

Vereda La Esperanza v. Colombia

ABSTRACT¹

This case is about the abduction, forcible disappearance and killing of several civilians in and around the village of Vereda Le Esperanza by members of the military and para-military forces deployed to hunt for members of the Ejército de Liberación Nacional, a guerrilla group. The State admitted responsibility and the Court found the State in violation of several articles of the American Convention and ordered reparations for most victims.

I. FACTS

A. Chronology of Events

February 3, 1995: A military report designates the village of Vereda Le Esperanza as a strategic military objective because the National Liberation Army (Ejército de Liberación Nacional, “ELN”), a leftist guerilla group, conducts operations there by using local farms as lookout and hiding spots.²

May 1, 1996: Major Carlos Guzmán Lombana takes command of the Aguila Task Force (La Fuerza de Tarea Águila, “FTA”).³

June 21–December 27, 1996: Over sixteen people disappear from the village of Vereda La Esperanza.⁴ Many of the victims are related.⁵

1. Joseph Osgood, Author; John Flynn, Editor; Kimberly Barreto, Chief IACHR Editor, Cesare Romano, Faculty Advisor

2. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, Report No. 85/13, Inter-Am. Comm’n H.R., Case No. 12.251, ¶ 79 (Nov. 4, 2013).

3. *Id.* ¶ 72.

4. Jonathan Horowitz, *Vereda La Esperanza v. Columbia*, OPEN SOCIETY FOUNDATION, <https://www.opensocietyfoundations.org/litigation/vereda-la-esperanza-v-colombia>.

5. *Id.*

June 25, 1996: A military report indicates there is a dramatic increase in criminal activity by the ELN.⁶

At 9:00 p.m., the FTA launches Operation Lightning Bolt,⁷ allegedly in response to eight alleged kidnappings by the ELN.⁸ Major Guzmán Lombana is in charge of the operation.⁹ At 10:30 p.m., two 23-man platoons depart from La Piñuela¹⁰

June 27, 1996: The FTA is provided an additional brigade to conduct intelligence operations, increase combat effectiveness, and execute “psychological operations along the Medellín-Bogotá highway.”¹¹

October 1996: The Overseer of the municipality of Cocorná sends the Regional People’s Overseer of Medellín an official letter stating the area was not attacked by the ELN.¹² However, the letter indicates that the State Army committed several abuses, including the torture and rape of civilians who the State accused of aiding guerillas, and setting up illegal checkpoints.¹³ The letter further explains that State military members forced civilians “to retract their complaints” about the incidents.¹⁴

September 1997: Commander Ramón María Isaza Arango, leader of a self-defense group called the Self-Defense Forces of Magdalena Medio (Los Autodefensas del Magdalena Medio, “AMM”) states that all guerillas are enemies of the Army and must be killed.¹⁵

1. Events pertaining to Mr. Aníbal de Jesús Castaño Gallego and Oscar Hemel Zuluaga Marulanda

June 21, 1996: Mr. Aníbal de Jesús Castaño Gallego, the owner of a store in Vereda La Esperanza, is harassed by the State Army and accused of aiding guerillas with supplies.¹⁶ At 7:30 p.m., armed men disguised as civilians burst into Mr. Castaño Gallego’s store and forcibly abduct him and fifteen-year-old Oscar Hemel Zuluaga Marulanda.¹⁷ The men are

6. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 80.

7. *Id.* ¶ 99.

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.* ¶ 80.

12. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 71.

13. *Id.*

14. *Id.*

15. *Id.* ¶ 66.

16. *Id.* ¶ 87.

17. *Id.* ¶ 88.

taken in SUVs while military members watch and are never seen again.¹⁸ Mr. Castaño Gallego's wife, María Obeyda Gallego Castaño, later claims that she sees soldiers driving the SUVs used to abduct her husband.¹⁹ Witnesses claim that the victims were sent to La Piñuela.²⁰ Mrs. Gallego Castaño and Mr. Castaño Gallego's brother attempt to find him at the military base twice, but Army personnel prevent them from entering.²¹

2. Events pertaining to Ms. Dioscelina Quintero, Juan Crisóstomo Quintero, Miguel Ancízar Cardona Quintero, alias Fredy, and his wife

June 22, 1996: Ms. Dioscelina Quintero and her two children, Juan Crisóstomo Cardona Quintero and Miguel Ancízar Cardona Quintero, are sleeping in their home.²² Juan is twelve years old, and Miguel is fifteen years old.²³ At 5:00 a.m., a group of armed men burst into Ms. Dioscelina Quintero's home, forcibly abducting her and her children.²⁴ As the family is tossed into SUVs, the boys begin to cry when the armed men tie their hands and feet.²⁵ They are never seen again.²⁶

The same group of armed men enters an adjoining home.²⁷ An unidentified individual with the alias "Fredy," lives in the home with his wife and their two-month-old baby.²⁸ Fredy and his wife are members of a guerilla group known as the Popular Liberation Army (Ejército Popular de Liberación, "EPL").²⁹ The couple is taken into custody, but the men leave the baby behind.³⁰

The armed men drive all of the victims toward La Piñuela.³¹ Multiple witnesses report seeing members of the Army and the National Police participate in the abductions.³² After arriving at La Piñuela, Fredy agrees to cooperate in exchange for his wife's safety.³³ The AMM plans to use Fredy to find the location of other guerilla forces in the area.³⁴

18. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶¶ 88, 90.

19. *Id.* ¶ 89.

20. *Id.*

21. *Id.*

22. *Id.* ¶ 91.

23. *Id.*

24. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 91.

25. *Id.*

26. *Id.* ¶ 94.

27. *Id.* ¶ 92.

28. *Id.*

29. *Id.* ¶ 95.

30. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 92.

31. *Id.* ¶¶ 92-93.

32. *Id.* ¶ 93.

33. *Id.* ¶ 95.

