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**REPORT No. XX/25**

**CASE 12,936**

REPORT ON MERITS (PUBLICATION)

OSCAR ALFONSO MORALES DÍAZ  
COLOMBIA

Approved electronically by the Commission on XX, 2025

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## I. SUMMARY<sup>1</sup>

1. On October 10, 2000, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission” or “the IACHR”) received a petition lodged by Oscar Alfonso Morales Díaz (hereinafter “the petitioner”) on behalf of himself and his family, alleging international responsibility of the Republic of Colombia (hereinafter “the Colombian State”) for violations of their human rights.

2. On November 5, 2013, the Commission approved Report on Admissibility No. 105/13.<sup>2</sup> On November 12, 2013, the Commission notified the parties of said report and placed itself at their disposal to reach a friendly settlement.<sup>3</sup> The parties were given the periods of time established in the rules to submit their additional observations on the merits. All information received was duly forwarded to the opposing party.

3. The petitioner alleged that the state is responsible for not taking effective measures to protect him and his family. In this regard, he claimed he was a victim of threats and an attempt on his life on July 8, 2000, as consequence of a corruption complaint he brought against state officials. The petitioner also contended that he reported both the threats and the attempt on his life to the competent authorities and that the State has failed to identify the culprits.

4. The State alleged that it is not responsible because there are no grounds or evidence implicating any state officials as perpetrators of said acts of violence, or suggesting that anyone acted under its supervision or protection, or with its tolerance or acquiescence. It contends that the appropriate investigatory steps were taken; and that the obligations of protection and investigation are of means and not results. Accordingly, the State argued that it cannot be held responsible for any human rights violation perpetrated by private individuals.

5. Based on the findings of fact and law, the Inter-American Commission concluded that the State is responsible for violation of Articles 4.1 (life), 5.1 (humane treatment), 8.1 (fair trial rights), 22.1 (movement and residence) and 25 (judicial protection) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”), in connection with the obligations set forth in Article 1.1 of the same instrument. The Commission issued the respective recommendations.

## II. ALLEGATIONS OF THE PARTIES

### A. Petitioner

6. The petitioner alleged that in May 2000, he reported several public officials of the Urban Development Institute (hereinafter “the IDU”) for acts of corruption to the Office of the Attorney General of the Nation (hereinafter “the FGN”), the *Procuraduría General de la Nación*, the office of the chief government oversight officer (hereinafter “the PGN”), and the Superior Court of Cundinamarca. He contended that he brought the complaints to the attention of the Presidential Anti-Corruption Program. He also argued that said complaints were reported to the media, which published them in June that year, “bringing further irregularities to light.”

7. The Petitioner claimed that in late June 2000, he received threatening telephone calls triggered by his complaints, in which he was told: “he was dying because he’s a snitch.” He contended that on June 30, 2000, he reported the threats he had received to the Presidential Anticorruption Program and the PGN. He asserted that on July 6, 2000, he was notified by the Presidential Anticorruption Program that, in

<sup>1</sup> Pursuant to article 17.2 of the Commission’s Rules of Procedure, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the debate or the decision-making process of the instant case.

<sup>2</sup> IACHR. Report No. 105/13. Case 12.396. Oscar Alfonso Morales Díaz and Family. Admissibility. November 5, 2013. The IACHR declared admissible Articles 4, 5, 8, 21, 22 and 25 and declared inadmissible Article 6 of the Protocol of San Salvador.

<sup>3</sup> The State requested several extensions from the Commission to reply. No process of dialogue was ever opened with the petitioner.

light of the complaint of threats, the Administrative Security Department (hereinafter “the DAS”) was asked to conduct a priority risk assessment and provide security measures. Additionally, he noted that on July 7, 2000, he reported the threats to the Office of the Ombudsman.

8. He alleged that on July 8, 2000, he was attacked by two gunmen on a motorcycle. He asserted that he did not sustain physical injury but that you can see traces “on the front and in the windshield,” of the vehicle in which he was riding of the damages caused by the projectiles. He also claimed that he went to the Immediate Response Unit of the FGN to report the incident that same day. He contended that he had to face the scorn of state officials, who told him: that is what he gets “for delving into bad business deals.” He alleged that on July 8, after going to the FGN, he went to the DAS to report the attempt on his life. The petitioner claimed that the agents did not pay proper attention to him, being that they sent him home and asked him to come back with his vehicle the next day to conduct the respective investigation, which he did without any measures being taken to protect his life or safety.

9. He also argued that after the attack, he received several threats through condolence notes in the name of his own death, which he handed over to the FGN. He contended that the DAS ordered a technical risk and threat level assessment of the petitioner’s workplace, social and family settings and, as a result of said assessment, it was established that the acts were the result of the complaints filed against the senior IDU officials. He also claimed that the DAS provided him with only minimal assistance for his protection and security.

10. The petitioner alleged that the FGN handed him a “letter of self-protection” and admitted him into a program providing protection and assistance to victims, witnesses, persons involved in criminal proceedings and officials of the FGN (hereinafter “the Protection and Assistance Program”), recommending that he leave the city constantly. He noted that the respective expenses were covered by him. He also noted that he declined the FGN’s proposal to relocate him in another city because it was not in his interest, as he was not provided any support for a job, economic assistance or housing. He also claimed he asked the FGN for help in securing contact information to foreign universities in order to continue his studies and protect his life overseas; nonetheless, he received no response.

11. He alleged that the Metropolitan Police Department of Bogota (hereinafter “the PMB”) carried out a security survey, the result of which was that his risk level was “medium,” triggering orders to conduct sporadic patrolling to his place of residence and the suggestion that the recommended security measures be put into effect. He also contended that he resorted to said entity and engaged in a conversation with an intelligence lieutenant, who told him that he was not very far from the “high” risk level, and that he should be careful and he could not give him any further information. The petitioner argued: “a chat and a police visit to [his] house cannot be regarded as a measure aimed at protecting his life and safety.”

12. He noted that after he learned the result of the PMB risk assessment, he contacted the office of the United Nations High Commissioner for Human Rights, where he was told that because all domestic remedies had been exhausted without a positive response, he could seek alternatives outside of Colombia.

13. The petitioner alleged that he was compelled to leave the country because of the lack of effective protection, after he denounced corruption. He contended that on December 14, 2000 he immigrated to Canada with the support of the State, after his risk situation was verified. He noted that Canada facilitated loans to him and thus he took on financial obligations, which had to be sustained by him on his own account.

14. He reported that the process of investigation into the attempt on his life, which was being conducted by the FGN, was closed without prejudice, under a decision to dismiss of July 25, 2001; which, he further contended, shows the State’s lack of interest in investigating the incidents..

15. The petitioner asserted that he requested the Office of the President of the Republic, through an e-mail communication, to include in the investigation the information pertaining to the murder on March 29, 2001 of the IDU chief of Public Tenders and Procurement, Sonia Ramirez, who was one of the individuals against whom he had leveled his denunciation of corruption.

16. Based on all of the foregoing, he alleged that the Colombian State violated his right to life, humane treatment, security, a fair trial, private property, movement and residence and judicial protection.

**B. State**

17. The State contended that it is not internationally responsible, inasmuch as it has not been established that agents of the State leveled the threats and perpetrated the acts of aggression against the alleged victim. It also alleged that it cannot be verified that those who committed these acts were acting under the supervision, protection, tolerance or acquiescence of public officials, or that there has been a lack of diligence to prevent a particular act that violated rights.

18. It also contended that, based on the investigation into the crime of attempted homicide, no evidence was found to suggest any alleged involvement of state's agents or to individually identify any of the possible assailants. Consequently, once the necessary investigatory steps were taken, the investigation was closed without prejudice.

19. The State alleged that it acted with due diligence to prevent the risk, inasmuch as the competent authorities undertook actions aimed at protecting the life and safety of the alleged victim in an adequate and timely fashion. In support of this claim, it noted that the FGN was engaged in conducting Mr. Morales Díaz's threat and risk level assessment, and only one day after having submitted the information to said entity, the attempt on his life took place.

20. Likewise, the State contended that the PMB conducted a security survey, ordering patrolling of the alleged victim's residence, in addition to suggesting to him to implement security measures and immediately communicate any situation that alters the technical risk assessment in any way. It further argued that, at the request of the Presidential Anticorruption Program, the DAS carried out a priority Technical Risk level and Threat Degree Survey, providing him with guidance on self-protection and security. It asserted that the Protection and Assistance Program ordered a threat and risk assessment to be carried out and a timely report was produced, on July 18, 2000. It also noted that said report found that the alleged victim was eligible to be admitted into the Protection and Assistance Program and he was granted a letter of self-protection. The State asserted that the petitioner, freely, voluntarily and with sufficient information, refused to consent to enter said Program. Additionally, the State said "it did not encourage or discourage Mr. Morales' decision to seek refuge in a third party State... on the contrary, it supported him and reported and certified his risk level to the Canadian Embassy."

