

Yarce et al. v. Colombia

ABSTRACT¹

This case is about several women and human rights activists living in Comuna 13, one of the poorest neighborhoods of Medellín, the capital of the Department of Antioquia. In 2002, Medellín was engulfed in a turf war between paramilitary groups and an existing guerilla movement involved in drug trafficking in and around Comuna 13. The State responded by deploying police and armed forces who often treated the civilian population as potential criminals instead of victims, committing murders, illegal searches of homes, arbitrary illegal detentions, and violations of privacy. The Court found violation of several articles of the American Convention, as well as of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Convention of Belém do Pará).

I. FACTS

A. Chronology of Events

August 11, 2002: Colombia declares a state of emergency due to violations of international humanitarian law and human rights, as well as insecurity in the country.² The State's Constitutional Court finds the state of emergency is constitutional.³

August 12, 2002: The Minister of Foreign Affairs of the Republic of Colombia notifies the Organization of American State of the state of emergency and declares that the State intends to restrict some rights in accordance with Article 27(3) (Procedural Requirements to Suspend Rights) of the American Convention.⁴

1. Elizabeth Russo, Author; Shira Diamant, Editor; Kimberly Baretto, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Yarce et. al. v. Columbia, Report on Merits, Report No. 86/13, Inter-Am. Comm'n H.R., Case Nos. 12.595, 12.596, and 12.621, ¶ 155 (Nov. 4, 2013).

3. *Id.* ¶ 157.

4. *Id.* ¶ 156.

September 11, 2002: The State restricts some personal rights to rehabilitate the state of emergency.⁵ This decree authorizes State police officers and military forces to conduct stops, searches, and seizures without court orders.⁶

November 8, 2002 and February 5, 2003: Colombia extends the state of emergency.⁷

1. Events Pertaining to Miryam Eugenia Rúa Figueroa

2002: Ms. Rúa Figueroa is a community leader and president of the Community Action Board (*Junta de Acción Comunal*; “JAC”).⁸ She partakes in creating various women’s groups in the region and in activities to improve the neighborhood.⁹ She resides with her partner, Mr. Gustavo de Jesús Tobón Meneses and her three daughters, Bárbara del Sol Palacios Rúa (12 years old), Úrsula Manuela Palacios Rúa (10 years old), and Valentina Estefanía Tobón Rúa (3 years old), in *Barrio Nuevo de la Comuna 13* in Medellín.¹⁰

June 2002: Ms. Rúa Figueroa’s neighbor informs her that her name appears on a list of civilians the paramilitary plans to assassinate.¹¹

June 26, 2002: Ms. Rúa Figueroa fears for her and her family’s safety and decides to leave the neighborhood.¹² Her family leaves their home with no money and only a few items of clothing.¹³ As other individuals who have returned to *Comuna 13* have disappeared or been found dead, Ms. Rúa Figueroa and her family are prevented from returning to their home indefinitely.¹⁴

June 27, 2002: Paramilitary violence escalates, and the forces publicly announce they are aware that Ms. Rúa Figueroa’s abandoned home belongs to the JAC president.¹⁵ As a result, the paramilitaries seize the

5. *Id.* ¶ 159.

6. *Id.*

7. *Id.* ¶ 158.

8. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 325, ¶ 102 (Nov. 22, 2016).

9. *Id.*

10. *Id.*

11. *Id.* ¶ 107.

12. *Id.*

13. Yarce et. al. v. Columbia, Report on Merits, ¶ 42.

14. *Id.*

15. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 107.

home and systematically remove and destroy furniture and parts of the homes structure.¹⁶ Ms. Rúa Figueroa believes her position as JAC president places her in grave danger and resigns.¹⁷

July 8, 2002: Ms. Rúa Figueroa files a complaint with the Office of the Attorney General, Medellín Sectional Office, stating that her family is permanently displaced and are unable to recover any possessions.¹⁸

July 10, 2002: The Municipal Disaster Prevention and Care Systems (*el Sistema Municipal para la Prevención y Atención de Desastres*; “SIMPAD”) respond to the complaint and conclude Ms. Rúa Figueroa and her family are displaced due to the armed fighting between the militia and self-defense groups.¹⁹ Nevertheless, the family is not offered humanitarian assistance.²⁰

August 9, 2002: Ms. Rúa Figueroa applies to be listed under the National Single Registry of the Displaced Population (“RUPD”), but her application is rejected.²¹

October 2, 2006: Ms. Rúa Figueroa again applies to be listed under the RUPD.²²

October 10, 2006: The Social Solidarity Network (*Acción Social*) denies Ms. Rúa Figueroa’s request.²³

April 16, 2007: The Social Solidarity Network awards Ms. Rúa Figueroa 618,000 Colombian pesos (\$288.96 USD) in humanitarian aid.²⁴

August 6, 2010: Ms. Rúa Figueroa brings a *tutela* action against the Presidential Agency of the Social Solidarity Network, alleging the group gave her contradictory responses as to whether she was listed as a displaced person and if she can receive aid.²⁵

16. Yarce et. al. v. Columbia, Report on Merits, ¶ 43.

17. *Id.* ¶ 44.

18. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 229.

19. Yarce et. al. v. Columbia, Report on Merits, ¶ 45.

20. *Id.*

21. *Id.* ¶ 119.

22. *Id.* ¶ 120.

23. *Id.* ¶ 121.

24. *Id.* The 2007 COP-USD conversion rate was calculated at <https://www.dolar-colombia.com/en/calculator?conversion=cop-usd&fecha=2007-04-16&valor=618000>

25. Yarce et. al. v. Columbia, Report on Merits, ¶ 122.

August 24, 2010: The 17th Circuit Court for Civil Matters of Medellín orders the Office of Social Solidarity Network of Antigua to clearly inform Ms. Rúa Figueroa whether she is listed in the RUPD.²⁶

September 7 2010: The Social Solidarity Network Office informs Ms. Rúa Figueroa that she is not registered in the RUPD.²⁷

2. Events Pertaining to Luz Dary Ospina Bastidas

1994–1996: Ms. Luz Dary Ospina Bastidas is chair of JAC.²⁸

1998 and 2000: Ms. Ospina Bastidas serves as president of the of the Independent Women's Association (*Asociación de mujeres de Las Independencias*; "AMI").²⁹

2002: Ms. Ospina Bastidas is the Executive Director of AMI and is committed to community service and leadership within *Comuna 13*.³⁰ Ms. Ospina Bastidas lives with her husband, Mr. Oscar Tulio Hoyos Oquendo, and her three children, Edid Yazmín, Oscar Darío, and Migdalia Andrea Hoyos Ospina (18 years old).³¹

November 12, 2002: Ms. Ospina Bastidas hears a rumor that the paramilitaries plan to arrest her and is informed they want to destroy AMI.³² Further, the Head of the Educational Center tells her that her name appears on a list of individuals to be assassinated.³³ Ms. Ospina Bastidas, believing that her life, and the lives of her family are in danger, immediately leaves her home with her husband, children, and son-in-law, Mr. Fabio Alberto Rodríguez Buriticá.³⁴

March 3, 2003: Fearful the paramilitary would seize their home and belongings, Ms. Ospina Bastidas's husband and her two sons return to the residence.³⁵ Three hooded men, and five unidentified individuals in

26. *Id.*

27. *Id.*

28. *Id.* ¶ 48.

29. *Id.*

30. *Id.*

31. Yarce et. al. v. Columbia, Report on Merits, ¶ 48.

32. *Id.* ¶ 49.

33. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 109.

34. Yarce et. al. v. Columbia, Report on Merits, ¶ 49.

35. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 110.

civilian clothing, arrive at the home.³⁶ The men claim they are members of the Office of the Public Prosecutor and proceed to search the home without a court order.³⁷ The men do not find any incriminating evidence and proceed to threaten and attack Mr. Hoyos Oquendo.³⁸ The men claim weapons are buried at the home and force Mr. Hoyos Oquendo to dig a hole in the floor.³⁹ The search is unsuccessful and the men leave.⁴⁰

March 6, 2003: A group of armed men return to the home and dig numerous holes in the back of the residence.⁴¹

March 11, 2003: Mr. Hoyos Oquendo and his two sons leave the home after a group of the National Police's Special Counter-Terrorism Command officers invade the residence and begin digging holes in search of buried weapons.⁴² The family decides to rent the property and leaves a single room locked with all personal belongings inside.⁴³

June 26, 2003: A group of armed men arrive at the home and force the new tenant to let them inside.⁴⁴ Once inside the men begin taking furniture and ask the tenant to identify the whereabouts of Ms. Ospina Bastidas and her family.⁴⁵

June 27, 2003: The same group of armed men from the previous day returns to Ms. Ospina Bastidas's home and continue to loot the premises; the men ask the tenant to relay a message to Ms. Ospina Bastidas and her husband that they need to speak with them and tell the tenant the premises must be vacated.⁴⁶ The armed men threaten the tenant and tell her if she files any complaint with the Attorney's Office, they will "cut off" her head.⁴⁷ Fearing for her life, the tenant vacates the home.⁴⁸

36. *Id.*

37. *Id.*

38. Yarce et. al. v. Columbia, Report on Merits, ¶ 50.

39. *Id.*

40. *Id.*

41. *Id.* ¶ 51.