34. *Id.*

According to Commander Isaza Arango, Fredy's wife is murdered by the EPL when she tries to rescue her newborn son.³⁵ The family's whereabouts remain unknown.³⁶

3. *Events pertaining to Mr. José Eliseo Gallego Quintero and Mrs. María Engracia Hernández Quintero*

June 26, 1996: FTA soldiers arrive in Vereda La Esperanza at 2:00 a.m.³⁷ They knock on Mr. José Eliseo Gallego Quintero's door.³⁸ Mr. Gallego Quintero is home with his wife Mrs. María Engracia Hernández Quintero and their son Juan Carlos Gallego Hernández.³⁹ The soldiers claim they are "counter-guerilla soldiers" and open fire into the house, causing Mr. Gallego Quintero and his family to cower on the floor.⁴⁰ The FTA soldiers stop shooting, assuming everyone in the house is dead.⁴¹ The soldiers then enter the residence and see that, miraculously, no one was killed.⁴² The soldiers say that they mistakenly believed there was a guerilla camp in the house.⁴³ They then accuse Mr. Gallego Quintero and his family of collaborating with guerillas.⁴⁴ Mr. Gallego Quintero complains to the FTA soldiers about their actions, and one of the soldiers responds by kicking him in the head.⁴⁵ Mr. Gallego Quintero threatens to bring a lawsuit against the FTA soldiers, and they threaten to kill him if he files the suit.⁴⁶

Witnesses see the soldiers eating from food cans with National Army and FTA labels on them while they are standing in front of the Quintero residence.⁴⁷

Fredy accompanies the FTA soldiers during the events.⁴⁸ He is wearing an FTA uniform and his head is covered by a hood.⁴⁹ Witnesses recognize Fredy when the soldiers remove the hood from his head.⁵⁰

35. *Id.* ¶ 97.

36. *Vereda La Esperanza v. Colombia, Admissibility and Merits Report*, ¶ 94.

37. *Id.* ¶ 100.

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. *Vereda La Esperanza v. Colombia, Admissibility and Merits Report*, ¶ 100.

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.* ¶ 101.

48. *Vereda La Esperanza v. Colombia, Admissibility and Merits Report*, ¶ 101.

49. *Id.*

50. *Id.*

At 7:00 a.m., witnesses observe four FTA soldiers leave the Quintero's home.⁵¹ The soldiers find Mrs. Hernández Quintero and a shotgun in Mr. Pedro Pablo Muñoz's house.⁵² They fire shotgun rounds near Mrs. Hernández Quintero to scare her and decide to take her away because they think she will be useful to them.⁵³ They bring her back to her house, undress her, and put her in an army uniform.⁵⁴

At 4:00 p.m., the soldiers leave with Mrs. Hernández Quintero, who is screaming and begging them not to take her.⁵⁵ As they leave, the soldiers threaten to kill any witnesses who file complaints.⁵⁶ The soldiers take Mrs. Hernández Quintero to La Piñuela.⁵⁷

June 28, 1996: Major Guzmán takes Mrs. Hernández Quintero to the Attorney General's Office in El Santuario, Antioquia, two days after she was taken into custody.⁵⁸ According to Deputy Prosecutors, Major Guzmán does not submit a report outlining the procedure he followed, he did not bring any specific charges against Mrs. Hernández Quintero, and he does not clarify why he brought her to the Attorney General's Office.⁵⁹ The Attorney General's Office does not find sufficient grounds to hold her in custody.⁶⁰ Major Guzmán claims that the ongoing military operation and the weather prevented him from transporting her to the Attorney General's Office sooner.⁶¹ Major Guzmán is asked to provide documents to corroborate his claims.⁶² He initially claims that he does not have records of the event, but later asserts that the documents are archived.⁶³

July 6, 1996: Mr. Gallego Quintero disappears ten days after the FTA soldiers threaten to kill him.⁶⁴ He is never seen again.⁶⁵

51. *Id.*

52. *Id.*

53. *Id.*

54. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 101.

55. *Id.*

56. *Id.*

57. *Id.* ¶ 105.

58. *Id.* ¶¶ 103-104.

59. *Id.* ¶ 104.

60. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 104.

61. *Id.* ¶ 103.

62. *Id.*

63. *Id.*

64. *Id.* ¶ 100.

65. *Id.* ¶ 107.

July 15, 1996: A witness reportedly sees Mrs. María Quintero in the custody of soldiers on the Medellín-Bogotá highway.⁶⁶ She is never seen again.⁶⁷

4. Events pertaining to Mr. Juan Carlos Gallego Hernández

June 25, 1996: Mr. Juan Carlos Gallego Hernández is a public health care worker in Vereda La Esperanza.⁶⁸ The National Army often threatens, harasses, and intimidates Mr. Juan Carlos Gallego Hernández.⁶⁹

While Mr. Juan Carlos Gallego Hernández is walking along the Medellín-Bogotá highway, FTA soldiers confront him and ask for his papers.⁷⁰ Mr. Juan Carlos Gallego Hernández shows the soldiers his papers and tells them his occupation.⁷¹ The soldiers accuse him of collaborating with the guerillas, but Mr. Juan Carlos Gallego Hernández denies their accusations.⁷²

June 26, 1996: Mr. Juan Carlos Gallego Hernández receives death threats while he is at home and while he is at his parents' house.⁷³

July 7, 1996: Mr. Juan Carlos Gallego Hernández attends a community meeting in Vereda La Esperanza.⁷⁴ Right after the village meeting ends at 3:30 p.m., a group of armed men in SUVs appear and threaten to kill anyone who moves.⁷⁵ Two hooded men advance toward him and ask if he is a guerilla.⁷⁶ One of the men proclaims, "this son of a bitch is the one we need," and then they clutch him by his neck and shirt and throw him into the SUV.⁷⁷ As he is being shoved into a SUV, Mr. Juan Carlos Gallego Hernández asks what to do with his bicycle, and one of the men replies that he "won't be needing it anymore."⁷⁸ He is never seen again.⁷⁹

66. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 105.

67. *Id.* ¶ 107.

68. *Id.* ¶ 108.

69. *Id.*

70. *Id.*

71. *Id.*

72. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 108.

73. *Id.*

74. *Id.* ¶ 109.

75. *Id.*

76. *Id.*

77. *Id.*

78. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 109.

79. *Id.* ¶ 111.

