

# Vélez Restrepo and Family v. Colombia

## ABSTRACT<sup>1</sup>

*This case is about the beating of a cameraman covering a protest march by coca growers in Colombia, and the subsequent failure of the State to investigate the incident and protect the victims and his family from threats and harassment. The Court found the State violated the American Convention of Human Rights.*

## I. FACTS

### A. Chronology of Events

**1990s:** Colombia becomes the leading coca producer in the Andean region, overtaking Peru and Bolivia.<sup>2</sup> Drug cartels within the State import Andean coca, cocaine's primary ingredient, for production and export from the State.<sup>3</sup> The United States views the illicit drug industry as a threat to national security and provides resources to the State to combat the production of coca.<sup>4</sup> The State relies upon aerially sprayed herbicides to suppress cultivation of coca.<sup>5</sup>

The goal of eradicating coca production is to diminish availability, drive up the street price, and ultimately reduce the demand and consumption of cocaine.<sup>6</sup> Even with United States' support of the State's campaign to aggressively eradicate coca production, the number of smaller cartels and the cultivation of coca increase.<sup>7</sup> In addition, the wholesale prices of cocaine in the United States decrease while the supply reduction program is in effect, suggesting an ever-abundant supply.<sup>8</sup>

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

2. Michelle L. Dion & Catherine Russler, *Eradication Efforts, the State, Displacement and Poverty: Explaining Coca Cultivation in Columbia during Plan Colombia*, 40 J. OF LATIN AM. STUD. 399, 399 (2008).

3. *Id.* at 400.

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

The United States' antidrug policies leads to the unintended consequence of pushing coca cultivation into areas of the State where the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*, "FARC") long had a significant presence.<sup>9</sup> The FARC starts taxing<sup>10</sup> drug trafficking operations and thereby strengthening its insurgency.

**1996:** Mr. Luis Gonzalo "Richard" Vélez Restrepo is a cameraman for the national news program, "*Colombia 12:30*," with offices in Bogotá.<sup>11</sup> Mr. Vélez Restrepo lives in Bogotá, with his wife, Ms. Aracelly Román Amariles, and their two children, Mateo Vélez Román and Juliana Vélez Román, who are four and a half years old and eighteen months old, respectively.<sup>12</sup>

**August 1996:** During the month of August, tens of thousands of people, including coca-growing peasants, march in different parts of the department of Caquetá in protest against the Government's policy of fumigating the coca crop.<sup>13</sup> The protestors' intent is to take the demonstrations to Florencia, the capital of the department of Caquetá.<sup>14</sup> Soldiers use excessive physical violence against the defenseless protestors, and injure them with firearms, weapons, knives, and blunt weapons.<sup>15</sup> Eleven civilians are treated at the María Auxiliadora Hospital in Florencia.<sup>16</sup>

**August 29, 1996:** Mr. Vélez Restrepo is covering the protest marches against the State's policy of fumigating the coca crop, known as "coca marches."<sup>17</sup> The march takes place in the municipality of Morelia, department of Caquetá.<sup>18</sup>

The Commander of the Army's Twelfth Brigade based in Florencia, Caquetá, issues orders to soldiers to continue to control the urban and rural areas, highways and waterways, and to prevent the coca march

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9. Mark Peceny & Michael Durnan, *The FARC's Best Friend: U.S. Antidrug Policies and the Deepening of Colombia's Civil War in the 1990s*, 48 *LATIN AM. POL. AND SOCIETY* 95, 97 (2006).

10. *Id.*

11. Vélez Restrepo and Family v. Colombia, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 248, ¶ 77 (Sept. 3, 2012).

12. *Id.*

13. *Id.* ¶ 78.

14. *Id.*

15. *Id.* ¶ 80.

16. *Id.*

17. *Id.* ¶ 78.

18. *Id.*

protestors from getting to Florencia.<sup>19</sup> The Brigade Commander is instructed to not allow the march to pass checkpoints that have been set up or to reach Florencia.<sup>20</sup> The State policy is to break up disturbances by using tear gas and available Armed Forces.<sup>21</sup> Soldiers are instructed not to use their weapons or fire shots into the air.<sup>22</sup>

Heavy rain floods areas where protestors are camping, causing them to move.<sup>23</sup> This causes altercations between protestors and the soldiers on and around the bridge over the Bodoquero River.<sup>24</sup> Some protestors try to remove the barricades that the soldiers placed on the bridge, and some protestors throw sticks and stones at the soldiers.<sup>25</sup> To control the situation, soldiers use tear gas; some of them also use their weapons.<sup>26</sup>

Mr. Vélez Restrepo films soldiers beating the peasants with the butts of their rifles near the bridge over the Bodoquero River.<sup>27</sup> Three soldiers confront Mr. Vélez Restrepo when they realize he is filming members of the Army beat a defenseless protestor.<sup>28</sup> A Commander of the Twelfth Battalion orders the soldiers to seize Mr. Vélez Restrepo's video camera.<sup>29</sup> Several members of the Twelfth Brigade of the National Army attack Mr. Vélez Restrepo to stop him from recording the soldiers' actions, and to confiscate the videotape.<sup>30</sup> Other soldiers intervene to stop the attack and help Mr. Vélez Restrepo reach a place where other journalists are gathered.<sup>31</sup>

The soldiers destroy the video camera, but with the videotape undamaged, the media disseminates the recording on the same day to show several men with military clothing physically attack Mr. Vélez Restrepo and shout phrases such as "Get that [. . .] cassette."<sup>32</sup> Mr. Vélez Restrepo's wife learns through the media that her husband was taken to the hospital after he was attacked.<sup>33</sup> Mr. Vélez Restrepo's son

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19. *Id.* ¶ 79.

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.* ¶ 80.

24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.* ¶ 81.