42. *Id.*

43. *Id.*

44. Yarce et. al. v. Columbia, Report on Merits, ¶ 52.

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

July 8, 2003: The paramilitary seizes Ms. Ospina Bastidas's home and dismantles the property, leaving it valueless.⁴⁹

July 18, 2003: Ms. Ospina Bastidas files a request with the Solidarity Network to have her family listed in the Single Register of Displaced Persons.⁵⁰

August 2003: Ms. Ospina Bastidas, her husband, and their two sons move to Bogotá.⁵¹ Unfortunately, the humanitarian aid they received can only sustain the family of four, thus Ms. Ospina Bastidas's daughter and son-in-law are forced to remain in Medellín.⁵²

October 2003: Ms. Ospina Bastidas files a complaint with the Coordinator of the Territorial Unit Bogotá of the Network of Social Solidarity (*el Coordinador de la Unidad Territorial Bogotá de la Red de Solidaridad Social*; "Solidarity Network") related to the November 2002 forced displacement of her family.⁵³

December 2, 2003: The Solidarity Network denies Ms. Ospina Bastidas's July 18, 2003 request for her family to be listed in the Single Register of Displaced Persons.⁵⁴

February 13, 2004: The Solidarity Network reverses its December 2, 2003 decision and place Ms. Ospina Bastidas and her family on the Displaced Persons Register.⁵⁵

August 20, 2004-July 26, 2005: Ms. Ospina Bastidas and her family move to Montevideo, Uruguay; the move is made possible because the family receives support from the Temporary Departure Program for Columbians (*Programa Salida Temporal de Colombianos*) sponsored by the National Secretariat of the Social Pastoral of the Apostolic Catholic Church (*el Secretariado Nacional de la Pastoral Social de la Iglesia Católica Apostólica Romana de Colombia*).⁵⁶

49. *Id.*

50. Yarce et. al. v. Columbia, Report on Merits, ¶ 53.

51. *Id.* ¶ 54.

52. *Id.*

53. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 232.

54. *Id.* ¶ 233.

55. Yarce et. al. v. Columbia, Report on Merits, ¶ 53.

56. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 233.

August 2005: Ms. Ospina Bastidas and her family return to a different section of Medellín to live.⁵⁷ They cannot return to *Comuna 13* because they fear they will be identified and continue to experience both emotional and economic instability.⁵⁸

September 5, 2006: The Office of Specialized Prosecutor 107 of Medellín suspends the investigation into Ms. Ospina Bastidas's complaint, claiming there are no legal grounds for a formal investigation.⁵⁹

September 27, 2006: A representative of the *Comuna 13* Local Governance Committee visits Ms. Ospina Bastidas's former home and reports that it is now a criminal refuge and drug house, it has been torn apart by criminals, and is guarded by the State Army.⁶⁰

January 22, 2008: The National Human Rights and International Humanitarian Law Unit reopens the investigation closed on September 5, 2006 and states the investigation should never have been closed.⁶¹

February 22, 2010: The State opens a preliminary criminal investigation against Horacio de Jesus Bedoya Vargas for threatening and displacing Ms. Ospina Bastidas and her family, and for commandeering her home and possessions.⁶²

July 12, 2010: The Office of the Prosecutor issues a custody order for Mr. Bedoya Vargas.⁶³

June 29, 2011: Mr. Bedoya Vargas is convicted for forcibly displacing and invading the land and buildings of Ms. Ospina Bastidas.⁶⁴ He is sentenced to fifty months in prison, must forfeit his wages for 350 days, and is disqualified from performing public duties and asserting rights for forty-two months.⁶⁵

57. *Id.* ¶ 110.

58. Yarce et. al. v. Columbia, Report on Merits, ¶ 54.

59. *Id.* ¶ 181.

60. *Id.* ¶ 132.

61. *Id.* ¶ 182.

62. *Id.* ¶ 183.

63. *Id.* ¶ 184.

64. Yarce et. al. v. Columbia, Report on Merits, ¶ 184.

65. *Id.* ¶ 184.

January 13, 2012: The State orders further investigation into Ms. Ospina Bastidas's criminal complaint in order to identify and locate several other members of illegal armed groups who participated in her forced displacement.⁶⁶

August 27, 2013: The criminal proceedings are transferred to the 9th Criminal Court of the Medellin Circuit and charges are pressed against Juan Carlos Villa Saldarriaga.⁶⁷

3. Events Pertaining to the Illegal Detention of María del Socorro Mosquera Londoño, Mery del Socorro Naranjo Jiménez, and Ana Teresa Yarce

2002: Ms. María del Socorro Mosquera Londoño is president of AMI and a well-known community leader.⁶⁸ Ms. Mery del Socorro Naranjo Jiménez serves as Chair of JAC, while Ms. Ana Teresa Yarce serves as the Auditor of JAC.⁶⁹

November 8, 2002: Ms. Naranjo Jiménez, Ms. Mosquera Londoño, and Ms. Yarce submit a complaint to the Municipal Government Secretariat, alleging paramilitary groups are murdering civilians in areas of *Comuna 13* that are heavily controlled by the State army.⁷⁰

November 12, 2002: Following "Operation Orión" and the military takeover of *Comuna 13*, police and army forces illegally detain Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and Ms. Yarce.⁷¹ The illegal detention is conducted by a child in military attire without a court order.⁷² All three women are deprived of their freedom, illegally questioned, and, with no evidence, accused of committing serious crimes.⁷³ The Commander claims the arrest is based on intelligence reporting the three women were militia and suggests the case be sent to the Criminal Investigation Section of the National Police.⁷⁴ The intelligence is

66. *Id.* ¶ 185.

67. *Id.*

68. *Id.* ¶ 59.

69. *Id.*

70. Yarce et. al. v. Columbia, Report on Merits, ¶ 135.

71. *Id.* ¶ 60.

72. *Id.* ¶ 61.

73. *Id.*

74. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 112.

provided by Mr. Diomer Castañeda and Mr. Dario de Jesús Castaño Toro, two residents of *Comuna 13*.⁷⁵

While the women are detained, the State army conducts an illegal search of Ms. Mosquera Londoño's home in front of her 14-year-old son.⁷⁶

November 18, 2002: Ms. Maria Janneth Estrada Serna Vice President of the Community Action Board, informs the Prosecutor's Office of the Community Action Board and Mr. Diomer Castañeda's disputes.⁷⁷

November 21, 2002: A provisional court rules there is no evidence connecting Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and Ms. Yarce to any crimes which they are accused.⁷⁸ As such, the prison is ordered to release the women after eleven days of detention.⁷⁹ As a result of the detention Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and Ms. Yarce are now identifiable by the armed groups.⁸⁰

Late November-December 2002: Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and Ms. Yarce file numerous complaints with the government requesting they implement measures to protect the life and personal integrity of themselves and their families.⁸¹

May 22, 2003: Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and Ms. Yarce file a complaint with the Office of the Prosecutor-Delegate for Human Rights to investigate their arrests and determine who is responsible for the illegal detention.⁸²

July 21, 2003: The Prosecutor's Office leans of the numerous complaints filed by Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and Ms. Yarce.⁸³

June 29, 2006: The Office of the Prosecutor-Delegate for Human Rights orders an investigation against the Corporal Third Class for the arbitrary arrest of Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and Ms. Yarce.⁸⁴

75. Yarce et. al. v. Columbia, Report on Merits, ¶ 137.

76. *Id.* ¶ 197.

77. *Id.* ¶ 138.

78. *Id.* ¶ 61.

79. *Id.*

80. *Id.*

81. Yarce et. al. v. Columbia, Report on Merits, ¶ 62.

82. *Id.*

83. *Id.* ¶ 189.

84. *Id.* ¶ 190.

November 9, 2007: The Office of the Inspector General archives the case against the Corporal Third Class.⁸⁵

4. *Events Pertaining to the Death of Ana Teresa Yarce*

February 7, 2003: The Secretary of Civic Culture of the Municipality of Medellín (*la Secretaría de Cultura Ciudadana del Municipio de Medellín*) sends a document to the Attorney General's Office of La Nación (*la Procuraduría General de La Nación*; "Procuraduría") describing Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez's arrest.⁸⁶ The documents state that, because the three women denounced the human rights violations occurring within *Comuna 13*, they are receiving threats.⁸⁷

August 6, 2003: Ms. Yarce files a complaint with the Office of the Attorney General of the Nation—Rapid Response Unit, Office of Sectional Prosecutor 116, indicating she and her family are experiencing forced displacement as a result of constant death threats from paramilitary groups in the *Comuna 13*.⁸⁸ The complaint asserts that Ms. Yarce requests aid from the Army to prevent the paramilitary groups from targeting herself and her family.⁸⁹

August 8, 2003: The Prosecutor responds that police and military forces must provide Ms. Yarce and her family protection.⁹⁰ This request is ignored, and Ms. Yarce receives no government assistance.⁹¹

August 21, 2003: Ms. Yarce adds to the August 6, 2003 complaint reiterating her forced displacement and denouncing the violent acts committed by paramilitaries in the *Comuna 13*.⁹²

October 15, 2003: Ms. Yarce reports to the Prosecutor's Office 173, stating she and her family continue to receive death threats and experience forced displacement.⁹³

85. *Id.*

86. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 118.

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.*

91. Yarce et. al. v. Columbia, Report on Merits, ¶ 63.

92. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 118.

93. *Id.*

October 2, 2004: Based on Ms. Yarce's detailed complaints, authorities arrest a member of an illegal armed group suspected of making the threats.⁹⁴

October 4, 2004: The suspect is released from custody.⁹⁵

October 6, 2004: At approximately 9:20 a.m., Ms. Yarce prepares breakfast outside the community family center.⁹⁶ Ms. Yarce is with Ms. Naranjo Jiménez and her daughter Mónica Dulfari Orozco Yarce when a stranger approaches.⁹⁷ The stranger, carrying a gun, fires the weapon and strikes Ms. Yarce.⁹⁸ Ms. Yarce is pronounced dead en route to the hospital.⁹⁹

Prosecutor 37 of Medellín's 2nd Unit of Investigations into Death ("Prosecutor 37") institutes an investigation into Ms. Yarce's death.¹⁰⁰ The case is transferred to the Office of Medellín's Special Prosecutor for Human Rights.¹⁰¹

April 14, 2005: The investigation into Ms. Yarce's murder is joined with the investigation into the criminal threats against Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and Ms. Yarce.¹⁰²

October 2004-August 31, 2007: Several acts are conducted in the investigation into Ms. Yarce's murder, including taking the statements of witnesses and relatives, conducting autopsy and ballistics reports, and analyzing police reports.¹⁰³ One suspect, Jorge Enrique Aguilar Rodríguez, confesses to firing at Ms. Yarce after he and several other men are ordered to shoot her.¹⁰⁴

September 6, 2007: The Office of the Attorney General issues an arrest warrant for Jhony Alberto Henao Echevarria for the murder of Ms. Yarce.¹⁰⁵

94. *Id.*

95. *Id.*

96. *Id.* ¶ 119.