July 9, 1996: Mr. Juan Carlos Gallego Hernández's sister, Mrs. Florinda de Jesús Gallego Hernández, asks the armed men about her brother.⁸⁰ They instruct her not to worry about him because he will be back.⁸¹

January 29, 1997: FTA soldiers arrive at Mrs. Florinda de Jesús Gallego Hernández's house, and she confronts them again about her brother's safety.⁸² The soldiers say that they are "keeping an eye on that case because there had been an error."⁸³

5. *Events pertaining to Mr. Jaime Alonso Mejía Quintero and Mr. Javier Giraldo Giraldo*

July 7, 1996: Mr. Jaime Alonso Mejía Quintero is at a billiards parlor adjacent to the Medellín-Bogotá highway.⁸⁴ The same group of armed men who abducted Mr. Juan Carlos Gallego Hernández drag Mr. Mejía Quintero out of the building and throw him into one of their SUVs.⁸⁵ He is never seen again.⁸⁶

Mr. Javier Giraldo Giraldo is teaching a friend how to drive a motorcycle on the side of the Medellín-Bogotá highway.⁸⁷ According to witness testimony, the same SUVs used to abduct Mr. Juan Carlos Gallego Hernández and Mr. Mejía Quintero maneuver next to Mr. Giraldo Giraldo.⁸⁸ The men in the vehicles demand that he get in, but Mr. Giraldo Giraldo refuses and attempts to escape on his motorcycle.⁸⁹ One of the vehicles plows over Mr. Giraldo Giraldo's leg and the front tire of his motorcycle.⁹⁰ Next, the men pull him into one of their vehicles.⁹¹ Mr. Giraldo Giraldo struggles to escape, but they beat him into submission and shoot him approximately four times in the back.⁹² They leave his body on the side of the road.⁹³ Multiple individuals witness the event but stay silent for fear of retaliation.⁹⁴

80. *Id.* ¶ 110.

81. *Id.*

82. *Id.*

83. *Id.*

84. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 112.

85. *Id.*

86. *Id.* ¶ 113.

87. *Id.* ¶ 114.

88. *Id.*

89. *Id.*

90. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 114.

91. *Id.*

92. *Id.*

93. *Id.*

94. *Id.*

The police inspector in Cocorná issues a report detailing Mr. Giraldo Giraldo's body being removed from the highway.⁹⁵ The report indicates that he has bullet holes and injuries on his "back, shoulder, chest, neck, lip, chin, and . . . ribs."⁹⁶ His official death certificate is issued.⁹⁷

6. *Events pertaining to Mr. Hernando de Jesús Castaño Castaño and Andrés Suarez Cordero*

June 22, 1996: Andrés Cordero is the two-month-old son of Fredy.⁹⁸ Mrs. Florinda de Jesús Gallego Hernández is caring for Andrés because, after his parents were abducted, no one else will care for him.⁹⁹ Soldiers start asking people in the village about Andrés's location.¹⁰⁰

July 9, 1996: At 3:30 p.m., five to nine armed men dressed in civilian clothes burst into Mrs. Florinda de Jesús Gallego Hernández's home.¹⁰¹ She is with her husband, Mr. Hernando de Jesús Castaño Castaño, and Andrés.¹⁰² The armed men proclaim that "all guerilla members and collaborators have to be done away with," referencing two-month-old Andrés.¹⁰³ Mrs. Florinda de Jesús Gallego Hernández asserts that the baby is with her and her husband.¹⁰⁴ One of the armed men relays over the radio that they "have the target," and another tells Mrs. Florinda de Jesús Gallego Hernández that they have custody of Andrés's father.¹⁰⁵ The group then orders Mrs. Florinda de Jesús Gallego Hernández to pack the baby's clothes.¹⁰⁶ Soon after, they grab Andrés, and order Mr. Castaño Castaño "to come with them."¹⁰⁷ The men take Mr. Castaño Castaño away, who is tied up by the waist.¹⁰⁸ He is never seen again.¹⁰⁹

Mr. Orlando de Jesús Muñoz Castaño is commuting to the farm that he manages.¹¹⁰ The same SUVs that were used to abduct Andrés and Mr.

95. *Id.* ¶ 115.

96. *Vereda La Esperanza v. Colombia, Admissibility and Merits Report*, ¶ 115.

97. *Id.* ¶ 115.

98. *Id.* ¶ 116.

99. *Id.*

100. *Id.*

101. *Id.* ¶ 117.

102. *Vereda La Esperanza v. Colombia, Admissibility and Merits Report*, ¶ 117.

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

108. *Vereda La Esperanza v. Colombia, Admissibility and Merits Report*, ¶ 117.

109. *Id.* ¶ 118.

110. *Id.* ¶ 120.

Castaño approach Mr. Muñoz Castaño, and he is forced into one of the vehicles.¹¹¹ He is never seen again.¹¹²

October 16, 2008: Commander Isaza admits at a hearing that his daughter has been taking care of Andrés.¹¹³ He states that the baby will continue to live with his daughter, the official adoption proceedings have begun, and the proper custody documents have been drafted.¹¹⁴

7. Events pertaining to Mr. Octavio de Jesús Gallego Hernández

July 9, 1996: At 4:00 p.m., Mr. Héctor Manuel González Ramírez and Mr. Octavio de Jesús Gallego Hernández are searching for Mr. Juan Carlos Gallego Hernández and Mr. Mejía Quintero’s bodies on the side of the Medellín-Bogotá highway.¹¹⁵ Four SUVs arrive, and two men dressed in civilian garb, brandishing rifles exit the vehicles and beckon Mr. Octavio de Jesús Gallego Hernández.¹¹⁶ When Mr. Octavio de Jesús Gallego Hernández approaches, the men attack and overpower him, forcing him into a vehicle.¹¹⁷ He is never seen again.¹¹⁸ Mr. González Ramírez watches as the abduction occurs.¹¹⁹

Around July 11, 1996: Mr. González Ramírez sees the same men who abducted Mr. Octavio de Jesús Gallego Hernández wearing military garb.¹²⁰ Another witness confronts the paramilitary troops and questions them about the disappearances.¹²¹ One of the members responds by admitting that they abducted the victims “to torture them” and extract the truth from them.¹²²

8. Events pertaining to Mr. Andrés Gallego Castaño and Mr. Leonidas Cardona Giraldo

December 27, 1996: At 8:30 p.m., two SUVs approach Mr. Leonidas Cardona Giraldo’s home, and “approximately ten armed men dressed as

111. *Id.*

112. *Id.* ¶ 121.

113. *Id.* ¶ 119.

114. *Vereda La Esperanza v. Colombia, Admissibility and Merits Report*, ¶ 119.

115. *Id.* ¶ 122.

116. *Id.*

117. *Id.*

118. *Id.* ¶ 124.

119. *Id.* ¶ 122.

120. *Id.* ¶ 123.

121. *Vereda La Esperanza v. Colombia, Admissibility and Merits Report*, ¶ 123.

