

Valle Jaramillo et al. v. Colombia

ABSTRACT¹

This case concerns the killing of a human rights defender by paramilitary groups in Colombia, and the subsequent failure by the State to effectively investigate and prosecute the victim's murderers. The Court found the State violated the American Convention on Human Rights.

I. FACTS

A. Chronology of Events

Mid 1990s: With the acquiescence of the State Army, paramilitary groups² harass the population (particularly the human rights leaders and government leaders) of Ituango, in northeast Antioquia.³ Dr. Jesús María Valle Jaramillo, Municipal Leader of Ituango, criticizes the army and paramilitary groups and admonishes local government to adopt policies to protect the civilian population.⁴

The Regional Prosecutor's Office finds evidence that Dr. Valle Jaramillo is being targeted due to his criticism of the State Army and paramilitary groups, suggesting that the two groups acted in concert.⁵ As a result, the Prosecutor's Office believes Dr. Valle Jaramillo's life is in danger.⁶

June 11, 1996: Paramilitaries, acting with the acquiescence of the State Army, murder a group of civilians in Ituango.⁷ Dr. Valle Jaramillo is forced to flee the municipality due to threats made against him for his

1. Dale Ogden, Author; Alyssa Rutherford, Editor; Hayley Garscia, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. These paramilitary groups later go on to establish the United Self-Defense Forces of Colombia. Valle Jaramillo et al. v. Colombia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.415, ¶ 35 (Feb. 13, 2007).

3. *Id.*

4. *Id.*

5. *Id.* ¶ 36.

6. *Id.* ¶ 37.

7. *Id.* The Inter-American Court of Human Rights, prior to the immediate case, already established the State's responsibility for these murders. *See Ituango Massacres v. Colombia, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 148 (July 1, 2006).*

statements.⁸

July 10, 1997: Dr. Valle Jaramillo makes allegations in the media regarding the joint action of the State Army (Fourth Brigade) and the paramilitary groups.⁹ In response, the State Army files a defamation suit against Dr. Valle Jaramillo.¹⁰ The Governor of Antioquia further declares Dr. Valle Jaramillo “an enemy of the armed forces.”¹¹

October 22, 1997 – November 12, 1997: Paramilitaries, again acting with the support of the State Army, carry out a series of killings in the Ituango municipality.¹²

November 1997: Dr. Valle Jaramillo files a complaint with the office of the Disciplinary Delegate Attorney for the Defense of Human Rights.¹³ As a result, the Disciplinary Delegate Attorney issues a “Declaration of Disciplinary Responsibility” against the public employees for the Ituango murders.¹⁴

Thereafter, Dr. Valle Jaramillo receives a letter from the leader of the paramilitary group stating that he must either remain silent or leave the country “so they wouldn’t have to kill him.”¹⁵

February 26, 1998: Dr. Valle Jaramillo gives statements regarding the defamation and slander suit filed against him.¹⁶ He reaffirms his allegations regarding the collusion between the Army, police force, and paramilitary forces in the more than 150 murders carried out in Ituango.¹⁷

February 27, 1998: Dr. Valle Jaramillo holds a meeting with Mr. Carlos Fernando Jaramillo Correa and Ms. Nelly Valle, Dr. Valle Jaramillo’s sister and secretary.¹⁸ Two armed men enter Dr. Valle Jaramillo’s office, state they are part of a guerrilla operation, and force Mr. Jaramillo Correa and Ms. Valle to face the wall.¹⁹ After tying down the two in-

8. Valle Jaramillo et al. v. Colombia, Petition to the Court, ¶ 37.

9. *Id.* ¶ 38.

10. *Id.*

11. *Id.*

12. *Id.* ¶ 39.

13. *Id.*

14. *Id.*

15. *Id.* ¶ 40.

16. *Id.* ¶ 41.

17. *Id.*

18. *Id.* ¶ 45.

19. *Id.* ¶¶ 45-46.

dividuals, the two men shoot Dr. Valle Jaramillo in the head.²⁰ Dr. Valle Jaramillo dies immediately.²¹

After the murder, the men threaten Mr. Jaramillo Correa and Ms. Valle, and the two beg for their lives.²² The assailants warn them to act as though they had never seen the assailants' faces, and let them live.²³ Ms. Valle suffers psychological trauma for two years following the incident.²⁴ Furthermore, Mr. Jaramillo Correa is forced into exile following death threats caused by the incident.²⁵

October 20, 1998: The Colombia Constitutional Court states, "an unconstitutional state of affairs in the lack of due protection afforded human rights defenders," exists in the country and, "the activities of human rights defenders in Colombia are surrounded by countless dangers," primarily from these paramilitary groups.²⁶

May 21, 1999: The Office of the Prosecutor files charges against ten individuals for the murder of Dr. Valle Jaramillo.²⁷ Although ten persons are named, three never appear before the authorities and their arrest warrants are never carried out.²⁸ The charges against the three others are subsequently dropped by the two lead prosecutors.²⁹ The two prosecutors are then forced into exile, following death threats.³⁰

March 15, 2001: The Third Criminal Court convicts three civilians *in absentia* for the murder of Dr. Valle Jaramillo, and orders the release of the other seven individuals in custody.³¹ There are no judicial or prosecutorial investigations regarding the responsibility of any State agent for the murder.³²

B. Other Relevant Facts

After the downfall of several key drug cartels in the 1990s, para-

20. *Id.* ¶ 48.

