
Villamizar Durán et al. v. Colombia

ABSTRACT¹

This case is about the killing, in three separate incidents, of civilians by members of the Colombian Armed Forces. In each, the military asserted jurisdiction and conducted a faulty investigation, leading to the dismissal of charges against the shooters. Eventually, Colombia admitted responsibility for some violations, and the Court found Colombia in violation of several provisions of the American Convention as well as of the Inter-American Convention to Prevent and Punish Torture.

I.FACTS

A.Chronology of Events

1. Events pertaining to Mr. Gustavo Giraldo Villamizar Durán

August 11, 1996: Mr. Gustavo Giraldo Villamizar Durán travels to Peurto Contreras, Colombia, a town at the border between Venezuela and Colombia to engage in trade.² Shortly after conducting business at the border, Mr. Villamizar Durán begins his journey by motorcycle back to Saravena.³ Mr. Villamizar Durán’s motorcycle gets a flat tire near El Pescado bridge and he waits for assistance.⁴

A unit of the National Army, Grupo del Ejército de Cavallería Mecanizado No. 16, sets up a roadblock on the road that leads from Saravena to El Pescado bridge to inspect vehicles in search of “narco-bandits” belonging to subversive groups.⁵ The roadblock consisted of three checkpoints; one in the middle of the roadblock, one at the exit of the roadblock leading to Saravena, and one at the entrance of the

1. Aram Kuredjian, Author; Adam Knighton, Editor; Pamela Huynh, Senior IACHR Editor; Elizabeth Russo, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Villamizar Duran et al. v. Colombia, Report on Merits, Report No. 41/15, Inter-Am. Comm’n H.R., Case No. 12.335, ¶¶ 64-65 (July 28, 2015).

3. *Id.* ¶ 65.

4. *Id.*

5. *Id.* ¶ 66.

roadblock on the pathway closest to El Pescado bridge.⁶ Mr. Villamizar Durán approaches the roadblock on his motorcycle, sees Army members ahead, and abruptly turns around.⁷ At this point he is ordered to stop but continues driving and is subsequently shot and killed.⁸

The Saravena Judicial Police Investigative Unit arrives at the scene and collects Mr. Villamizar Durán's body.⁹ The investigators report that Mr. Villamizar Durán's body was found with a single cartridge casing nearby, as well as a bag which held two grenades, 9mm cartridges, and two pamphlets which mention the subversive group, the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, "FARC").¹⁰

The National Institute of Legal Medicine and Forensic Sciences performs an autopsy and reports Mr. Villamizar Durán was shot four times in the head, neck, back, and hand.¹¹

August 20, 1996: Mr. Villamizar Durán's father, Mr. Gustavo Villamizar Lizarazo, submits a complaint before the Municipal Ombudsperson for his son's death.¹²

August 24, 1996: The 124 Military Criminal Investigation Court takes over the murder investigation and names five Army members of the troop involved in Mr. Villamizar Durán's shooting as defendants.¹³

April 27, 1998: The Office of the Prosecutor Delegate for Discipline and Human Rights Defense (La Procuraduría Delegada Disciplinaria para la Defensa de los Derechos Humanos) open an investigation into Mr. Villamizar Durán's death.¹⁴

6. *Id.* ¶ 67.

7. *Id.* ¶ 69.

8. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 364, ¶ 75 (Nov. 20, 2018).

9. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 203.

10. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 75.

11. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 68 n.84.

12. *Id.* ¶ 205.

13. *Id.* ¶ 207.

14. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 109.

July 8, 1999: The Military Criminal Trial Court orders the defendants remain out of custody because the defendants had valid explanations for shooting Mr. Villamizar Durán.¹⁵

February 11, 1999: The Arauca Administrative Court (el Tribunal Contencioso Administrativo de Arauca) orders Mr. Villamizar Durán's next of kin receive payment for both material and non-material damages caused by Mr. Villamizar Durán's death.¹⁶ Moreover the Arauca Court rules out the possibility that Mr. Villamizar Durán associated with illegal armed groups.¹⁷

November 19, 1999: The 124 Military Criminal Investigation Court issues a summary judgment in Mr. Villamizar Durán's murder proceeding through the Oral War Council (Consejo Verbal de Guerra).¹⁸ The ruling is in favor of the defendants and states they acted in self-defense.¹⁹ Furthermore, the judge argues that military criminal law is the proper jurisdiction because the events took place while members of the military forces were on duty.²⁰ Moreover, the ruling names Mr. Villamizar Durán as a member of a subversive group who at the time of his death was involved in illegal activities.²¹

March 1, 2000: The Military Superior Court issues a statement confirming the November 19, 1999 judgment.²²

September 27, 2000: The Office of the Prosecutor Delegate for Discipline and Human Rights Defense (La Procuraduría Delegada Disciplinaria para la Defensa de los Derechos Humanos) terminates the investigation into the death of Mr. Villamizar Durán.²³

2. Events pertaining to Elio Gelves Carillo

15. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 210.

16. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 112.

17. *Id.*

18. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 211.

19. *Id.*

20. *Id.*

21. *Id.*

22. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 100.

23. *Id.* ¶ 109.

May 25, 1997: The National Army's Special Group URE DELTA 6, initiates Operation ESCORPIÓN, a mission to capture the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, "FARC") members who had planned to attack a permanent checkpoint of army troops.²⁴

May 27, 1997: Around 9:00 p.m. Mr. Manuel Gelves Geurrero hears shouting outside of his home and is ordered to open the front door.²⁵ Mr. Gelves Geurrero's seventeen year old son, Elio Gelves Carrillo, opens the front door and begins conversing with three men who appear to be paramilitary members.²⁶ The three men then order Elio Gelves Carrillo to change into proper clothing and explain that he must accompany them to assist in combat.²⁷ The soldiers threaten Elio Gelves Carrillo at gunpoint and take him away.²⁸

May 28, 1997: The Army continues Operation ESCOPRPIÓN and engages in counterattacks against FARC.²⁹ These firefights use large quantities of ammunition.³⁰ The patrolling report states that an individual is killed during combat.³¹ At dawn soldiers on patrol discover Elio Gelves Carrillo's body.³²

Elio Gelves Carrillo's body is collected by the Fortul-Arauca Police and taken to the morgue for an autopsy.³³ The report states that Elio Gelves Carrillo has grenades and ammunition on his person, as well as a revolver and multiple cartridges.³⁴ In addition, the report states Elio Gelves Carrillo's body is riddled with 10 gunshots.³⁵

Mr. Gelves Guerrero submits a claim with the Fortul Municipality Judge against the National Army for his son's death.³⁶ The 124 Military

24. *Id.* ¶ 81.

