Aro to recall the events of the Ituango massacres.<sup>255</sup> The representatives of the victims and the State must agree on the inscription for the plaque.<sup>256</sup>

### 7. Train State Officials in Human Rights

The State must train its members of the armed forces and security

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249. *Id.*

250. *Id.* ¶ 404.

251. *Id.*

252. *Id.*

253. *Id.* ¶ 406.

254. *Id.* ¶ 407.

255. *Id.* ¶¶ 408, 417.

256. *Id.* ¶ 408.

agencies on the principles of human rights protection, international humanitarian law, and what is expected of them to protect human rights.<sup>257</sup>

## 8. Publish the Judgment

The State must publish the “Proven Facts” chapter, without the corresponding footnotes, and operative paragraphs of the Judgment in the official gazette and in another newspaper with national circulation in the State.<sup>258</sup>

### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court found that it was unable to calculate the loss of income for a majority of the victims because there was insufficient evidence as to the victims’ age or the work they performed.<sup>259</sup> Therefore, the Court determined that it would grant compensation, on grounds of equity, to the nineteen executed victims’ next of kin even though the lost earnings of any individual could not be specifically proven.<sup>260</sup> The Court left open the option for the beneficiaries, comprised of the executed victims’ next of kin, to use methods available under domestic law to receive their calculated compensation.<sup>261</sup>

Regarding the persons whose livestock was stolen, the Court granted compensation based on equity in favor of the victims.<sup>262</sup> The victims who lost their livestock were not precluded from utilizing mechanisms available under domestic law to receive the corresponding compensation.<sup>263</sup>

#### 2. Non-Pecuniary Damages

Regarding the next of kin of the persons who lost their lives, which includes the deceased’s children, spouse, companion, mother, father,

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257. *Id.* ¶ 409.

258. *Id.* ¶ 410.

259. *Id.* ¶¶ 371, 373.

260. *Id.* ¶ 372.

261. *Id.*

262. *Id.* ¶ 374.

263. *Id.*

and siblings, the Court ordered payment of compensation for non-pecuniary damage based on the principle of equity.<sup>264</sup>

The Court awarded \$30,000 to the beneficiaries of each of the nineteen victims who were executed in La Granja and El Aro.<sup>265</sup> The State must pay an additional \$5,000 to the beneficiaries of Wilmar de Jesús Restrepo Torres, considering he was only a minor when he was murdered.<sup>266</sup>

Regarding the children who witnessed the events, the State must also pay \$2,500 to Jorge Correa Sánchez, Mr. Pérez Areiza, Mr. José Leonel Areiza Posada and Mr. Marco Aurelio Areiza Posada.<sup>267</sup>

The Court awarded \$10,000 to each mother, father, spouse or permanent companion, and child of the nineteen victims executed.<sup>268</sup> Additionally, the State must pay \$1,500 to each sibling of the nineteen murdered persons.<sup>269</sup> Any victim, who confirmed with competent State authorities that he or she was a child at the time his or her next of kin was killed, would be granted an additional \$2,000 because of his or her minor status.<sup>270</sup> The Court ordered these additional payments of compensation because some of the next of kin also had their personal integrity and rights to judicial protection violated in addition to losing their family members.<sup>271</sup>

The Court awarded \$4,000 each to Mr. Pino Posada, Mr. Torres Jaramillo, Mr. Mendoza Posso, Mr. Jiménez Jiménez, Mr. Crespo, Mr. Barrera, Mr. Gilberto Lopera, Mr. Echavarría, Mr. Palacio, Mr. Salazar, Mr. Chavaría, Mr. Carvajal, Mr. Rua, Mr. García, Mr. Alberto Lopera, Mr. Monsalve and Mr. Gómez because they were forced to herd livestock.<sup>272</sup>

The Court awarded \$3,500 to each of the twenty-nine persons whose livestock was stolen.<sup>273</sup>

The Court awarded \$6,000 to each of the forty-three persons who lost their home in El Aro.<sup>274</sup>

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264. *Id.* ¶ 387.

265. *Id.* ¶ 390(a).

266. *Id.* ¶ 390(b).

267. *Id.* ¶ 390(c).

268. *Id.* ¶ 390(d)(i).

269. *Id.* ¶ 390(d)(ii).

270. *Id.* ¶ 390(d)(iii).

271. *See id.* ¶ 390(d). The Court allocated the aforementioned payment amounts, ranging from \$1,500 to \$10,000, to each of the next of kin of the executed persons listed in Appendix I of the judgment. *Id.*

272. *Id.* ¶ 390(e).

273. *See id.* ¶¶ 125(81), 390(f).

274. *Id.* ¶ 390(g).