21. *Id.*

22. *Id.* ¶ 51.

23. *Id.*

24. *Id.* ¶ 52.

25. *Id.*

26. *Id.* ¶ 43.

27. *Id.* ¶ 55.

28. *Id.* ¶ 56.

29. *Id.* ¶ 57.

30. *Id.*

31. *Id.* ¶ 58.

32. *Id.* ¶ 60; *see also id.* ¶ 62.

military groups take over the drug trade as their primary method of financing.³³ The Colombian government and army do not prevent, and even endorse, the paramilitary's human rights violations.³⁴

Dr. Valle Jaramillo was a lawyer, university professor, and human rights activist who denounced these paramilitary groups.³⁵ Prior to his death, the Inter-American Commission on Human Rights met with Dr. Valle Jaramillo and discussed the human rights situation in Colombia.³⁶ The Commission became increasingly concerned regarding the attacks on human rights workers, non-mainstream political parties, locally elected authorities, and unionists in Colombia, recommending measures to guarantee the safety of these individuals.³⁷

II. PROCEDURAL HISTORY

A. Before the Commission

August 2, 2001: The Inter-American Commission receives a petition lodged by the Interdisciplinary Group for Human Rights on behalf of Valle Jaramillo et al.³⁸

March 5, 2002: During its 114th session, the Commission holds a hearing on the case.³⁹

March 20, 2002: The petitioners request that the Colombian Commission of Jurists be registered as a joint petitioner.⁴⁰

February 20, 2003: The Commission declares the petition admissible.⁴¹

33. Bilal Y. Saab and Alexandra W. Taylor, *Criminality and Armed Groups: A Comparative Study of FARC and Paramilitary Groups in Colombia*, BROOKINGS (June 2009), <http://www.brookings.edu/research/articles/2009/05/06-criminality-saab>. See also *Profiles: Colombia's Armed Groups*, BBC, (Aug. 2013) <http://www.bbc.com/news/world-latin-america-11400950>.

34. The State's responsibility for its acquiescence regarding the paramilitary's human rights violations was already established in the Mapiripán Massacre case. See *Mapiripán Massacre v. Colombia*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 134 (Sept. 15, 2005).

35. Valle Jaramillo et al. v. Colombia, Petition to the Court, ¶ 34.

36. *Id.* ¶ 42.

37. *Id.*; See IACHR, Annual Report of the IACHR 1996, OEA/Ser.L/V/II.95, Doc. 7 rev., March 14, 1997, Chapter V, para. 57.

38. Valle Jaramillo et al. v. Colombia, Petition to the Court, ¶ 10.

39. *Id.* ¶ 13.

40. *Id.* ¶ 14.

41. *Id.* ¶ 18.

March 11, 2003: Notification of the Report on Admissibility is sent to the parties.⁴² In the same communication, the Commission requests the parties attempt to reach a friendly settlement in accordance with Article 48(1)(f) of the American Convention.⁴³ The Commission receives no statements from either side.⁴⁴

May 11, 2003: The deadline passes without response from the petitioners.⁴⁵

October 16, 2006: The Commission adopts Report on the Merits 75/06.⁴⁶

January 12, 2007: The State sends the Commission a report regarding the measures taken and those it plans to take in order to comply with the Commission's recommendations.⁴⁷

B. Before the Court

February 13, 2007: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁴⁸

July 9, 2007: The State partially acknowledges international responsibility regarding certain alleged violations in its response brief.⁴⁹ Specifically, the State acknowledges its violation of Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 5 (Right to Humane Treatment), 7(1) (Right to Personal Liberty and Security), and 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law) with regard to Dr. Valle Jaramillo; 5 (Right to Humane Treatment), 7(1) (Right to Personal Liberty and Security), and 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law) with regard to Ms. Valle; and 5 (Right to Humane Treatment), 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), and 22 (Freedom of

42. *Id.* ¶ 19.

43. *Id.* ¶ 20.

44. *Id.* ¶ 20.

45. *Id.* ¶ 19.

46. *Id.* ¶ 27.

47. *Id.* ¶ 32.

48. *Id.* ¶ 33; Valle Jaramillo et al. v. Colombia, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 192, ¶ 1 (Nov. 27, 2008).