25. *Id.*

26. Villamizar Duran et al. v. Colombia, Report on Merits, ¶¶ 86-87.

27. *Id.*

28. *Id.*

29. *Id.* ¶ 90.

30. *Id.* ¶ 95.

31. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 81.

32. *Id.* ¶ 82.

33. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 95.

34. *Id.* ¶ 229.

35. *Id.* ¶ 230.

36. *Id.* ¶ 231.

Criminal Investigation Court is assigned the case and begins the investigation.³⁷ The Court names six Army members as defendants.³⁸

June 13, 2000: The 124 Military Criminal Investigation Court issues a summary judgment in Elio Gelves Carrillo's murder proceeding through the Oral War Council (Consejo Verbal de Guerra).³⁹ The ruling states that the defendants are active military members who acted in self-defense during a clash with rebel forces.⁴⁰ Therefore, they are not guilty or murdering Elio Gelves Carrillo.⁴¹ Furthermore, the ruling refers to Mr. Gelves Guerrero's description of the three men who took his son and states these men are likely members of a subversive group.⁴²

April 13, 2000: The Arauca Administrative Law Court orders the State compensate Elio Gelves Carrillo's relatives for moral and material damages resulting from his death.⁴³

March 8, 2001: The 124 Military Criminal Investigation Court closes the investigation into Elio Gelves Carrillo's death.⁴⁴

April 23, 2001: The Military Prosecutor's Office acting under the Second Division Brigade Court finds that the conduct of the defendants in Elio Gelves Carrillo's death was fully justified and strictly complied with their orders.⁴⁵

March 6, 2003: The Ministry of National Defense, 1st Military Criminal Prosecutors Office acting under the Military High Court uphold the April 23, 2001 ruling which found the defendant's conduct justified.⁴⁶

3. Events pertaining to Mr. Carlos Arturo Uva Velandia

37. *Id.* ¶ 234.

38. *Id.* ¶ 233.

39. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 235.

40. *Id.*

41. *Id.*

42. *Id.* ¶ 236.

43. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 112.

44. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 237.

45. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 101.

46. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 238.

June 20, 1992: Mr. Uva Velandia is at the discotheque “Los Cristales” located in Hato Corozal, in the Department of Casanare, planning a Father’s Day dance for the following evening and drinking with friends.⁴⁷ After drinking and dancing for a few hours, Mr. Uva Velandia falls asleep at the bar.⁴⁸ When he wakes up he informs his friends he is going to walk to another acquaintances house to spend the night.⁴⁹ Mr. Uva Velandia never arrives.⁵⁰

Private Juan Alexis Rodríguez Burgos arrives in Hato Corozal to advance military operations since he is a native of the area.⁵¹ Soldier Rodríguez Burgos is ordered to deliver food to the counter-guerrilla unit in the area, and receive intelligence to report back to base.⁵² After completing his tasks, Private Rodríguez Burgos begins drinking.⁵³

June 21, 1992: Private Rodríguez Burgos and four civilians return to the Army camp drunk.⁵⁴ Private Rodríguez Burgos requests help in capturing an alleged guerrilla but is order to lie down by his superior.⁵⁵ Private Rodríguez Burgos ignores his sergeant’s order and instead returns to Hato Corozal.⁵⁶ According to various testimonies, Private Rodríguez Burgos runs into Mr. Uva Velandia, ties his wrists together, and stabs him fourteen times.⁵⁷ Mr. Uva Velandia’s body is found with stab wounds and bruises on both wrists.⁵⁸

June 23, 1992: The 120 Military Criminal Investigation Court opens criminal investigations as to the death of Mr. Uva Velandia.⁵⁹

August 11, 1992: The 120 Military Criminal Investigation Court orders Private Rodríguez Burgos detention for the death of Mr. Uva Velandia.⁶⁰

47. *Id.* ¶ 115.

48. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 87.

49. *Id.* ¶ 87.

50. *Id.*

51. *Id.* ¶ 85.

52. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 119.

53. *Id.*

54. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 88.

55. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 119.

56. *Id.*

57. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 88.

58. *Id.* ¶ 90.

59. *Id.* ¶ 102.

60. *Id.*

February 10, 1993: The 120 Military Criminal Investigation Court states they lack jurisdiction because Private Rodríguez Burgos' killing of Mr. Uva Velandia was not an act of service for the military.⁶¹ Therefore the court orders the case be moved to Paz de Ariporos Prosecutors Office.⁶²

March 2, 1993: The Prosecutor's Office grants Private Rodríguez Burgos' appeal to obtain probation.⁶³

October 19, 1993: The Prosecutor's Office files an indictment against Private Rodríguez Burgos finding him criminally responsible for the homicide of Mr. Uva Velandia. As a result, Private Rodríguez Burgos' probation is revoked.⁶⁴

May 10, 1994: The Paz de Ariporo Court issues a judgment sentencing Private Rodríguez Burgos to sixteen years in prison for the homicide of Mr. Uva Velandia, as well as accessory penalties restricting his rights and public duties for ten years.⁶⁵ Moreover, Private Rodríguez Burgos is ordered to compensate Mr. Uva Velandia's parents for damages caused by their son's death.⁶⁶

December 19, 1994: Private Rodríguez Burgos' appeal is denied.⁶⁷

October 12, 1995: The Casanare Administrative Law Court denies Mr. Uva Velandia's relatives claims for direct damages.⁶⁸ The ruling states that although the acts were reprehensible, there is not direct connection to State conduct.⁶⁹

4. Events pertaining to Mr. Wilfredo Quiñónez Bárcenas, Mr. José Gregorio Romero Reyes, and Mr. Albeiro Ramírez Jorge

61. *Id.* ¶ 103.

62. *Id.* ¶ 103.

63. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 106.

64. *Id.*

65. *Id.* ¶ 107.

66. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 255.

67. *Id.* ¶ 253.

68. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 113.

69. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 254.