122. *Id.*

civilians” pour out of the vehicles.¹²³ The men identify themselves as paramilitary soldiers and ask Mr. Cardona Giraldo for his papers.¹²⁴ After looking at his identification, two soldiers reveal that they are looking for a guerilla member with the same name.¹²⁵ Mr. Cardona Giraldo says that many people share his name.¹²⁶

After about thirty minutes of arguing, more men arrive with a masked individual.¹²⁷ The individual removes his mask, and Mr. Cardona Giraldo’s wife recognizes Fredy.¹²⁸ Fredy immediately starts accusing Mr. Cardona Giraldo and his wife of collaborating with guerilla forces, and he shouts, “all these bastards of this village are guerilla members.”¹²⁹ The soldiers demand that Mr. Cardona Giraldo return to La Piñuela with them.¹³⁰

At the same time, three armed men break down Mr. Andrés Gallego Castaño’s door and abduct him.¹³¹ The men claim they are taking him to La Piñuela.¹³² Mr. Cardona Giraldo’s sister sees both her brother and Mr. Gallego Castaño being taken away in SUVs, which are flanked by two transport vehicles filled with soldiers.¹³³ The men are never seen again.¹³⁴

B. Other Relevant Facts

The State Army established the FTA on August 1, 1991 with Directive No. 0061.¹³⁵ The FTA is created by combining one counter-guerilla battalion with two State Army units.¹³⁶ FTA commanders directly control all of the soldiers in the area and monitor all troop operations.¹³⁷ They are also “responsible for staying up-to-date on all incidents” that occur on the Medellín-Bogotá highway or five kilometers from the highway in either direction.¹³⁸ The FTA operates out of La Piñuela military base (La Piñuela), and its objective under the State Army’s directive is to establish “an offensive combat” strategy against

123. *Id.* ¶ 125.

124. *Id.*

125. *Id.*

126. *Id.*

127. *Vereda La Esperanza v. Colombia*, Admissibility and Merits Report, ¶ 125.

128. *Id.*

129. *Id.*

130. *Id.* ¶ 126.

131. *Id.* ¶ 127.

132. *Id.*

133. *Vereda La Esperanza v. Colombia*, Admissibility and Merits Report, ¶ 127.

134. *Id.* ¶ 128.

135. *Id.* ¶ 68.

136. *Id.*

137. *Id.*

138. *Id.*

guerilla forces in the area.¹³⁹ The group does not have any assigned vehicles, so its members drive civilian vehicles with the owners' consent.¹⁴⁰ The FTA controls a "great majority" of the region's critical areas by setting up "fixed" and "roving" checkpoints along the Medellín-Bogotá highway, and by maintaining a census of all the civilians in the area.¹⁴¹ The census includes a map that features the names and locations of each resident and specifies how many people live in each dwelling.¹⁴²

The AMM, established on February 22, 1978, is comprised of former soldiers, policemen, and guerillas, paid mercenaries, and active-duty guides of the State's National Army.¹⁴³ The group's operations span over 4,000 square kilometers, including the village of Vereda La Esperanza.¹⁴⁴ The AMM recruits children, and members receive a reward for each guerilla member they kill.¹⁴⁵

The AMM maintains a list of suspected guerillas and guerilla collaborators.¹⁴⁶ If a person appears on the list of suspected guerillas, the AMM will abduct, interrogate, and execute him or her.¹⁴⁷ There are multiple reports that civilians, with no relation to any guerilla group, have been taken and murdered.¹⁴⁸ The AMM is accused of murdering civilians, political leaders, and union leaders, and is also accused of multiple kidnappings and disappearances.¹⁴⁹

The State's National Army, National Police, and Administrative Department of Security provide logistical support to the AMM and aid in their attacks, resulting in the forcible disappearance of twelve Vereda La Esperanza community members, one of which is extrajudicially executed.¹⁵⁰ AMM members wore police and army uniforms, and the National Army occasionally participated in the AMM's operations.¹⁵¹ The AMM travels freely on the Medellín Bogotá highway despite the State Army's "permanent and conspicuous" presence there.¹⁵² Further, members of the State Army and the AMM would often ride together in

139. *Vereda La Esperanza v. Colombia*, Admissibility and Merits Report, ¶ 69.

140. *Id.*

141. *Id.* ¶ 70.

142. *Id.*

143. *Id.* ¶¶ 65, 66.

144. *Id.* ¶ 66.

145. *Vereda La Esperanza v. Colombia*, Admissibility and Merits Report, ¶ 66.

146. *Id.* ¶ 67.

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.*

151. *Vereda La Esperanza v. Colombia*, Admissibility and Merits Report, ¶ 74.

152. *Id.* ¶ 75.

the same vehicles and parade their weapons in front of civilians.¹⁵³ According to witness testimony, the State Army almost always accompanies the AMM on counter-guerrilla operations, and it collaborates with the AMM in recruiting children as soldiers.¹⁵⁴ State Army officers give orders to AMM members over the radio to make people disappear.¹⁵⁵ Further, based on the testimony of a former senior AMM officer, the AMM could not conduct any operations without first coordinating with the State's army.¹⁵⁶

II. PROCEDURAL HISTORY

A. *Before the Commission*

July 1, 1999: The Corporation for Legal Freedoms (La Corporación Jurídica Libertad, "CLF") lodge a petition to the Inter-American Commission on Human Rights on behalf of the sixteen victims.¹⁵⁷

November 4, 2013: The Commission adopts Report on Admissibility and Merits No. 85/13, declaring the petition admissible.¹⁵⁸ The State submits two preliminary objections: (1) the petition did not allege facts sufficient to constitute violations of the American Convention because non-State actors committed the acts, and; (2) the domestic criminal proceedings are still ongoing and the victims did not exhaust all of the available domestic remedies; specifically, the victims did not file writs of habeas corpus.¹⁵⁹

The Commission concludes that the petition alleged facts sufficient to establish potential rights violations under the American Convention.¹⁶⁰ It also finds that since seventeen years passed since the events occurred, the victims do not have to exhaust domestic remedies; the State caused unwarranted delay, rendering the domestic remedies inadequate.¹⁶¹

The Commission concludes that the State violated Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 19 (Rights of the Child), 21 (Right to Property), and 25 (Right to Judicial Protection) of the American Convention, all in relation to Article 1(1) (Obligation of Non-

153. *Id.*

154. *Id.*

155. *Id.* ¶ 76.

156. *Id.* ¶ 77.

157. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 1.

158. *Id.*

159. *Id.* ¶ 3.

160. *Id.* ¶¶ 59-62.

161. *Id.* ¶ 51.