49. *Id.* ¶ 6

Movement and Residence) with regard to Mr. Jaramillo Correa.⁵⁰ The State further acknowledged its responsibility for violating Article 22 (Freedom of Movement and Residence) with regard to the direct nuclear family of Mr. Jaramillo Correa, and Article 5 (Right to Humane Treatment) with regard the direct nuclear family of the victims.⁵¹ Furthermore, the State partially acknowledges that it violated the right to judicial guarantees and protections embodied in articles 8(1) (Right to a Hearing Within Reasonable Time Before a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court).⁵² The State denies all other allegations.⁵³

February 6-7, 2008: The Court holds a public hearing regarding the final oral arguments on the merits and reparations.⁵⁴

1. Violations Alleged by Commission⁵⁵

Article 4 (Right to Life)
 Article 5 (Right to Humane Treatment)
 Article 7 (Right to Personal Liberty)
 Article 8 (Right to a Fair Trial)
 Article 22 (Freedom of Movement and Residence)
 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 Victims⁵⁶

Same Violations Alleged by Commission, plus:

Article 5(1) (Right to Physical, Mental, and Moral Integrity)
 Article 11(1) (Right to Honor and Dignity)

50. *Id.* ¶ 20.

51. *Id.*

52. *Id.*

53. *Id.* ¶ 6.

54. *Id.* ¶ 8.

55. *Id.* ¶ 4

56. *Id.* ¶ 5; The Interdisciplinary Group for Human Rights (*Grupo Interdisciplinario por los Derechos Humanos*, "GIDH") represented by Ms. María Victoria Fallon Morales, Ms. Patricia Fuenmayor Gómez, and Mr. John Arturo Cárdenas Mesa, and the Colombian Comisión of Jurists (*Comisión Colombiana de Juristas*, "CCJ") represented by Mr. Gustavo Gallón Giraldo and Ms. Luz Marina Monzón Cifuentes serve as representatives of the victims.

Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity)

Article 13 (Freedom of Thought and Expression)

Article 17 (Rights of the Family)

all in relation to:

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

III. MERITS

*A. Composition of the Court*⁵⁷

Cecilia Medina Quiroga, President
Diego García-Sayán, Vice President
Sergio García Ramírez, Judge
Manuel E. Ventura Robles, Judge
Leonardo A. Franco, Judge
Margarette May Macaulay, Judge
Rhadys Abreu Blondet, Judge

Pablo Saavedra Alessandri, Secretary

B. Decision on the Merits

November 27, 2008: The Court issues its Judgment on the Merits, Reparations, and Costs.⁵⁸

The Court unanimously found that the State had violated:

Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) in relation to Article 1(1) of the Convention, to the detriment of Dr. Valle Jaramillo,⁵⁹ because:

The Court accepted the State's partial admission of responsibility in failing to adequately protect Mr. Valle Jaramillo as a human rights defender.⁶⁰ The Court acknowledged the duty of the State to ensure the

57. For reasons beyond her control, Deputy Secretary Emilia Segares Rodríguez did not take part in the deliberation for this Judgment. *Id.* n.*.

58. Valle Jaramillo et al. v. Colombia, Merits, Reparations, and Costs.

59. *Id.* ¶ 106.

60. *Id.*, see *id.* ¶ 71.

protection of human rights defenders, even when the acts are carried about by third parties.⁶¹ The particular circumstances of the violation must be analyzed to determine whether the State is responsible for the human rights violation.⁶² The Court noted that because human rights defenders are in a uniquely vulnerable position, the State must affirmatively prioritize their protection.⁶³

Through the Court's previous decisions, the Court determined the State had created a dangerous condition in the encouragement of the formation of these paramilitary groups.⁶⁴ The Court therefore found that it was evident that the State encouraged the formation of the paramilitary groups involved in human rights violations.⁶⁵ The Court also found the State was aware of this significant risk, particularly to the life of Dr. Valle Jaramillo, due to the public presence of Dr. Valle Jaramillo and the numerous human rights violations in the municipality of Ituango.⁶⁶ Furthermore, the Court took notice regarding the Colombian Constitutional Court's statement that an "unconstitutional state of affairs" existed within the State in the context of human rights violations.⁶⁷

Consequently, due to the dangerous situation created by the State with regard to human rights defenders, particularly to Dr. Valle Jaramillo, and the State's knowledge of this significant risk, the Court found that the State violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) to the detriment of Dr. Valle Jaramillo.⁶⁸

Articles 5 (Right to Humane Treatment) and 7 (Right to Personal Liberty) in relation to Article 1(1) of the Convention, to the detriment of Ms. Valle and Mr. Jaramillo Correa,⁶⁹ because:

*The State failed to protect Ms. Valle and Mr. Jaramillo Correa.*⁷⁰ The Court noted that the mere threat of an act in violation of Article 5

61. *Id.* ¶¶ 77, 78.

62. *Id.* ¶ 78.