September 3, 1995: Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge leave by bicycle for a dance in the neighborhood of La Esperanza located within the city of Barrancabermeja.⁷⁰

September 4, 1995: At about midnight, Mr. Romero Reyes' mother, Ms. María Rosalba Bárcenas Torres, goes to the dance and is told her son never arrived.⁷¹ Ms. Bárcenas Torres proceeds to search for them and is told by a soldier that the three boys were taken to the Nueva Granada barracks. However, when she arrives at the barracks, they are not present.⁷²

Battlion C/G No. 45 receives a report that individuals are robbing vehicles in the La Paz neighborhood located within the city of Barrancabermeja.⁷³ The soldiers assigned to investigate notice an individual riding a bicycle and order him to stop.⁷⁴ They allege the individual ignored the order and shot toward them.⁷⁵ The soldiers return fire, killing the individual. The individual is identified as Mr. Quiñónez Bárcenas.⁷⁶

The soldier's report does not mention Mr. Romero Reyes or Mr. Ramírez Jorge but both men's bodies are found near Mr. Quiñónez Bárcenas remains.⁷⁷ Upon examination, the bodies of the three men show signs of torture.⁷⁸

September 5, 1995: The National Institute of Legal Medicine and Forensic Sciences, Local Unit of Barrancabermeja issues autopsy reports for Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge.⁷⁹

Mr. Quiñónez Bárcenas' report states there are multiple wounds on his head, neck, throat, and upper limbs, as well as nine gunshots wounds to the front and back of his body.⁸⁰ His death was the direct result of a

70. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 92.

71. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 156.

72. *Id.* ¶ 156.

73. *Id.* ¶ 158.

74. *Id.*

75. *Id.*

76. *Id.*

77. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 92.

78. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 93.

79. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 160.

80. *Id.*

gunshot wound which severed his aorta to his neck and the bullet is recovered.⁸¹

Mr. Romero Reyes' report shows multiple wounds and lacerations on his face, neck, throat, and abdomen, as well as four gunshot wounds to the front of his body.⁸² His death was the direct result of a gunshot wound to the head.⁸³

Mr. Ramírez Jorge's report shows a large laceration on the left side of his chest and abdomen, as well as multiple wounds to his head and neck.⁸⁴ In addition to the gunshot wound to the head that killed him, Mr. Ramírez was shot an additional three times.⁸⁵

September 7, 1995: Ms. Bárcenas Torres files a complaint with Barrancabermeja's Municipal Ombudsperson for the murder of her son by soldiers in the National Army.⁸⁶

October 25, 1995: The Office of the Attorney General-Technical Investigation Group begins an investigation.⁸⁷

June 28, 2000: The Office of the Prosecutor Delegate for Discipline and Human Rights Defense finds Mr. Jairo Alberto Preito Rivera responsible for the death of Mr. Quiñónez Bárcenas, Mr. Romero Reyes and Mr. Ramírez Jorge.⁸⁸

September 27, 2000: The Prosecutor Delegate resolves the appeal filed against the June 28, 2000 decision.⁸⁹

August 20, 2003: The 15th Military Criminal Prosecutors Office receives a request from the Attorney General's Office to name three soldiers as the perpetrators in the deaths of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge.⁹⁰ The request notes various inconsistencies between military members statements.⁹¹

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 160.

86. *Id.* ¶ 263.

87. *Id.* ¶ 264.

88. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 110.

89. *Id.*

90. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 270.

91. *Id.* ¶ 270.

October 24, 2003: The 15th Military Criminal Prosecutors Office orders the investigation of the military defendants be suspended and dismisses the findings of torture.⁹²

August 27, 2007: The Administrative-Law Court of Barrancabermeja (el Juzgado Único Administrativo del Circuito Judicial de Barrancabermeja) approves the partial judicial conciliation between family members of Mr. Quiñónez Bárcenas and the Ministry of Defense.⁹³

September 28, 2009: The Prosecution declares the investigation of the deaths of Quiñónez Bárcenas, Romero Reyes, and Albeiro Ramírez Jorge closed.⁹⁴

June 30, 2011: The Administrative-Law Court of Barrancabermeja issues judgment finding that the death of Mr. Romero Reyes, and by extension those of Mr. Ramírez Jorge and Mr. Quiñónez Bárcenas, were extrajudicial executions.⁹⁵ The Administrative-Law Court declares the state responsible for the deaths.⁹⁶

February 6, 2015: The Criminal Court Barrancabermeja circuit issues judgment of first instance for the crime of aggravated homicide in the case of Wilfredo Quiñónez Bárcenas; Defendants are acquitted of the judgment.⁹⁷

I. PROCEDURAL HISTORY

A. *Before the Commission*

1. Events pertaining to Mr. Villamizar Durán

March 30, 1999: Humanidad Vigente Corporación Jurídica files a petition with the Commission alleging Colombia is responsible for the

92. *Id.* ¶ 271.

93. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 114.

94. *Id.* ¶ 104.

95. *Id.*

96. *Id.*

97. *Id.* ¶ 105.

death of Mr. Villamizar Durán.⁹⁸ The petitioners allege Colombia violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) to the detriment of Mr. Villamizar Durán.⁹⁹

October 29, 2009: The Commission issues a report on Admissibility, No. 99/09, and declares the petition admissible for the purposes of investigating the alleged violation of Articles 4(1)(Prohibition of Arbitrary Deprivation of Life), 8(1)(Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection), and adds Article 11 (Right to Privacy), all in relation to Article 1(1) (Obligation of Non-Discrimination).¹⁰⁰

2.Events pertaining to Elio Gelves Carrillo

March 2, 1999: Humanidad Vigente Corporación Jurídica files a petition with the Commission alleging Colombia is responsible for the extrajudicial execution of Elio Gelves Carrillo.¹⁰¹ The petitioners allege Colombia violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) to the detriment of Elio Gelves Carrillo.¹⁰²

July 22, 2011: The Commission issues a report on Admissibility, No. 104/11, and declares the petition admissible for the purposes of investigating the alleged violation of Articles 4 (Right to Life), 5 (Right to Humane Treatment), and add Article 19 (Rights of the Child), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention to the detriment of Elio Gelves Carrillo.¹⁰³ Additionally, the Commission declares the petition admissible with respect to Articles 8 (Right to a Fair Trial), 25 (Right to Judicial Protection), and add Article 5 (Right to Humane Treatment), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention to the detriment of Elio Gelves Carrillo's relatives.¹⁰⁴

98. Villamizar Duran et al. v. Colombia, Admissibility Report, Report No. 99/09, Inter-Am. Ct. H.R., Case No. 12.335, ¶ 1 (Oct. 29, 2009).