21. The State added that its Protection and Assistance Program has existed for more than 20 years and that it received a certification by the multinational organization the Société Générale de Surveillance, because it meets quality standards. Colombia asserted that said Program provides comprehensive assistance to beneficiaries, covering academic programs for children, as well as economic and job support, in the farming, construction and computer systems sectors.

22. The State claimed it did not fail in its duty to respect and ensure the right to freedom of movement and residence of the alleged victim, inasmuch as his departure from the country was free and without any type of limitation or constraint placed on it by the State. It further contended that, as a consequence of that, the case of the alleged victim did not constitute a forced displacement, but rather a decision taken by him in order to improve his living conditions.

23. With respect to the right to private property, the State alleged that no information was provided with a breakdown of his assets, about alleged bank obligations and expenses incurred by the petitioner in order to formalize his life plan of residing in Canada. Colombia added that in rejecting entry into the Protection and Assistance Program, as offered to him by the State, the alleged victim was precluded from comprehensive assistance from the FGN.

24. Colombia argued that it is not responsible for the violation of the right to a fair trial and judicial protection. It contended that the authorities have taken all investigatory steps to get to the bottom of the events of July 8, 2000 and to identify who was responsible. It also claimed that on July 9, 2000, a judicial inspection was conducted of the vehicle of the alleged victim, with the assistance of a ballistics expert and a photographer, of which a photo album was obtained and one projectile was recovered; Mr. Morales Díaz's father was interviewed; an official letter was sent to Prosecutor's Office 210 of the Crimes against Public Administration Unit to report on the status of the investigation underway into the IDU officers accused by the petitioner; their telephone numbers and addresses were requested; a request was made to expand the complaint filed by Mr. Morales Díaz and a letter was sent to the DAS to work to identify the perpetrators of the crime.

25. Likewise, it asserted that a request was made to take the testimony of the alleged victim, as well as of two IDU officials; however, the interview of Mrs. Sonia Ramírez did not take place because she passed away on March 29, 2001. The State contended that it did not breach the obligation to investigate merely because it was unable to obtain a satisfactory result. It also claimed that on July 25, 2001, the FGN decided to suspend the preliminary investigation, one year and seventeen days after the attempt on the alleged victim transpired, as the respective statute of limitations had lapsed, and it had been unable to identify the perpetrators of the attack and no facts or evidence existed to open an investigation into the persons denounced by the petitioner, in keeping with the presumption of innocence as an assurance of due process.

26. The Colombian State also alleged that the complexity of the matter resided in: the inability to identify the perpetrators of the attack despite the efforts made by the FGN; the inability of the alleged victim to provide a description of the vehicle used to commit the crime; the absence of witnesses at the scene of the crime; the petitioner's difficulty in recognizing the voice in the threatening calls; and the absence of any evidence to prove a link between the IDU officials and the attack. Based on the foregoing, the State argued that the length of time elapsed between the decision to suspend the investigation and the present date should not be construed as a violation of a reasonable period of time to conduct a criminal proceeding.

### III. FINDINGS OF FACT

#### A. Complaint of acts of corruption.

27. In May 2000, Mr. Oscar Alfonso Morales Díaz, a 31-year old attorney, brought a criminal complaint for acts of corruption against three public servants of the Urban Development Institute.<sup>4</sup> The complaint was taken by Prosecutor's Office 210 of the Crimes against Public Administration Unit of Santafé de Bogotá D.C.<sup>5</sup>

28. According to information provided by the State, said proceeding was subject to a "decision to dismiss on the grounds that the conduct did not constitute a crime" (*resolución inhibitoria por atipicidad de la conducta*).<sup>6</sup>

29. The petitioner claims to have filed other complaints for corruption against said IDU officials with the Superior Court of Cundinamarca and the PGN (Office of the Chief Government Oversight Officer or *Procuraduría General de la Nación*).<sup>7</sup> The State did not dispute these facts, nor did it provide any information in this regard.

30. Likewise, Mr. Morales Díaz brought the irregularities he reported to the attention of the Presidential Anticorruption Program.<sup>8</sup> He received a response on June 20, 2000, in which the program Director stated that "based on the rules currently in force, it is the responsibility of the entity to receive

<sup>4</sup> Annex 1. Observations submitted by the State. Note DIDHD/GOI N. 68959/2592 of October 10, 2012.

<sup>5</sup> Annex 2. Written submission from the Office of the President of the Republic of Colombia addressed to the Embassy of Canada in Colombia, of August 16, 2000. Annex to the initial petition of October 10, 2000.

<sup>6</sup> Annex 1. Observations submitted by the State. Note DIDHD/GOI N. 68959/2592, October 10, 2012.

<sup>7</sup> Annex 3. Supplementing initial petition. Submission of October 23, 2000.

<sup>8</sup> Annex 3. Supplementing initial petition. Submission of October 23, 2000.

complaints against public officials of any order, process them before the competent authority and follow up on the complaints filed,” and that therefore, Deputy Prosecutor 210 of the First Unit for Crimes against Public Administration was notified officially to gather information about the investigatory steps taken and thus follow up on the case.<sup>9</sup>

31. Press clippings appear in the case proceedings mentioning a number of lawsuits brought by other persons against IDU, for a variety of irregularities.<sup>10</sup> In one of the newspaper articles, reference is made to a suit brought by Mr. Morales Díaz, on behalf of Reimpodiesel company, for allegedly favoring Agrofilter Company in a bidding.<sup>11</sup>

## **B. Threats and the respective complaints**

32. The petitioner claimed that, in late June 2000, he was threatened over the telephone, where he was told “he would die because he’s a snitch.”<sup>12</sup>

33. On June 30, 2000, the petitioner filed a complaint with the Presidential Anticorruption Program about the threatening phone calls he received in late June:

This note is to report to you that over the past days I have received threatening calls against my life, in which with scurrilous language someone says that I’m going to be killed, in looking closely at the cases I am managing I draw the conclusion that the threats are apparently coming from the complaint I filed against the officials of the URBAN DEVELOPMENT INSTITUTE IDU, because there is no [other] case that entails danger to me and my family, I reach this conclusion because the complaints I brought were made with regard to the procurement section and regarding facts which, any way you look at them, prove irregularities that must be addressed immediately, I also request that protection measures be taken to protect my life and my family because I did not think it was so difficult to collaborate in cleaning up the state and now I understand why everyone stays quiet.<sup>13</sup>

34. On July 6, 2000, the Director of the Presidential Anticorruption Program, in responding to said complaint of threats brought by Mr. Oscar Alfonso Morales Díaz, addressed a communication to him stating:

In response to your communication dated June 30 of the current year, whereby you bring to our attention that you have been the target of threatening telephone calls and that after taking a close look at the cases you are handling in your private practice, you conclude that the threats stem from the complaints you filed against an official of the URBAN DEVELOPMENT INSTITUTE IDU and therefore you request protection measures for you and your family, I humbly inform you that as of the present date we have requested from Lieutenant Colonel José David Guzmán Patiño, Director of Protection of the Administrative Security Department DAS a priority assessment as the case warrants and to provide the protection measures that the specific situation demands.

<sup>9</sup> Annex 4. Written submission from the Presidential Anticorruption Program, addressed to Oscar Alfonso Morales Díaz. Annex to initial petition of October 10, 2000.

<sup>10</sup> Annex 5. “IDU has 527 lawsuits,” press article, of June 12, 2000, Diario El Tiempo. Annex to initial petition of October 10, 2000. Annex X. “IDU’s lawsuits,” press article of June 18, 2000. Annex to initial petition of October 10, 2000. Annex X. “IDU, in the courts,” press article. Annex to initial petition of October 10, 2000.

<sup>11</sup> Annex 5. “IDU has 527 lawsuits,” press article from Diario El Tiempo, dated Monday June 12, 2000. Annex to initial petition of October 10, 2000.

<sup>12</sup> Annex 3. Supplementing initial petition. Submission provided by the petitioner on October 23, 2000.

<sup>13</sup> Annex 6. Complaint of threats filed by Mr. Oscar Alfonso Morales Díaz with the Presidential Anticorruption Program of June 30, 2000, file 1740. Annex to initial petition of October 10, 2000.