97. *Id.*

98. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 119.

99. *Id.*

100. Yarce et. al. v. Columbia, Report on Merits, ¶ 191.

101. *Id.*

102. *Id.* ¶ 192.

103. *Id.* ¶ 194.

104. *Id.* ¶ 199.

105. *Id.* ¶ 201.

January 9, 2009: Jhon Jairo Cano Durán is sentenced to 240 months in prison and to forfeit 1,487.5 days of wages for the murder of Ms. Yarce.¹⁰⁶

July 15, 2010: Mr. Aguilar Rodríguez is sentenced to 26 years and four months in prison for the murder of Ms. Yarce.¹⁰⁷

5. *Events Pertaining to Ms. Mosquera Londoño and Ms. Naranjo Jiménez Following Ms. Yarce's Murder*

October 2004: Following Ms. Yarce's murder, Ms. Mosquera Londoño and Ms. Naranjo Jiménez's safety is in even greater jeopardy.¹⁰⁸ Both women are forced to move away from their family and home in order to protect themselves.¹⁰⁹

Paramilitary groups continue to illegally function with the support of the State's police and army soldiers, all of which remain in *Comuna 13*.¹¹⁰

2005: Ms. Naranjo Jiménez returns to her home in *Comuna 13*.¹¹¹

February 14, 2006: Ms. Naranjo Jiménez's family residence is illegally searched by both Army soldiers and paramilitary.¹¹² During the course of the search, Ms. Naranjo Jiménez's 14-year old niece, Luisa María Escudero is struck by a bullet and injured.¹¹³ The Office of the 35th Prosecutor learns of the illegal search sixteen or seventeen hours after the search occurs.¹¹⁴

September 6, 2006: The Office of the Regional Prosecutor launches a disciplinary investigation against a second lieutenant of the National Army for the illegal search of Ms. Naranjo Jiménez's home.¹¹⁵ The investigation takes several statements, issues numerous memoranda, and orders three measures.¹¹⁶

106. Yarce et. al. v. Columbia, Report on Merits, ¶ 200.

107. *Id.*

108. Yarce et. al. v. Columbia, Report on Merits, ¶ 65.

109. *Id.*

110. *Id.* ¶ 66.

111. *Id.* ¶ 65.

112. *Id.* ¶ 67.

113. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 125.

114. Yarce et. al. v. Columbia, Report on Merits, ¶ 202.

115. *Id.* ¶ 203.

116. *Id.*

November 3, 2006: The Office of the Attorney General orders the Prosecutor Delegate before the Criminal Judges of the Specialized Circuit, under the National Human Rights and International Humanitarian Law Unit in Medellín to conduct an investigation into the illegal search of Ms. Naranjo Jiménez's home.¹¹⁷ The investigation remains in the preliminary investigation stage.¹¹⁸

B. Other Relevant Facts

Comuna 13 is a neighborhood of Medellín, the capital of the Department of Antioquia. Medellín is made up of sixteen *comunas* and five districts.¹¹⁹ In 2002, Medellín experiences a turf war between members of the Cacique Nutibara Block and Metro Bloc paramilitary groups and an existing guerilla movement.¹²⁰ The armed outlaw groups in *Comuna 13* are involved in an illegal drug trafficking business and attempt to control more turf to continue the lucrative drug traffic.¹²¹ These groups have established control in the region and use militias to supplant government authority.¹²² This longstanding clash allows illegal groups to maintain power within *Comuna 13* and citizens are forced to survive on an extremely limited income.¹²³ In *Comuna 13*, 39 percent of the households are female-run and 76 percent of families survive on minimum wage.¹²⁴ As a result of the illegal armed groups control of *Comuna 13*, the State implements joint military operations to target these groups in an attempt to restore law and order.¹²⁵

Comuna 13 is the home to over twenty community action boards and thirty civic associations, women's groups, and human rights groups.¹²⁶ The Office of the Colombian Ombudsperson declared that the leaders and representatives of these groups require special protection as they are a threat to illegal armed groups and are being attacked as a result.¹²⁷ These leaders and representatives are also subject to baseless and unwarranted legal inquiries, violating their rights to freedom of expression and association.¹²⁸

117. *Id.* ¶ 202.

118. *Id.*

119. *Id.* ¶ 147.

120. Yarce et. al. v. Columbia, Report on Merits, ¶ 36.

121. *Id.* ¶ 148.

122. *Id.*

123. *Id.* ¶ 34.

124. *Id.* ¶ 147.

125. *Id.* ¶ 148.

126. Yarce et. al. v. Columbia, Report on Merits, ¶ 160.

127. *Id.* ¶ 163.

128. *Id.* ¶ 164.

From May 2002 to October 2002, the Army's Fourth Brigade, the National Police and the Antioquia Police Command, personnel from the Administrative Security Department (*Departamento Administrativo de Seguridad* (DAS), Colombian Air Force, the Technical Investigations Corps, and the Office of the Attorney General of the Nation partake in multiple joint military operations in an attempt to contain illegal activity in *Comuna 13*.¹²⁹ Unfortunately, these operations do nothing to protect the public and instead allow paramilitary groups to gain strength and maintain control in the region.¹³⁰ As a result, the civilian population is treated as potential criminals and the government unlawfully arrests anyone they believe is part of the resistance.¹³¹ Further, the joint military offenses commit attacks against the civilian population which include and are not limited to, unlawful murders, illegal searches of homes, arbitrary illegal detentions, and violations of privacy.¹³²

Following the final joint military operation in October of 2002, "Operation Orión," various buildings within the populated urban area are destroyed and overtaken. Civic and grassroots organizations including AMI and JAC resist the presence of armed actors.¹³³ Consequently, these groups receive threats from both the militia groups and paramilitary groups and are forced to disband.¹³⁴ The national government supports the paramilitary groups and ignores civilian complaints regarding the paramilitary violence in *Comuna 13*.¹³⁵ Thus, the systematic unlawful searches, forced displacements, disappearances, and murders continue to plague the area.¹³⁶

October 18, 2002: After receiving information that 350 civilians were detained as a result of Operation Orión, the Inter-American Commission of Human Rights issues a press release reminding the State of its duty to protect civilians during times of armed conflict.¹³⁷

June 2003: The IACHR conducts a 10-day working visit in the State and visits *Comuna 13* to take statements from community members about

129. *Id.* ¶ 35.

130. *Id.* ¶ 36.

131. *Id.* ¶ 37.

132. Yarce et. al. v. Columbia, Report on Merits, ¶ 150.

133. *Id.* ¶ 38.

134. *Id.*

135. *Id.* ¶ 40.

136. *Id.*

137. *Id.* ¶ 151.

forced disappearances, selective killings, and other violent and intimidating acts by paramilitary forces.¹³⁸

II. PROCEDURAL HISTORY

A. Before the Commission

October 25, 2004: The Inter-Disciplinary Group for Human Rights submits a petition on behalf of Ms. Ospina Bastidas and her next of kin to the Commission.¹³⁹

October 27, 2004: The Inter-Disciplinary Group for Human Rights submits a second petition on behalf of Ms. Rúa Figueroa and her next of kin to the Commission.¹⁴⁰

March 7, 2005: The Inter-Disciplinary Group for Human Rights submits a third petition on behalf of Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez to the Commission.¹⁴¹

February 27, 2007: The Commission adopts Admissibility Report No. 4/07 in Ms. Ospina Bastidas's case and Admissibility Report No. 3/07 in Ms. Rúa Figueroa's case.¹⁴²

July 23, 2007: The Commission issues a report on admissibility in relation to the alleged arbitrary detention of Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez.¹⁴³ The State submits a preliminary objection, contending that domestic remedies are not exhausted because criminal and disciplinary proceedings are still pending.¹⁴⁴ Additionally, the State asserts that the circumstances do not trigger the Convention exception to the prior exhaustion rule in that the time period allowed for investigation must factor in the complexity of the case.¹⁴⁵

138. Yarce et. al. v. Columbia, Report on Merits, ¶ 152.

139. *Id.* ¶ 1.

140. *Id.* ¶ 2.

141. *Id.* ¶ 3.

142. See Ospina Bastidas et al. v. Colombia, Admissibility Report, Report No. 4/07, Inter-Am. Comm'n H.R., Case No. 1147-04 (Feb. 27, 2007); Rúa Figueroa et al. v. Colombia, Admissibility Report, Report No. 3/07, Inter-Am. Comm'n H.R., Case No. 1145-04 (Feb. 27, 2007).

143. Yarce et. al. v. Columbia, Admissibility Report, Report No. 46/07, Inter-Am. Comm'n H.R., Case No. 231-05, ¶ 3 (July 23, 2007).

144. *Id.* ¶ 33.

145. *Id.* ¶ 26.

The Commission dismisses the State's preliminary objection, alleging that the surviving women have been left unprotected and in the five years since the detention, and three years since the death of Ms. Yarce, justice has not been done.¹⁴⁶

July 29, 2010: The Commission joins the three cases because they address similar facts and illustrate a similar pattern of state conduct.¹⁴⁷

November 4, 2013: The Commission finds the State violated Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), 7(1) (Right to Personal Liberty and Security), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 16 (Freedom of Association), 21(1) (Right to Use and Enjoyment of Property), 21(2) (Right to Compensation in Case of Expropriation), and 25 (Right to Judicial Protection) in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention.¹⁴⁸ Additionally, the Commission finds the State violated Article 22 (Freedom of Movement and Residence) in relation to Articles 1(1) (Obligation of Non-Discrimination), 5(1) (Right to Physical, Mental, and Moral Integrity), and 17(1) (Family's Right to Be Protected) of the American Convention.¹⁴⁹ Next, the Commission also found the State violated Article 22 (Freedom of Movement and Resident) in relation to Articles 1(1) (Obligation of Non-Discrimination) and 19 (Rights of the Child) of the American Convention to the detriment of Bárbara del Sol Palacios Rúa, Úrsula Manuela Palacios Rúa, Valentina Estefanía Tobón Rúa, Migdalia Andrea Hoyos Ospina, Lubín Alfonso Villa Mosquera, and Marlon Daniel Herrera Mosquera.¹⁵⁰ Finally, the Commission found that the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection) in relation to Articles 1(1) (Obligation of Non-Discrimination) of the American Convention and Article 7 (Duty to

146. Yarce et. al. v. Columbia, Admissibility Report, ¶ 37.

147. Yarce et. al. v. Columbia, Report on Merits, ¶ 4.

148. *Id.* ¶ 368.