99. *Id.* ¶ 2.

100. *Id.* ¶ 3.

101. Gelves Carrillo et al. v. Colombia, Admissibility Report, Report No. 104/11, Inter-Am. Ct. H.R., Case No.12.336, ¶ 1 (July 22, 2011).

102. *Id.* ¶ 2.

103. *Id.* ¶ 3.

104. *Id.* ¶ 3.

3. Events pertaining to Mr. Uva Velandia

October 5, 2000: Mr. Horacio Perdomo Parada files a petition with the Commission alleging Colombia is responsible for the murder of Mr. Uva Velandia by members of the Armed Forces.¹⁰⁵ The petitioners allege Colombia violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), 6 (Freedom from Slavery), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), and 11 (Right to Privacy), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Uva Velandia.¹⁰⁶ Additionally the petitioners allege Colombia violated Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) of the Convention to Prevent and Punish Torture (CIPST), to the detriment of Mr. Uva Velandia.¹⁰⁷

March 18, 2010: The Commission issues a report on Admissibility, No. 49/10, and declares the petition admissible for the purposes of investigating the alleged violation of Articles 4(1)(Prohibition of Arbitrary Deprivation of Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Uva Velandia.¹⁰⁸ Moreover, the Commission declares the petition inadmissible with respect to Articles 6 (Freedom from Slavery), and 11 (Right to Privacy) of the Convention, and Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) of CIPST.¹⁰⁹

4. Events pertaining to Mr. Quiñónez Bárcenas

February 23, 2003: The Law Offices of José Alvear Restrepo (Corporación Colectivo de Abogados José Alvear Restrepo) files a

105. Carlos Arturo Uva Velandia v. Colombia, Admissibility Report, Report No. 49/10, Inter-Am. Ct. H.R., Petition No. 509-00, ¶ 1 (Mar. 18, 2010).

106. *Id.* ¶ 2.

107. *Id.*

108. *Id.* ¶ 3.

109. *Id.*

petition with the Commission alleging Colombia is responsible for the extrajudicial execution of Mr. Quiñonez Barcenas by State agents.¹¹⁰ The petitioners allege Colombia violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Quiñonez Barcenas and his relatives.¹¹¹

August 5, 2009: The Commission issues a report on Admissibility, No. 68/09, and declares the petition admissible for the purposes of investigating the alleged violation of Articles 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(2)(Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), 8(1)(Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Quiñonez Barcenas and his relatives.¹¹²

July 28, 2015: The Commission issues the Merits Report No. 41/15 which combines the four petitions.¹¹³ The Commission states that all four cases pertain to extrajudicial killings with similar facts and patterns of conduct.¹¹⁴ Following a request by Mr. Quiñonez Bárcenas' representatives, the Commission adds Mr. Romero Reyes and Mr. Ramírez Jorge as alleged victims.¹¹⁵ The Commission states that the two men did not obtain representation until after the adoption of Mr. Quiñonez Bárcenas' admissibility report, but all three men were killed at the same time and location.¹¹⁶

The Commission considers the facts in each case and finds that the specific modus operandi used in extrajudicial killings was proven in each case.¹¹⁷ Furthermore, the Commission highlights that in each case the military criminal jurisdiction applied was an obstacle to obtaining

110. Quiñonez Barcenas et al. v. Colombia, Admissibility Report, Report No. 68/09, Inter-Am. Ct. H.R., Petition No. 164-06, ¶ 1 (Aug. 5, 2009).

111. *Id.* ¶ 2.

112. *Id.* ¶ 3.

113. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 10.

114. *Id.*

115. *Id.* ¶ 17.

116. *Id.*

117. *Id.* ¶ 312.

justice.¹¹⁸ The preponderance of evidence reveals misrepresentation of the facts, patters of cover-ups, and stigmatization of the victims.¹¹⁹

As a result, the Commission finds the State is responsible for violating the rights provided in Articles 4 (Right to Life) and 11 (Right to Privacy), both in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Villamizar Durán; Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), and 11 (Right to Privacy), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Elio Gelves Carrillo; Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Uva Velandia; Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge; Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the next of kin of Mr. Villamizar Durán, Elio Gelves Carrillo, Mr. Uva Velandia Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge; and Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture to the detriment of the next of kin of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge.¹²⁰

In light of the foregoing violations, the Commission recommends the State: (1) provide complete pecuniary and non-pecuniary reparations for the human rights violations contained in the report; (2) conduct a full and effective investigation into the alleged violations; and (3) adopt legislation to ensure non-repetition.

B. Before the Court

118. *Id.*

119. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 312.

120. *Id.* ¶ 313.

September 27, 2016: The Commission submits the case to the Court after the State failed to adopt its recommendations.¹²¹

Violations Alleged by Commission¹²²

To the detriment of Mr. Villamizar Durán:

Article 4 (Right to Life)

Article 11 (Right to Privacy)

all in relation to:

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

To the detriment of Elio Gelves Carrillo:

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 11 (Right to Privacy)

all in relation to:

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

To the detriment of Mr. Uva Velandia:

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

all in relation to:

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

To the detriment of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge:

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty),

all in relation to:

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

To the detriment of the next of kin of Mr. Villamizar Durán, Elio Gelves Carrillo, Mr. Uva Velandia Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge:

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

121. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 5.

122. Villamizar Duran et al. v. Colombia, Report on Merits, ¶ 313.

all in relation to:

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

To the detriment of the next of kin of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge:

Article 1 (Obligation to Prevent and Punish Torture)

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment)

Article 8 (Obligation to Investigate and Prosecute) of CIPST.

Violations Alleged by Representatives of the Victims¹²³

Same Violations Alleged by Commission.

February 27, 2017: The State raises a preliminary objection of “fourth instance” and argues the decisions made by the domestic courts were impartial and independent and therefore should not be subject to scrutiny.¹²⁴

The State accepts partial international responsibility for the following violations:¹²⁵

To the detriment of Mr. Villamizar Durán:

Article 4 (Right to Life)

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

To the detriment of Elio Gelves Carrillo:

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

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

To the detriment of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge:

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty) of the American Convention

To the detriment of the next of kin of Mr. Villamizar Durán:

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 11 (Right to Privacy)

123. Humanidad Vigente Corporación Jurídica, Mr. Horacio Perdomo Parada, and the José Alvear Law Collective Corporation (la Corporación Colectivo de Abogados José Alvear Restrepo served as representatives of Mr. Villamizar Durán, Mr. Gelves Carrillo, Mr. Uva Velandia, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge.

124. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 30.

125. *Id.* ¶ 13.

Article 25 (Right to Judicial Protection) of the American Convention.

To the detriment of the next of kin of Elio Gelves Carrillo, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge:

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection) of the American Convention.

To the detriment of the next of kin of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge:

Article 1 (Obligation to Prevent and Punish Torture)

Article 8 (Obligation to Investigate and Prosecute) of CIPST.

II.MERITS

*A.Composition of the Court*¹²⁶

Eduardo Ferrer Mac-Gregor Poisot, President

Eduardo Vio Grossi, Vice-President

L. Patricio Pazmiño Freire, Judge

Elizabeth Odio Benito, Judge

Eugenio Raúl Zaffaroni, Judge

Pablo Saavedra Alessandri, Secretary

Emilia Segares Rodríguez, Deputy Secretary

B.Decision on the Merits

November 20, 2018: The Court issues its Judgment on the Case of Mr. Villamizar Durán and Others v. Colombia.¹²⁷

The Court found unanimously:

To acknowledge the State's partial acceptance of international responsibility,¹²⁸ because:

126. Judge Antonio Sierra Porto did not participate in the deliberation of this Judgment because he is a Colombian national

Judge Ricardo Pérez Manrique did not participate in the deliberation for undisclosed reasons.

127. *Id.* ¶ 246 (20).

128. *Id.* "Resolution Points" ¶ 1.

The Court recognized that the State, by virtue of accepting responsibility for specific Convention violations, was also simultaneously accepting the occurrence of the facts on which the violations were founded.¹²⁹ Thus, the Court held it would only rule on the controversial facts when examining the merits.¹³⁰ The facts that remained in controversy were as follows: Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) of the American Convention to the detriment of Mr. Uva Velandia; Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the American Convention to the detriment of Mr. Uva Velandia's next of kin; Article 11 (Right to Privacy) of the American Convention to the detriment of Mr. Villamizar Durán and his next of kin; Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the American Convention to the detriment of the next of kin of Mr. Villamizar Durán, Elio Gelves Carrillo, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge; Article 5 (Right to Humane Treatment) of the American Convention as it pertains to torture, to the detriment of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge; and Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) of CIPST to the detriment of the next of kin of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge.¹³¹

To dismiss Colombia's preliminary objection,¹³² because:

The Court has held that under certain circumstances it is necessary to examine a state's domestic judicial bodies to determine if the actions of the judicial bodies constitute a violation of international law.¹³³ Here, the "fourth instance" exception was not applicable because the Court was investigating the State's internal judicial proceedings only to determine if the State was diligent and impartial in its investigation, and not to review the internal decisions themselves.¹³⁴

The Court found unanimously that Colombia had violated:

129. *Id.* ¶ 21.

130. *Id.*

131. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 23.

132. *Id.* "Resolution Points" ¶ 2.

133. *Id.* ¶ 31.

134. *Id.* ¶ 32. 003

Article 4(1) (Right to Life), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Villamizar Durán, Mr. Gelves Carrillo, Mr. Uva Velandia, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez,¹³⁵ because:

The facts surrounding each victim's death involve State agents implementing a specific modus operandi often used in extrajudicial executions.¹³⁶ The Court found that all of the elements for extrajudicial executions were satisfied, namely: i) the executions pertained to civilians, ii) the State could not verify circumstances constituting a combat situation at time of death, and iii) in an attempt to justify a combat situation, the State accused the victims of being guerrilla fighters with no basis to support such accusations.¹³⁷

The Court acknowledged that the State accepted international responsibility evidenced by internal decisions for the deaths of Mr. Villamizar Durán, Mr. Gelves Carrillo, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez.¹³⁸ Thus, the Court found that the killing of the victims at the hands of state agents violated their right to life.¹³⁹

With regard to Mr. Uva Velandia's right to life, Colombia acknowledged international responsibility for the actions of state officials or individuals who had state-delegated power.¹⁴⁰ Private Rodríguez Burgos acted as an agent of the state when he detained Mr. Uva Velandia and thus his actions were attributable to Colombia.¹⁴¹

The Court looked at the circumstances surrounding the execution of Mr. Uva Velandia and noted that initially it seemed as if the army was not responsible because the act was i) committed by an Army soldier ii) who was not acting in his capacity as a soldier, iii) who was dressed a civilian, iv) using a personal weapon over a service weapon, and v) was not acting under any orders.¹⁴² However, Private Rodríguez Burgos entered the counter-guerrilla camp with three civilians, asked to speak with the

135. *Id.* ¶ 145. 003

136. *Id.* ¶ 18. 003

137. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 118. 003

138. *Id.* ¶ 124. 003

139. *Id.* ¶ 125. 003

140. *Id.* ¶ 137. 003

141. *Id.* ¶ 142. 003

142. *Id.* ¶ 141. 003

leader of the camp, and ordered a patrol to arrest an individual in the area.¹⁴³ These actions indicated that Mr. Uva Velandia perceived Private Rodríguez Burgos to be acting as a representative of Colombia.¹⁴⁴ Additionally, the sentries of the counter-guerrilla camp knew the torture and execution were taking place and did not prevent them.¹⁴⁵ Mr. Uva Velandia was a private citizen who should have been protected by the State rather than tortured and executed, and thus his Right to Life was violated.¹⁴⁶

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 Elio Gelves Carrillo, Mr. Uva Velandia, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge,¹⁴⁷ because:

The Court found the sequence of events as they occurred, including arbitrary detention, being loaded on military trucks, the fear the men had prior to their execution, and the extent of their injuries, was enough to indicate the victims were tortured.¹⁴⁸ Mr. Uva Velandia was stabbed fourteen times, which the Court found was enough evidence to presume intense pain before his death.¹⁴⁹

Additionally, Colombia recognized its international responsibility for the violation of the Right to Personal Integrity for the deaths of Mr. Uva Velandia, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge.¹⁵⁰

Article 7 (Right to Personal Liberty), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Elio Gelves Carrillo, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, Mr. Ramírez Jorge, and Mr. Uva Velandia,¹⁵¹ because:

143. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 142.