We thank you for your trust in the Program and we applaud your civic courage in filing the complaint in your private activities for the alleged irregularities that you have detected in the Public Administration.<sup>14</sup>

35. On July 7, 2000, Mr. Morales Díaz reported having received threatening calls on his life, with the PGN or Office of the Chief Government Oversight Officer (*Procuraduría General de la Nación*) under case file N. 120554:

[...] I reach the conclusion that the threats seem to come from the complaints I filed against the officials of the URBAN DEVELOPMENT INSTITUTE IDU, with the Office of the Attorney General and the Chief Government Oversight Officer [PGN] [...] I request measures to protect my life and my family [...] I wish to also put on the record that should anything happen to me or my family, the employees of the IDU reported to the different entities, will be held responsible.<sup>15</sup>

36. The same day Mr. Morales Díaz reported the threatening calls he received to the Office of the Attorney General of the Nation, reiterating his report of July 12 of the same year, to the Protection and Assistance Program. Based on the information provided by the State, it appears that the petitioner wrote:

[the threatening calls] presumably are the result of the complaints that I had filed against the officials of the Urban Development Institute (IDU) with the Office of the Attorney General and the Office of the Chief Government Oversight Officer (PGN), that same year.<sup>16</sup>

37. The State reported that as soon as the threats came to the attention of the Office of the Attorney General, it undertook actions aimed at protecting the life and safety of the petitioner, such as the risk assessment.<sup>17</sup> The actual performance of the risk analysis and the results thereof are discussed later on in the instant report, reflecting the timeline of events.

38. The Commission has a copy of the letter addressed to the Office of the Ombudsman, in which Mr. Morales Díaz recounts the threats he received.<sup>18</sup> Mr. Morales did not note on what date he submitted the letter or received the response. For its part, the State claimed it did not receive the complaint or report filed with that office.<sup>19</sup>

### C. Attack and subsequent events

39. At around 8 pm on July 8, 2000, Mr. Morales Díaz was the victim of an attempt on his life. Consequently, he filed a criminal complaint, the case file of which was registered with the number 8610, for attempted homicide, with the Office of the Attorney General of the Nation, through the Kennedy Immediate Response Unit (URI), Sectional Prosecutor 310, in the city of Bogotá. The following statement was received from him at 11 PM:

At around 20:00, I was coming from visiting my girlfriend in the Modelia neighborhood and I was heading home, which is located in the Timiza neighborhood, and once I was in the neighborhood about four blocks away from my house, a motorcycle cuts across me with two people riding on it, the motorcycle came at me from the left side and crossed in front of me cut me off and I had to stop, that's when I was shot at, those shots were in the front on the windshield, the holes were in the lower right side of the windshield. I was driving alone, and

<sup>14</sup> Annex 4. Letter from the Presidential Anticorruption Program to Oscar Alfonso Morales Díaz of July 6, 2000. Annex to initial petition of October 10, 2000.

<sup>15</sup> Annex 7. Complaint for threats with the Procuraduría General de la Nación brought by Oscar Alfonso Morales Díaz. Annex to submission of the petitioner of July 10, 2003.

<sup>16</sup> Annex 8. Observations on the merits submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>17</sup> Annex 8. Observations on the merits submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>18</sup> Annex 9. Communication addressed to the Office of the Ombudsman, of July 7, 2000. Annex to initial petition.

<sup>19</sup> Annex 8. Observations on the merits submitted by the State. Note 20175010031361-GDI of May 15, 2017.



after this I presumed that the motorcycle fled with its occupants and I do not recall that they said anything [...]

[...] I have received [phone] calls to my office, anonymous calls, in which I'm told I'm going to be killed, and it's always a man who calls, but I am unable to identify the voice this has been happening for two weeks.

[...] I have not received any other type of threats and I presume that the reason is or lies in a complaint that I filed with the sectional unit of the office of the prosecutor, on March 19 of the current year, and I did so in my own name, for incidents that took place in administrative procurement, against officials of the urban development institute of Bogota, this complaint was against the director who is ANDRÉS CAMARGO ARDILA, CARLOS ALBERTO TORRES ESCALLO and SONIA RAMÍREZ DÍAZ.

[...] I communicated to that Prosecutor [Prosecutor 210 of the Crimes against Public Administration Unit] orally about the threats that I was receiving over the telephone, I did that, I believe on June 31 of the current year, the Prosecutor told me to bring these incidents to the attention of the Office of the Prosecutor, and I did so through a letter that I addressed to the Attorney General of the Nation, dated July 7 of this year and I also brought these incidents to the attention of the Procuraduría [PGN], the Presidential Anticorruption Program, Dr. Hugo Peñafort, on Friday it was also brought to the attention of Major Moreno of the DIJIN and [...] I was told to be careful, that those calls were only meant to psychological persecute me, I asked if they could provide some protection and they replied that they were going to study the case.<sup>20</sup>

40. Mr. Morales Díaz was asked to bring in the vehicle the next day, in the morning, because on the night of the attack, "because of the lack of light the trajectory of the projectiles could not be determined clearly."<sup>21</sup> On July 9, 2000, the judicial inspection of the petitioner's vehicle was conducted with the assistance of a ballistics expert and a photographer.<sup>22</sup>

41. The petitioner claims he received several condolence notes in his own name, which he handed over to the Presidential Anticorruption Program and the Office of the Attorney General, for the case investigations.<sup>23</sup> Based on the petitioner's description, it can be surmised that these condolence notes were received after the attack. The State has not disputed this fact or provided any information in this regard.

42. On July 14, 2000, the Second Unit of Crimes against Life of Sectional Prosecutor's Office 16, took over the preliminary investigation and, according to information submitted by the State, took the following steps: it sent a letter to the Office of Prosecutor 210 of the Crimes against Public Administration Unit for it to report on the current status of the investigation into corruption brought against senior officials of the IDU, accused by the alleged victim of being the cause of said acts of violence; it asked for the current address and telephone numbers of said public servants; it asked for the complaint to be expanded and it ordered the technical inspection of the petitioner's vehicle to continue.<sup>24</sup> Also, according to the State, Mr. Morales Díaz's father was interviewed.<sup>25</sup>

43. The same day, the Director of the Protection and Assistance Program communicated to Mr. Morales Díaz that a threat and risk analysis had been ordered to determine whether said situation stemmed from his court action, in order to proceed to implement potential protection measures on his behalf.<sup>26</sup>

<sup>20</sup>Annex 10. Criminal Complaint for Attempted Homicide filed by Oscar Alfonso Morales Díaz with the URI (Immediate Response Unit) Kennedy – Sectional Prosecutor 310. Annex to the initial petition of October 10, 2000.

<sup>21</sup> Annex 8. Observations submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>22</sup> Annex 8. Observations submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>23</sup> Annex 3. Supplementing initial petition. Submission of October 23, 2015.

<sup>24</sup> Annex 8. Observations on the merits submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>25</sup> Annex 11. Observations on admissibility submitted by the State. Note DDJ-2013-003-000502 of February 28, 2013.

<sup>26</sup> Observations on the merits submitted by the State. Note 20175010031361-GDI of May 15, 2017.

According to the State, the technical assessment was ready on July 18, 2000<sup>27</sup>. The Commission does not have information regarding the notification of the results of this report to Mr. Morales. Pursuant to a certificate granted by the Office of the Presidency of the Republic to the Embassy of Canada, of August 16, 2000, the result was “High risk.” In this certificate, it notes:

[...] the citizen went to the Office of Protection to Victims, Witnesses and Persons Involved, of the Office of the Attorney General of the Nation, where after evaluating the case, rated his situation as “High Risk” [...].<sup>28</sup>

44. According to information from the State, on July 24, 2000, the judicial inspection report of the vehicle, from the DAS was sent to the Prosecutor’s Office. A projectile was recovered in the vehicle and a photo album was obtained of the inspection.<sup>29</sup>

45. On July 31, 2000, the Director of Protection of the DAS, reported to the Director of the Presidential Anticorruption Program, that a Technical Risk Level and Threat Degree Survey was conducted and, consequently, Mr. Morales Díaz was given general guidance on how to protect himself and security:

The DAS [...] ordered a Technical Risk and Threat Level Survey be conducted on the surroundings of Doctor Oscar Alfonso Morales Díaz, revealing that his current level of security (direct actions – being followed) have their origin in the criminal complaint he brought against some of the senior officials of the IDU.