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.* ¶ 128.

sees the images that were broadcasted on television, as well as the anguish of his mother, as they fear for the life and well being of their husband and father.<sup>34</sup>

At the hospital, a medical report reveals Mr. Vélez Restrepo suffers from a closed abdominal trauma from numerous beatings on the abdomen, and suffers effects from inhaling a great deal of gas.<sup>35</sup> Mr. Vélez Restrepo indicates that he has severe pain in his chest, abdomen, and testicles, and receives respiratory therapy to treat a persistent cough.<sup>36</sup> The hospital transfers Mr. Vélez Restrepo to a clinic in Bogotá, and an examination shows that even though Mr. Vélez Restrepo claims to be in pain, his liver, biliary tract, and pancreas are normal, and there is no sign of thoracic or abdominal injury.<sup>37</sup>

The Commander of the Army's Twelfth Brigade, General Nestor Ramirez Mejia, publically denies the attack on Mr. Vélez Restrepo by members of the Army.<sup>38</sup>

**August 30, 1996:** Mr. Vélez Restrepo is discharged from the clinic in Bogotá for a fifteen-day disability leave at home.<sup>39</sup> Before Mr. Vélez Restrepo leaves the clinic, the Commander of the National Army visits him to express his regret, apologize for the attack, and inform him that an investigation will take place.<sup>40</sup> Likewise, the Minister of Defense and the Minister of the Interior publicly express regret for the supposed lone incident that Mr. Vélez Restrepo endured, and declare that the State will not tolerate this type of incident.<sup>41</sup>

**September 4, 1996:** Following a medical examination at the Bogotá clinic, Mr. Vélez Restrepo feels very well, aside from his insomnia.<sup>42</sup>

**September 11, 1996:** Four men arrive at Mr. Vélez Restrepo's home and claim to be officials of the Attorney General's office, but fail to produce any identification.<sup>43</sup> They ask Mr. Vélez Restrepo's wife about

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34. *Id.*

35. *Id.* ¶ 82.

36. *Id.*

37. *Id.*

38. *Id.* ¶ 83.

39. *Id.* ¶ 82.

40. *Id.* ¶ 83.

41. *Id.*

42. *Id.* ¶ 82.

43. *Id.* ¶ 86.

her husband's schedule and activities.<sup>44</sup> The Editor-in-Chief of *Noticiero Colombia 12:30* sends a note to the National Special Investigations Directorate of the Attorney General's office to inform them of this incident.<sup>45</sup> The note requests clarification of the situation because the Human Rights Unit of the National Special Investigations Directorate of the Attorney General's Office is conducting an inquiry into the attack against Mr. Vélez Restrepo.<sup>46</sup>

**Mid-September 1996:** Mr. Vélez Restrepo begins to receive death threats at his office and at his home in the form of telephone calls and a note.<sup>47</sup> Mr. Vélez Restrepo and his wife decide to move, but he still receives calls at work.<sup>48</sup>

**Early October 1996:** The 243<sup>rd</sup> Bogotá Sectional Prosecutor's Office opens an investigation into the threats that Mr. Vélez Restrepo received.<sup>49</sup>

**May 1997:** The Inter-American Commission on Human Rights and the Human Rights Committee of the International Covenant on Civil and Political Rights recommends to the State that members of the armed forces and the police accused of human rights violations should be tried by independent civilian courts, not within the jurisdiction of the military criminal justice system.<sup>50</sup> The State, nevertheless, sends the case to the military criminal jurisdiction, claiming that it is competent to hear the personal integrity violation of Mr. Vélez Restrepo.<sup>51</sup>

**February – August 1997:** The threats against Mr. Vélez Restrepo stop, so he and his wife decide to return to their previous house.<sup>52</sup>

**August 27, 1997:** Mr. Vélez Restrepo testifies before the Prosecutor in charge of the investigation into the threats, and states that he believes that the threats were related to the August 29, 1996 attack.<sup>53</sup>

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44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.* ¶ 85.

48. *Id.* ¶ 87.

49. *Id.* ¶ 116.

50. *Id.* ¶ 240.

51. *Id.* ¶¶ 239-240.

52. *Id.* ¶ 87.

53. *Id.* ¶¶ 88, 117.

**September 1997:** Mr. Vélez Restrepo and his family begin to receive death threats again.<sup>54</sup>

**September 24, 1997:** Several men arrive at Mr. Vélez Restrepo's home, claiming to be officials of the Attorney General's office, but fail to produce any identification, and once again ask Mr. Vélez Restrepo's wife about her husband's schedule and activities.<sup>55</sup>

**September 29, 1997:** The Colombian Commission of Jurists informs the Human Rights Council of the Presidency of the Republic about the threats against Mr. Vélez Restrepo.<sup>56</sup>

**October 3, 1997:** Mr. Vélez Restrepo files a brief before the Human Rights Council of the Presidency of the Republic about his safety as a result of the threats.<sup>57</sup>

**October 5, 1997:** Mr. Vélez Restrepo receives a death threat that states: "Mr. Velez, hypocrites are crushed to death. Rest in Peace."<sup>58</sup>

**October 6, 1997:** Mr. Vélez Restrepo leaves his home at approximately 6:00 a.m. to go to work.<sup>59</sup> In an apparent attempt at kidnapping, two men emerge from a parked taxi and try to pull Mr. Vélez Restrepo into the back seat of the taxi.<sup>60</sup> One of the men hits Mr. Vélez Restrepo with a gun butt, but Mr. Vélez Restrepo manages to escape back to his house.<sup>61</sup> Mr. Vélez Restrepo and his wife call the State authorities, and security personnel arrive at the family's home.<sup>62</sup>

The Colombian Commission of Jurists sends a brief dated September 29, 1997, to the Attorney General's Office to inform them that the harassment Mr. Vélez Restrepo and his family continue to receive is related to his video of the coca marches of August 1996.<sup>63</sup>

The Special Administrative Unit for Human Rights of the Ministry

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54. *Id.* ¶ 89.

55. *Id.*

56. *Id.* ¶ 90.

57. *Id.* ¶ 92.

58. *Id.* ¶ 93.

59. *Id.* ¶ 94.

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.* ¶ 91.

of the Interior has a meeting along with a delegate from the Presidential Human Rights Council to discuss the safety of Mr. Vélez Restrepo and his family.<sup>64</sup> The State, through the Protection Program of the Ministry of the Interior, offers Mr. Vélez Restrepo the possibility of relocating to another area of the country to lessen the risk of violence, offers him a bulletproof vest, a permanent police escort when he leaves the house, and two hundred and fifty thousand Colombian *pesos* as monthly financial assistance for three months.<sup>65</sup>

Mr. Vélez Restrepo decides that he will leave the country because he does not feel safe anywhere.<sup>66</sup> The State provides Mr. Vélez Restrepo with a bulletproof vest and a permanent police escort until he is able to leave the country.<sup>67</sup>

**October 9, 1997:** Working together with the Office of the High Commissioner for Peace and the International Committee of the Red Cross, Mr. Vélez Restrepo leaves the State for the United States.<sup>68</sup>

**October 10, 1997:** Stemming from the complaint by the Colombian Commission of Jurists, the Attorney's General's Office begins a preliminary inquiry into Mr. Vélez Restrepo being the target of harassment, in order to provide information on the aforementioned incidents of September 24, 1997.<sup>69</sup>

**July 30, 1998:** The U.S. Citizenship and Immigration Services notifies Mr. Vélez Restrepo that his request for asylum has been approved.<sup>70</sup>

**October 1997 – August 1998:** While awaiting approval from the United States authorities of the asylum request, Mr. Vélez Restrepo's wife and children are displaced internally from Bogotá to Medellín, and do not leave the country for almost one year.<sup>71</sup> Mrs. Román Amariles and her now two-year-old daughter, Juliana, live with relatives.<sup>72</sup> Mrs. Román Amariles suffers financial hardship and is forced to leave her now five-year-old son, Mateo, with his paternal grandmother and only see him on

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64. *Id.* ¶ 95.