63. *Id.* ¶¶ 83, 98.

64. *Id.* ¶ 75.001; see e.g., *Mapiripán Massacre v. Colombia*, Preliminary Objections, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 122, ¶¶ 96(1)-(3) (Mar. 7, 2005).

65. *Valle Jaramillo et al. v. Colombia*, Merits, Reparations, and Costs, ¶ 76.

66. *Id.* ¶¶ 92-93.

67. *Id.* ¶ 83.

68. *Id.* ¶¶ 92, 106.

69. *Id.* ¶ 105.

70. *Id.* ¶ 110.

(Right to Humane Treatment), when sufficiently real and imminent, can itself violate Article 5.⁷¹ Here, Ms. Valle and Mr. Jaramillo Correa were subject to a direct threat on their lives by the individuals who murdered Dr. Valle Jaramillo immediately following the murder.⁷² Having already established that the State's acquiescence led to the creation of a dangerous situation⁷³ and taking into account the State's partial acknowledgment of responsibility, the Court found the State violated Articles 5 (Right to Humane Treatment) and 7 (Right to Personal Liberty) with respect to Ms. Valle and Mr. Jaramillo Correa.⁷⁴

Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) of the Convention to the detriment of the next of kin of Dr. Valle Jaramillo, Ms. Valle, and Mr. Jaramillo Correa,⁷⁵ because:

The Court accepted the acknowledgment of responsibility offered by the State.⁷⁶ In cases of massacres, forced disappearances, and extrajudicial murders, certain family members (parents, spouses, permanent companions) are presumed to have had their Article 5 (Right to Humane Treatment) rights violated.⁷⁷ Regarding other individuals, the Court must analyze their particular relationship with the victim.⁷⁸

There was no dispute regarding the effect on the next of kin with respect to their insecurity, frustration, anguish, and powerlessness; the grave change in their way of life and their general suffering; and the State's failure to investigate.⁷⁹ Accordingly, the Court accepted the State's acknowledgement of responsibility and found that the State violated Article 5(1) (Right to Physical, Mental, and Moral Integrity) with respect to the next of kin of Dr. Valle Jaramillo, Ms. Valle, and Mr. Jaramillo Correa.⁸⁰

The Court however found that Dr. Valle Jaramillo's nieces and neph-

71. *Id.* ¶ 108.

72. *Id.* ¶ 109.

73. *Id.* ¶ 76.

74. *Id.* ¶ 110.

75. *Id.* ¶ 115.

76. *Id.* The State acknowledged responsibility for Dr. Valle Jaramillo, Ms. Valle, and Mr. Jaramillo Correa, and certain of their family members. *Id.* ¶ 111.

77. *Id.* ¶ 119.

78. *Id.*

79. *Id.* ¶ 115.

80. *Id.* ¶¶ 115, 126-127, 129, 130.

ews failed to produce specific evidence beyond a generalized concern regarding their mental anguish.⁸¹ Accordingly, the State did not violate Article 5(1) (Right to Physical, Mental, and Moral Integrity) with respect to these individuals.⁸²

Article 22 (Freedom of Movement and Residence), in relation to Article 1(1) of the Convention, to the detriment of Mr. Jaramillo Correa and his next of kin,⁸³ because:

*The State failed to adequately protect Mr. Jaramillo Correa and his next of kin, forcing their relocation.*⁸⁴ *Freedom of movement and residence is an essential condition of human rights.*⁸⁵ *Freedom of movement and residence may be affected, de facto, when a State fails to provide a means for the person to move freely. Consequently, a State that fails to provide the guarantees for a person to move freely violates Article 22 (Freedom of Movement and Residence), regardless of whether the offending party is a State actor.*⁸⁶

*In this respect, the State failed to provide protection to Mr. Jaramillo Correa and his family after the murder of Dr. Valle Jaramillo.*⁸⁷ *As a result Mr. Jaramillo Correa and his family were forced to relocate due to the many threats they received, thereby depriving them of their choice to live in their homeland of Ituango.*⁸⁸ *Accordingly, the State violated Article 22 (Freedom of Movement and Residence).*⁸⁹

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) in relation to Article 1(1) of the Convention, to the detriment of Mr. Jaramillo Correa, Ms. Valle, their respective next of kin, and the next of kin of Dr. Valle Jaramillo,⁹⁰ because:

The State failed to properly investigate and prosecute the parties responsible for the murder of Dr. Valle Jaramillo, and the psychological

81. *Id.* ¶¶ 125-26.

82. *Id.*

83. *Id.* ¶ 144.

84. *Id.*

85. *Id.* ¶ 138.

86. *Id.* ¶ 139.

87. *Id.* ¶ 144.

88. *Id.*; see Valle Jaramillo et al. v. Colombia, Petition to the Court, ¶ 152.

89. Valle Jaramillo et al. v. Colombia, Merits, Reparations, and Costs, ¶ 144.

90. *Id.* ¶ 145.