Consequently, he was provided guidance on self-protection and self-security in order to improve his personal and family setting, additionally, in view of the origin of the threats he is admitted to the Target Population of the Victim and Witness Protection Program, that Office Directorate of the Office of the Attorney General of the Nation was asked to examine his case in order to adopt measures in the event that he is eligible to enter it.<sup>30</sup>

46. In a certificate issued by the Director of the Protection and Assistance Program of the FGN, an account is given of the risk assessment, which according to the State, determined that Mr. Morales Díaz was eligible to be admitted in said program. Based on the assertions of the State, this is the same assessment as the one referred to in paragraph 43 of the instant report. The State also noted that as a consequence of this survey, he was granted a “letter of self-protection,” which lists measures for his security and offers to relocate him. In this certificate, it reads:

The undersigning Director of the Protection and Assistance Program for Victims, Witnesses and Persons Involved in the Criminal Proceeding of the Office of the Attorney General of the Nation, hereby certifies that on behalf of Mr. OSCAR ALFONSO MORALES DIAZ [...] a threat and risk assessment was conducted [...] establishing that indeed he is at risk of sustaining an assault on his life and personal integrity, in view of his participation as a witness in the criminal investigation of case No. 484569, which is being conducted by the Office of Prosecutor 210 Delegated to the Criminal Judges of the Circuit, Crimes against Public Administration Unit, for the offense relating to administrative corruption in the awarding of contracts by the Urban Development Institute IDU.<sup>31</sup>

47. The petitioner declined to consent to be relocated because: i) he had already relocated to another city on his own after the attack; ii) he was completing his specialization studies in Bogota; iii)

<sup>27</sup> Annex 8. Observations on the merits submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>28</sup> Annex 2. Letter from the Office of the President of the Republic addressed to the Embassy of Canada in Colombia of August 16, 2000. Annex to initial petition of October 10, 2000.

<sup>29</sup> Annex 8. Observations on the merits submitted by the State. Note 20175010031361-GDI of May 15, 2017

<sup>30</sup> Annex 13. Letter sent by Lieutenant Colonel José David Guzmán Patiño, Director of Protection, to Doctor G. Bernard Gilchrist B., Director of the Presidential Anticorruption Program, Office of the President of the Republic. Submission attached to the initial petition of October 10, 2000.

<sup>31</sup> Annex 14. Certification granted by the Protection and Assistance Program of the FGN of August 1, 2000. Submission attached to the initial petition of October 10, 2000.

economically, the job market in his profession was unfavorable; and iv) he was planning on doing doctoral studies in Spain.<sup>32</sup>

48. According to Mr. Morales, he told the authorities that:

[...] he would not consent to them to give him airline tickets to another city that what they needed to do was to get to the bottom of his case, and besides that he would not have any way to make a living in another city [...] How can a person who has been attacked be relocated to another city without any economic support, without housing and without employment, the logical response is to not accept the offer of the Office of the Attorney General.<sup>33</sup>

49. Thus, in light of the refusal of the alleged victim, the FGN issued a Record of Non-Admission dated August 2, 2000.<sup>34</sup>

50. On September 2, 2000, the Metropolitan Police of Bogota reported to the Director of the Presidential Anticorruption Program that “[...] a security study has been conducted of Mr. Oscar Morales Díaz (sic) to verify his risk level, which yielded a medium level. Based on the foregoing, it was ordered to conduct sporadic patrolling of Mr. Morales residence, by the personnel assigned to the Eighth Kennedy Station; additionally, it was suggested to him to put into practice the security measures that were recommended to him on the occasion of said study.” In the same report, the Director of the Presidential Anticorruption Program was asked to report in the event that any situation arose that would come to change that technical assessment.<sup>35</sup>

51. The Office of the Prosecutor in charge of the investigation of the attack, through an official letter of November 8, 2000, ordered that the DAS be sent a letter instructing it to take steps aimed at identifying the perpetrator or perpetrators of the crime of which Mr. Morales Díaz had been the victim.<sup>36</sup>

52. On May 3, 2001, the same Prosecutor’s Office summoned the petitioner to take his statement, as well as Andrés Camargo Ardila and Sonia Ramírez Díaz, the latter two, the senior IDU officials against whom the petitioner filed the complaints for acts of corruption, to take their statements. On June 1, 2001, the statement of Andrés Camargo was taken; however, the statement of Mrs. Sonia Ramírez could not be taken because she died on March 29, 2001.<sup>37</sup> The petitioner alleged that he requested that an inquiry be conducted into her death in the context of the investigation. Nonetheless, the State did not report having taken any action in this regard.

53. The petitioner requested via e-mail that the Office of the President of the Republic join the investigation into the death of Sonia Ramírez, chief of Public Tenders and Procurement of the IDU<sup>38</sup> with the investigation into the attack on his life being conducted by the FGN. The State did not submit any information in this regard and the response of the entity is unknown. The State reported that national judicial authorities have not found any relationship between the homicide of Mrs. Ramírez and the case of Mr. Morales.<sup>39</sup>

54. According to information provided by the State, after conducting the respective investigations, on July 25, 2001, the Office of the Prosecutor in charge of the investigation of the attack decided to suspend the preliminary investigation, on the grounds that it was unable to identify the perpetrators and

<sup>32</sup> Annex 15. Initial Petition. Submission of October 10, 2000.

<sup>33</sup> Annex 16. Observations submitted by the petitioner. Submission of December 25, 2012.

<sup>34</sup> Annex 8. Observations submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>35</sup> Annex 17. Letter sent by the Commander of the Metropolitan Police of Bogotá to G. Bernard Gilchrist, Director of the Presidential Anticorruption Program. Attached to supplement of initial petition of July 10, 2003.

<sup>36</sup> Annex 8. Observations submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>37</sup> Annex 8. Observations submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>38</sup> Annex 18. Observations submitted by the petitioner. Submission of September 4, 2015.

<sup>39</sup> Annex 8. Observations submitted by the State. Note 20175010031361-GDI of May 15, 2017.

since the legal deadline had lapsed to determine the identity of the defendant, without prejudice to new evidence coming to light.<sup>40</sup> Specifically, it wrote that:

[...] despite the efforts that have been deployed thus far in order to identify or individualize the perpetrators of the criminal act, the Office of the Prosecutor finds that there is no evidence to open an investigation against a particular persons and much less to be able say that a criminal action can be opened against those charged by Mr. OSCAR ALFONSO MORALES, that is, the IDU officials such as ANDRÉS CAMARGO ARDILA, CARLOS ALBERTO TORRES and SONIA RAMÍREZ, because only suspicions, conjectures against them emerge from his complaint; furthermore, it must be taken into account that the official that heard the complaint filed by MORALES against the persons referenced above issued a decision to dismiss because the conduct did not constitute a crime.<sup>41</sup>

55. The IACHR notes that according to the State, said Office of the Prosecutor established, specifically with regard to the officials charged by Mr. Morales Díaz, that “their participation in what happened did not have any persuasive basis, being a simple supposition or conjecture.”<sup>42</sup> The State did not introduce any documentary support for this assertion.

#### **D. Appearance at the Embassy of Canada and departure from the country**

56. The petitioner reported that because of the fear in which he was living, he went to the Embassy of Canada in Bogota to look into the possibility of emigrating to that country. In this regard, on August 16, 2000, the Office of the President of the Republic of Colombia delivered a letter to the Canadian Embassy noting that:

This past month of June, the above referenced citizen [Oscar Morales] filed a complaint of a criminal nature against public servants at a public entity at the district level. This complaint is being heard by the Office of Prosecutor 210 Delegated to the Crimes against Public Administration Unit of Santafé de Bogotá D.C.<sup>43</sup>

57. In said certificate, it also notes that “the citizen went to the Office of Victim and Witness Protection [...] which after assessing the case, found the situation to be “High Risk.””<sup>44</sup>

58. On December 14, 2000, the petitioner immigrated to Canada. According to the petitioner, said State supported him with a loan for the expenses that he would have to incur in order to travel.<sup>45</sup>

59. The petitioner told the Commission that:

As part of the Study that was conducted by the Embassy of my case I was told I could emigrate to that country and that my destination would be Québec, additionally I was told that I would be given a loan for expenses, which I accepted, I state in advance that I have very little money because in the past few months I have been traveling from one place to another to be able to continue living.<sup>46</sup>

60. As of the date of the approval of the instant report, Mr. Morales Díaz has been residing in Canada.<sup>47</sup>

<sup>40</sup> Annex 8. Observations submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>41</sup> Annex 11. Observations submitted by the State. Note DDJ-2013-000502 of February 28, 2013.