65. *Id.* ¶¶ 95, 185.

66. *Id.* ¶ 96.

67. *Id.*

68. *Id.*

69. *Id.* ¶ 91.

70. *Id.* ¶ 97.

71. *Id.* ¶¶ 97, 223.

72. *Id.* ¶ 97.

the weekends.<sup>73</sup>

**August 14, 1998:** Mr. Vélez Restrepo receives notice that asylum has been granted for his wife and their two children.<sup>74</sup>

**September 12, 1998:** Mr. Vélez Restrepo is finally reunited with his family in the United States after being separated for almost a year.<sup>75</sup>

**July 10, 1998:** The Human Rights Unit of the National Special Investigations Directorate of the Attorney General's Office recommends a formal investigation be opened against a sergeant of the No. 4 Battalion of the Military Police, who looks similar to the description Mrs. Román Amariles gave of the man who had visited her home inquiring about her husband.<sup>76</sup>

**May 3, 2002:** The Oversight Bureau of the Attorney General's Office closes the investigation into the harassment, threats, and visits to Mr. Vélez Restrepo's home, stating that it was not possible to show that officials of the Attorney General's Office were involved in these threatening incidents.<sup>77</sup>

**August 27, 2006:** The Bogotá Second District Attorney's Office orders closure of the investigation of the sergeant, essentially concluding that Mrs. Román Amariles' testimony was not credible.<sup>78</sup>

**November 2011 – January 2012:** Ms. Carol L. Kessler, a psychiatrist and expert witness to the case, diagnoses that Mr. Vélez Restrepo, Mrs. Román Amariles, and their son, Mateo, are suffering from a chronic disorder due to post-traumatic stress and major depression as a result of the attack on August 29, 1996, the threats, attempted kidnapping of Mr. Vélez Restrepo, and being forced to leave their home and seek asylum in the United States.<sup>79</sup> Mrs. Kessler indicates that Mr. Vélez Román feels powerless and fears that he or his family will be injured or murdered as a result of the threats.<sup>80</sup> Mrs. Kessler also diagnoses Juliana as

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73. *Id.* ¶¶ 97, 229.

74. *Id.* ¶ 97.

75. *Id.*

76. *Id.* ¶¶ 112-113, 115.

77. *Id.* ¶ 114.

78. *See id.* ¶ 115.

79. *Id.* ¶¶ 60, 178, 180.

80. *Id.* ¶ 230.



suffering from chronic mild depression due to the August 29, 1996 attack, the threats, the attempted kidnapping of her father, and the move to the United States.<sup>81</sup>

### *B. Other Relevant Facts*

While the Colombian Penal Code prohibits the cultivation of coca plants, an exception is made in 1991 to this prohibition that entitles some indigenous communities to grow coca legally.<sup>82</sup> The State recognizes it should protect social, cultural, religious, and spiritual practice, yet it can still regulate the cultivation of plants used to make illegal substances.<sup>83</sup>

In search of a harmony between criminalizing coca cultivation and respecting the rights of the indigenous communities, the State recognizes the difference between the coca leaf and cocaine, and that the indigenous communities do not use the coca leaf inappropriately.<sup>84</sup> With this in mind, the State's methods to fight drug trafficking include sensitivity to the cultural identity of the indigenous communities.<sup>85</sup>

In 1996, the Inter-American Commission of Human Rights estimates that indigenous communities owned about twenty-five percent of the national territory after the State gave them legal title to their ancestral lands.<sup>86</sup>

The Commander of the Army's Twelfth Brigade issues Operations Order No. 007 of August 1, 1996, which is supplemented by other orders to maintain public order during the coca marches.<sup>87</sup> At the time of this case and in following years, threats against journalists carrying out their work in Colombia are taken particularly seriously because many journalists were murdered, kidnapped, or forced to leave the country.<sup>88</sup>

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81. *Id.* ¶ 180.

82. Morgane Landel, *Are Aerial Fumigations in the Context of the War in Colombia a Violation of the Rules of International Humanitarian Law?* 19 *TRANSNATIONAL L. & CONTEMPORARY PROBLEMS* 491, 497 (2010).

83. *Id.* at 497-98.

84. *Id.* at 498.

85. *Id.*

86. *Id.*

87. Vélez Restrepo and Family v. Colombia, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 248, ¶ 79 (Sept. 3, 2012).

88. *Id.* ¶ 84.

## II. PROCEDURAL HISTORY

### A. Before the Commission

**July 29, 2005:** Mr. Vélez Restrepo and Mrs. Román Amariles file a petition in their own name and representing their two children, Mateo and Juliana, with the Inter-American Commission of Human Rights (“Commission”) for the beating on August 29, 1996, the subsequent death threats Mr. Vélez Restrepo suffered, an attempted forced disappearance, and the State’s failure to adequately investigate the attacks and the threats received.<sup>89</sup>

**November 9, 1998:** The State offers compensation of \$1,200 to Mr. Vélez Restrepo and his family, but Mr. Vélez Restrepo rejects the settlement because the State did not assume responsibility for the events and he deemed the amount offered insufficient.<sup>90</sup>

**July 24, 2008:** The Commission issues Report No. 47/08, declaring the petition admissible.<sup>91</sup>

The State requests that the Commission declare the case inadmissible because the petition does not satisfy the admissibility requirements set forth in Article 46(1)(b) and (c) of the American Convention, nor Articles 32.2 and 33 of the Rules of Procedure.<sup>92</sup> The State claims the petition is not admissible because the attack against Mr. Vélez Restrepo was not motivated by an indiscriminate attack on the civilian population.<sup>93</sup>

Instead, the State points out the attack against Mr. Vélez Restrepo was an isolated incident that occurred by the army upholding their constitutional duty to ensure the march was carried out peacefully.<sup>94</sup> The State indicates that the Ministry of Defense provided intelligence that the outlaw armed group, FARC, had pressured thousands of peasants and coca workers to protest the eradication of the crops because FARC had substantial economic incentives in controlling their drug trafficking

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89. Vélez Restrepo and Family v. Colombia, Admissibility Report, Report No. 47/08, Inter-Am. Comm’n H.R., Case No. 864-05, ¶¶ 1-2 (July 24, 2008).