*damage to the victims and their next of kin.*⁹¹ Specifically, the State failed to investigate the possible participation of State actors, failed to follow through with arrest warrants issued against the parties, and generally failed to perform a thorough investigation into the murder.⁹² The State has an affirmative duty to investigate extrajudicial murders within a reasonable time.⁹³ However, in assessing reasonableness, the Court must take into account the complexity of the matter, the procedural activity of the interested party, and the conduct of judicial authorities.⁹⁴

*Here, the State issued two convictions, but the evidence clearly showed that at least three parties were responsible, and the State failed to investigate further.*⁹⁵ Furthermore, more than ten years had elapsed since the murder, and the proceedings were still “open;” consequently, this constituted an unreasonable delay and violation of the rights of the victims.⁹⁶ Accordingly, the Court accepted the partial admission by the State of its failure to investigate, prosecute, and punish the responsible parties,⁹⁷ and found that the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court).⁹⁸

The Court unanimously found that the State had not violated:

Articles 11(1) (Right to Honor and Dignity) and 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) in relation to Article 1(1) of the Convention, to the detriment of Dr. Valle Jaramillo, Mr. Jaramillo Correa, and their respective next of kin,⁹⁹ because:

*In alleging a violation of Article 11 (Right to Privacy), the next of kin relied on facts that differed from the facts alleged in their application to the Commission.*¹⁰⁰ *Under the Court’s jurisprudence, utilizing facts that differ from the application to the Commission is impermissible.*¹⁰¹

91. *Id.* ¶ 169.

92. *Id.* ¶ 168.

93. *Id.* ¶ 147; see *id.* ¶ 155.

94. *Id.* ¶ 155.

95. *Id.* ¶ 154.

96. *Id.*

97. *Id.* ¶ 147.

98. *Id.* ¶ 169.

99. *Id.* ¶¶ 171-180.

100. *Id.* ¶ 174.

101. *Id.*

Furthermore, the proceedings against Dr. Valle Jaramillo for libel and slander did not, *per se*, violate Article 11(1) (Right to Honor and Dignity) and Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity).¹⁰² Had Dr. Valle Jaramillo lost the case for libel and slander, there may have been a potential violation; however, the mere commencement of a case does not violate the right to privacy.¹⁰³ Regarding the Governor of Antioquia's alleged statement that Dr. Valle Jaramillo was, "an enemy of the armed forces," the Court found a lack of evidence to substantiate the utterance of this statement.¹⁰⁴

Furthermore, with regard to Mr. Jaramillo Correa, there were no facts sufficient to indicate his right to privacy was violated.¹⁰⁵ Consistent with the Court's precedent, the State did not violate its duty to, "protect private life and home from arbitrary or abusive interference."¹⁰⁶ Consequently, the Court found that the State did not violate Article 11(1) (Right to Honor and Dignity) and Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity).¹⁰⁷

Article 17 (Rights of the Family) in relation to Article 1(1) to the detriment of Dr. Valle Jaramillo and his next of kin,¹⁰⁸ because:

Because the Commission did not allege a violation of Article 17 (Rights of the Family),¹⁰⁹ and because the Court already addressed the rights of Dr. Valle Jaramillo's next of kin,¹¹⁰ the Court did not find a violation of Article 17.¹¹¹

Article 5 (Right to Humane Treatment), Article 13 (Freedom of Thought and Expression), and Article 16 (Freedom of Association) in relation to Article 1(1) to the detriment of human rights defenders,¹¹²

102. *Id.* ¶ 176.

103. *Id.*

104. *Id.* ¶ 177; *see* Valle Jaramillo et al. v. Colombia, Petition to the Court, ¶ 38.

105. Valle Jaramillo et al. v. Colombia, Merits, Reparations, and Costs, ¶ 179.

106. *Id.*

107. *Id.* ¶ 180.

108. *Id.* ¶ 184.

109. *Id.* ¶ 182.

110. *Id.* ¶ 183.

111. *Id.* ¶ 184.

112. *Id.* ¶ 191.

because:

The Court's case law requires all alleged victims to be included in the application to the Court and in the Commission's report on the merits under Article 50 of the Convention.¹¹³ Here, the Commission did not include human rights defenders as alleged victims.¹¹⁴ Accordingly, the Court declined to rule on potential violations as they pertain to human rights defenders.¹¹⁵

Article 13 (Freedom of Thought and Expression), in relation to Article 1(1) to the detriment of Dr. Valle Jaramillo,¹¹⁶ because:

The State and armed forces did not violate Dr. Valle Jaramillo's freedom of thought and expression merely by filing a lawsuit for libel and slander.¹¹⁷ As aforementioned, the mere filing of a lawsuit for libel and slander, while potentially frivolous, does not violate an individual's freedom of thought and expression per se.¹¹⁸ Accordingly, because the lawsuit against Dr. Valle Jaramillo never obtained judgment, the State did not violate Dr. Valle Jaramillo's freedom of thought and expression under Article 13.¹¹⁹

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Sergio García Ramírez

In a separate opinion, Judge Sergio García Ramírez outlined his concerns regarding the Court's reasoning of "reasonable time" for concluding judicial proceedings, and the victim's role in ordinary criminal proceedings.¹²⁰

In addition to the reasoning used by the majority for determining a "reasonable time" for judicial proceedings, Judge García Ramírez encouraged the Court to also consider: (1) the number of briefs submitted; (2) the number of participants; (3) the procedural process; (4) the tacti-

113. *Id.* ¶ 188.