<sup>42</sup> Annex 8. Observations submitted by the State. Note 20175010031361-GDI of May 15, 2017.

<sup>43</sup> Annex 2. Letter from the Office of the Presidency of the Republic of Colombia to the Embassy of Canada in Colombia of August 16, 2000. Attached to initial petition of October 10, 2000.

<sup>44</sup> Annex 2. Letter from the Office of the Presidency of the Republic of Colombia to the Embassy of Canada in Colombia of August 16, 2000. Attached to initial petition of October 10, 2000.

<sup>45</sup> Annex 18. Observations on the merits submitted by the petitioner. Submission of September 4, 2015.

<sup>46</sup> Annex 3. Supplementing the initial petition. Submission of October 23, 2000.

<sup>47</sup> Annex 19. Petitioner’s submission received on October 18, 2017.

#### IV. LEGAL ANALYSIS

##### A. **Right to life,<sup>48</sup> humane treatment<sup>49</sup> and freedom of movement and residence<sup>50</sup> in connection with Article 1.1<sup>51</sup> of the American Convention.**

##### 1. **General considerations.**

61. The Commission and the Court have established that the right to life and humane treatment are central to the Convention. According to Article 27.2 of said treaty, these rights form part of the non-derogable core, because they are established as rights that cannot be suspended in case of war, public danger or other threats to the independence or security of the States Parties.<sup>52</sup> Likewise, they have held that it is not enough for States to abstain from violating rights, but must adopt positive measures to be determined based on the specific needs of protection of the subject of law, either because of his or her personal situation or because of the specific circumstances in which he or she finds himself.<sup>53</sup>

62. The Commission has held that a violation of the human rights protected by the Convention can entail international responsibility of a State Party either because the violation is perpetrated by its own agents or -even though at first it may not be attributable to the State inasmuch as it was actually committed by a private individual-, when the perpetrator of the violation cannot be identified due to a lack of diligence of the State to reasonably prevent it or deal with it in keeping with the provisions of the Convention. The important thing is to determine whether that illegal act had the participation, support or tolerance of State agents or whether it was the result of the State's breach of its obligation to reasonably prevent human rights violations, to seriously investigate in order to identify and punish those responsible and provide adequate reparation to the victim or his or her next of kin for the damages caused to them.<sup>54</sup>

63. As for the obligation to ensure, the Court held that it implies the duty of States Parties to organize the entire governmental apparatus and, in general, all the structures through which public power is exercised, so that they are capable of juridically ensuring the free and full enjoyment of human rights. As a consequence of this obligation, the States must prevent, investigate and punish any violation of the rights recognized by the Convention and, moreover, when possible, attempt to restore the right violated and provide compensation as warranted for damages resulting from the human rights violation.<sup>55</sup>

64. The Commission has repeatedly noted that these obligations are applicable when non-State actors are involved.<sup>56</sup> Specifically, the Inter-American Court has written that "international responsibility may arise from attribution to the State of human rights violations committed by third parties or individuals, within

<sup>48</sup> Article 4.1 of the American Convention establishes, in the relevant portion, the following: "Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life."

<sup>49</sup> Article 5.1 of the American Convention establishes, in the relevant portion, the following: "Every person has the right to have his physical, mental and moral integrity respected."

<sup>50</sup> Article 22.1 of the American Convention establishes: "Every person lawfully in the territory of a State Party has the right to move in it, and to reside in it subject to the provisions of the law."

<sup>51</sup> Article 1.1 of the American Convention establishes, in the relevant portion, the following: "The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition."

<sup>52</sup> IACHR. Report No. 35/17. Case 12.713. Report on Merits (Publication). José Rusbel Lara et al. Colombia. March 21, 2017. Par. 149. Citing: IA Court of HR, *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006. Series C No. 140, par. 119.

<sup>53</sup> IACHR. Report No. 35/17. Case 12.713. Report on Merits (Publication). José Rusbel Lara et al. Colombia. March 21, 2017. Par. 149. Citing: IA Court of HR, *Case of González et al ("Cotton Field") v. Mexico. Preliminary Objection, Merits, Reparations and Costs*. Judgment of April 6, 2009. Series C No. 205, par. 243. Cfr. *Case Baldeón García v. Peru. Merits, Reparations and Costs*. Judgment of April 6, 2006. Series C No. 147, par. 81; *Case of the Sawhoyamaya Indigenous Community v. Paraguay. Merits, Reparations and Costs*. Judgment of March 29, 2006. Series C No. 146, par. 154; and *Case of the Pueblo Bello Massacre v. Colombia. Merits, Reparations and Costs*. Judgment of January 31, 2006. Series C No. 140, par. 111.

<sup>54</sup> IACHR, Report No 65/01. Case 11.073. Merits. Juan Humberto Sánchez. Honduras. March 6, 2001, par.88.

<sup>55</sup> IA Court of HR. *Case of Velásquez Rodríguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 4 Par. 166.

<sup>56</sup> IACHR. Report 80/11. Case 12.626. Merits. Jessica Lehanan (Gonzales) et al. United States. July 21, 2011. Par. 119.



the framework of the State's obligations to guarantee respect for those rights between individuals<sup>57</sup> (...) The obligations *erga omnes* to respect and ensure respect for the norms of protection, which is the responsibility of the States Parties to Convention, extend their effects beyond the relationship between its agents and the persons subject to its jurisdiction, because they are also manifest in the positive obligation of the State to adopt the necessary measures to ensure the effective protection of human rights in inter-individual relations."<sup>58</sup> "These obligations devolve upon all subjects of international law and presumptions of non-compliance must be determined in function of the need for protection in each particular case."<sup>59</sup>

65. Specifically, regarding the duty to prevent, the Court has noted "a State cannot be responsible for all the human rights violations committed between individuals within its jurisdiction. Indeed, the nature *erga omnes* of the treaty-based guarantee obligations of the States does not imply their unlimited responsibility for all acts or deeds of individuals,"<sup>60</sup> because its obligations to adopt prevention and protection measures for individuals in their relationships with each other are conditioned upon i) whether the State was or should have been aware of a situation of risk; ii) whether said risk was real and imminent; and iii) whether the State adopted measures, which could be reasonably expected to prevent or avoid such danger.<sup>61</sup>

66. The Commission has established that situations of threat and harassment constitute in and of themselves impairments to the psychological and moral integrity of persons, which is further exacerbated by the State's failure to protect.<sup>62</sup> The Court has found that the absence of a State response to a "campaign of threats, harassment, surveillance, arrests, searches and attempts against their lives and their physical integrity," causes constant fear and anxiety, constituting a violation of the personal integrity of the persons affected.<sup>63</sup>

## 2. Case Analysis

67. The instant case involves a string of death threats followed by an attempt on the life of Mr. Morales Díaz and the continuation of said threats until the alleged victim decided to depart the country for security reasons. These events took place in a context of complaints brought by Mr. Morales Díaz for corruption against three officials of the State entity the Urban Development Institute. From the first threats until the departure from the country, the incidents took place in a time frame running from June 2000 until December 14 of that same year. These core incidents are not in dispute. On the contrary, as will be explained, based on the attack itself and the risk assessment conducted by State authorities, Mr. Morales Díaz continued to be subjected to a situation of grave risk to his life and safety over this time span.

68. In keeping with the standards cited above, the Commission finds that the situation faced by the alleged victim from the time of the first threats in late June 2000 until his departure from the country on December 14, 2000, constituted an infringement of his personal integrity. Likewise, with respect to the attempt on his life of July 8, 2000, the Commission finds that it proves that Mr. Morales Díaz was exposed to a situation of imminent risk to his life and, therefore, the Commission believes that it also constituted an infringement of that right. Hereunder, the Commission will examine whether the Colombian State is responsible for these infringements in light of the duty to ensure through prevention and protection.

<sup>57</sup> IA Court of HR, Case of the Pueblo Bello Massacre. Judgment of January 31, 2006. Series C No. 140. Par. 113.

<sup>58</sup> IA Court of HR, Case of the "Mapiripán Massacre." Judgment of September 15, 2005. Series C No. 134. par. 111.

<sup>59</sup> IA Court of HR, Case of the Pueblo Bello Massacre. Par. 117.

<sup>60</sup> IA Court of HR, Case of the Pueblo Bello Massacre. Par. 123.