149. *Id.* The Commission found the following as victims of this violation: (1) Ms. Rúa Figueroa and her next of kin: Gustavo de Jesús Tobón, Bárbara del Sol, Úrsula Manuela, and Valentina; (2) Ms. Mosquera Londoño and her next of kin: Hilda Milena Villa Mosquera, Lubín Alfonso Villa Mosquera Iván Alberto Mosquera, and Marion Daniel Mosquera; (3) Ms. Ospina Bastidas and her next of kin: Oscar Julio Hoyos Oquendo, Edid Yazmín, Oscar Darío, and Migdalia Andrea Hoyos Ospina; and (4) Ms. Naranjo Jiménez and her next of kin: Juan David Naranjo, Sandra Janeth Naranjo, Alejandro Naranjo, Alba Mery Naranjo, María Camila, Aura María, Esteban Torres, Nancy Gutiérrez, Alejandro, and Matías. *Id.* ¶¶ 282, 304, 386.

150. *Id.* ¶ 368.

Prevent, Punish, and Eradicate Violence Against Women) of the Convention of Belém de Pará to the detriment of Ms. Rúa Figueroa, Ms. Ospina Bastidas, and Ms. Yarce.¹⁵¹ However, the Commission found it did not have enough evidence to determine if the State violated Articles 11 (Right to Privacy) and 27 (Suspension of Guarantees) of the American Convention.¹⁵²

In light of the foregoing violations, the Commission recommends the State: (1) perform a reasonably timed, thorough and impartial investigation aimed at identifying the actors involved, whether they are paramilitary groups, or state agents and determine who is responsible for perpetrating and planning the acts; (2) adopt measures of protection that not only ensure the safety of the victims and their next of kin, but also facilitates their safe return to *Comuna 13*; (3) provide the victims with humanitarian assistance and the proper security measure to address their forced displacement; (4) participate in conversations with victims in order to adopt an agreed upon compensation for the human rights violations they endured; (5) design and implement policies, programs, and interventions to ensure these violations do not continue within *Comuna 13*; (6) acknowledge the critical role human right defenders play within *Comuna 13* by instituting interventions publicly acknowledging their efforts, and; (7) generate dialogue between human right organizations within *Comuna 13* and high-level authorities.¹⁵³

B. Before the Court

June 3, 2014: The Commission submits the case to the Court after the State failed to adopt its recommendations.¹⁵⁴

1. Violations Alleged by Commission¹⁵⁵

Article 4(1) (Prohibition of Arbitrary Deprivation of Life)

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

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

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

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

Article 16 (Freedom of Association)

151. *Id.*

152. *Id.* ¶ 369.

153. Yarce et. al. v. Columbia, Report on Merits, ¶ 370.

154. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 1.

155. *Id.* ¶ 3.

Article 21 (Right to Property)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) of the American Convention.

Article 22 (Freedom of Movement and Residence)

in relation to:

Article 19 (Rights of the Child)

Article 1(1) (Obligation of Non-Discrimination) of the American Convention

Article 22 (Freedom of Movement and Residence)

in relation to:

Article 1(1) (Obligation of Non-Discrimination)

Article 5(1) (Right to Humane Treatment)

Article 17(1) (Family's Right to be Protected) of the American Convention.

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

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) of the American Convention

Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Convention of Belém do Pará).

2. Violations Alleged by Representatives of the Victims¹⁵⁶

Same Violations Alleged by Commission, plus:

Article 11 (Right to Privacy)

Article 27 (Suspensions and Guarantees) of the American Convention.

July 5, 2006: The Court adopts provisional measures to protect Ms. Naranjo Jiménez and her next of kin, Ms. Mosquera Londoño, and Ms.

156. Yarce et. al. v. Columbia, Report on Merits, ¶ 368.

Luisa María Escudero Jiménez.¹⁵⁷ These measures of protection are to be provided by the State and must ensure both the security of Ms. Naranjo Jiménez's home, as well as enable Ms. Mosquera Londoño's safe return to her home.¹⁵⁸

January 31, 2008: The Court adopts a provisional measure to ensure the protection of the victims as a response to the murder of Ms. Naranjo Jiménez's son -in-law, Mr. Javier Augusto Torres Durán who was a beneficiary of the July 5, 2006 provisional measure.¹⁵⁹

November 25, 2010: The Court adopts a provisional measure to ensure the protection of the victims as a response to the murder of Ms. Naranjo Jiménez's grandson, Sebastián Naranjo Jiménez.¹⁶⁰

March 3, 2011: The Court adopts a provisional measure ordering the case be amplified, allowing the Court to order the State to implement protective measures to ensure the life and personal integrity of Ms. Mosquera Londoño's children, grandchildren, and daughter-in-law are protected.¹⁶¹

January 4, 2015: The State files a preliminary objection opposing the alleged violations.¹⁶² The Court unanimously dismisses the preliminary objections by the State.¹⁶³ Specifically, regarding the alleged lack of exhaustion of domestic remedies, the Court finds that an objection to the Court's exercise of jurisdiction that is based on lack of exhaustion of remedies was not raised at an appropriate time.¹⁶⁴ Further, the Court finds that there was an unjustified delay in the investigations and the determination of whether the time elapsed was or was not excessive is linked to arguments regarding the merits of the case.¹⁶⁵

Regarding the State's request to exclude specific facts contained in the merits report, the Court determines these facts are within the factual framework and do not expose the State to prejudice.¹⁶⁶ However, the Court holds that facts not contained in the Merits report, which refer to

157. *Id.* ¶ 30.

158. *Id.*

159. *Id.* ¶ 31.

160. *Id.*

161. *Id.* ¶ 370.

162. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 8.

163. *Id.* ¶ 43.

164. *Id.*

165. *Id.* ¶ 27.

166. *Id.* ¶ 46.

the internal armed conflict in the State in great detail, shall not be admissible.¹⁶⁷

February 3, 2015: The President of the Court grants the victims access to the Victim's Legal Assistance Fund.¹⁶⁸

June 26, 2015: A public hearing is held during the Court's 109th Regular Session.¹⁶⁹

July 9, 2015: The Group of International Relations Studies of the Department of Political Science and Relations International of the Autonomous University of Madrid submit an unsigned amicus curiae brief to the Court.¹⁷⁰

July 10, 2015: The International Commission of Jurists and the Center for Justice and International Law (CEJIL) submit an amicus curiae brief to the Court.¹⁷¹

July 13, 2015: Earth Rights International and the Corporation for the Defense and Promotion of Human Rights and Global Justice submit an amicus curiae brief to the Court.¹⁷²

July 20, 2015: The Group of International Relations Studies of the Department of Political Science and Relations International of the Autonomous University of Madrid resubmit a signed amicus curiae brief to the Court, but it is beyond the deadline and found inadmissible.¹⁷³

III. MERITS

A. *Composition of the Court*¹⁷⁴

Roberto F. Caldas, President

Eduardo Ferrer Mac-Gregor Poisot, Vice-President

Manuel E. Ventura Robles, Judge

167. *Id.* ¶ 49.

168. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 9.

169. *Id.* ¶ 12.

170. *Id.* ¶ 13.

171. *Id.*

172. *Id.*

173. *Id.*

174. Judge Humberto Antonio Sierra Porto did not participate in the deliberation of the Judgment as he is a Colombian national. *Id.* n. *.

Diego García-Sayán, Judge
Alberto Pérez Pérez, Judge
Eduardo Vio Grossi, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. Decision on the Merits

November 22, 2016: The Court issues its Judgment on Merits, Reparations, and Costs.¹⁷⁵

The Court found unanimously that Colombia had violated:

Article 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), and 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, to the detriment Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez,¹⁷⁶ because:

The Court found that the right to personal liberty cannot be suspended during an internal armed conflict.¹⁷⁷ On the other hand, the Court looked at the State's constitution which declares that, in cases of "insurmountable urgency," citizens can be detained without judicial authorization in order to protect the State from unavoidable danger.¹⁷⁸ As such, the Court examined the facts presented in light of Article 7 (Right to Personal Liberty) of the Convention to determine if such an extreme was met.¹⁷⁹

The Court concluded that the information of two neighbors, which stated that Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez were going to leave their homes to avoid justice, was not enough evidence to amount to "insurmountable urgency."¹⁸⁰ In fact, the three women remained in their homes at the time of the arrest, and the Court found no evidence they planned to commit any crime that would seriously

175. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 13.

176. *Id.* ¶ 153.

177. *Id.* ¶ 141.

178. *Id.* ¶ 152.