114. *Id.* ¶ 189.

115. *Id.* ¶ 191.

116. *Id.* ¶¶ 196-197.

117. *Id.* ¶ 197.

118. *Id.* ¶ 196.

119. *Id.* ¶¶ 196-197.

120. Valle Jaramillo et al. v. Colombia, Merits, Reparations, and Costs, Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 192, ¶ 1 (Nov. 27, 2008).

cal decisions of the litigants; and (5) the workload of the State court.¹²¹

Furthermore, Judge García Ramírez sought to clarify that the victims should be given a fair opportunity to bring the facts before the appropriate authority and have their case commenced.¹²²

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 Court ordered the State to take all necessary steps to investigate, prosecute, and punish all of the perpetrators responsible for the murder of Dr. Valle Jaramillo.¹²³

2. Publish the Judgment

The Court ordered the State to publish, in a national newspaper, the proven facts and operative paragraphs of the Judgment.¹²⁴

3. Memorialize Dr. Valle Jaramillo

The Court ordered that Senior State officials apologize to the victims and their next of kin, underscoring the importance of Dr. Valle Jaramillo at the university where he was a professor.¹²⁵ The Court further ordered a plaque to be erected at the Courthouse of Antioquia to keep Dr. Valle Jaramillo's memory alive.¹²⁶

4. Protect Human Rights Defenders

The Court recognized the State's commitment to continue the

121. *Id.* ¶¶ 4, 5, 7.

122. *Id.* ¶ 21.

123. Valle Jaramillo et al. v. Colombia, Merits, Reparations, and Costs, ¶ 227(a).

124. *Id.* ¶ 227(b).

125. *Id.* ¶ 227(c)(1).

126. *Id.* ¶ 227(c)(2). The Court recognized the State's establishment of the "Jesus Maria Valle Jaramillo Grant" to support the work of the Human Rights Division of the Inter-American Commission of Human Rights for two years. *Id.* ¶¶ 227(c)(3), 231.

“Human Rights Defenders Policy” to ensure the future protection of human rights defenders in the State.¹²⁷

5. Provide Medical Care

The Court ordered the State to provide psychological and medical care to the victims in national health care establishments.¹²⁸

6. Provide Education

The State further ordered that Mr. Jaramillo Correa and Ms. Valle be offered consultation and a study grant should they wish to further their educations.¹²⁹

7. Facilitate Victim’s Return to State

If Mr. Jaramillo Correa wishes to return to the State, the Court ordered the State to facilitate his safe return.¹³⁰

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court accepted the settlement agreement between the State and Dr. Valle Jaramillo, Ms. Valle, and their respective next of kin totaling \$845,000.¹³¹ With respect to Mr. Jaramillo Correa, the Court ordered \$30,000 in damages for lost earnings since his exile.¹³²

2. Non-Pecuniary Damages

The Court accepted the settlement agreement between the State and Dr. Valle Jaramillo, Ms. Valle, and their respective next of kin for non-pecuniary damages totaling \$110,000.¹³³ The Court further ordered

127. *Id.* ¶ 227(d).

128. *Id.* ¶ 227(e).

129. *Id.* ¶ 227(f).

130. *Id.* ¶ 227(g).

131. *Id.* ¶ 204.

132. *Id.* ¶ 216.

133. *Id.* ¶ 206.

the State to pay an additional \$30,000 to Ms. Valle for her own suffering.¹³⁴ With regard to Mr. Jaramillo Correa, the Court ordered \$40,000 payment for his suffering, and a total of \$40,000 to his next of kin.¹³⁵ Finally, the Court ordered the payment of \$65,000 to the three parties' respective next of kin not included in the settlement agreement.¹³⁶

3. Costs and Expenses

The Court ordered the payment of \$20,000 to Ms. Valle for costs and expenses.¹³⁷ Ms. Valle shall deliver the amount she considers appropriate to the representatives, based on the assistance they provided before the Inter-American system.¹³⁸

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

\$1,180,000

C. Deadlines

The State must identify, prosecute, and punish those responsible within a reasonable time.¹³⁹

The State must publish the Judgment and provide medical treatment to the victims within six months of notification of the Judgment.¹⁴⁰

The State must perform the obligations to memorialize Dr. Valle Jaramillo, provide education to the Ms. Valle and Mr. Jaramillo Correa, and guarantee Mr. Jaramillo Correa's safe return to the State if he so wishes within one year of notification of the Judgment.¹⁴¹

The State must pay all pecuniary and non-pecuniary damages and costs and expenses within one year after notification of Judgment.¹⁴²

V. INTERPRETATION AND REVISION OF JUDGMENT

March 18, 2009: The State filed a Request for Interpretation of the Judgment regarding: (1) the measure of reparations to which Mr. Alfon-

134. *Id.* ¶ 207.