Finally, the Court awarded an additional \$2,500 to the forty-three residents of El Aro who lost their home, the fifty-nine inhabitants of El Aro who lost their possessions, and the 702 inhabitants of El Aro who were displaced.<sup>275</sup>

### 3. Costs and Expenses

The Court awarded \$15,000 to the GIDH, and \$8,000 to the CCJ, to compensate for costs and expenses incurred in processing this case in domestic proceedings and in the international proceedings before the Inter-American system.<sup>276</sup>

#### 4. Total Compensation (including Costs and Expenses ordered):

\$ 3,931,500

### C. Deadlines

The State must immediately adopt measures to identify the masterminds and perpetrators of the massacres, and the Army members who were complicit in the massacres, and complete the investigation within a reasonable time.<sup>277</sup>

The State is ordered to immediately provide appropriate treatment for the next of kin of the victim who were executed for as long as is necessary.<sup>278</sup>

The State has one year to deposit the compensation to pay the minors in this case, but can get the money back with interest if it has not been claimed within ten years after each child has come of age.<sup>279</sup> If the next of kin of the victims do not claim their compensation within ten years, then the funds will be given back to the State with accrued interest.<sup>280</sup>

The State must implement the housing program within five years of notice of the Judgment.<sup>281</sup>

The State must erect a commemorative plaque in La Granja and El

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275. *Id.* ¶ 390(h).

276. *Id.* ¶ 416.

277. *Id.* ¶ 417.

278. *Id.*

279. *Id.* ¶ 422.

280. *Id.* ¶ 423.

281. *Id.* ¶ 407.

Aro within one year of notification of the Judgment.<sup>282</sup>

The State must install the permanent training programs on human rights and international humanitarian law for the armed forces within a reasonable amount of time.<sup>283</sup>

The State must publish specific portions of the Judgment within six months of receiving notice of the Judgment.<sup>284</sup>

The State must make payments for compensation for pecuniary damages, non-pecuniary damages, and costs and expenses incurred within one year of receiving notice of the Judgment.<sup>285</sup>

#### V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

#### VI. COMPLIANCE AND FOLLOW-UP

**July 7, 2009:** The Court found that the State fully complied with its obligation to design and instill permanent human rights education programs for the Armed Forces.<sup>286</sup> Also, the Court found that the State had complied with its obligations to reimburse the costs and expenses when it issued payments of approximately \$17,000 to the GIDH and about \$9,000 to the CCJ.<sup>287</sup>

The Court deemed that the State partially complied with its obligation to publish the Judgment because the State published specific parts of the judgment in a newspaper of national circulation, but had yet to publish the judgment in the Official Gazette.<sup>288</sup> Also, The State only partially complied with its obligation to pay the pecuniary and non-pecuniary damage to the named victims.<sup>289</sup>

The Court discovered that after three years since the Judgment, the State had yet to adopt measures that would speed up the investigation and get rid of all obstacles that allow violations to take place with impunity.<sup>290</sup> The State failed to develop a program that would effectively

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282. *Id.* ¶ 408.

283. *Id.* ¶ 409.

284. *Id.* ¶ 410.

285. *Id.* ¶ 417.

286. *Ituango Massacres v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Having Seen" ¶ 50 (July 7, 2009).*

287. *Id.* "Having Seen" ¶ 72.

288. *Id.* "Having Seen" ¶ 54.

289. *Id.* "Having Seen" ¶ 71.

290. *Id.* "Having Seen" ¶ 16.

provide appropriate treatment and medicines for the next of kin of the victims who were executed.<sup>291</sup> The State also failed to guarantee security to the surviving victims that decide to return to the municipality of Ituango.<sup>292</sup> The Court found that the State failed to publically acknowledge its international responsibility in the presence of high-ranking authorities.<sup>293</sup>

The State informed the Court that because it could not comply with its obligation to implement a housing program, it offered an alternative solution to the victims' representatives in the form of money substitutes.<sup>294</sup> The Court considered it appropriate to ratify the agreement, but only if the victims gave their express consent.<sup>295</sup>

The Court took notice that the State was not completely at fault for the delay in erecting the commemorative plaques.<sup>296</sup> The representatives must answer the State's proposal regarding the text of the plaques, otherwise the State could proceed with putting up the plaques as they see fit.<sup>297</sup> The Court ordered the obligation to erect the plaques to be fulfilled within three months.<sup>298</sup>

The Court kept open the proceeding for monitoring compliance with regard to the aspects of the Judgment on Merits, Reparations and Costs of July 1, 2006 that were still pending compliance.<sup>299</sup>

**December 22, 2010:** The Court determined that after more than fifteen years since the massacres in Ituango, the State failed to clearly show it had made efforts to investigate the facts and identify the persons responsible for violations.<sup>300</sup> The Court kept open the compliance monitoring proceeding with regard to providing adequate treatment to the next of kin of victims executed.<sup>301</sup>

Representatives of the victims reported that the State had not taken measures to ensure that Ituango zone was suitable for displaced persons to return.<sup>302</sup>

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291. *Id.* "Having Seen" ¶ 26.

292. *Id.* "Having Seen" ¶ 32.

293. *Id.* "Having Seen" ¶ 36.

294. *Id.* "Having Seen" ¶ 37.

295. *Id.* "Having Seen" ¶ 40.

296. *Id.* "Having Seen" ¶ 44.

297. *Id.*

298. *Id.*

299. *Id.* "Having Seen" ¶¶ 76, 80.