Discrimination), and in relation to Articles I(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances) and I(b) (Duty to Punish Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons.¹⁶²

The Commission recommends that the State: (1) fully repair the moral and material damages caused by its violations; (2) identify the two unnamed individuals in the case, so that their family members can receive reparations; (3) use all available means to discover the fates of the disappeared victims; (4) continue neutral and effective investigations of the disappearances in order to clarify the facts, and identify and sanction the perpetrators within a reasonable amount of time; (5) shape disciplinary measures against state officials who participated in the disappearances or in delaying the corresponding investigation; (6) create a community reparation program that acknowledges the negative impact the disappearances had on Vereda La Esperanza; and (6) adopt procedures to prevent future violence against the local population, including permanent training schools that teach the State military how to uphold humans rights laws.¹⁶³

The State recognizes its responsibility for not guaranteeing Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), and Article 7 (Right to Personal Liberty) in the cases of Mr. Castaño Gallego, Mr. Juan Carlos Gallego Hernández, Mr. Octavio de Jesús Gallego Hernández, Mr. Mejía Quintero, Mr. Castaño Castaño, Mr. Muñoz Castaño, Mr. Gallego Castaño, Mr. Cardona Giraldo, and Mrs. Hernández Quintero.¹⁶⁴ It also recognizes responsibility for not guaranteeing Article 3 (Right to Juridical Personality), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), and Article 19 (Rights of the Child) in the cases of Oscar Marulanda, Juan Quintero, and Miguel Quintero.¹⁶⁵ The State additionally recognizes responsibility for not guaranteeing Article 4 (Right to Life) and Article 5 (Right to Humane Treatment) in the case of Mr. Giraldo Giraldo.¹⁶⁶ It also recognizes its responsibility for violating Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) to the detriment of the victims' direct relatives.¹⁶⁷ Next, it acknowledges its responsibility for the "feelings of

162. *Vereda La Esperanza v. Colombia*, Preliminary Objections, Merits, Reparations, and Costs, Inter-Am. Ct. H.R. (ser C.) No. 341, "Conclusions," ¶ 2 (Aug. 31, 2017).

163. *Id.* "Recommendations" ¶¶ 1-7.

164. *Id.* ¶¶ 16-19.

165. *Id.*

166. *Id.*

167. *Id.*

anguish, pain, and uncertainty” caused by the lack of information.¹⁶⁸ Finally, the State acknowledges that it violated Article 8 (Right to a Fair Trial), Article 21 (Right to Property), and Article 25 (Right to Judicial Protection) in the case of Mr. Gallego Quintero.¹⁶⁹

B. Before the Court

December 13, 2014: The Commission submits the case to the Court after the State failed to adopt its recommendations.¹⁷⁰

1. Violations Alleged by Commission¹⁷¹

Article 3 (Right to Juridical Personality)

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 19 (Rights of the Child)

Article 21 (Right to Property)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) of the American Convention.

2. Violations Alleged by Representatives of the Victims¹⁷²

Same Violations Alleged by the Commission.¹⁷³

September 7, 2015: The State partially acknowledges its international responsibility for the alleged violations and submits a preliminary objection.¹⁷⁴ The State argues that the Court lacked jurisdiction due to the absence of three alleged, unidentified victims: Fredy, his wife, and their

168. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 16-19.

169. *Id.*

170. Vereda La Esperanza v. Colombia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.251, ¶ 1 (Dec. 13, 2014).

171. Vereda La Esperanza v. Colombia, Admissibility and Merits Report, ¶ 310.

172. *Id.*

173. The Corporation for Legal Freedoms (La Corporación Jurídica Libertad, “CLF”) and the Center for Justice and International Law (El Centro por la Justicia y el Derecho Internacional, “CEJIL”) represented the alleged victims.

174. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 7.

son “A.”¹⁷⁵ The State noted that none of these three alleged victims has been notified of the proceedings, and A. could not be located.¹⁷⁶

May 2015-May 2016: Four amicus curiae briefs are submitted by: (1) The Center for Human Rights and Legal Pluralism, Faculty of Law of McGill University; (2) the Open Society Justice Initiative; (3) Professor Eduardo Bertoni and Florencia Sauling, from the Clinic on Public Advocacy in Latin America of the New York University School of Law, and; (4) the Team Corporation Colombian Interdisciplinary Forensic Work and Psychosocial Assistance (EQUITAS).¹⁷⁷

June 29, 2016-August 9, 2017: The parties attempt and fail to contact A. to inform him of the proceeding and provide him the opportunity to join the case.¹⁷⁸

August 30, 2017: The Court begins deliberating the judgment.¹⁷⁹

III. MERITS

A. *Composition of the Court*¹⁸⁰

Roberto F. Caldas, President
Eduardo Ferrer Mac-Gregor Poisot, Vice-President
Eduardo Vio Grossi, Judge
Elizabeth Odio Benito, Judge
Eugenio Raúl Zaffaroni, Judge
L. Patricio Pazmiño Freire, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

August 31, 2017: The Court issues its Judgment.¹⁸¹

175. *Id.* ¶ 25.

176. *Id.* ¶¶ 25-26.

177. *Id.* ¶ 9.

178. *Id.* ¶ 13.

179. *Id.* ¶ 14.

180. Judge Humberto Antonio Sierra Porto did not participate in deciding the judgment as he is a Colombian national. *Vereda La Esperanza v. Colombia*, Preliminary Objections, Merits, Reparations, and Costs.

181. *See generally id.*

The Court decided unanimously:

To accept the State's preliminary objection of the Court's lack of jurisdiction over Fredy, his wife, and A.,¹⁸² because:

The Commission failed to explain why it did not fully identify Fredy and his wife.¹⁸³ Accordingly, the Court found that Fredy and his wife could not be considered victims in this case.¹⁸⁴ In regards to A., the Court noted that: (1) he was not listed as an alleged victim in the petition; (2) neither he nor his representatives has indicated he is willing to participate in this proceeding; (3) the representatives of the other alleged victims stated several times they did not represent A., and; (4) attempts to make contact with A. proved unsuccessful.¹⁸⁵ Therefore, the Court accepted the State's preliminary objection and decided not to consider A. an alleged victim in this case.¹⁸⁶

The Court found unanimously that the State had violated:

Articles 3 (Right to Juridical Personality), 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 7 (Right to Personal Liberty) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention and Article I(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Mr. Castaño Gallego, Mr. Juan Carlos Gallego Hernández, Mr. Mejía Quintero, Mr. Castaño Castaño, Mr. Muñoz Castaño, Mr. Octavio de Jesús Gallego Hernández, Mr. Gallego Castaño, Mr. Cardona Giraldo, and Mrs. Hernández Quintero,¹⁸⁷ because:

The State military was in the same area as the paramilitary groups and no hostilities occurred between the two groups.¹⁸⁸ The AMM set up road blocks on the Medellín-Bogotá highway, and the military did nothing to

182. *Id.* ¶ 34.