90. Vélez Restrepo and Family v. Colombia, Report on Merits, Report No. 136/10, Inter-Am. Comm’n H.R., Case No. 12.658, ¶ 42 (Oct. 23, 2010).

91. Vélez Restrepo and Family v. Colombia, Admissibility Report, ¶ 93.

92. *Id.* ¶ 55.

93. *Id.* ¶ 52.

94. *Id.* ¶¶ 47, 51-52.

operation.<sup>95</sup> Moreover, the State contends that it received information that FARC members had joined the march, and the presence of the Twelfth Brigade of the National Army was required during the entire march to uphold their constitutional duty to protect the civilian population.<sup>96</sup>

The Commission rebuts the State's claim and declares that the petitioner's arguments related to the impunity for human rights violations are not groundless, and have the potential to impute international responsibility on the State for violation of Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 13 (Freedom of Thought and Expression), 17(1) (Family's Right to Be Protected), 19 (Rights of the Child), 22(1) (Right to Move Freely Within a State), and 25 (Right to Judicial Protection).<sup>97</sup>

**October 23, 2010:** The Commission issues Report on Merits No. 136/10, concluding that the State violated Articles 5 (Right to Humane Treatment), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 13 (Freedom of Thought and Expression), 17 (Rights of the Family), 19 (Rights of the Child), 22(1) (Right to Move Freely Within a State) 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. Vélez Restrepo and his family.<sup>98</sup>

The Commission recommends that the State diligently investigate all the acts of violence and harassment against Mr. Vélez Restrepo in order to identify, try and punish those responsible, as well as to identify and discipline the individuals responsible for conducting the prior inadequate investigation.<sup>99</sup> The Commission also recommends that the State make holistic reparations to Mr. Vélez Restrepo and his family, adopt measures to ensure safety for Mr. Vélez Restrepo and his family should they choose to return to Colombia, adopt and strengthen programs to protect journalists, and instruct the military forces that journalists are free to cover situations related to public order and armed conflict.<sup>100</sup>

**October 4, 2011:** The State partially acknowledges international respon-

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95. *Id.* ¶ 46.

96. *Id.* ¶ 47.

97. *Id.* ¶¶ 89, 91.

98. Vélez Restrepo and Family v. Colombia, Report on Merits, Report No. 136/10, Inter-Am. Comm'n H.R., Case No. 12.658, ¶ 160 (Oct. 23, 2010).

99. *Id.* ¶¶ 162-63.

100. *Id.* ¶¶ 164-67.

sibility, asserting that it is not responsible for the alleged threats, harassment, and the attempted kidnapping of Mr. Vélez Restrepo.<sup>101</sup> In addition, the State recognizes the victims as Mr. Vélez Restrepo, Mrs. Román Amariles, Mateo, and Juliana.<sup>102</sup>

The State partially acknowledges responsibility for the violation of Article 5 (Right to Humane Treatment) because the attack on Mr. Vélez Restrepo by members of the National Army violated Mr. Vélez Restrepo's and his family's right to personal integrity.<sup>103</sup> The State admits responsibility for the violation of Article 13 (Freedom of Thought and Expression) where soldiers took Mr. Vélez Restrepo's right to freedom of expression away by destroying his video camera.<sup>104</sup> The State acknowledges partial responsibility for violating the rights to judicial guarantees and judicial protection promulgated in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection), because no serious investigation was conducted to identify and punish the perpetrators of the attack, nor was there any reasonable time given to investigate the threats, harassment, and attempted kidnapping of Mr. Vélez Restrepo.<sup>105</sup>

While the State acknowledges its failure to properly investigate incidents after August 29, 1996, it denies responsibility for the alleged threats, harassment, and attempted kidnapping that supposedly transpired.<sup>106</sup> The State does not admit responsibility for the alleged violations of the right to movement and residence, the rights of the family, the rights of the child, the right to life, the honor and dignity of Mr. Vélez Restrepo, or the principle of the natural judge.<sup>107</sup>

The State also indicates that it deeply regrets the incidents that occurred and would employ good faith to repair the damage caused by the absence of a serious investigation into the threats and personal injury, but contests reopening the criminal investigations related to the personal injury and threats.<sup>108</sup> The State vows to renew its efforts to investigate the attempted kidnapping, but rejects implementing measures to protect Mr. Vélez Restrepo's family and fellow journalists, and refuses to train the military forces on how to respect journalists' rights because it claims to already be in compliance and will continue to remain in compliance

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101. Vélez Restrepo and Family v. Colombia, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 248, ¶ 6 (Sept. 3, 2012).

102. *Id.* ¶ 15.

103. *Id.* ¶ 14(a).

104. *Id.* ¶ 14(b).

105. *Id.* ¶ 14(c).

106. *Id.* ¶¶ 14(a)-(b).

107. *Id.* ¶ 14(d).

108. *Id.* ¶ 16.

with this matter.<sup>109</sup> The State also asks the Court to establish amounts of compensation it considers appropriate, but argues that the amount requested was excessive in comparison to other cases, and that some claims for compensation had no causal link to the attack or supporting evidence.<sup>110</sup>

### *B. Before the Court*

**March 2, 2011:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>111</sup>

#### 1. Violations Alleged by Commission<sup>112</sup>

Article 5 (Right to Humane Treatment)

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

Article 13 (Freedom of Thought and Expression)

Article 17 (Rights of the Family)

Article 19 (Rights of the Child)

Article 22(1) (Right to Move Freely Within a State)

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>113</sup>

Same Violations Alleged by Commission, plus:

Article 4 (Right to Life)

Article 11 (Right to Privacy) of the American Convention.

**February 24, 2012:** The Public Action Group of the Faculty of Jurisprudence of the Universidad de Rosario, the Legal Clinic for Social Justice and the Master's Program in Human Rights, Democracy, and International Justice of the Universidad de Valencia, Spain, and the

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109. *Id.*

110. *Id.*

111. *Id.* ¶ 1.

112. *Id.* ¶ 3.