179. *Id.*

180. *Id.* ¶ 156.

endanger the public.¹⁸¹ Further, the Specialized Prosecutor assigned to the case ordered an immediate release of the three victims due to lack of evidence.¹⁸² The Court found the State did not properly implement the “insurmountable urgency” test and therefore the nine days the victims experienced a deprivation of liberty was not proportional to the evidence against them.¹⁸³ Accordingly, without any kind of circumstance of “insurmountable urgency” present, the detention of the victims was in violation of both the Convention and requirements imposed under State law.¹⁸⁴

In addition to deprivation of physical liberty, the Court held the State arbitrarily arrested and detained Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez, by not informing them of the reason for their detention and holding them with no basis for nine days.¹⁸⁵ Thus, the State violated Article 7 (Right to Personal Liberty) of the Convention.¹⁸⁶

Article 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention and Article 7(b) (Duty to Prevent, Investigate, and Punish Violence) of the Convention of Belém do Para, to the detriment of Ms. Yarce,¹⁸⁷ because:

The Court determined the State violated the duty to prevent a violation of the right to life because they failed to take appropriate and effective measures to protect Ms. Yarce.¹⁸⁸ The facts suggest that the State recognized a risk to the life of female human rights defenders within Comuna 13.¹⁸⁹ In addition, the army corporal in charge of providing Ms. Yarce with protection stated that he was aware of multiple threats to Ms. Yarce’s life.¹⁹⁰ Further, Ms. Yarce provided information which led to the arrest of a suspect who had previously threatened her life.¹⁹¹ The State was aware of the imminent and certain risk of said individual but released them on the same day of the arrest.¹⁹² The Court further concluded that

181. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 156.

182. *Id.*

183. *Id.* ¶ 158.

184. Yarce et. al. v. Columbia, Report on Merits, ¶ 244.

185. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 1.

186. *Id.* ¶ 156.

187. *Id.* ¶ 180.

188. *Id.* ¶ 196.

189. *Id.* ¶ 185.

190. *Id.* ¶ 187.

191. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 189.

192. *Id.*

*individual was the mastermind behind the murder of Ms. Yarce, and thus the State should have known that Ms. Yarce was a possible target of reprisals when said individual was released.*¹⁹³ *Therefore, the State failed to implement the appropriate protective measures based on the known risk Ms. Yarce faced at the time of her murder.*¹⁹⁴

Articles 5(1) (Right to Physical, Mental, and Moral Integrity), and 11(1) (Right to Honor and Dignity), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez,¹⁹⁵ because:

*The three victims were arbitrarily held in unhygienic and unhealthy conditions for nine days.*¹⁹⁶ *They were unable to contact family, and lived in constant fear.*¹⁹⁷ *As a result, their mental state disintegrated due to uncertainty for the future.*¹⁹⁸ *In addition, the victims were publicly labeled as ‘militia’ and ‘guerrillas,’ which tarnished their reputations within the community.*¹⁹⁹ *Further, the Special Rapporteur noted that human rights defenders are often threatened, persecuted, and stigmatized during armed conflict.*²⁰⁰ *In light of the above facts, the Court held the State was responsible for violating both Article 5(1) (Right to Physical, Mental, and Moral Integrity) and 11(1) (Right to Honor and Dignity) of the American Convention.*²⁰¹

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 Ms. Yarce’s next of kin: Mónica Dulfari Orozco Yarce, Sirley Vanessa Yarce, John Henry Yarce, Arlex Efren Yarce, and James Adrian Yarce²⁰², because:

*The Court has established that next of kin can themselves be victims when their psychological and moral integrity is negatively impacted following the death of a loved one.*²⁰³ *The Court received multiple statements from*

193. *Id.* ¶ 191.

194. *Id.* ¶ 196.

195. *Id.* ¶ 160.

196. *Id.* ¶¶ 160, 163.

197. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 160, 163.

198. *Id.*

199. *Id.* ¶ 160.

200. *Id.* ¶ 161.

201. *Id.* ¶ 164.

202. *Id.* ¶ 202.

203. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 197.

*Ms. Yarce's next of kin which described how her homicide destroyed and transformed the family dynamics.*²⁰⁴ *Specifically, Ms. Mónica Dulfari Orozco Yarce, who witnessed her mother's murder, stated that her life was forever changed after that day.*²⁰⁵ *In addition, John Henry, a child at the time of the murder, was only a hundred meters away, heard the gunshots, and ran to his mother's aid.*²⁰⁶ *After witnessing his mother's death, John Henry felt helpless and turned to drugs in order to cope.*²⁰⁷ *Although there was only specific evidence from the two children regarding the effects of Ms. Yarce's murder, the Court concluded that Ms. Yarce's death had a negative impact on the entire family causing conflicts, estrangements, and fragmentations of relationships within.*²⁰⁸ *Thus, the Court held that the State's failure to fulfill its duty to protect Ms. Yarce's right to life led to a violation of the right to human treatment of her next of kin.*²⁰⁹

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 Myriam Eugenia Rúa Figueroa, Luz Dary Ospina Bastidas, María del Socorro Mosquera Londoño, Mery del Socorro Naranjo Jiménez, Gustavo de Jesús Tobón Meneses, Bárbara del Sol Palacios Rúa, Úrsula Manuela Palacios Rúa, Valentina Tobón Rúa, Oscar Tulio Hoyos Oquendo, Edid Yazmín Hoyos Ospina, Oscar Darío Hoyos Ospina, Migdalia Andrea Hoyos Ospina, Hilda Milena Villa Mosquera, and Lubín Alfonso Villa Mosquera,²¹⁰ because:

*The right to freedom of movement protects individuals from being forcibly displaced from areas they are legally residing.*²¹¹ *A state's failure to investigate acts of violence may encourage or prolong exile or forced displacement.*²¹² *Here, the victims fled Comuna 13 after receiving threats and warnings that paramilitary groups planned to kill them.*²¹³

Next, the Court opined that the State was obligated to adopt measures to facilitate the victims' voluntary and safe return to their homes or

204. *Id.* ¶ 198.

205. *Id.*

206. *Id.*

207. *Id.*

208. *Id.*

209. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 199.

210. "Provides," ¶ 6.

211. *Id.* ¶ 214.

212. *Id.* ¶ 215.

213. *Id.* ¶ 218.

resettlement elsewhere in the State.²¹⁴ Due to the particularly vulnerable and defenseless positions of internally displaced persons, the State must give them preferential treatment to reverse the effects of displacement.²¹⁵

Here, Ms. Rúa Figueroa and her family are still unable to return home.²¹⁶ The family lost all of their material possession and suffered emotionally, mentally, and physically.²¹⁷ Ms. Ospina Bastidas is also unable to return home.²¹⁸ Her family suffered culture shock and extreme life changes because they had no money, relatives, or acquaintances in the city to which they were forced to move.²¹⁹ Ms. Ospina Bastidas's son turned to drugs to cope with the struggles of displacement.²²⁰ Although Ms. Mosquera Londoño and Ms. Naranjo Jiménez were able to return to Comuna 13, they suffered physical and emotional harm while they were displaced.²²¹ Additionally, they received no State aid in returning and are still living in an insecure situation.²²²

Further, the displacement led to poor living conditions and mental strain on all the victims which the State could have alleviated had it provided adequate assistance.²²³ The victims' forced displacement not only led to material losses, but also negatively impacted their emotional and physical health.²²⁴ As such the Court held the State violated Article 5(1) (Right to Physical, Mental, and Moral Integrity) of the American Convention.²²⁵

Articles 22(1) (Right to Move Freely Within a State) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention to the detriment Myriam Eugenia Rúa Figueroa, Luz Dary Ospina Bastidas, María del Socorro Mosquera Londoño, Mery del Socorro Naranjo Jiménez, Gustavo de Jesús Tobón Meneses, Bárbara del Sol Palacios Rúa, Úrsula Manuela Palacios Rúa, Valentina Tobón Rúa, Oscar Tulio Hoyos Oquendo, Edid Yazmín Hoyos Ospina, Oscar Darío Hoyos

214. *Id.* ¶ 224.

215. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 225.

216. *Id.* ¶ 228.

217. *Id.* ¶ 230.

218. *Id.* ¶ 232.

219. *Id.* ¶ 234.

220. *Id.*

221. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 236-238.

222. *Id.* ¶ 241.

223. *Id.*

224. *Id.* ¶ 230.

225. *Id.* ¶ 245.

Ospina, Migdalia Andrea Hoyos Ospina, Hilda Milena Villa Mosquera, and Lubín Alfonso Villa Mosquera,²²⁶ because:

The right to freedom of movement is violated when the state fails to provide measures ensuring a citizen is able to move and reside freely within its borders.²²⁷ This duty exists regardless of whether the citizen's movement is threatened by state actors, or private actors.²²⁸ The Court previously held that in the context of internal displacement in the State, the State has a duty to grant preferential treatment to vulnerable groups.²²⁹ These groups include women.²³⁰ Further, a state's failure to assist citizens during displacement may trigger a violation of the right to humane treatment because citizen's personal integrity is often jeopardized.²³¹

The State was made aware of Ms. Rúa Figueroa's forced displacement on July 8, 2002;²³² Ms. Ospina Batidas forced displacement on July 18, 2003;²³³ Ms. Mosquera Londoño's forced displacement on December 16, 2004;²³⁴ and Ms. Naranjo Jiménez's forced displacement on December 13, 2004.²³⁵ In regard to Ms. Rúa Figueroa, the State provided humanitarian assistance but it was extremely delayed.²³⁶ Further, the State placed Ms. Ospina Bastidas on the Single Registry of Displaced Persons but failed to provide any concrete assistance.²³⁷ Additionally, there was no evidence that the State adopted measures to protect either Ms. Mosquera Londoño or Ms. Naranjo Jiménez and their next of kin.²³⁸

Accordingly, the Court concluded that the State failed to implement proper procedures to ensure the safe and free movement of the women and their families, thus violating Article 22(1) (Right to Move Freely Within a State).²³⁹

226. *Id.* ¶ 263.

227. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 215.

228. *Id.*

229. *Id.* ¶ 225.

230. *Id.*

231. *Id.* ¶ 226.

232. *Id.* ¶ 228.

233. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 232.

234. *Id.* ¶ 236.

235. *Id.*

236. *Id.* ¶ 240.

237. *Id.*

238. *Id.*

239. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 245.