183. *Id.*

184. *Id.*

185. *Id.* ¶ 38.

186. *Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 39.

187. *Id.* "Resolution Points" ¶ 2.

188. *Id.* ¶ 167.

*interfere.*¹⁸⁹ Further, witnesses reported seeing State military members threaten, kidnap, and murder some of the victims with paramilitary members.¹⁹⁰ Accordingly, the Court concluded the events that took place in Vereda La Esperanza should be attributed to the State because it either directly supported or acquiesced to the AMM's actions.¹⁹¹

Article 19 (Rights of the Child), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Óscar Marulanda, Miguel Quintero, Juan Quintero,¹⁹² because:

*Juan and Miguel Quintero were twelve and fifteen years old when they were abducted.*¹⁹³ Óscar Marulanda was fifteen when he was abducted.¹⁹⁴ As such, the Court concluded that the State did not afford them the special protections that children are entitled to under the Convention.¹⁹⁵

Article 4 (Right to Life) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Giraldo Giraldo,¹⁹⁶ because:

*The Court previously determined that the State was responsible for abducting Mr. Juan Carlos Gallego Hernández and Mr. Mejía Quintero.*¹⁹⁷ These abductions took place in the same area on the Medellín-Bogotá highway just moments before Mr. Giraldo Giraldo was abducted, executed, and abandoned on the highway.¹⁹⁸ The Court reasoned that all of the above events shared the same “modus operandi” and had occurred in close proximity; therefore, they were “closely connected.”¹⁹⁹ And, since the Court already determined that the State was responsible for the former abductions, it concluded that it was also responsible for executing Mr. Giraldo Giraldo, violating his right to life under Article 4.²⁰⁰

189. *Id.*

190. *Id.*

191. *Id.* ¶ 168.

192. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, “Resolution Points” ¶ 2.

193. *Id.* ¶ 153.

194. *Id.*

195. *Id.* ¶ 168.

196. *Id.* “Resolution Points” ¶ 2.

197. *Id.* ¶ 174.

198. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 174.

199. *Id.*

200. *Id.*

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the victims and their families,²⁰¹ because:

Mr. Juan Carlos Gallego Hernández and Mr. Gallego Castaño each filed complaints with the relevant authorities regarding the disappearances that were happening in Vereda La Esperanza.²⁰² Both individuals disappeared weeks to months later under very similar circumstances to the previous disappearances.²⁰³ The Court concluded that, despite pervasive violence in the region, the State was responsible because it knew that both individuals had filed complaints, and it did not adequately protect individuals who wished to participate in the adjudicative process.²⁰⁴ As such, the Court decided that the State violated the Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal).²⁰⁵

Articles 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) (Obligation of Non-Discrimination) of the Convention, to the detriment of the victims and their families,²⁰⁶ because:

The Court reasoned that every person, including the victims' relatives, is entitled to know the truth about the events that occurred in Vereda La Esperanza, and is entitled to a hearing and judicial protections to discover the truth.²⁰⁷ According to the Court, although the State has conducted multiple interviews, exhumed bodies in local cemeteries, executed searches, and performed judicial investigations, it still has not discovered the whereabouts of any of the victims in over twenty years.²⁰⁸ As such, the Court concluded that the State violated the victims' and their families' rights under Articles 8(1) (Right to a Hearing Within

201. *Id.* ¶¶ 213, “Resolution Points” 4.

202. *Id.* ¶ 212.

203. *Id.*

204. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 212-213.

205. *Id.*

206. *Id.* ¶¶ 226, “Resolution Points” 4.

207. *Id.* ¶ 220.

208. *Id.* ¶¶ 220-221.

*Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection).*²⁰⁹

Articles 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) and 21 (Right to Property) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Gallego Quintero and Mrs. Hernández Quintero,²¹⁰ because:

*The Court reasoned that individuals who live in vulnerable, impoverished conditions are more severely impacted by violations of their property and related privacy rights.*²¹¹ *It noted that individuals have a right to privacy in their homes and should be protected from arbitrary third party or government aggressions or invasions.*²¹² *The Court considered the State military's illegal intrusion into Mr. Gallego Quintero and Mrs. Hernández Quintero's home arbitrarily interfered with their rights to privacy.*²¹³ *The State military open fired into their home with machine guns, destroying everything.*²¹⁴ *Further, the State admitted that it was responsible for the aggressive intrusion.*²¹⁵ *The Court concluded that it was clear that the State was responsible for violating Mr. Gallego Quintero and Mrs. Hernández Quintero's rights under Articles 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) and 21 (Right to Property) of the Convention.*²¹⁶

Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the victims' relatives,²¹⁷ because:

*The Court reasoned that a person's forced disappearance directly violates his or her relative's right to integrity because it causes severe suffering.*²¹⁸ *It highlighted that the State authorities refused to give the*

209. *Id.* ¶ 226.

210. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, "Resolution Points," ¶ 5.

211. *Id.* ¶ 240.

212. *Id.* ¶ 242.

213. *Id.*

214. *Id.* ¶ 244.

215. *Id.* ¶ 245.

216. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 246, "Resolution Points," 5.

217. *Id.* "Resolution Points" ¶ 6.

218. *Id.* ¶ 249.

victims' families information about the disappearances and did not perform an investigation to clarify what had transpired.²¹⁹ Further, the Court presumed that the victims' disappearances and execution directly impacted and violated the rights of their parents, children, spouses, siblings, and significant others.²²⁰ The State also admitted that it was responsible for violating the relatives' moral and psychological integrity.²²¹ The Court concluded that the disappearances and execution, as well as the State's refusal to provide information, caused severe psychological and moral damage to the victims' relatives, violating their rights enshrined in Article 5(1) (Right to Physical, Mental, and Moral Integrity) of the American Convention.²²²

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Eduardo Ferrer Mac-Gregor Poisot

In a concurring opinion, Judge Eduardo Ferrer Mac-Gregor Poisot contended that the State's violation of Articles 21 (Right to Property) and 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) could have been addressed using Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) of the American Convention.²²³ Judge Mac-Gregor Poisot explained that the right to housing has characteristics that are not necessarily included in the broad right to property.²²⁴ Therefore, he reasoned that the right to housing and the right to property are independent.²²⁵

IV. REPARATIONS

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

219. *Id.*

220. *Id.*

221. *Id.* ¶¶ 16, 249, 251.

222. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 252, "Resolution Points," 5.

223. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Eduardo Ferrer Mac-Gregor Poisot, Inter-Am. Ct. H.R. (ser C.) No. 341, ¶ 249 (Aug. 31, 2017).

224. *Id.* ¶ 5.

225. *Id.* ¶ 6.

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

1. Continue Investigations and Judicial Proceedings

In order to clarify the facts, the State must conduct thorough investigations to determine the parties responsible for the forced disappearances and the execution.²²⁶ The State must also continue judicial proceedings based on newly discovered facts.²²⁷

2. Search for Missing Victims

The State must rigorously investigate the whereabouts of the twelve victims of the forced disappearances whose fates are still unknown.²²⁸ The State must also communicate with the victims' family members and encourage their participation in the process.²²⁹ Additionally, if any of the victims' remains are discovered, the State must deliver them to the families and "cover the funeral expenses."²³⁰

3. Publish Notification

The State must publish an official summary of the present judgment in an official journal and on an official website, and it must notify the Court when the publications are made available.²³¹

4. Public Recognition

The State must publicly acknowledge its responsibility on an international level for the forced disappearances and the execution.²³²

226. *Vereda La Esperanza v. Colombia*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 268, "Resolution Points" ¶ 9.

227. *Id.* ¶ 268.

228. *Id.* ¶ 275, "Resolution Points" ¶ 10.

229. *Id.* ¶ 275.

230. *Id.*

231. *Id.* ¶¶ 281-282.005

232. *Vereda La Esperanza v. Colombia*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 268, "Resolution Points" ¶ 12.

5. Provide Psychological Treatment

The State must provide free psychological and health treatment to the victims and their families due to the suffering caused by the events.²³³

6. Construct a Monument

In order to prevent any similar events from occurring in the future, the State must construct a monument in honor of the victims including a placard exhibiting each of the victims' names.²³⁴

7. Establish Scholarships

The State must fund scholarships for the victims' children to study in a public university in Colombia.²³⁵

8. Report Progress

The State must report the actions it has taken to comply with the judgment.²³⁶

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$3,000 for material damage to each family member of the direct victims.²³⁷ It also noted that the State has already paid some of the victims' compensation arising from an administrative proceeding, including Mr. Castaño Gallego, Óscar Marulanda, Mrs. Hernández Quintero, Mr. Juan Carlos Gallegos Hernández, Mr. Castaño Castaño, Mr. Octavio de Jesús Gallego Hernández, Mr. Cardona Giraldo's child, and Andrés Castaño.²³⁸ As such, the Court deemed that the State already reasonably compensated these victims.²³⁹

233. *Id.* ¶ 279, "Resolution Points" ¶ 13.

234. *Id.* ¶ 286.

235. *Id.* ¶ 286.

236. *Id.* "Resolution Points" ¶ 18.

237. *Id.* ¶ 301.

238. *Vereda La Esperanza v. Colombia*, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 302-303.

239. *Id.* ¶ 303.

However, the Court further ordered the State to pay \$10,000 to Juan and Miguel Quintero; \$10,000 to Mr. Mejía Quintero, \$10,000 to Mr. Muñoz Castaño; and \$10,000 to Mr. Giraldo Giraldo for material damages.²⁴⁰ The Court also ordered the State to pay Mr. Gallego Quintero and Mrs. Hernández Quintero \$20,000 for property damage.²⁴¹

2. Non-Pecuniary Damages

Sixty-one relatives of nine of the victims were compensated for non-pecuniary damages via an administrative proceeding.²⁴² The spouses and children of the victims were each awarded \$35,310, and the siblings of the victims were each awarded \$17,651.55.²⁴³ Fifty-four of the relatives, however, did not receive any compensation.²⁴⁴ Further compensation was denied for twelve relatives, and \$9,938 in compensation was pending at the time of the judgment for two relatives.²⁴⁵ The Court accepted the State's awards to the sixty-one victims, but deemed that it was appropriate to further order damages to the relatives who did not receive payment in the administrative proceeding.²⁴⁶ As such, the Court ordered that the State award compensation to all of the victims' relatives who were not previously compensated in the administrative proceeding – \$35,310 to each parent, spouse, or child and \$17,651.55 to each sibling.²⁴⁷ The Court also awarded \$9,938 to Ms. Cruz Verónica Giraldo Soto and to Ms. Nelly Soto Castaño for non-pecuniary damages that arose from Mr. Giraldo Giraldo's execution.²⁴⁸ Further, the Court fixed in equity \$5,000 to each parent, spouse, and child of the victims, and \$3,000 to each of the victims' siblings, because of the extended and unfruitful investigation.²⁴⁹

The Court ordered an additional \$100,000 for each of the of the twelve-forced-disappearance victims to be dispersed to their family members because the victims were never paid in any domestic

240. *Id.* ¶¶ 302-304.

241. *Id.* ¶ 305.

242. *Id.* ¶ 307.

243. *Id.* ¶ 309.

244. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 307.

245. *Id.*

246. *Id.* ¶¶ 308-309.

247. *Id.* ¶ 309.

248. *Id.* ¶ 310.

249. *Id.* ¶ 311.

proceeding.²⁵⁰ It also ordered the state to pay \$80,000 for the execution of Mr. Giraldo Giraldo, to be dispersed between his family members.²⁵¹

3. Costs and Expenses

The Court ordered \$85,000 for costs and expenses to be paid to the victim's representatives in the internal and international proceedings.²⁵² \$60,000 of the \$85,000 was ordered to be paid to the representatives of the victims, and the remaining \$25,000 was ordered to be paid to the CEJIL.²⁵³

The State must reimburse the Legal Assistance Fund to cover the costs incurred by those who participated in the proceedings, which amounted to \$2,892.94.²⁵⁴

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

\$1,925,277.41²⁵⁵

C. Deadlines

The State must compensate the victims' families for pecuniary and non-pecuniary damages within one year of notification of the judgment.²⁵⁶ The costs and expenses need to be paid by the State within one year from notice of the judgment, and it must reimburse the Legal Assistance fund for costs incurred within six months of the notification.²⁵⁷

The State is ordered to publish the official summary within six months of notification of the judgment.²⁵⁸ Further, it must notify the Court as soon as it makes the publications available.²⁵⁹ The State must also provide the victims with psychological health services within six months of the notification of the judgment.²⁶⁰

250. *Vereda La Esperanza v. Colombia*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 312.