113. *Id.* ¶¶ 4-5. Arturo Carrillo served as representative of Mr. Vélez Restrepo. *Id.* ¶ 4.

organization, Article 19, each submit an *amicus curiae* brief to the Court.<sup>114</sup>

### III. MERITS

#### A. *Composition of the Court*<sup>115</sup>

Diego García-Sayán, President  
Manuel E. Ventura Robles, Vice-President  
Leonardo A. Franco, Judge  
Rhadys Abreu Blondet, Judge  
Alberto Pérez Pérez, Judge  
Eduardo Vio Grossi, Judge

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

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

**March 12, 2012:** The State submits its preliminary objection claiming that the Commission incorrectly assessed the evidence regarding two factual determinations of the Merits Report, from which it determined State responsibility.<sup>116</sup>

The State asked the Court to declare itself incompetent to examine the determination made in error by the Commission that the threats, harassment, and attempted kidnapping suffered by Mr. Vélez Restrepo involved State agents and was proximately linked to the attack on August 29, 1996.<sup>117</sup> The State also claimed that the Court lacked competence to examine the Merits Report presented by the Commission because it did not comply with the requirements established by American Convention when it determined the description of the injuries Mr. Vélez Restrepo suffered on August 29, 1996.<sup>118</sup>

On September 3, 2012, the Court unanimously rejects the preliminary objection filed by the State.<sup>119</sup> The Court states that it is not limited to the facts determined by the Commission, and it makes its own deter-

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114. *Id.* ¶ 10.

115. Judge Margarete May Macaulay was unable to participate in the deliberation and signing of the Judgment for reasons beyond her control. *Id.* n.\*.

116. *Id.* ¶¶ 11, 27, 31.

117. *Id.* ¶ 27.

118. *Id.*

119. *Id.* ¶ 33.

mination of the facts of the case.<sup>120</sup> Moreover, the Court observes that because the State disagreed with the assessment of the evidence made by the Commission with regard to two factual determinations, the objections cannot be examined without previously analyzing the merits of the case; therefore, it cannot be examined by means of a preliminary objection.<sup>121</sup>

**September 3, 2012:** The Court issues its Judgment on the Preliminary Objection, Merits, Reparations and Costs.<sup>122</sup>

The Court found unanimously that Colombia had violated:

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention, to the detriment of Mr. Vélez Restrepo, Mrs. Román Amariles, and their children, Mateo and Juliana,<sup>123</sup> because:

*The State acknowledged responsibility for the attack on Mr. Vélez Restrepo and its failure to diligently investigate the threats and harassment that Mr. Vélez Restrepo and his family experienced.<sup>124</sup> Article 5(1) (Right to Physical, Mental, and Moral Integrity) recognizes that torture or cruel, inhuman or degrading treatment is prohibited.<sup>125</sup> The Court has held that the mere threat that conduct prohibited by Article 5 may occur, if sufficiently real and imminent, may violate the right to personal integrity.<sup>126</sup> The State not only must abstain from violating human rights, it also has an affirmative obligation to protect and preserve the full and free exercise of those rights to all in their jurisdiction.<sup>127</sup> Thus, the State violated Article 5(1) (Right to Physical, Mental, and Moral Integrity) in two primary ways.*

*First, the Court addressed the legal consequences of the August 29, 1996 attack.<sup>128</sup> The State acknowledged that members of the Army at-*

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120. *Id.* ¶ 32.

121. *Id.* ¶¶ 30-31.

122. Vélez Restrepo and Family v. Colombia, Preliminary Objection, Merits, Reparations and Costs.

123. *Id.* “Declares” ¶ 1.

124. *Id.* ¶¶ 127, 192.

125. *Id.* ¶ 176.

126. *Id.*

127. *Id.* ¶ 186.

128. *Id.* ¶ 124.

tacked Mr. Vélez Restrepo while he recorded events of a coca march within the scope of his profession as a cameraman, and that in doing so, the Army was responsible for violating the State's obligation to respect Mr. Vélez Restrepo's right to personal integrity.<sup>129</sup> Furthermore, the State acknowledged that Mr. Vélez Restrepo's wife and their children were also victims of the violation of this right because the attack of August 29, 1996 caused them deep distress.<sup>130</sup> Although the argument that the attack against Mr. Vélez Restrepo constituted torture was time-barred, the Court found that the State still violated Article 5(1) (Right to Physical, Mental, and Moral Integrity) based on the State's acknowledgement of responsibility and the preceding findings.<sup>131</sup>

Second, regarding the events after the attack on August 29, 1996, the Court noted that it could use circumstantial evidence to infer conclusions that are consistent with the facts.<sup>132</sup> Accordingly, the Court found that because the 243<sup>rd</sup> Bogotá Sectional Prosecutor's Office opened an investigation into the threats against Mr. Vélez Restrepo, the Court could infer that State authorities were informed of the facts surrounding the threats and harassments Mr. Vélez Restrepo and his family experienced.<sup>133</sup> Mr. Vélez Restrepo's statement before the Prosecutor's Office also indicated that he believed that the threats were related to the August 29, 1996 attack.<sup>134</sup> In addition, the fact that the frequency and intensity of the threats increased shortly after Mr. Vélez Restrepo testified in the criminal investigation, after he testified before the Prosecutor's Office, and two days after he personally appeared before the Human Rights Council, further indicate that the threats were related to the attack.<sup>135</sup> The Court also noted that the period of approximately six months in 1997 when Mr. Vélez Restrepo and his family did not receive threats coincided with the time during which Mr. Vélez Restrepo did not testify, and when he and his family had moved to another house.<sup>136</sup> Thus, it was logical to assume that the threats and harassment originated from people who did not want to be punished for the acts of violence against the peasants and Mr. Vélez Restrepo on August 29, 1996.<sup>137</sup>

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129. *Id.* ¶ 127.

130. *Id.* ¶ 128.

131. *Id.* ¶¶ 134-135.

132. *Id.* ¶¶ 150, 156.

133. *Id.* ¶¶ 158-159.

134. *Id.* ¶ 166.

135. *Id.* ¶ 168.

136. *Id.* ¶ 169.

137. *Id.* ¶ 167.