<sup>61</sup> The case law of the European Court regarding the elements in the duty of prevention noting that the Inter-American Court has revisited them in several judgments. In this regard, see: IA Court of HR. Case of the Pueblo Bello Massacre. Judgment of January 31, 2006. Series C No. 140. Par. 124; IA Court of HR. Case of González et al ("Cotton Field") v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No. 205, par. 284; IA Court of HR. Case of Luna López v. Honduras. Merits, Reparations and Costs. Judgment of October 10, 2013. Series C No. 269, par. 124.

<sup>62</sup> IACHR. Report No. 45/17. Case 10.455. Merits (Publication). Valentín Basto Calderón et al. Colombia. May 25, 2017. Par. 139.

<sup>63</sup> IA Court of HR, Case of Gutiérrez Soler v. Colombia. Merits, Reparations and Costs. Judgment of September 12, 2005. Series C No. 132, pars. 56-57, Case of Tibi v. Ecuador. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 7, 2004. Series C No. 114, par. 147. Also see IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/ser.L/V/II.Doc.66, December 31, 2011.

69. In this section, the Commission will assess whether or not the response provided by the Colombian State from the time it became aware of the death threats against Mr. Morales Díaz was compatible with the duty to prevent and protect, in light of the criteria explained above.

70. As for the date the State became aware, as was noted under the findings of fact, on June 30, 2000, Mr. Morales Díaz brought to the attention of the Presidential Anticorruption Program the threatening calls he had been receiving after having brought the complaint for alleged acts of corruption against IDU officials. Additionally, in the same letter, Mr. Morales Díaz requested protection measures to be taken for him and his family. In this regard, the State's argument that it was only one day before the attempt on his life of July 8, 2000 that the authorities became aware of the threats and of the danger Mr. Morales was in, is inconsistent with the information appearing in the case file.

71. Even though it was July 7, 2000 that Mr. Morales Díaz reported the threatening telephone calls and demanded that protection measures be taken for him and his family to the FGN and the PGN specifically, the State, through the Presidential Anticorruption Program was aware of the death threats one week prior to the attempt on his life.

72. On this issue, in the context of human rights defenders, the IACHR has held that "in order for the State's duty to protect a defender to be triggered, it is enough that any authority becomes aware or should be aware of a situation of real and imminent danger. In this regard, when an authority of the mechanism becomes aware of a situation of real and imminent danger to the life of a human rights defender, it is the duty of said authority 'to identify or assess whether the person who is the subject of the threats and harassment requires protection or forward the matter to the competent authority to do so.'"<sup>64</sup>

73. In this same vein, the Court has written that "assessment of whether a person requires measures of protection and which measures are appropriate is an obligation of the State and cannot be restricted to the victim himself requesting this from 'the competent authorities,' or knowing exactly which authority is best suited to deal with his situation, because it corresponds to the State to establish the corresponding measures of coordination between its agencies and officials."<sup>65</sup>

74. The Commission takes into account that Mr. Morales Díaz brought a complaint for alleged acts of corruption and, as such, held the status of witness to a crime that should have been investigated by the State with the utmost seriousness and diligence. The Inter-American Court has described States' obligation to protect individuals, who could be in danger in different roles in the context of a criminal proceeding, including that of a witness. Specifically, it has held that "in order to comply with the obligation to investigate within the framework of the guarantees of due process, the State must take all necessary measures to protect judicial officers, investigators, witnesses and the victims' next of kin from harassment and threats which are designed to obstruct the proceedings, prevent a clarification of the events of the case, and prevent the identification of those responsible for such events."<sup>66</sup> Moreover, in Resolution 1/18 on Corruption and Human Rights, the IACHR highlighted the need to "create an environment free from intimidation (...) by those who investigate, report and denounce acts of corruption, and that the safety of the individuals involved in denouncing corruption (...) is essential for" ensuring the eradication of corruption.<sup>67</sup>

75. In short, the Commission finds that the Colombian State became aware of the situation of danger to the life and personal integrity of Mr. Morales Díaz, including the fact that said danger could have come from State agents charged with corruption, as of June 30, 2000. With this awareness and taking into account the nature of the facts introduced, a duty of immediate response to prevent and protect was triggered pursuant to the obligation to ensure the aforementioned rights.

<sup>64</sup> IACHR. *Toward a Comprehensive Policy to Protect Human Rights Defenders* OEA/Ser.L/V/II. Doc. 207/17. December 29, 2017. Par. 262.

<sup>65</sup> Case of Vélez Restrepo and Family Members v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 3, 2012. Series C No. 248, par. 201.

<sup>66</sup> IA Court of HR. Case of the Massacre of La Rochela v. Colombia. Merits, Reparations and Costs. Judgment of May 11, 2007. Series C No. 163. Par. 171. Citing. *Cfr. Case Myrna Mack Chang*. Judgment of November 25, 2003. Series C No. 101, par. 199.

<sup>67</sup> IACHR. Resolution 1/18. Corruption and Human Rights. Approved March 2, 2018.



76. Regarding the response provided by the State, the IACHR notes that no response is on record in the case file on the very day of June 30, 2000, nor on the next days immediately after that day. The first State response took place six days later on July 6, 2000, when the Presidential Anticorruption Program informed him that it had brought his case to the attention of the DAS to conduct the corresponding technical surveys and provide security measures to him. This referral to the DAS and the preparation of the risk assessment by the FGN were the only actions taken by the State prior to the attempt on the life of Mr. Morales Díaz on July 8, 2000.

77. The Commission notes that the risk surveys are relevant and necessary in order to identify the sources of danger faced by the individual, as well as the most suitable protection measures in his particular case. Notwithstanding, implementation of said risk assessments cannot delay immediate implementation of protection measures on behalf of the person, whose life and safety are in jeopardy. In the instant case, the IACHR notices that the State did not implement any security measure while the risk analysis was being conducted of Mr. Morales Díaz.

78. Based on indications thus far, the Commission has established that the attack took place when Mr. Morales Díaz was not under any protection by the Colombian State.

79. The Commission notes that with the attack perpetrated on July 8, 2000, it became obvious that the degree of danger faced by Mr. Morales had reached the highest level. The attempt on the life of the alleged victim demanded a heightened duty of the State to respond immediately, especially when the threats on his life continued through condolence notes, which were brought to the attention of the State authorities. Said information was not refuted by the State.

80. Despite this heightened duty of immediate response to the attack, the Commission notes that the FGN's risk assessment was not ready until ten days later, that is, July 18, 2000. Moreover, the results of the DAS assessment were not communicated until July 31, 2000, more than a month after the State became aware of the death threats.

81. The IACHR has ascertained that three risk assessments were conducted by different institutions: the FGN, the DAS and the Metropolitan Police of Bogota. The Colombian State has not explained why the three different entities conducted risk analysis or what, if any, inter-agency coordination existed between them in order to ensure a response of comprehensive protection for Mr. Morales Díaz. On the contrary, the absence of coordination is evident in the varying results of these analysis as to risk level, one of which reached a conclusion of medium risk and another, high risk.

82. As for concrete measures of protection, the IACHR notes that despite the establishment of a risk and evidence suggesting that said risk was linked to his complaints of corruption by State agents, the only protection measure implemented was sporadic patrols. In addition, the State merely informed the alleged victim about measures of "self-protection" and made an offer to relocate him, which as Mr. Morales noted, would have a severe impact on his life plans. This response of the State is particularly serious in light of the fact that the alleged victim had been the target of an attempt on his life, which made the imminent nature of the risk apparent and the heightened need for protection, to which a formal response was offered placing the responsibility on Mr. Morales for his own protection and without taking any proactive protection measures.

83. The Commission notes that because of the lack of adequate protection measures and the persistence of threats against his life, Mr. Morales Díaz made the decision to seek support at the Embassy of Canada and, therefore, was given the chance to settle in said country. In this regard, there is a cause-effect connection between said situation of lack of protection and Mr. Morales Díaz's departure from his country on December 14, 2000. Thus, the Commission finds that the Colombian State placed *de facto* restrictions on the right to circulation and residence of Mr. Morales Díaz, because of its failure to act with regard to the danger to his life and safety, which led him to leave the country and leave his family.<sup>68</sup>

<sup>68</sup> Cfr. Manuel Cepeda Vargas v. Colombia. Preliminary Objections, Merits, Reparations and Costs, par. 201, and Case of Fleury et al v. Haiti, Merits and Reparations, pars. 94 and 95.

84. Based on the foregoing considerations, the Commission concludes that the Colombian State is responsible for violation of the right to life, humane treatment and freedom of movement and residence, as established in Articles 4.1, 5.1 and 22.1 of the American Convention, in connection with the duty to ensure in the area of prevention and protection, to the detriment of Oscar Morales Díaz.