144. *Id.*

145. *Id.* ¶ 143.

146. *Id.* ¶ 145.

147. *Id.*

148. *Id.* ¶ 119.

149. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 146.

150. *Id.* ¶ 120.

151. *Id.* ¶ 146.

*The Court found that Mr. Uva Velandia suffered a restriction of freedom under Private Rodríguez Burgos when he was bound and executed without any basis in law.*¹⁵²

*Furthermore, the State recognized responsibility for violating the right to personal liberty to the detriment of the deceased.*¹⁵³ *Based on the State's recognition and the Commission's observations, the Court acknowledged that controversy regarding said violation had ceased.*¹⁵⁴

Article 11(1) (Right to Honor and Dignity) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Villamizar Durán, and Elio Gelves Carrillo,¹⁵⁵ because:

*The Court found that the State unjustifiably linked guerrilla activity to Mr. Villamizar Durán and Elio Gelves Carrillo.*¹⁵⁶ *The State failed to diligently gather evidence, and instead made conclusions based on false pretense.*¹⁵⁷ *Following the unsubstantiated and false accusations, Mr. Villamizar Durán's family's home was graffitied with derogatory statements.*¹⁵⁸ *As a result of the State's defamation, Mr. Villamizar Durán and Elio Gelves Carrillo's honor and dignity were injured.*¹⁵⁹

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 Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Villamizar Durán's next of kin, Elio Gelves Carrillo, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, Mr. Ramírez Jorge, and the next of kin of Mr. Gelves Carrillo, and Mr. Quiñónez Bárcenas,¹⁶⁰ because:

The Court found that there was unreasonable delay in the investigation into the deaths of Mr. Gelves Carrillo and Mr. Villamizar Durán because the investigations were conducted twenty-one and twenty-two years,

152. *Id.*

153. *Id.* ¶ 120

154. *Id.* ¶ 22.

155. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 124.

156. *Id.*

157. *Id.* ¶ 155.

158. *Id.* ¶ 156.

159. *Id.* ¶ 155.

160. *Id.* ¶ 162.

respectively, after their deaths.¹⁶¹ The Court noted that the investigations were not of a special or unique nature that would require such a delay as they involved one victim and the killers could have been easily identified.¹⁶²

The Court found that Colombia was guilty of various violations of their obligations to investigate the deaths of the victims.¹⁶³ Colombia only presented information to the Court regarding the death of Mr. Uva Velandia.¹⁶⁴ The Court has consistently indicated that the obligations associated with investigation are: i) identifying the victim, ii) recovering and preserving evidence, iii) identifying and questioning of possible witnesses, iv) determining the cause, place, and time of death, including any practices or behaviors that may have caused the death, and v) distinguishing between natural death, suicide, homicide, and accidental deaths.¹⁶⁵ Here, the Court found that there were flaws in the investigation of the deaths; notably, evidence was either not found or not properly preserved, and the investigation did not properly discern what the cause, time, and place of death were.¹⁶⁶

Lastly, the Court held that the State failed to provide a competent judge to proceed over each case.¹⁶⁷ The judges in the domestic proceedings lacked the requisite knowledge necessary to preside over cases involving military procedure and law, further violating Article 8 and 25 of the Convention.¹⁶⁸

Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, to the detriment of the next of kin of Mr. Villamizar Durán, Elio Gelves Carrillo, Mr. Uva Velandia, Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge,¹⁶⁹ because:

161. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 168.

162. *Id.* ¶ 169.

163. *Id.* ¶ 174.

164. *Id.*

165. *Id.* ¶ 175.

166. *Id.* ¶ 178.

167. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 161.

168. *Id.* ¶ 161.

169. *Id.* ¶ 195.

*The State recognized responsibility for violating the right to personal integrity to the detriment of the victims next of kin.*¹⁷⁰ *Based on the State's recognition and the Commission's observations, the Court acknowledged that controversy regarding said violation had ceased.*¹⁷¹

*Specifically, the Court held that the Colombian public official's erroneous statements naming both Mr. Villamizar Durán, and Mr. Gelves Carrillo as guerilla fighters violated the victim's relatives right to personal integrity.*¹⁷² *Additionally, the derogatory inscriptions on the wall of Mr. Villamizar Durán's families home, not only violated Mr. Villamizar Durán's right to honor and dignity, but further violated his relative's right to personal integrity.*¹⁷³

*Lastly, 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.*¹⁷⁴ *Additionally, the victim's relatives personal integrity can was violated due in part because of the way the investigation was handled.*¹⁷⁵ *The Court held that Mr. Uva Velandia's relatives suffered severe anguish as a result of his death, therefore their psychological and moral integrity was violated.*¹⁷⁶

Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and 8 (Obligations to Investigate and Prosecute)

170. *Id.* ¶ 195.

171. *Id.* ¶ 22.

172. *Id.* ¶ 195. The Court specifically named the following family members as victims of the Article 5 (Right to Physical, Mental, and Moral Integrity) violation: A) Relatives of Mr. Villamizar Durán: 1) Jesús Durán Blanco, Mother; 2) Gustavo Villamizar Lizarazo, Father; 3) Maribel Villamizar Durán, Sister; 4) Nancy Altura Villamizar Durán, Sister; 5) Marley Villamizar Durán, Sister; 6) Edidxon Villamizar Durán, Brother; 7) Ilier Eduardo Villamizar Durán, Brother; and 8) Anderson Giraldo Villamizar Granados, Son. B) Relatives of Mr. Gelves Carrillo: 1) Griseldina Carrillo de Gelves, Mother; 2) Manuel Gelves Guerrero, Father; 3) Adelaida Gelves Carrillo, Sister; 4) Ismael Gelves Carillo, Brother, 5) Alfonso Gelves Carrillo, Brother; 6) Eliceo Gelves Carrillo, Brother; 7) María Leisy Gelves Carrillo, Sister; 8) Benigna Gelves Carrillo, Sister; 9) José Nain Gelves Carrillo, Brother, and 10) Gabriel Gelves Carrillo, Brother.

173. *Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment*, ¶ 196.

174. *Id.* ¶ 198.

175. *Id.* ¶ 195.