Articles 17 (Rights of the Family), and 19 (Rights of the Child) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention to the detriment of Ms. Ospina Bastidas, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez and their next of kin,²⁴⁰ because:

*Forced displacement may also affect the protection of the family as well as the rights of a child.*²⁴¹ *The Court has held that in certain situations, the separation of children from their family constitutes as a violation to the right of the family.*²⁴² *In situations of forced displacement involving children, the state has a duty to reunify the family and enable their safe return.*²⁴³ *Ms. Ospina Bastidas, Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and their families were forced to separate as a result of their displacement.*²⁴⁴ *Thus, the Court held the State's failure to adopt the appropriate measures to enable a safe return violated Article 17 (Rights of the Family) as well as Article 19 (Rights of the Child) of the American Convention.*²⁴⁵

Article 21(1) (Right to Use and Enjoyment of Property), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention to the detriment of Ms. Ospina Bastidas and Ms. Rúa Figueroa and their next of kin,²⁴⁶ because:

240. *Id.* ¶ 264. The Court specifically named the following family members as victims of the Article 17 (Rights of the Family) violation: (1) Ms. Ospina Bastidas' next of kin, Oscar Tulio Hoyos Oquendo, Edid Yazmín Hoyos Ospina, and Oscar Dario Hoyos Ospina; (2) Ms. Mosquera Londoño's next of kin, Hilda Milena Villa Mosquera, Lubín Arjadi Mosquera, Ivan Alberto Herrera Mosquera, Carlos Mario Villa Mosquera, Luisa Fernanda Herrera Vera, Sofía Herrera Montoya, Madelen Araujo Correa, Daniel Estevan Herrera Vera, Carlos Mario Bedoya Serna, and Mateo Rodríguez.; and, (3) Ms. Naranjo Jiménez's next of kin, Juan David Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alejandro Naranjo Jiménez, Alba Mery Naranjo Jiménez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo, Erika Johann Gómez, and Heidi Tatiana Naranjo Gómez. The Court specifically named the following family member as victims of the Article 19 (Rights of the Child) violation: Migdalia Andrea Hoyos Ospina, Sebastián Naranjo Jiménez, Lubín Alfonso Villa Mosquera, Luis Alfonso Mosquera Guisao, Luisa María Mosquero Guisao, and Marlon Daniel Herrera Mosquera.

241. *Id.* ¶ 246.

242. *Id.*

243. *Id.* ¶ 248.

244. *Id.* ¶ 249.

245. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 253.

246. *Id.* ¶ 262. The Court named the following family members as victims of Article 21 (Right to Property) violation: (1) Ms. Ospina Bastidas' next of kin, Mr. Oscar Tulio Hoyos Oquendo, Mr. Edid Yazmín, Mr. Oscar Darío, Migdalia Andrea, Mr. Hoyos Ospina, and Mr. Gustavo de Jesús Tobón Meneses; and, (2) Ms. Rúa Figueroa's next of kin, Ms. Bárbara del Sol Palacios Rúa, Ms. Úrsula Manuela Palacios Rúa, and Ms. Valentina Estefanía Rúa.

The State became aware of the looting and destruction of both Ms. Ospina Bastidas and Ms. Rúa Figueroa's homes on June 8, 2002, and July 18, 2003, respectively.²⁴⁷ The State's failure to adopt the necessary measures of protection generated a serious deprivation of the enjoyment and use of the victim's assets.²⁴⁸ The State's failure to protect the victims' property is a violation of the right to use and enjoyment of private property enshrined in Article 21(1) (Right to Use and Enjoyment of Property) of the Convention.²⁴⁹

Article 16 (Freedom of Association), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention to the detriment of Ms. Ospina Bastidas, Ms. Rúa Figueroa, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez,²⁵⁰ because:

Article 16 (Freedom of Association) of the Convention establishes that state citizens have the right to form and participate freely in organizations, associations, and non-governmental groups dedicated to protecting human rights.²⁵¹ As such, the Court held that the State failed to guarantee the necessary conditions to allow Ms. Ospina Bastidas, Ms. Rúa Figueroa, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez to freely exercise their work as human rights defenders.²⁵² During the time the victims were displaced, as well as upon their return to Comuna 13, they were unable to resume their roles as members of AMI and JAC.²⁵³ Thus, the State did not guarantee the victims the necessary means to ensure they could freely participate in these organizations and violated their right to free association.²⁵⁴

In conclusion, the Court held that Ms. Yarce's freedom of association was not violated because she was unable to continue her work as a human rights defender due to her death, not to the State's inaction.²⁵⁵

Article 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

247. *Id.* ¶ 259.

248. *Id.*

249. *Id.* ¶ 262.

250. *Id.* ¶ 277.

251. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 271.

252. *Id.* ¶ 275.

253. *Id.*

254. *Id.* ¶ 275.

255. *Id.* ¶ 276.

of Ms. Ospina Bastidas, Oscar Tulio Hoyos Oquendo, Edid Yazmín Hoyos Ospina, Oscar Darío Hoyos Ospina, Migdalia Andrea Hoyos Ospina, Myriam Eugenia Rúa Figueroa, Gustavo de Jesús Tobón Meneses, Bárbara del Sol Palacios Rúa, Úrsula Manuela Palacios Rúa and Valentina Tobón Rúa,²⁵⁶ because:

A state's duty to investigate requires the state to conduct its efforts to investigate and punish culprits of human rights violations within a reasonable time.²⁵⁷ All of the investigations in this case were either delayed or suspended for several years with no valid reason for halting the investigations.²⁵⁸ For example, although the State arrested two individuals responsible for acts of forced displacement against Ms. Ospina Bastidas and her next of kin, the Court reasoned that it failed to do so in a reasonable time.²⁵⁹ The first arrest came six years after, and the second arrest eleven years after, Ms. Ospina Bastidas filed her initial complaint.²⁶⁰ Accordingly, the Court determined this constituted a violation of Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the Convention.²⁶¹

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right to Recourse Before a Competent Court), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Rúa Figueroa, Gustavo de Jesús Tobón Meneses, Bárbara del Sol Palacios Rúa, Ursula Manuela Palacios Rúa and Valentina Tobón Rúa,²⁶² because:

The State's investigatory body was required to follow up on all logical lines of research.²⁶³ The State suspended the investigation of Ms. Rúa Figueroa on numerous occasions.²⁶⁴ In addition, a total of fourteen years passed with no substantive advances and no progress in the internal criminal investigation.²⁶⁵ The actions are still in the preliminary stage.²⁶⁶ Therefore, the Court reasoned that the State breached its duty to

256. "Provides" ¶ 12.

257. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 279.

258. *Id.* ¶ 291.

259. *Id.* ¶ 298.

260. *Id.* ¶ 293.

261. *Id.* ¶ 293.

262. *Id.* ¶ 300.

263. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 295.

264. *Id.* ¶ 291.

265. *Id.* ¶ 293.

266. *Id.* ¶ 297.

*investigate, and deprived Ms. Figueroa and her family access to justice.*²⁶⁷

Article 8 (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 Ms. Mosquera Londoño, Ms. Naranjo Jiménez and Ms. Yarce,²⁶⁸ because:

*The events occurred in 2002 and 2003, and the women promptly filed complaints.*²⁶⁹ *The disciplinary investigation was resolved in 2007, and denunciations were made five years later.*²⁷⁰ *The Court found this delay unjustifiable and declared the State violated Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal).*²⁷¹

The Court found unanimously that Colombia had not violated:

Article 27 (Suspension of Guarantees) of the Convention,²⁷² because:

*The State suspended some rights during a state of emergency.*²⁷³ *Thus, the Court did not find an Article 27 (Suspension of Guarantees) violation, but interpreted the suspension of right when analyzing the other alleged violations.*²⁷⁴

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25(1) (Right of Recourse Before a Competent Court) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez,²⁷⁵ because:

267. *Id.* ¶ 299.

268. *Id.* ¶ 300.

269. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 302.

270. *Id.*

271. *Id.*

272. *Id.* “Provides,” ¶ 15.

273. *Id.* ¶ 136.

274. *Id.*

275. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 168.

*The Court concluded that the Commission failed to state what specific judicial guarantees were violated in the criminal investigation and thus was unable to evaluate the alleged violation.*²⁷⁶

Article 25(1) (Right of Recourse Before a Competent Court) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Luz Dary Ospina Bastidas, Oscar Tulio Hoyos Oquendo, Edid Yazmín Hoyos Ospina, Oscar Darío Hoyos Ospina, and Migdalia Andrea Hoyos Ospina,²⁷⁷ because:

*In Ms. Ospina Bastidas's criminal proceeding, the State conducted an investigation in Comuna 13 and found two people criminally responsible for the forced displacement of her and her family.*²⁷⁸ *Accordingly, the Court did not violate Article 25(1) (Right of Recourse Before a Competent Court) in this respect.*²⁷⁹

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) of the Convention,²⁸⁰ because:

*The State's investigation into Ms. Yarce's murder and the violent acts committed against Ms. Mosquera Londoño and Ms. Naranjo Jiménez was conducted diligently and effectively.*²⁸¹ *Although the case lasted six years and eight months, the State took multiple substantive actions in that time and did not fall into any periods of inactivity.*²⁸² *Additionally, the State continued to conduct investigations after the case was resolved.*²⁸³ *Moreover, Prosecutor 35 conducted her investigation acknowledging that illegal armed groups likely attacked the women and killed Ms. Yarce because of their social outreach.*²⁸⁴ *Thus, the Court concluded the State reasonably investigated Ms. Yarce's murder and the violent attacks against Ms. Mosquera Londoño and Ms. Naranjo Jiménez in light of their human rights work.*²⁸⁵

276. *Id.* ¶ 167.

277. *Id.* "Provides," ¶ 17.

278. *Id.* ¶ 298.

279. *Id.*

280. *Id.* "Provides," ¶ 18.

281. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 306.

282. *Id.*

283. *Id.*

284. *Id.* ¶ 309.

285. *Id.* ¶ 314.