135. *Id.* ¶¶ 224-225.

136. *Id.* ¶ 226.

137. *Id.* ¶ 244.

138. *Id.*

139. *Id.* ¶ 231.

140. *Id.*

141. *Id.*

142. *Id.* ¶¶ 216, 224-226.

so Montoya Restrepo¹⁴³ was a beneficiary; (2) the relevant time limits to publish the Court's decision; (3) the relevant time limit and locations to provide the victims with psychological care;¹⁴⁴ (4) the nature of the educational grants;¹⁴⁵ and (5) the relevant time limit for their obligation should Mr. Jaramillo Correa return to the State.¹⁴⁶

March 23, 2009: The representatives filed a Request for Interpretation of the Judgment regarding: (1) which date should be considered to determine the exchange rate to convert the pecuniary and non-pecuniary damages and costs and expenses into *pesos*; (2) whether the amount determined for costs and expenses includes the expenses incurred by Mr. Jaramillo Correa; (3) the method and place to comply with the obligation to provide medical treatment to the victims; (4) the place to comply with the obligation to provide education to Mr. Jaramillo Correa, and the possibility that Ms. Valle's grant be transferred to her children; (5) whether "adequate financial conditions" is included in the obligation to return Mr. Jaramillo Correa safely back to the State; and (6) the scope of the Court's recognition of the establishment of the Jesús María Valle Jaramillo grant and the continuation of the Human Rights Defenders Policy in the State.¹⁴⁷

A. Composition of the Court

Cecilia Medina Quiroga, President
Diego García-Sayán, Vice President
Sergio García Ramírez, Judge
Manuel E. Ventura Robles, Judge
Leonardo A. Franco, Judge
Margarette May Macaulay, Judge
Rhadys Abreu Blondet, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

143. Mr. Alfonso Montoya Restrepo is the estranged spouse of Ms. Valle; consequently the State inquired as to its obligations to him as a potential next of kin. *See* Valle Jaramillo et al. v. Colombia, Interpretation of the Judgment on the Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C), ¶ 19 (July 7, 2009).

144. *Id.* ¶ 29.

145. *Id.* ¶ 33.

146. *Id.* ¶ 1.

147. *Id.* ¶ 2.

B. Merits

The Court unanimously declared the Requests for Interpretation of the Judgment on Merits, Reparations, and Costs admissible.¹⁴⁸

Regarding the State's requests for interpretation, the Court noted that the State already accepted its responsibility toward Mr. Alfonso Montoya Restrepo as a victim and determined that he was not entitled to monetary damages.¹⁴⁹ With respect to the psychological care, the Court clarified these must be offered within six months.¹⁵⁰ Furthermore, the publication in an official national newspaper of the Court's decision must be completed within one year.¹⁵¹ With respect to Mr. Jaramillo Correa's psychological care, the Court clarified this must be offered within the State borders.¹⁵² Furthermore, the Court clarified that the educational grants were only obliged should the victims study within State borders.¹⁵³ Finally, the request to clarify the time limit for Mr. Jaramillo Correa's return was deemed irrelevant as this would only occur should he wish to return to the State.¹⁵⁴

Regarding the representative's requests for interpretation, the Court dismissed the second and fifth requests, finding that they are out of order and do not fulfill the requirements of Article 67 of the Convention and 29(3) and 59 of the Rules of Procedure, and are inadmissible.¹⁵⁵ Regarding the other requests, the Court determined that the proper exchange rate to use when converting USD amounts to *pesos* is the New York, USA exchange rate between both currencies prevailing on the day prior to the date payment is made.¹⁵⁶ The Court clarified that the obligation to provide medical treatment to Mr. Jaramillo Correa, refers only to State national institutions.¹⁵⁷ The Court further clarified that the place to provide the education to Mr. Jaramillo Correa is in the State, and that the Judgment is clear that the grants must be given to Mr. Jaramillo Correa and Ms. Valle.¹⁵⁸ Finally, the Court clarified that to "note the undertaking" of the Jesús María Valle Jaramillo grant and the continuation of the Human Rights Defenders Policy in the State does not imply that

148. *Id.* "Decides" ¶ 1.

149. *Id.* ¶ 23.

150. *Id.* ¶ 28.