Therefore, the Court found that the threats and harassment after the August 29, 1996 attack had a causal nexus with the attack perpetrated by uniformed personnel to the Battalion of the Twelfth Brigade against Mr. Vélez Restrepo on August 29, 1996.<sup>138</sup> Consequently, the Court concluded that the State could be attributed with international responsibility owing to the participation of State agents in the threats and harassment against Mr. Vélez Restrepo and his family.<sup>139</sup>

Furthermore, the State acknowledged that it had not conducted any serious investigations into the August 29, 1996 attack, the threats and harassment, or the attempted kidnapping, allowing the perpetrators to get away with impunity.<sup>140</sup> As a result of these traumatic incidents, Mr. Vélez Restrepo and his family suffered chronic psychological effects.<sup>141</sup> The Court considered that, had the State effectively and diligently investigated the human rights violations perpetrated against Mr. Vélez Restrepo and his family, it would have helped prevent repeated violations.<sup>142</sup> It was the State's failure to prevent continuation and escalation of the threats that caused Mr. Vélez Restrepo and his family to leave the country.<sup>143</sup> Therefore, because the State acknowledged its responsibility for the attack and had a positive obligation to investigate the threats diligently through judicial proceedings, which it admittedly failed to do, the State violated Article 5(1) (Right to Physical, Mental, and Moral Integrity).<sup>144</sup>

Article 13 (Freedom of Thought and Expression), in relation to Article 1(1) of the Convention, to the detriment of Mr. Vélez Restrepo,<sup>145</sup> because:

*The State failed to investigate the August 29, 1996 attack, the subsequent threats and harassment, and failed to adopt protective measures in light of the human rights violations against Mr. Vélez Restrepo to ensure his right to freedom of thought and expression.*<sup>146</sup> Article 13 (Free-

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138. *Id.* ¶¶ 150, 172.

139. *Id.* ¶ 175.

140. *Id.* ¶ 165.

141. *Id.* ¶ 180.

142. *Id.* ¶ 191.

143. *Id.* ¶ 192.

144. *Id.* ¶¶ 127, 160, 192, 205.

145. *Id.* "Declares" ¶ 2.

146. *Id.* ¶ 215.

dom of Thought and Expression) protects the right to seek, receive and impart ideas and information of all kinds, as well as to receive and obtain the information and ideas disseminated by others.<sup>147</sup> The Court emphasized that the journalism profession requires a person to engage in activities that are defined and embraced in the freedom of expression guaranteed in the Convention.<sup>148</sup>

Specifically, when Mr. Vélez Restrepo was attacked, he was defenseless, had not acted in any way to justify the attack, and could be identified as a member of the press because he was carrying a video camera.<sup>149</sup> The content that Mr. Vélez Restrepo was recording was of public interest because it enabled viewers to observe and verify whether members of the armed forces were performing their duties correctly, with an appropriate use of force.<sup>150</sup> The specific purpose of Mr. Vélez Restrepo's attack was thus to prevent him from recording the peasant beatings and disseminating the recording.<sup>151</sup>

Because a journalist must be able to carry out his work without threats of physical, mental, or moral attacks or other acts of harassment, the violent acts carried out against Mr. Vélez Restrepo posed serious obstacles to the full exercise of his freedom of expression.<sup>152</sup> The State failed to comply with the special obligation to protect the life and integrity of journalists, who are at special risk for being the target of threats due to the events they cover and information they disseminate, by not adopting measures of protection.<sup>153</sup> The State also failed to fulfill its obligation to ensure the exercise of Mr. Vélez Restrepo's rights by not investigating, prosecuting, and punishing both the people responsible for preventing him from exercising his freedom of expression and the subsequent threats.<sup>154</sup>

Consequently, the Court concluded that the State violated Mr. Vélez Restrepo's right to freedom of thought and expression as recognized in Article 13.<sup>155</sup>

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147. *Id.* ¶ 137.

148. *Id.* ¶ 140.

149. *Id.* ¶ 144.

150. *Id.* ¶ 145.

151. *Id.* ¶ 144.

152. *Id.* ¶ 209.

153. *Id.* ¶¶ 194, 209.

154. *Id.* ¶¶ 186, 209.

155. *Id.* ¶¶ 149, 215.

Article 22(1) (Right to Move Freely Within a State), in relation to Article 1(1) of the Convention, to the detriment of Mr. Vélez Restrepo, Mrs. Román Amariles, and their children, Mateo and Juliana,<sup>156</sup> because:

*The State failed to investigate violations and implement protective measures, leading to Mr. Vélez Restrepo and his family's well-grounded fear that their life was at risk, and resulting in their ultimate exile.*<sup>157</sup>

*Article 22(1) (Right to Move Freely Within a State) is an essential condition for the free development of an individual, and includes the right of those who are legally in a State to move freely and to choose their place of residence.*<sup>158</sup> *When the State fails to properly investigate violent acts, threats, or harassment that perpetuates exile or forced displacement, the individual is deprived of his or her right to move and reside freely within the State, and a violation may have occurred.*<sup>159</sup>

*The Court found that Mr. Vélez Restrepo, his wife, and their two children were restricted as to their freedom of movement and residence as a result of the State's admitted failure to properly investigate the threats and harassment suffered, and failure to install protective measures.*<sup>160</sup>

*Mr. Vélez Restrepo and his family had a well-founded fear that their lives and personal integrity were at risk of being violated if they stayed in the State, which led to their exile.*<sup>161</sup>

*The Court found that Mr. Vélez Restrepo's fear that he was not protected in any part of the country was well founded, and that the risk continued to exist even though the State had offered protective measures after his attempted kidnapping.*<sup>162</sup> *After Mr. Vélez Restrepo left for the United States, his wife and children were internally displaced from Bogotá to Medellín, and did not leave the country for almost one year while they waited for United States authorities to approve their asylum request.*<sup>163</sup> *Thus, the Court concluded that the State was responsible for the violation of Article 22(1) (Right to Move Freely Within a State), to the detri-*

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156. *Id.* "Declares" ¶ 3.

157. *Id.* ¶¶ 221, 223-224.

158. *Id.* ¶ 220.

159. *Id.*

160. *Id.* ¶¶ 221-222.

161. *Id.* ¶ 221.

162. *Id.* ¶ 223.

163. *Id.*

ment of Mr. Vélez Restrepo, his wife, and their children.<sup>164</sup>

Article 17(1) (Family's Right to Be Protected), in relation to Article 1(1) of the Convention, to the detriment of Mr. Vélez Restrepo and Mrs. Román Amariles, and their children,<sup>165</sup> because:

*The State failed to adopt protective measures for Mr. Vélez Restrepo and his family when they experienced threats and harassment.<sup>166</sup> Article 17(1) (Family's Right to Be Protected) recognizes that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.<sup>167</sup> The State is obligated to promote the development and strengthening of the family unit and to ensure effective respect for family life because every person has the right to receive protection against arbitrary or illegal interferences in his or her family.<sup>168</sup> In certain circumstances, separating children from their families constitutes a violation of their right to a family recognized in Article 17(1) (Family's Right to Be Protected).<sup>169</sup> Because Mr. Vélez Restrepo was compelled to leave the country, he was separated from his family for almost one year, severely affecting the enjoyment of coexistence between members of his family.<sup>170</sup> As a result, the State was responsible for the violation of Article 17(1) (Family's Right to Be Protected) to the detriment of Mr. Vélez Restrepo, Mrs. Román Amariles, and their children, Mateo and Juliana.<sup>171</sup>*

Article 19 (Rights of the Child), in relation to Article 1(1) of the Convention, to the detriment of Mateo and Juliana,<sup>172</sup> because:

*The State failed to adopt affirmative measures to protect the material and psychological needs of Mateo and Juliana.<sup>173</sup> The Court noted that pursuant to Article 19 (Rights of the Child), the State must promote a special measure of protection in keeping with the principle of the best*

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164. *Id.* ¶ 224.