251. *Id.*

252. *Id.* ¶ 315.

253. *Id.*

254. *Id.* ¶¶ 316-317.

255. The damages that were fixed in equity per family member were not included in the calculation.

256. *Id.* ¶ 319.

257. *Vereda La Esperanza v. Colombia*, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 318-319.

258. *Id.* ¶ 281.

259. *Id.* ¶ 282.

260. *Id.* ¶ 278.

The State has one year from the notification of the judgment to construct the monument, establish scholarships for the victims, and to publicly recognize its responsibility for the events.²⁶¹ It also has one year from the notification of judgment to submit the actions it has taken to the Court, showing that it has complied with the judgment.²⁶²

Finally, the State must investigate the facts to clarify exactly what transpired within a reasonable amount of time.²⁶³

V. INTERPRETATION AND REVISION OF JUDGMENT

February 26, 2018: The representatives of the victims request an interpretation of the judgment and ask the Court to: (1) clarify the reparations section of the judgment and certain beneficiaries of the reparations; and (2) clarify the Court's decision regarding the State's preliminary objection pertaining to three of the alleged victims.²⁶⁴

February 27, 2018: The State submits a request for interpretation of the judgment pertaining to: (1) the payment of non-pecuniary damages; (2) the Court's distribution of payments; (3) expenses accrued during the compliance monitoring phase of the proceeding, and; (4) how the State should comply in making the payments.²⁶⁵

A. *Composition of the Court*²⁶⁶

Eduardo Ferrer Mac-Gregor Poisot, President
Eduardo Vio Grossi, Vice President
Elizabeth Odio Benito, Judge
Eugenio Raúl Zaffaroni, Judge
Patricio Pazmiño Freire, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

261. *Id.* ¶¶ 285-286.

262. *Id.* "Resolution Points," ¶ 18.

263. Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 268.

264. Vereda La Esperanza v. Colombia, Interpretation of the Judgment of Preliminary Objections, Merits, Reparations, and Costs, Inter-Am. Ct. H.R. (ser. C) No. 367, ¶ 2 (Nov. 21, 2018).

265. *Id.* ¶ 3.

266. Judge Humberto Antonio Sierra Porto did not participate in the interpretation of the judgment as he is a Colombian national. *Id.* fn. 1. The Court's interpretation of the judgment does not indicate why the seventh judge did not participate in the deliberation of this case.

B. Merits

November 21, 2018: First, the Court noted that Ms. Cruz Verónica Giraldo Soto and Ms. Nelly Soto de Castaño were granted non-pecuniary damages for the death of Mr. Giraldo Giraldo.²⁶⁷ Therefore, they are not entitled to additional non-pecuniary damages under the compensation scheme the Court established for family members of the victims.²⁶⁸ Next, because Mrs. Gallego Hernández was only compensated for the disappearance of her son in the State administrative proceeding, she is entitled to additional compensation for the disappearance of her husband, Octavio de Jesús Gallego Hernández.²⁶⁹ Additionally, the Court affirmed that Mr. Arsecio Muñoz is entitled to compensation as the father of Mr. Muñoz Castaño.²⁷⁰ Finally, the Court noted that the Commission failed to include Mr. Cardona Quintero as a victim of this case and declared that his relatives were entitled to compensation.²⁷¹

In regards to the request for clarification on the Court's decision of the State's preliminary objection, the Court found the judgment clear and dismissed the request as inappropriate.²⁷² The Court also dismissed the State's request for clarification of payment of non-pecuniary damages for the same reason.²⁷³

In regards to the payments in equity, the Court clarified that each of the twelve victims was awarded \$100,000, as opposed to the twelve victims splitting \$100,000.²⁷⁴ The Court also clarified the non-pecuniary damages compensation scheme: (1) \$5,000 to each mother, father, daughter, son, and spouse of the victims; (2) \$3,000 to each brother and sister of the victims, and; (3) \$80,000 for Mr. Giraldo Giraldo.²⁷⁵

In regards to the State's request of clarification of costs generated in the monitoring compliance stage of the case, the Court dismissed the request as inadmissible because it previously established the costs are justly determined by the Court and are not accrued indefinitely.²⁷⁶

267. *Id.* ¶ 17.

268. *Id.*

269. *Id.* ¶ 18.

270. Vereda La Esperanze v. Colombia, Interpretation of the Judgment of Preliminary Objections, Merits, Reparations, and Costs, ¶ 19.

271. *Id.* ¶ 20.

272. *Id.* ¶ 27.

273. *Id.* ¶ 34.

274. *Id.* ¶ 39.

275. *Id.* ¶ 42.

276. Vereda La Esperanze v. Colombia, Interpretation of the Judgment of Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 47-49.

Finally, the Court clarified that the State may pay the damages, costs, and expenses either in US dollars or use the current New York Stock Exchange rate to pay in Colombian currency.²⁷⁷

VI. COMPLIANCE AND FOLLOW-UP

[NONE]

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Vereda La Esperanza v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Inter-Am. Ct. H.R. \(ser C.\) No. 341, \(Aug. 31, 2017\).](#)

[Vereda La Esperanza v. Colombia, Judgement, Concurring Opinion of Judge Eduardo Ferrer Mac-Gregor Poisot, Inter-Am. Ct. H.R. \(ser C.\) No. 341, \(Aug. 31, 2017\).](#)

3. Provisional Measures

[Vereda La Esperanza v. Colombia, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Dec. 1, 2015\).](#)

[Vereda La Esperanza v. Colombia, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(May 10, 2016\).](#)

4. Compliance Monitoring

[None]

²⁷⁷. *Id.* ¶ 55.

5. Review and Interpretation of Judgment

[Vereda La Esperanza v. Colombia, Interpretation of the Judgment of Preliminary Objections, Merits, Reparations, and Costs, Inter-Am. Ct. H.R. \(ser. C\) No. 367 \(Nov. 21, 2018\).](#)

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[Vereda La Esperanza v. Colombia, Admissibility and Merits Report, Report No. 85/13, Inter-Am. Comm'n H.R., Case No. 12.251, \(Nov. 4, 2013\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[None]

5. Application to the Court

[Vereda La Esperanza v. Colombia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.251, \(Dec. 13, 2014\).](#)

VIII. BIBLIOGRAPHY

[Jonathan Horowitz, *Vereda La Esperanza v. Colombia*, OPEN SOCIETY FOUNDATION, <https://www.opensocietyfoundations.org/litigation/vereda-la-esperanza-v-colombia>](#)