151. *Id.* ¶ 27.

152. *Id.* ¶ 32.

153. *Id.* ¶ 39.

154. *Id.* ¶ 44.

155. *Id.* ¶¶ 18, 45.

156. *Id.* ¶ 13.

157. *Id.* ¶ 32.

158. *Id.* ¶¶ 39-41.

the Court ordered it as a measure of specific performance; however, the Court emphasized that it values the State's commitment to these undertakings regardless of the decision made in the Judgment.¹⁵⁹

VI. COMPLIANCE AND FOLLOW-UP

December 21, 2010: The Court stated that it values the State's efforts towards compliance with the payment of pecuniary and non-pecuniary damages.¹⁶⁰ However, the Court requested more proof regarding the payments to certain next-of-kin in order to determine full compliance with this obligation.¹⁶¹ Moreover, the Court requested further proof of the State's: (1) investigation to identify those parties responsible for the murder; (2) publication of the Court's decision in a national newspaper; (3) erection of a plaque to Dr. Valle Jaramillo; (4) compliance with the educational grants mandated by the Court; and (5) assurance of the safety of the victims.¹⁶² Finally, the Court ordered continued monitoring of the State's payment of the victims' psychological care.¹⁶³

February 28, 2011: The Court found that the State fully complied with the payment of all pecuniary, non-pecuniary, and reimbursement costs, and its duty to publish the Court's decision in the national newspaper.¹⁶⁴ With respect to the State's public act of responsibility, the Court found that the State partially complied with its obligation and therefore the Court will continue to monitor the State's progress.¹⁶⁵ The Court further noted that the parties reached an agreement with respect to the educational grant and requested more information on this matter.¹⁶⁶ The Court requested more information regarding the plaque memorializing Dr. Valle Jaramillo and also requested evidence of the State's action to ensure a safe environment for Mr. Jaramillo Correa should he wish to return to the State.¹⁶⁷ Lastly, the Court noted the State's continued failure to investigate and prosecute the perpetrator(s) responsible for the death of Dr. Valle Jaramillo.¹⁶⁸

159. *Id.* ¶¶ 49-50.

160. Valle Jaramillo et al. v. Colombia, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R., "Considering" ¶ 9 (Dec. 21, 2010).

161. *Id.*

162. *Id.* "Considering" ¶¶ 13, 22, 25, 33, 38.

163. *Id.* "Considering" ¶ 29.

164. Valle Jaramillo et al. v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Considering That" ¶¶ 9, 24 (Feb. 28, 2011).

165. *Id.* "Considering That" ¶ 28

166. *Id.* "Considering That" ¶ 37.

167. *Id.* "Considering That" ¶¶ 33, 42.

168. *Id.* "Considering That" ¶ 20

May 15, 2011: Regarding the educational grant, the Court noted that Ms. Valle was “in neither the physical nor the emotional state to begin a course of academic study.”¹⁶⁹ Consequently, the Court requested the State to provide information on the steps taken to ensure delivery of the grant to Ms. Valle’s son and resolved to further monitor the matter.¹⁷⁰

February 8, 2012: Having considered the State’s provision of psychological care for the victims, the Court requested the parties to attend a hearing on February 23, 2012 regarding the State’s compliance.¹⁷¹

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Valle Jaramillo et al. v. Colombia, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 192 \(Nov. 27, 2008\).](#)

[Valle Jaramillo et al. v. Colombia, Merits, Reparations, and Costs, Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 192 \(Nov. 27, 2008\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[Valle Jaramillo et al. v. Colombia, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. \(Feb. 08,](#)

169. Valle Jaramillo et al. v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. “Considering” ¶ 8 (May 15, 2011).

170. *Id.* “Considering” ¶ 11.

171. Valle Jaramillo et al. v. Colombia, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R., “Considering That” ¶ 14, “Decides” ¶ 1 (Feb. 08, 2012).

[2012\).](#)

[Valle Jaramillo et al. v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(May 15, 2011\).](#)

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

[Valle Jaramillo et al. v. Colombia, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. \(Dec. 21, 2010\).](#)

5. Review and Interpretation of Judgment

[Valle Jaramillo et al. v. Colombia, Interpretation of the Judgment on the Merits, Reparations and Costs, Inter-Am. Ct. H.R. \(ser. C\) \(July 7, 2009\).](#)

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[Not Available]

3. Provisional Measures

[None]

4. Report on Merits

[Not Available]

5. Application to the Court

[Valle Jaramillo et al. v. Colombia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.415 \(Feb. 13, 2007\).](#)

VIII. BIBLIOGRAPHY

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J. Grajales, *The Rifle and the Title: Paramilitary Violence, Land Grab and Land Control in Colombia*, THE JOURNAL OF PEASANT STUDIES, (2011), <http://www.tandfonline.com/doi/pdf/10.1080/03066150.2011.607701>.