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) of the Convention,²⁸⁶ because:

After the events of February 13 or 14, 2006, the State knew of the facts sixteen or seventeen hours after they occurred and appointed a prosecutor in November 2006 to move the investigation forward.²⁸⁷ Although the investigation is still in the preliminary stages, the representatives did not provide any evidence that the State was failing to conduct a reasonable investigation.²⁸⁸ Accordingly, the State did not violate Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) in this respect.²⁸⁹

Articles 17 (Rights of the Family) and 19 (Rights of the Child) of the Convention,²⁹⁰ because:

The representatives of the victims did not present arguments as to why illegal detention affects the right of the child or the right to protection of the family beyond family separation caused by the detention.²⁹¹ Thus, the Court found the State did not violate Articles 17 (Rights of the Family) and 19 (Rights of the Child) in this respect.²⁹²

Articles 17 (Rights of the Family) and 19 (Rights of the Child) of the Convention,²⁹³ because:

Although the Court opined that it was undeniable Ms. Yarce's children were affected by her death, the representative did not allege specific injuries that were not already analyzed under the right to personal integrity.²⁹⁴ Accordingly, the Court found no Article 17 (Rights of the Family) or 19 (Rights of the Child) violation.²⁹⁵

286. *Id.* "Provides," ¶ 19.

287. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 316.

288. *Id.*

289. *Id.*

290. *Id.* "Provides," ¶ 20.

291. *Id.* ¶ 169.

292. *Id.* ¶ 171.

293. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, "Provides," ¶ 21.

294. *Id.* ¶ 200.

295. *Id.*

Article 5(1) (Right to Physical, Mental, and Moral Integrity) of the Convention,²⁹⁶ because:

The Court did not receive any proof of violation of the personal integrities of Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez other than the statement of the latter two women.²⁹⁷ Because the statements of alleged victims cannot be considered by themselves, the Court found no Article 5(1) (Right to Physical, Mental, and Moral Integrity) violation.²⁹⁸

Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Convention of Belém do Para,²⁹⁹ because:

The representatives failed to argue why the Convention of Belém do Para is violated in relation to the State's obligation to ensure displaced persons can safely and voluntarily return home.³⁰⁰ Additionally, the State had no obligations under that Convention in how it conducted its investigations.³⁰¹ Accordingly, the Court found the State did not violate Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Convention of Belém do Para.³⁰²

Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) of the Convention,³⁰³ because:

Ms. Rúa Figueroa and Ms. Ospina Bastida's homes and material possessions were destroyed after they were displaced.³⁰⁴ Thus, the Court deemed these facts do not constitute a violation of Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) of the Convention.³⁰⁵

296. *Id.* "Provides," ¶ 22.

297. *Id.* ¶ 201.

298. *Id.*

299. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, "Provides," ¶ 23.

300. *Id.* ¶ 242.

301. *Id.* ¶ 283.

302. *Id.*

303. *Id.* "Provides," ¶ 24.

304. *Id.* ¶ 256.

305. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 256.

Article 16 (Freedom of Association) of the Convention,³⁰⁶ because:

The State was not responsible for violating Ms. Yarce's right to life through its own agents.³⁰⁷ Moreover, as the State conducted its investigation while acknowledging that Ms. Yarce was targeted for her human rights work, the Court found no Article 16 (Freedom of Association) violation.³⁰⁸

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Eduardo Vio Grossi

In a separate opinion, Judge Vio Grossi held that the parties presented the petitions prior to the exhaustion of domestic remedies.³⁰⁹ The internal jurisdiction remedies should have been filed and resolved in the admissibility stage.³¹⁰ Thus, the parties failed to adhere to the provisions and regulations within Article 46 of the Convention.³¹¹

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

In a separate opinion, Judge Mac-Gregor Poisot held that the Court correctly emphasized the importance of protecting gender but expanded upon the “intra-urban character” of the case.³¹² Judge Mac-Gregor Poisot argued that Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) of the Convention, which protects one's right to housing, should also have been addressed by the Court.³¹³ Judge Mac-Gregor Poisot asserted that the State violated Ms. Rúa Figueroa and Ms. Ospina Bastida's right to housing when their homes were dismantled and looted.³¹⁴ He argued that Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights), which protects social and cultural rights, is equally as important as Articles protecting civil and

306. *Id.* “Provides,” ¶ 25.

307. *Id.* ¶ 276.

308. *Id.*

309. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Concurrent Opinion of Judge Vio Grossi, Inter-Am. Ct. H.R. (ser. C) No. 325, ¶ 4 (Nov. 22, 2016).

310. *Id.*

311. *Id.*

312. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Concurrent Opinion of Judge Ferrer Mac-Gregor Poisot, Inter-Am. Ct. H.R. (ser. C) No. 325, ¶ 1 (Nov. 22, 2016).

313. *Id.* ¶ 2.

314. *Id.* ¶ 108.

political rights.³¹⁵ Further, Judge Mac-Gregor Poisot explained that these two types of rights are interrelated and need equal attention.³¹⁶ Judge Mac-Gregor Poisot concluded that the implementation of Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) would better protect social justice in regions characterized by socio-economic inequality and rising poverty rates.³¹⁷

IV. REPARATIONS

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

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

1. Investigate the Displacement of Ms. Rúa Figueroa and Her Next of Kin, and Identify, Prosecute, and Punish those Responsible

The Court noted the State's willingness to investigate the arrests of Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and Ms. Yarce, as well as Ms. Ospina Bastidas' displacement, but nonetheless, ordered the State to adopt measures to continue the investigation into Ms. Rúa Figueroa's displacement.³¹⁸

2. Provide Medical and Psychological Treatment

The Court ordered the State provide free medical and psychological treatment to all five victims and their next of kin.³¹⁹ The Court noted this must be completed within six months of the Judgment and continue for as long as needed by the victims.³²⁰ The State is permitted to use its national healthcare service in compliance with this reparation.³²¹

315. *Id.* ¶ 4.

316. *Id.* ¶ 15.

317. *Id.* ¶ 39.

318. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 334.

319. *Id.* ¶ 340. The Court specified this reparation relates to the following victims: Ms. Rúa Figueroa, Ms. Ospina Bastida, Ms. Mosquera Londoño, Ms. Naranjo Jiménez, Gustavo de Jesús Tobón Meneses, Bárbara del Sol Palacios Rúa, Úrsula Manuela Palacios Rúa, Valentina Tobón Rúa, Oscar Tulio Hoyos Oquendo, Edid Yazmín Hoyos Ospina, Oscar Darío Hoyos Ospina, Migdalia Andrea Hoyos Ospina, Mónica Dulfari Orozco Yarce, Sirley Vanessa Yarce, John Henry Yarce, and Hilda Milena Villa Mosquera. *Id.* ¶ 339.

320. *Id.* ¶ 340.

321. *Id.*

3. Publish the Judgment

The Court determined that the Judgment is a *per se* form of reparation.³²² It ordered the State make the following publications within a period of six months from the present Judgment: 1) a summary of the present Judgment issued by the Court in an official, widely circulated newspaper as well as the Official Gazette of the State, and 2) the present Judgment issued by the Court in its entirety on an official State website accessible by the public, for a period of at least one year.³²³

4. Publicly Accept Responsibility

The Court ordered the State publicly announce international responsibility for the violations within one year.³²⁴ The State must consult with the victims and their representatives to determine where and how the act will be carried out.³²⁵ The State's high authorities must attend, and any victims who wish to be present for this reparation.³²⁶

5. Establish Program, Course, or Workshop

The Court ordered the State establish a program, course, or workshop within one year of the Judgment.³²⁷ The program, course, or workshop must address the work of human rights defenders within *Comuna 13* and strengthen the dialogue within the community.³²⁸ In addition, it must include the experiences of the five victims in order to illustrate the risks associated with human rights defenders in the region.³²⁹

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$15,000 each to Ms. Ospina Bastidas, Ms. Mosquera Londoño, Ms. Naranjo Jiménez, Ms. Rúa Figueroa, and their

322. *Id.* ¶ “Provides,” ¶ 26.

323. *Id.* ¶ 343.

324. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 345.

325. *Id.* ¶ 345.

326. *Id.*

327. *Id.* ¶ 350.

328. *Id.*

329. *Id.*

effected next of kin,³³⁰ as compensation for various expenses related to their forced displacement.³³¹ The Court ordered the compensation corresponding to deceased persons be divided equally between living relatives.³³²

The Court awarded \$20,000 each to Ms. Ospina Bastidas and Ms. Rúa Figueroa as compensation for the violation of their right to property.³³³

The Court awarded \$40,000 to Ms. Yarce's living children as compensation for material damage as a result of her death.³³⁴

2. Non-Pecuniary Damages

The Court awarded \$5,000 each for Ms. Yarce, Ms. Mosquera Londoño, and Ms. Naranjo Jiménez for their illegal and arbitrary detention.³³⁵ The Court ordered Ms. Yarce's compensation be divided among her three living children.³³⁶

The Court awarded \$5,000 each for Ms. Ospina Bastidas, Ms. Rúa Figueroa, Ms. Mosquera Londoño, Ms. Naranjo Jiménez, and their displaced relatives,³³⁷ for the violation of their right of movement and residence.³³⁸ The Court ordered the compensation corresponding to deceased persons be divided equally between living relatives.³³⁹

330. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 364. The Court specifically named the following family members as victims: Gustavo de Jesús Tobón Meneses, Bárbara del Sol Palacios Rúa, Úrsula Manuela Palacios Rúa, Valentina Tobón Rúa, Oscar Tulio Hoyos Oquendo, Edid Yazmín Hoyos Ospina, Oscar Darío Hoyos Ospina, Migdalia Andrea Hoyos Ospina, Hilda Milena Villa Mosquera and Lubín Alfonso Villa Mosquera.

331. *Id.*

332. *Id.*

333. *Id.*

334. *Id.* ¶ 365.

335. *Id.* ¶ 366.

336. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 366.

337. *Id.* ¶ 367. The Court specifically named the displaced relatives as: Gustavo Jesús Tobón Meneses, Bárbara del Sol Palacios Rúa, Úrsula Manuela Palacios Rúa, Valentina Tobón Rúa, Oscar Tulio Hoyos Oquendo, Edid Yazmín Hoyos Ospina, Oscar Darío Hoyos Ospina, Migdalia Andrea Hoyos Ospina, Hilda Milena Villa Mosquera, and Lubín Alfonso Villa Mosquera.