165. *Id.* "Declares" ¶ 4.

166. *Id.* ¶ 228.

167. *Id.* ¶ 225.

168. *Id.*

169. *Id.*

170. *Id.* ¶ 228.

171. *Id.* ¶ 232.

172. *Id.* "Declares" ¶ 5.

173. *Id.* ¶¶ 226, 230.

*interests of the child, because children are especially vulnerable.*<sup>174</sup> *Children have special rights that correspond to specific duties for the family, society, and the State, and the State must adopt all affirmative measures to ensure the full exercise of the rights of the child.*<sup>175</sup>

*The Court has established that a child has the right to live with his or her family, which is essential to satisfying his or her material, affective, and psychological needs.*<sup>176</sup> *During the time that Mr. Vélez Restrepo was alone in the United States, however, Mrs. Román Amariles stated that she did not have the necessary financial resources to take care of her two children, so she was forced to leave her son with his paternal grandmother and could only visit him on weekends.*<sup>177</sup> *Mrs. Kessler indicated that the traumatic events that Mateo experienced made him feel powerless and afraid that he or his family would be injured or murdered.*<sup>178</sup> *Consequently, the Court concluded that the State was responsible for violating Article 19 (Rights of the Child) to the detriment of Mateo and Juliana.*<sup>179</sup>

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection), in relation to Article 1(1) of the Convention, to the detriment of Mr. Vélez Restrepo, Mrs. Román Amariles, and their children, Mateo and Juliana,<sup>180</sup> because:

*The State failed to uphold its guarantee of due process by failing to comply with its obligation to have human rights violations heard and investigated by a natural judge and competent court.*<sup>181</sup> *The Court noted that Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) not only referred to the act of prosecution by a court, but also to the investigation itself, and the assurance that human rights violations are heard by a natural judge and competent court.*<sup>182</sup> *The State's obligation not to prosecute human rights violations under military jurisdiction is a guarantee of due process de-*

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174. *Id.* ¶ 226.

175. *Id.*

176. *Id.* ¶ 227.

177. *Id.* ¶ 229.

178. *Id.* ¶ 230.

179. *Id.* ¶ 232.

180. *Id.* “Declares” ¶ 6.

181. *Id.* ¶¶ 241, 243-244.

182. *Id.* ¶¶ 238-239.

rived from the obligations embodied in Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal).<sup>183</sup> Similarly, Article 25 (Right to Judicial Protection) stipulates that everyone has the right to prompt or effective recourse to a competent court for protection against violations of fundamental rights.<sup>184</sup>

*The Commission and the Human Rights Committee of the International Covenant on Civil and Political Rights recommended that the State take all necessary steps to transfer jurisdiction of members of armed forces accused of human rights abuses to civilian courts, in order to avoid the possibility that human rights violations would be classified as acts inherent in active duty.*<sup>185</sup> *The State, however, still sent the case to the military criminal jurisdiction and claimed it was a competent court to hear the violation of the personal integrity of Mr. Vélez Restrepo.*<sup>186</sup>

*The Court found that the State only partially acknowledged responsibility for the absence of a serious criminal investigation into the attack on Mr. Vélez Restrepo because it could not prove it handled the investigation with due diligence.*<sup>187</sup> *The Court also understood that the State implicitly acknowledged that the investigation into the crime of the attempted kidnapping was not carried out diligently within a reasonable time.*<sup>188</sup>

*The Court concluded that the domestic investigations were not effective remedies to guarantee access to justice and the determination of the truth regarding the human rights violation resulting from the August 29, 1996 attack, and the subsequent threats and attempted kidnapping were not seriously and diligently investigated by State authorities.*<sup>189</sup> *As such, the Court found the State responsible for violating Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25 (Right to Judicial Protection) to the detriment of Mr. Vélez Restrepo, Mrs. Román Amariles, and their children, Mateo and Juliana.*<sup>190</sup>

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183. *Id.* ¶ 243.

184. *Id.* ¶ 233 n.227.

185. *Id.* ¶ 240.

186. *Id.* ¶¶ 239-240.

187. *Id.* ¶ 250.

188. *Id.* ¶ 251.

189. *Id.* ¶ 252.

190. *Id.*

The Court found that the State did not violate:

Article 4 (Right to Life), in relation to Article 1(1) of the Convention, to the detriment of to the detriment of Mr. Vélez Restrepo,<sup>191</sup> because:

*The Court found that the evidence in this case did not prove that the attempted forced disappearance of Mr. Vélez Restrepo was a violation of the right to life.<sup>192</sup> Article 4 (Right to Life) establishes that everyone has the right to life, and no one shall be arbitrarily deprived of his or her life.<sup>193</sup> There were no aggravating factors associated with the particular attempted deprivation of Mr. Vélez Restrepo's liberty, such as surviving a situation that posed a serious risk to life, the amount of force used, or the intention and purpose for using it.<sup>194</sup> Consequently, the attempted deprivation of liberty of Mr. Vélez Restrepo was part of the Court's analysis of the violations to the personal integrity of Mr. Vélez Restrepo and his family, but did not constitute a violation of Article 4(1) (Right to Life).<sup>195</sup>*

The Court did not rule on:

Article 11 (Right to Privacy), in relation to Article 1(1) of the Convention,<sup>196</sup> because:

*The arguments submitted by the representative concerning the fact that Mr. Vélez Restrepo was forced to abstain from journalism because he fled to the United States were taken into account when the Court ruled on the alleged violation of the right to freedom of expression.<sup>197</sup>*

### C. Dissenting and Concurring Opinions

[None]

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191. *Id.* "Declares" ¶ 7.

192. *Id.* ¶ 182.

193. *Id.* ¶ 182 n.188.

194. *Id.* ¶ 182.

195. *Id.*

196. *See generally id.* "Declares" ¶¶ 1-7.

197. *Id.* ¶ 213.