**B. The right to a fair trial<sup>69</sup> and judicial protection,<sup>70</sup> in connection with Article 1.1 of the American Convention.**

**1. General Considerations.**

85. The Inter-American Court has established that “as a result of the protection granted by Articles 8 and 25 of the Convention, the States are obliged to provide effective judicial recourses to the victims of human rights violations that must be substantiated according to the rules of due process of law.”<sup>71</sup>

86. The case law of the Inter-American system provides that the State is obliged, once it becomes aware of a human rights violation, in particular, of the right to life, personal integrity and personal liberty,<sup>72</sup> to open *ex officio* a serious, impartial and effective investigation,<sup>73</sup> which must be carried out within a reasonable period of time.<sup>74</sup> This entails the right of victims and their next of kin to having the authorities institute a criminal proceeding against the alleged persons responsible for these crimes; and in turn, impose the pertinent punishments, and receive reparation for the damages that said family members have endured.<sup>75</sup>

87. With regard to the investigation of cases of threats, the Commission has held that the duty of prevention is not just to provide material measures of protection, but also entails the obligation of acting to address the structural causes that have a detrimental impact on the security of the persons under threat. In order to fulfill this obligation, the State “must investigate and this investigation must be carried out immediately, exhaustively, seriously and impartially in order to identify where the threats are coming from and punish those responsible, in order to prevent the threats from coming to past.”<sup>76</sup> The Commission has also asserted that if no progress is made in the investigations and in the capture of those responsible, the persons under threat may face a greater risk. As for the duty to punish those responsible, the Convention demands that not only the actual perpetrators must be punished, but also the masterminds.<sup>77</sup>

<sup>69</sup> Article 8.1 of the American Convention establishes, in the relevant portion, the following: “Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.”

<sup>70</sup> Article 25.1 of the American Convention establishes, in the relevant portions, the following: “Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.”

<sup>71</sup> IA Court of HR, Case of Cantoral Huamaní and García Santa Cruz. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C No. 167. Par. 124; IA Court of HR, Case of the Massacre of la Rochela. Judgment of May 11, 2007. Series C. No. 163. Par. 145; IA Court of HR, Case of Miguel Castro Castro Prison. Judgment of November 25, 2006. Series C No. 160. Par. 381; and IA Court of HR, Case of Dismissed Congressional Workers (Aguado Alfaro et al). Judgment of November 24, 2006. Series C No. 158, Par. 106.

<sup>72</sup> IA Court of HR, Corte I.D.H., Case of Cantoral Huamaní and García Santa Cruz. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C No. 167. Par. 100.

<sup>73</sup> IA Court of HR, Case of García Prieto et al. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C No. 168. Par. 101; IA Court of HR, Case of the Gómez Paquiyauri Brothers. Judgment of July 8, 2004. Series C No. 110. Par. 146; IA Court of HR, Case of Cantoral Huamaní and García Santa Cruz. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C No. 167. Par. 130.

<sup>74</sup> Cfr. IA Court of HR, Case of Bulacio. Judgment of September 18, 2003. Series C No. 100. Par. 114; IA Court of HR, Case of the Massacre of la Rochela. Judgment of May 11, 2007. Series C. No. 163. Par. 146; IA Court of HR, Case of Miguel Castro Castro Prison. Judgment of November 25, 2006. Series C No. 160. Par. 382.

<sup>75</sup> Cfr. IA Court of HR, Case of García Prieto et al. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C No. 168. Par. 103; IA Court of HR, Case of Bulacio. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 18, 2003. Series C No. 100, Par. 114; and IA Court of HR, Case of Miguel Castro Castro Prison. Judgment of November 25, 2006. Series C No. 160. Par. 382.

<sup>76</sup> IACHR, Report on the Situation of Human Rights Defenders in the Americas, par. 47.

<sup>77</sup> IACHR, Report on the Situation of Human Rights Defenders in the Americas, par. 47.

88. The Inter-American Court has said that the duty to investigate with due diligence means that inquiries must be conducted using all available legal means and must be aimed at the determining the truth.<sup>78</sup> Additionally, the Commission and the Court have specified that in cases of human rights violations, the State can be found responsible when it does not order or collect the relevant evidence pursuant to the duty of due diligence and that the inquiry must be aimed at exploring all possible lines of investigation, to be able to identify the perpetrators of said violation.<sup>79</sup> It has also reiterated in certain cases, “the obligation to investigate entails the duty to use the efforts of the State apparatus to clarify the structure that permitted these violations, the causes, the beneficiaries, and the consequences.”<sup>80</sup>

## 2. Case Analysis

89. As was noted in previous sections, three State entities carried out a risk assessment with regard to the situation of Mr. Morales Díaz: the FGN, the PMB and the DAS. The Commission examined in an earlier section the lack of coordination between the authorities conducting these risk analysis, which was reflected in the varying results described above. The relevant point here is: the IACHR notes that, in addition to not contributing to an adequate response in terms of protection, these assessments did not set an adequate foundation to get to the bottom of the acts of violence against Mr. Morales Díaz.

90. As for the criminal investigation, the Commission notes that Mr. Morales filed a complaint with the FGN, the same day that he endured the attempt on his life, raising the potential link of the IDU officials to the acts of violence perpetrated against him.

91. The case file shows the investigative steps taken include: a judicial inspection of the vehicle of the alleged victim; interview of Mr. Morales Díaz’s father; request of Prosecutor’s Office 210 of the Crimes against Public Administration Unit to report on the status of the investigation that was being carried out into the IDU officials accused by the petitioner; request to the DAS to make efforts to identify the perpetrators of the crime; and a request to take the statement of the alleged victim, as well as of the IDU officials.

92. The description in the previous paragraph is the evidence gathering activity reported by the State. The IACHR does not have information about the result of these investigatory steps or any follow up to them. Moreover, the Commission notes that the investigation was focused on the attack of July 8, 2000 and no information was made available about how previous and subsequent threats were looked into, in light of the information provided by Mr. Morales Díaz.

93. Specifically, as to the judicial inspection of the vehicle, the night of the attack, Mr. Morales Díaz was ordered to take the car home and return the next day to proceed with the inspection, because of the lack of light making it impossible to view the trajectory of the projectile. The Commission finds that said action reflects irregularities in the proceedings and the preservation of material evidence within the investigation.

94. As for implicating public officials in the acts of violence, the Commission notes that it wasn’t until May 3, 2001, almost one year after the attack and when Mr. Morales was outside the country, that the Office of the Prosecutor summoned to provide a statement Andrés Camargo Ardila and Sonia Ramírez Díaz, the senior IDU officials charged with corruption. On June 1, 2001, the statement of Andrés Comargo was taken; however, the statement of Mrs. could not be taken because she passed away on March 29, 2001.

95. The Commission finds that the statement of one of the IDU officials allegedly involved and the request for the status of the judicial proceeding against said officials cannot be regarded as sufficient measures to exhaust the line of investigation that would link them to the threats and attempt on the life of the

<sup>78</sup> Cfr. IA Court of HR, Case of García Prieto et al. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C No. 168. Par. 101.

<sup>79</sup> IACHR. Report No. 25/09 Merits (Sebastião Camargo Filho) Brazil, March 19, 2009, par. 109; IA Court of HR, Case of the “Street Children” (Villagrán Morales et al). Judgment of November 19, 1999. Series C No. 63, par. 230; IA Court of HR, Case of J. v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 27, 2013. Series C No. 275, par. 344, citing IA Court of HR, Juan Humberto Sánchez vs. Honduras. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 7, 2003. Series C No. 99, par. 128.

<sup>80</sup> IA Court of HR. Case of Rodríguez Vera (The Disappeared from the Palace of Justice) et al v. Colombia. Judgment of November 14, 2014. Par. 500.

alleged victim. The Commission and the Court have reiterated that failure to investigate alleged violations committed against someone when there are suggestions of involvement of state agents “prevents the State from presenting a satisfactory and convincing explanation of the [facts] alleged, and disproves the arguments concerning its responsibility, with adequate probative elements.”<sup>81</sup> In the instant case, this line of investigation was based on the fact that the charges of corruption, the threats and the attack all coincided in time and the DAS own report, which established said relationship. Additionally, as was noted, there is a heightened duty of diligence when state agents are involved.