176. *Id.* ¶ 198. The Court specifically named Mr. Uva Velandia's following family members as victims of the Article 5 (Right to Physical, Mental, and Moral Integrity) violation: 1) Antonio María Uva Olarte, Father; 2) Eliza Velandia de Uva, Mother; 3) Orfa Uva Velandia, Sister; 4) Alicia Uva Velandia, Sister; 5) Marieta Uva Velandia, Sister; 6) Luz Estella Uva Velandia, Sister; 7) Antonio Uva Velandia, Brother, and 8) Eduardo Uva Velandia, Brother.

of the Inter-American Convention to Prevent and Punish Torture (“CIPST”), to the detriment of the relatives of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge,¹⁷⁷ because:

Article 1 of CIPST establishes a generic responsibility for a State to prevent and punish torture.¹⁷⁸ Article 6 of CIPST creates an obligation to not only investigate and typify domestic laws which severely punish torture, but also investigate and punish cruel, inhumane or degrading treatments or penalties.¹⁷⁹ Article 8 of CIPST requires a State immediately and efficiently investigate acts of torture.¹⁸⁰ Here, with respect to the victim’s next of kin, the State failed to implement effective measures to prevent and punish cruel, inhumane, and degrading treatment and punishments, thus violating Article 1 of CIPST.¹⁸¹ Additionally, the State’s failure to punish the torturers, violated Article 6 of CIPST.¹⁸² Lastly, the State’s failure to investigate the acts of torture for twenty years violated Article 8 of CIPST.¹⁸³

The Court found unanimously that the State did not violate:

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the American Convention, to the detriment of Mr. Quiñónez Bárcenas, Mr. Romero Reyes, and Mr. Ramírez Jorge,¹⁸⁴ because:

The Court has held that when analyzing torture and other forms of cruel, degrading, or inhuman, treatment or abuse, specific characteristics of both the victim and surrounding circumstances must be considered.¹⁸⁵ In order to constitute torture, the abuse must be (1) intentional; (2) cause severe physical and/or mental suffering; and (3) be committed for the purpose of extracting information.¹⁸⁶

177. *Id.* ¶ 183.

178. *Id.*

179. *Id.*

180. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 187.

181. *Id.* ¶ 185.

182. *Id.* ¶ 188.

183. *Id.*

184. *Id.* “Resolution Points,” ¶ 10.

185. *Id.* ¶ 147.

186. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 147.

In the present case the Court relied on the autopsy reports of each victim to determine if the three victims were tortured.¹⁸⁷ Based on the autopsy reports, the Court concluded that the forensic evidence did not establish that the three victims were tortured.¹⁸⁸ Rather, the reports indicated the sustained injuries were more likely due to fatal gunshot wounds.¹⁸⁹

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the American Convention, to the detriment of Mr. Uva Velandia,¹⁹⁰ because:

The investigation and judicial proceedings pertaining to the murder of Mr. Uva Velandia lasted two years and six months.¹⁹¹ At the culmination of the proceedings the perpetrator was found guilty and received a 16-year prison sentence.¹⁹² Although the initial investigation stalled for a nine month period, State authorities continued a thorough investigation which achieved justice.¹⁹³

III. REPARATIONS

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

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

1. Judgment as a Form of Reparation

The Court noted that the Judgment itself is a form of reparation.¹⁹⁴

2. Investigate, Judge, and Punish Those Responsible.

187. *Id.* ¶ 148.

188. *Id.* ¶ 152.

189. *Id.*

190. *Id.* “Resolution Points,” ¶ 11.

191. *Id.* ¶ 171.

192. Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 171.

193. *Id.* ¶ 189.

194. *Id.* “Resolution Points,” ¶ 12.

The Court ordered the State to conduct a full investigation of all human rights violations set forth in this Judgment.¹⁹⁵ Furthermore, the State must determine who is responsible, and where appropriate, punish the perpetrators.¹⁹⁶

3. Medically Treat Surviving Family

The Court ordered the State to provide free psychiatric and psychological treatment to the victims.¹⁹⁷ The treatment shall be provided for as long as necessary.¹⁹⁸

4. Publish the Judgement

The Court ordered the State to publish this Judgment in nationally circulated newspapers within six months of the judgment.¹⁹⁹ The Court further ordered the State to make the publication available on the judiciary's website for at least one year.²⁰⁰

5. Publicly Acknowledge Responsibility

The Court ordered the State to publicly acknowledge responsibility before the national media within one year of this judgment.²⁰¹ The announcement must reference the specific facts of the case, the victims, and their representatives.²⁰²

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded:

195. *Id.* ¶ 203.

196. *Id.*

197. *Id.* ¶ 206.

198. *Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment*, ¶ 206.

199. *Id.* ¶ 207.

200. *Id.*

201. *Id.* ¶ 209.

202. *Id.* ¶ 211.

\$10,000 for material damages to each of the six victim's familial groups.²⁰³ The \$10,000 received by each group will then be split between the respective members.²⁰⁴ The amount must be paid to each group within three months of this Judgment.²⁰⁵ Moreover, the Court recognized that the relatives of Elio Gelves Carrillo and Mr. Quiñónez Bárcenas were awarded compensation through the domestic judicial system, while the other four victims' relatives were not.²⁰⁶ As a result, the Court ordered an additional \$25,000 for material damages to each of the remaining four victim's familial groups who did not receive reparations for material damages.²⁰⁷ Thus, the total pecuniary damages awarded is \$160,000.

2. Non-Pecuniary Damages

The Court recognized that certain family members were awarded non-pecuniary damages through the domestic judicial system and considered these amounts in the total calculation.²⁰⁸ The Court awarded \$40,000 each to all six victim's parents, spouses, and/or children who were not compensated domestically, and \$20,000 for each of the victim's siblings