## IV. REPARATIONS

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

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

1. Guarantee Safety and Financial Stability Upon Return

The fulfillment of this reparation was contingent on whether Mr. Vélez Restrepo and his family decided to return to the State.<sup>198</sup> If Mr. Vélez Restrepo and his family decided to return, then the Court ordered the State to reach an agreement with them to guarantee their safety and financial stability.<sup>199</sup> The State must pay the expenses of the return of the members of the family and their belongings.<sup>200</sup>

2. Provide Medical Treatment

Contingent on Mr. Vélez Restrepo and his family's decision to return to the State, the State must provide them, free of charge, with immediate, adequate and effective health care upon request, and any medication they may require.<sup>201</sup> The State must provide a specialized private institution or institutions of civil society if its own specialized health care institutions are unable to meet this measure.<sup>202</sup> The respective treatment must be provided in centers nearest to the family's home in the State for as long as they need it.<sup>203</sup> In addition, each victim that informs the State of his or her intention to receive psychological or psychiatric treatment must be individually assessed and provided with treatment based on his or her specific circumstances and needs.<sup>204</sup>

Should Mr. Vélez Restrepo and his family decide not to return to the State, the State must help cover their costs of health care by delivering the sums of \$20,000, \$15,000, and \$15,000 to Mr. Vélez Restrepo,

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198. *Id.* ¶ 265.

199. *Id.* ¶¶ 264-265.

200. *Id.* ¶ 265.

201. *Id.* ¶ 270.

202. *Id.*

203. *Id.*

204. *Id.*



Mrs. Román Amariles, and their son, Mateo, respectively.<sup>205</sup>

### 3. Publish the Judgment

The Court determined that the State must publish one official summary of this Judgment prepared by the Court in the official gazette and in a national newspaper with widespread circulation.<sup>206</sup> In addition, the State must publish this Judgment in its entirety on an official website, and make it available for one year.<sup>207</sup>

### 4. Train State Officials in Human Rights

The State must incorporate a specific module on the protection of the right to freedom of thought and expression and on the work of journalists and social communicators into its human rights education programs for the Armed Forces.<sup>208</sup>

### 5. Investigate, Prosecute, and Punish Those Responsible

Because the statute of limitations already ran on the acts of violence on August 29, 1996, the Court ordered the State to advise whether, under domestic law, it was possible to adopt other measures or actions that allow those responsible in this case to be identified and, if so, to take these measures.<sup>209</sup> The Court also ordered the State to exercise diligence in its ongoing investigation of the attempted kidnappings and to punish those responsible.<sup>210</sup>

## *B. Compensation*

The Court awarded the following amounts:

### 1. Pecuniary Damages

The Court awarded \$50,000 for Mr. Vélez Restrepo's loss of earnings.<sup>211</sup> The Court established the sum of \$40,000 in consequential

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205. *Id.* ¶ 271.

206. *Id.* ¶ 274.

207. *Id.*

208. *Id.* ¶ 277.

209. *Id.* ¶ 284.

210. *Id.* ¶ 285.

211. *Id.* ¶ 295.

damage to be paid to Mr. Vélez Restrepo.<sup>212</sup>

## 2. Non-Pecuniary Damages

The Court awarded \$60,000 to Mr. Vélez Restrepo, \$40,000 to Mrs. Román Amariles, \$30,000 to Mateo, and \$20,000 to Juliana as compensation for non-pecuniary damages.<sup>213</sup>

## 3. Costs and Expenses

The Court awarded \$9,000 to Mr. Arturo J. Carrillo for the costs and expenses incurred by processing the case before the Court, including the costs of travel, accommodations, and food.<sup>214</sup>

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

\$ 249,000<sup>215</sup>

## C. Deadlines

Mr. Vélez Restrepo and his family were granted one year to decide if they would return to the State.<sup>216</sup> If Mr. Vélez Restrepo and his family decide to return, then the State will be given two years to reach an agreement with them that will guarantee their safety and financial stability.<sup>217</sup>

If Mr. Vélez Restrepo and his family decide not to return to the State within the one-year time frame, the State will have six months after the one-year expiration to deliver the previously established sums to cover the health care costs of Mr. Vélez Restrepo, Mrs. Román Amariles, and their son, Mateo.<sup>218</sup>

The State must make the aforementioned publications within six months of notification of this judgment.<sup>219</sup>

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212. *Id.* ¶ 298.

213. *Id.* ¶ 302.

214. *Id.* ¶¶ 304, 308-309.

215. *Id.* ¶ 271. The Court ordered the State to pay an additional \$50,000 if the family chose not to move back to the State. *Id.*

216. *Id.* ¶ 265.

217. *Id.*

218. *Id.* ¶ 271.

219. *Id.* ¶ 274.

The Court's order for the State to exercise diligence in its ongoing investigation of the attempted kidnapping and to punish those responsible must be completed within a reasonable time.<sup>220</sup>

The State must make the payment of the compensation for pecuniary and non-pecuniary damages, and the reimbursement of costs and expenses, within one year of the notification of this Judgment.<sup>221</sup>

Within one year of notification of this Judgment, the State must provide the Court with a report on the measures adopted to comply with it.<sup>222</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

## VI. COMPLIANCE AND FOLLOW-UP

**2015:** As of 2015, the Court has not yet monitored the State's compliance.

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[Vélez Restrepo and Family v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 248 \(Sept. 3, 2012\).](#)

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

[Vélez Restrepo and Family v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 248 \(Sept. 3, 2012\).](#)

#### 3. Provisional Measures

[None]

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220. *Id.* ¶ 285.

221. *Id.* ¶ 310.

222. *Id.* "Orders" ¶ 9.

## 4. Compliance Monitoring

[None]

## 5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

## 1. Petition to the Commission

Vélez Restrepo and Family v. Colombia, Petition No. 864-05, Inter-Am. Comm'n H.R. (July 29, 2005).

## 2. Report on Admissibility

[Vélez Restrepo and Family v. Colombia, Admissibility Report, Report No. 47/08, Inter-Am. Comm'n H.R., Case No. 864-05 \(July 24, 2008\).](#)

## 3. Provisional Measures

[None]

## 4. Report on Merits

[Vélez Restrepo and Family v. Colombia, Report on Merits, Report No. 136/10, Inter-Am. Comm'n H.R., Case No. 12.658 \(Oct. 23, 2010\).](#)

## 5. Application to the Court

[Vélez Restrepo and Family v. Colombia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.658 \(Mar. 2, 2011\).](#)

## VIII. BIBLIOGRAPHY

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Press Release, *IACHR Takes Cases Involving Colombia, El Salvador and Honduras to Inter-American Court*, ORGANIZATION OF AMERICAN STATES (Mar. 25, 2011), [http://www.oas.org/en/iachr/media\\_center/PReleases/2011/025.asp](http://www.oas.org/en/iachr/media_center/PReleases/2011/025.asp).