300. *Ituango Massacres v. Colombia, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. "Having Seen" ¶ 11 (December 22, 2010).*

301. *Id.* "Having Seen" ¶ 13.

302. *Id.* "Having Seen" ¶ 16.

The State claimed that it published the pertinent sections of the judgment in the official gazette on April 28, 2009.<sup>303</sup> The President asked the representatives to submit any reservations they may have given that they did not know whether the State had complied with the reparation or not.<sup>304</sup>

Lastly, the State was asked to submit documentation that would support its claim that it had fulfilled its obligation to pay the pecuniary and non-pecuniary damage to the named victims, with the representatives having the opportunity to rebut the State's claims with detailed documentation.<sup>305</sup>

**February 28, 2011:** The Court determined that the State fully complied with its obligation to publish the proven facts and operative paragraphs of the Judgment in the official gazette.<sup>306</sup> The State also fully complied with its obligation to pay the pecuniary and non-pecuniary damage awards.<sup>307</sup>

The Court kept open the proceeding for monitoring compliance with regard to the State's obligation to provide adequate medical and psychological care, free of charge, to the next of kin of the victims who were executed.<sup>308</sup>

The Court determined that compliance was still pending with regard to the State taking necessary measures to provide justice, adopting measures to ensure safe conditions for displaced inhabitants to return home, publically acknowledging responsibility in the presence of senior authorities, and erecting plaques in a public place in La Granja and in El Aro.<sup>309</sup> Additionally, the Court found that the State still failed to comply with implementing a housing program or reaching a resolution with the representatives on the alternative solution to pay 135 monthly wages.<sup>310</sup>

**February 8, 2012:** The President of the Court decided to convene the State, the Commission, and the representatives of the victims and their next of kin, to a private hearing to obtain information regarding the State's compliance concerning its obligation to provide medical and

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303. *Id.* "Having Seen" ¶ 31.

304. *Id.* "Having Seen" ¶¶ 32-33.

305. *Id.* "Having Seen" ¶ 42.

306. *Ituango Massacres v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Having Seen,"* ¶¶ 8-9 (February 28, 2011).

307. *Id.* "Having Seen" ¶ 19.

308. *Id.* "Having Seen" ¶ 7.

309. *Id.* "Having Seen" ¶¶ 22-23.

310. *Id.* "Having Seen" ¶ 23.

psychological attention to the next of kin of the executed victims.<sup>311</sup>

**May 21, 2013:** The State partially complied with its obligations to implement a housing program and erect a plaque in an appropriate public place in La Granja and El Aro.<sup>312</sup>

The Court kept open the proceeding for monitoring compliance with regard to the State's obligations properly investigate the true facts in the case, provide free treatment to the next of kin of the victims who were executed, establish safe condition for displaced residents to return to La Granja or El Aro, and to publically admit international responsibility for the massacres that took place.<sup>313</sup>

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[Ituango Massacres v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 148 \(July 1, 2006\).](#)

#### 2. Decisions on Merits, Reparations and Costs

[Ituango Massacres v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 148 \(July 1, 2006\).](#)

[Ituango Massacres v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Separate Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 148 \(June 29, 2006\).](#)

[Ituango Massacres v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. \(ser. C\) No. 148 \(June 29, 2006\).](#)

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311. *Ituango Massacres v. Colombia, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. "Having Seen,"* ¶ 15 (February 8, 2012).

312. *Ituango Massacres v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Having Seen,"* ¶ 66 (May 21, 2013).

313. *Id.* "Having Seen" ¶ 67(a)-(d).

## 3. Provisional Measures

[None]

## 4. Compliance Monitoring

[Ituango Massacres v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(May 21, 2013\).](#)

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

[Ituango Massacres v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 28, 2011\).](#)

[Ituango Massacres v. Colombia, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. \(Dec. 22, 2010\).](#)

[Ituango Massacres v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(July 7, 2009\).](#)

## 5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

## 1. Petition to the Commission

Ituango Massacres v. Colombia, Petition No. 12.266, Inter-Am. Comm'n H.R. (Mar. 3, 2000).

Ituango Massacres v. Colombia, Petition No. 12.050, Inter-Am. Comm'n H.R. (July 14, 1998).

## 2. Report on Admissibility

[Ituango Massacres v. Colombia, Admissibility Report, Report No. 75/](#)

[01, Inter-Am. Comm'n H.R., Case No. 12.266 \(Oct. 10, 2001\).](#)

[Ituango Massacres v. Colombia, Admissibility Report, Report No. 57/00, Inter-Am. Comm'n H.R., Case No. 12.050 \(Oct. 2, 2000\).](#)

### 3. Provisional Measures

[None]

### 4. Report on Merits

*Ituango Massacres v. Colombia*, Report on Merits, Report No. 23/04, Inter-Am. Comm'n H.R., Case Nos. 12,050, 12,266 (Mar. 11, 2004).

### 5. Application to the Court

*Ituango Massacres v. Colombia*, Petition to the Court, Inter-Am. Comm'n H.R., Case Nos. 12,050, 12,266 (July 30, 2004).

## VIII. BIBLIOGRAPHY

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