203. *Id.* ¶ 224. The familial groups are as follows: Mr. Villamizar Durán: 1) Ms. Durán Blanco, Mother; 2) Mr. Villamizar Lizarazo, Father; 3) Ms. Maribel Villamizar Durán, Sister; 4) Ms. Nancy Villamizar Durán, Sister; 5) Ms. Marley Villamizar Durán, Sister; 6) Mr. Edidxon Villamizar Durán, Brother; 7) Mr. Ilier Villamizar Durán, Brother; and 8) Mr. Villamizar Granados, Son. Elio Gelves Carrillo: 1) Ms. Griseldina Carrillo Gelves, Mother; 2) Mr. Manuel Gelves Guerrero, Father; 3) Ms. Adelaida Gelves Carrillo, Sister; 4) Ismael Gelves Carrillo, Brother; 5) Mr. Alfonso Gelves Carrillo, Brother; 6) Mr. Eliceo Gelves Carrillo, Brother; 7) Ms. María Gelves Carrillo, Sister; 8) Ms. Benigna Gelves Carrillo, Sister; 9) Mr. José Gelves Carrillo, Brother; and 10) Mr. Gabriel Gelves Carrillo, Brother. Mr. Uva Velandia: 1) Mr. Antonio Uva Olarte, Father; 2) Ms. Eliza Velandia Uva, Mother; 3) Ms. Orfa Uva Velandia, Sister; 4) Ms. Alicia Uva Velandia, Sister; 5) Ms. Marieta Uva Velandia, Sister; 6) Ms. Luz Uva Velandia, Sister; 7) Mr. Antonio Uva Velandia, Brother; and 8) Mr. Eduardo Uva Velandia, Brother. Mr. Quiñónez Bárcenas: 1) Mr. Pedro Quiñónez Calderón, Father; 2) Ms. María Bárcenas Quiñónez, Mother; 3) Ms. María Quiñónez Bárcenas, Sister; and 4) Ms. Amparo Quiñónez Bárcenas, Sister. Mr. Romero Reyes: 1) Mr. Eneth Romero Ávila, Father; 2) Ms. Miriam Reyes Muñoz, Mother; 3) Ms. Maryluz Urueta Reyes, Sister; 4) Ms. Beizabeth Muñoz Reyes, Sister; 5) Mr. Wiston Urueta Reyes, Brother; and 6) Mr. Danys Arleth Romero Reyes, Brother. Mr. Ramírez Jorge: 1) Ms. Ester Jorge Solís, Mother; 2) Mr. Alfonso Ramírez Rincón, Father; 3) Ms. Esmery Ramírez Jorge, Sister; 4) Mr. Frain Alfonso Ramírez Jorge, Brother; 5) Mr. Lisandro Ramírez Jorge, Brother; and 6) Mr. Numael Antonio Ramírez Jorge, Brother.

204. *Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, ¶ 224.*

205. *Id.*

206. *Id.* ¶ 227.

207. *Id.*

208. *Id.* ¶ 229.

who were not compensated domestically.²⁰⁹ Thus, the total non-pecuniary damages awarded is \$560,000.

3. Costs and Expenses

The Court awarded costs and expenses of \$37,139.14 total. Humanidad Vigente Corporación Jurídica was awarded \$23,700 from the total, the representatives of Mr. Uva Velandia were awarded \$11,380, and Mr. Uva Velandia's family members were awarded \$2,059.14 from the total.²¹⁰

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

\$ 757,139.14

C. Deadlines

The State must publish their violations and pay compensation for pecuniary, non-pecuniary and costs and expenses within one year of this Judgment.²¹¹

IV. INTERPRETATION AND REVISION OF JUDGMENT

[None]

V. COMPLIANCE AND FOLLOW-UP

[None]

209. *Id.* ¶ 231. Family members who received \$40,000 are as follows: Mr. Villamizar Durán: 1) Ms. Ludy Lizarazo Vega, Wife; and 2) Mr. Villamizar Granados, Son; Mr. Uva Velandia: 3) Mr. Antonio Uva Olarte, Father; and 4) Ms. Eliza Velandia Uva, Mother; Mr. Ramírez Jorge: 5) Ms. Ester Jorge Solís, Mother; 6) Mr. Alfonso Ramírez Rincón, Father.

Family members who received \$20,000 are as follows: Mr. Villamizar Durán: 1) Mr. Ilier Villamizar Durán, Brother; and 2) Ms. Nancy Villamizar Durán, Sister. Mr. Uva Velandia: 3) Ms. Orfa Uva Velandia, Sister; 4) Mr. Antonio Uva Velandia, Brother; 5) Ms. Alicia Uva Velandia, Sister; 6) Ms. Marieta Uva Velandia, Sister; 7) Ms. Luz Uva Velandia, Sister; and 8) Mr. Eduardo Uva Velandia, Brother. Mr. Romero Reyes: 9) Ms. Maryluz Urueta Reyes, Sister; 10) Ms. Beizabeth Muñoz Reyes, Sister; 11) Mr. Wiston Urueta Reyes, Brother; and 12) Mr. Danys Arleth Romero Reyes, Brother. Mr. Ramírez Jorge: 13) Ms. Esmery Ramírez Jorge, Sister; 14) Mr. Frain Alfonso Ramírez Jorge, Brother; 15) Mr. Lisandro Ramírez Jorge, Brother; and 16) Mr. Numael Antonio Ramírez Jorge, Brother.

210. *Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment*, ¶ 237.

211. *Id.* ¶ 241.

VI.LIST OF DOCUMENTS

A.Inter-American Court

1.Preliminary Objections

[None]

2.Decisions on Merits, Reparations and Costs

[Villamizar Duran et al. v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 364 \(Nov. 20, 2018\) \(Available only in Spanish\).](#)

3.Provisional Measures

[Villamizar Duran et al. v. Colombia, Reimbursement of the Victims Legal Assistance Fund, Order of the President of the Court, Inter-Am. Ct. H.R. \(July 31, 2017\).](#)

[Villamizar Duran et al. v. Colombia, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(ser. E\) \(Oct. 06, 2017\).](#)

[Villamizar Duran et al. v. Colombia, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(ser. E\) \(Oct. 13, 2017\).](#)

[Villamizar Duran et al. v. Colombia, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(ser. E\) \(Sept.12, 2017\).](#)

[Villamizar Duran et al. v. Colombia, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(ser. E\) \(Oct. 05, 2017\).](#)

4.Compliance Monitoring

[None]

5.Review and Interpretation of Judgment

[None]

B.Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[Villamizar Duran et al. v. Colombia, Admissibility Report, Report No. 99/09, Inter-Am. Ct. H.R., Case No. 12.335 \(Oct. 29, 2009\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Villamizar Duran et al. v. Colombia, Report on Merits, Report No. 41/15, Inter-Am. Comm'n H.R., Case No. 12.335 \(July 28, 2015\).](#)

5. Application to the Court

[None]

VII. BIBLIOGRAPHY

[None]