338. *Id.*

339. *Id.*

The Court awarded \$5,000 to various family members of the victims³⁴⁰ for the violation of the protection of the family and rights of the child caused by their displacement.³⁴¹

In addition, the Court ordered the State pay \$5,500 to Sebastián Naranjo Jiménez, Marlon Daniel Herrera Mosquera, Luisa María Mosquera Guisao, and Luis Alfonso Mosquera Guisao for the violation of the rights of the child.³⁴² The Court ordered the compensation corresponding to deceased persons be divided equally between living relatives.³⁴³

The Court ordered \$20,000 each to Ms. Sirley Vanessa Yarce and Mr. John Henry Yarce for the unexpected loss of their mother.³⁴⁴ Both individuals were children at the time of their mother's death and lacked economic and emotional support.³⁴⁵

Further, the Court awarded \$15,000 each to Ms. Mónica Dulfari Orozco Yarce, Mr. Arlex Efrén Yarce, and Mr. James Adrián Yarce for the unexpected murder of Ms. Yarce.³⁴⁶

Finally, the Court awarded \$30,000 to be divided equally among Ms. Yarce's living children for the damage inflicted upon Ms. Yarce due to the States failure to diligently investigate her death.³⁴⁷

3. Costs and Expenses

The Court awarded \$50,000 to the Interdisciplinary Group of Human Rights for the costs and expenses incurred during both domestic and international criminal proceedings.³⁴⁸

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

\$667,000

340. *Id.* ¶ 368. The Court specifically named the next of kin as: Juan David Naranjo, Sandra Janeth Naranjo, Alejandro Naranjo, Alba Mery Naranjo, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo, Erika Johann Gómez, Heidi Tatiana Naranjo Gómez, Lubín Arjadi Mosquera, Ivan Alberto Herrera Mosquera, Carlos Mario Villa Mosquera, Luisa Fernanda Herrera Vera, Sofia Herrera Montoya, Madelen Araujo Correa, Daniel Esteven Herrera Vera, Carlos Mario Bedoya Serna and Mateo Rodríguez

341. *Id.*

342. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 368.

343. *Id.*

344. *Id.* ¶ 369.

345. *Id.*

346. *Id.*

347. *Id.* ¶ 370.

348. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 379.

C. Deadlines

The State must adopt all measures necessary to continue to investigate and punish those responsible for the forced displacement of Mrs. Rúa Figueroa and her family within a reasonable time.³⁴⁹

The State must provide psychological treatment and healthcare immediately at the victim's request.³⁵⁰

The State must publish the Judgment within six months.³⁵¹

The State must publically recognize international responsibility for the human rights violations in this case within one year.³⁵²

The State must implement a workshop, course, or program through State bodies in *Comuna 13* within one year.³⁵³

The State must comply with the order of the court and make the payments for compensation for pecuniary and non-pecuniary damages, and costs and expenses, within a period of one year from the date of notification of the Judgment.³⁵⁴ If the beneficiaries or their claimants are unreachable for payment by the State, the State must deposit the ordered amounts into a Colombian bank account.³⁵⁵ After ten years, if the money is not claimed it will be returned to the State.³⁵⁶

The State must submit a monitoring compliance report within one year.³⁵⁷

V. INTERPRETATION AND REVISION OF JUDGMENT

April 7, 2017: The State submitted a brief to the Court requesting an interpretation of the Judgment.³⁵⁸ Specifically, the request asked for the clarification of the following seven points: (1) the compensation awarded for both pecuniary and non-pecuniary damages; (2) the deceased beneficiaries; (3) the subsequent expenses incurred during the supervision and compliance with the sentence; (4) the costs and expenses awarded before provisional measures; (5) the compensations awarded to

349. *Id.* “Provides” ¶ 27.

350. *Id.* “Provides” ¶ 28.

351. *Id.* “Provides” ¶ 29.

352. *Id.* “Provides” ¶ 30.

353. *Id.* “Provides” ¶ 31.

354. Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 380.

355. *Id.* ¶ 383.

356. *Id.*

357. *Id.* “Provides” ¶ 33.

358. Yarce et al. v. Colombia, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 343, ¶ 2 (Nov. 21, 2017).

Ms. Yarce's children; and, (6) the reason why the Court ordered the State adopt administrative mechanisms as part of the reparations.³⁵⁹

April 10, 2017: The representatives submitted a brief to the Court requesting an interpretation of the Judgment.³⁶⁰ The request asked for the clarification of the following six points: (1) obligation to investigate; (2) rehabilitation measures; (3) non-repetition measures; (4) the Court's use of evidence to establish material and immaterial damage; (5) the payment for intangible damage; and, (6) the mode in which payments will be fulfilled.³⁶¹

A. Composition of the Court

Roberto F. Caldas, President
Eduardo Ferrer Mac-Gregor Poisot Vice President
Manuel E. Ventura Robles, Judge
Eduardo Vio Grossi, Judge
Eugenio Raúl Zaffaroni, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. Merits

November 21, 2017: The Court considered the parties request for an interpretation of the payment to the Yarce family for pecuniary and non-pecuniary damages.³⁶² The Court unanimously found that the ordered payments should not be divided among the declared victims, but rather be paid to each victim in full.³⁶³ Additionally, the Court clarified the mode in which payments to deceased victims should be distributed.³⁶⁴ The Court unanimously held that the Judgment established the criteria for disbursement.³⁶⁵ As such, the State must follow the guidelines in the Judgment to avoid a delay in the delivery of compensation to the deceased victim's next of kin.³⁶⁶ Moreover, the Court clarified the scope of

359. *Id.*

360. *Id.* ¶ 3.

361. *Id.*

362. *Id.* ¶ 15.

363. *Id.* ¶ 20.

364. Yarce et al. v. Colombia, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs, ¶ 24.

365. *Id.*

366. *Id.* ¶ 25.

reimbursement for expenses and found that the reimbursement totals ordered in the Judgment correctly reflect the expenses related to the monitoring compliance procedure.³⁶⁷ Thus, the Court unanimously held that the State's request regarding subsequent expenses was inadmissible.³⁶⁸

The Court included expenses and costs that arose during the provisional measures proceedings because "costs and expenses" include those generated during both domestic, and international proceedings.³⁶⁹ Therefore, the Court unanimously held that it was unnecessary to clarify this point further and considered the State's request inadmissible.³⁷⁰

On certain occasions the Court has allowed a state to deduct compensation already internally granted to a victim from the Judgment total.³⁷¹ In such scenarios, the State is required to provide proof of previous payment.³⁷² Here, the State provided no such evidence and therefore the Court held unanimously that the ordered payments to Ms. Yarce's next of kin must be delivered in full.³⁷³

The Court unanimously held that the State's request to revise reparations was not justified.³⁷⁴ The State's request for interpretation included issues of fact that were previously raised and asked the Court to re-evaluate issues already resolved.³⁷⁵ As such, the Court found the request inadmissible.³⁷⁶

In their April 10, 2017 brief, the representatives requested the Court clarify whether the State's criminal investigations would be supervised.³⁷⁷ Further, the representatives requested the State accurately identify the victims and beneficiaries in the Judgment.³⁷⁸ The Court held that the purpose of interpretation is to clarify imprecise or ambiguous points in the Judgment.³⁷⁹ Here, the Judgment is clear on how the criminal investigations will be implemented,³⁸⁰ and precisely named both the

367. *Id.* ¶ 30.

368. *Id.* ¶ 32.

369. *Id.* ¶ 36.

370. Yarce et al. v. Colombia, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs, ¶ 37.

371. *Id.* ¶ 41.

372. *Id.* ¶ 42.

373. *Id.* ¶ 43.

374. *Id.* ¶ 49.

375. *Id.*

376. Yarce et al. v. Colombia, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs, ¶ 49.

377. *Id.* ¶ 55.

378. *Id.* ¶ 60.

379. *Id.* ¶ 59.

380. *Id.* ¶ 59.

victims and beneficiaries.³⁸¹ Therefore, the Court found the representatives' request inadmissible.³⁸²

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

[Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 325 \(Nov. 22, 2016\).](#)

[Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Concurrent Opinion of Judge Ferrer Mac-Gregor Poisot, Inter-Am. Ct. H.R. \(ser. C\) No. 325 \(Nov. 22, 2016\).](#)

[Yarce et al. v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Concurrent Opinion of Judge Vio Grossi, Inter-Am. Ct. H.R. \(ser. C\) No. 325 \(Nov. 22, 2016\).](#)

3. Provisional Measures

[Yarce et al. v. Colombia, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(ser. C\) \(Feb. 3, 2015\).](#)

4. Compliance Monitoring

[Yarce et al. v. Colombia, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(ser. C\) \(May 26, 2015\).](#)

381. *Id.* ¶ 63.

382. Yarce et al. v. Colombia, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs, ¶¶ 59, 64.

5. Review and Interpretation of Judgment

[Yarce et al. v. Colombia, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 343 \(Nov. 21, 2017\).](#)

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[Yarce et. al. v. Columbia, Admissibility Report, Report No. 46/07, Inter-Am. Comm'n H.R., Case No. 231-05 \(July 23, 2007\).](#)

[Ospina Bastidas et al. v. Colombia, Admissibility Report, Report No. 4/07, Inter-Am. Comm'n H.R., Case No. 1147-04 \(Feb. 27, 2007\)](#)

[Rúa Figueroa et al. v. Colombia, Admissibility Report, Report No. 3/07, Inter-Am. Comm'n H.R., Case No. 1145-04 \(Feb. 27, 2007\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Yarce et. al. v. Columbia, Report on Merits, Report No. 86/13, Inter-Am. Comm'n H.R., Case Nos. 12.595, 12.596, and 12.621 \(Nov. 4, 2013\).](#)

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

[None]