96. Despite the foregoing deficiencies, on July 25, 2001, the Office of the Prosecutor ordered the preliminary investigation to be suspended. The State argued that the complexity of the case was reflected in the inability of the alleged victim to provide a description of the vehicle used to commit the crime; the absence of witnesses at the scene of the crime; the difficulty of the petitioner to recognize the voice of the threatening calls; and the absence of evidence to prove the link between the IDU officials and the attack. However, the Commission finds that the State did not exhaust all available means to identify the actual perpetrators and masterminds behind the threats and the attempt on the life of the petitioner and, thereby, get to the bottom of the incidents, assign responsibility and provide for effective protection of Mr. Morales Díaz. The State merely cited the complexity of the case based on the inability of the petitioner to provide evidence in the investigation. Moreover, very few investigatory steps were taken and no clear strategy with logical lines of investigation is identified based on existing suggestions.

97. Based on the foregoing analysis, the Commission finds that the Colombian State is responsible for the violation of the right to a fair trial and judicial protection, enshrined in Articles 8.1 and 25.1 of the American Convention in connection with Article 1.1 of the same instrument, to the detriment of Mr. Morales Díaz.

## **V. REPORT No. 62/18 AND INFORMATION ON COMPLIANCE**

98. The Commission adopted Merits Report No. 62/18, which includes paragraphs 1-97 *ut supra*, on May 8, 2018, and transmitted it to the State on August 6, of the same year. In that report, the Commission recommended to the State of Colombia that it:

1. Provide full material and non-pecuniary reparation for the human rights violations declared in the instant report, including measures of compensation and satisfaction.
2. Order the measures necessary to ensure that in the event that Mr. Morales Díaz returns to Colombia, either temporarily or for good, an effective assessment is conducted of his risk situation and pertinent protection measures are adopted in concert with the victim.
3. Reopen the criminal investigation diligently, effectively and within a reasonable period of time in order to elucidate the facts thoroughly, identify every potential responsible party and impose the appropriate punishments for the human rights violations declared in the instant report.
4. Order the administrative, disciplinary or other types of measures in response to the actions or omissions of the state officials who contributed to the situation of lack of protection of Mr. Morales, as well as the denial of justice and impunity in which the facts of the case remain.
5. Order the necessary measures to prevent the repetition of the human rights violations declared in the instant report. This includes measures to: i) ensure proper inter-agency coordination between existing mechanisms in order to identify and assess situations of danger to the lives and safety of people; and ii) ensure that in response to situations of risk to lives and safety of people, proper protection is provided by the State and not just measures of self-protection. The measures of non-repetition of the instant recommendation should be broadly applied and not just be limited to certain groups that require special protection.

<sup>81</sup> IACHR. Report 13/15. Admissibility and Merits. Mayra Angelina Gutiérrez (Guatemala). March 23, 2015. Par. 162; IA Court of HR, *Case of J. v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 27, 2013. Series C No. 275. Par. 353.

99. In the proceedings subsequent to the notification of the merits report, the Commission received several reports from the State and briefs from the petitioner on compliance with the recommendations established by the IACHR. During this period, the Commission granted three extensions to the State for the suspension of the time period provided for in Article 51 of the American Convention. In these extension requests, the Colombian State reiterated its willingness to comply with the recommendations. Likewise, the State expressly waived the right to file preliminary objections for failure to comply with the aforementioned deadline in the event that the case was submitted to the Inter-American Court.

100. On May 13, 2019, the State issued Resolution 2323 with a favorable opinion under the terms of Law 288 of 1996 on compliance with Merits Report No. 62/18. On May 29, 2019, the parties signed an agreement on compliance with the recommendations issued by the Commission, in which the State committed to advance in its compliance within one year. They also agreed that the compliance verification mechanism would be through the powers granted to the IACHR in Article 51 of the American Convention.

101. With regard to the first recommendation, it was agreed to pay pecuniary reparation and two measures of satisfaction: the acknowledgment of responsibility to be carried out in a private act on July 8, 2019, and the awarding to Mr. Morales Díaz of the National Order of Merit in the Grade of Knight.

102. With regard to the second recommendation, it was agreed to request the National Police of Valledupar, Bogotá and Villavicencio to conduct sporadic patrols during the time that Mr. Morales Díaz remains in Colombia.

103. With regard to the third recommendation, the State informed that it sent a letter to the Attorney General's Office to analyze its compliance, which, after analyzing the case, concluded that any type of investigative suggestion was inappropriate since it would not be criminally viable due to the time elapsed. In view of this and the fact that Mr. Morales Díaz was not interested in reopening the case, given that the crimes could be time-barred, the parties requested the IACHR to declare this recommendation as complied with.

104. With regard to the fourth recommendation, the State undertook to send an official letter to the Office of the Attorney General of the Nation to determine the feasibility of initiating disciplinary actions.

105. With regard to the fifth recommendation, the State indicated that it has a framework for protection in situations of risk that functions in a coordinated and orderly manner, compatible with the recommendation on guarantees of non-repetition, and therefore considers that there is no need to adopt additional measures. In its note of October 12, 2018, the State detailed information on its legal framework on protection; the Prevention and Protection Program of the National Protection Unit created in 2011; the Protection Program for Witnesses, Victims, Interveners in the Process and Officials of the Attorney General's Office; and the protection measures in charge of the National Police. The parties agreed that the mechanism for verifying compliance with this point will be carried out through the powers of the IACHR established in Article 51 of the American Convention and Articles 47 and 48 of its Rules of Procedure.

106. After evaluating this information and considering the victim's request to proceed with the publication of the Merits Report, on August 6, 2019, the Commission decided, by an absolute majority, not to send the case to the Inter-American Court and to proceed towards the publication of the Merits Report.

107. In relation to the **first recommendation**, the Commission notes that on July 8, 2019, the private act of acknowledgment of responsibility and request for pardon took place in the main auditorium of the National Agency for the Legal Defense of the State (ANDJE). In this regard, Mr. Morales Díaz indicated that the apology parchment that was delivered to him in said act contained spelling errors, lacked date and signature, therefore it did not fulfill its purpose. He referred that he had to pay for his own and his family's transportation to Colombia to participate in the aforementioned act.

108. Regarding pecuniary reparation, the IACHR notes that in the framework of the procedure of Law 288 of 1996, on March 16, 2021, the State presented Mr. Morales Díaz with a proposal for pecuniary



reparation for moral damages, consequential damages and loss of earnings of \$72,174,891 Colombian pesos, which included moral and consequential damages and loss of earnings, with which Mr. Morales Díaz did not agree. In the conciliation hearing of July 23, 2021, Mr. Morales Díaz stated that the evidence provided, the loss of opportunity in his profession and the appraisal of the moral and economic damages caused by the damage were not taken into account, expressing his intention not to conciliate.

109. Considering that the State has not complied with the agreement to comply with the recommendations, on several occasions Mr. Morales Díaz requested the IACHR “to send the case file to the Inter-American Court of Human Rights”. Upon his request, on September 9, 2021, the IACHR reiterated what was indicated in its communication of August 6, 2019, in which it explained the parties that the IACHR had decided not to send the case to the Court and to proceed towards the publication of the Merits Report.

110. On March 17, 2022, the State informed the IACHR that since a conciliatory agreement was not reached on February 28, 2022, the ANDJE filed before the Administrative Court of Cundinamarca the incident of liquidation of damages in accordance with Law 288 of 1996, in order for a judge to determine and set the amounts to be paid. Said file entered the Court's office on August 17, 2023.

111. Regarding the measure of satisfaction, the State indicated that the President of Colombia conferred the National Order of Merit in the Grade of Knight to Mr. Morales Díaz by Decree 1172 of July 11, 2022. On December 9, 2022, the State informed that on November 29 of that year, the decoration ceremony was held at the Colombian Embassy in Canada. In view of the fact that the pecuniary reparation has not yet been paid to the victim, the Commission considers that this recommendation has been partially complied with.

112. Regarding the **second recommendation**, on December 9, 2022, the State informed that the police rounds were carried out during Mr. Morales Díaz's stay in Colombia in 2020, which was corroborated by the victim. In view of this, the Commission concludes that the State provided the agreed protection in compliance with this recommendation. Notwithstanding this compliance, and due to the nature of this recommendation, the police rounds that were agreed between the parties should be implemented every time Mr. Morales Díaz is in Colombia, if required by him.

113. Regarding the **third recommendation**, given the State's efforts to comply with it, the possible statute of limitations on criminal actions, and the fact that the victim is not interested in reopening the investigation, the Commission considers that the State does not need to promote other actions to comply with it; consequently, in view of the request of the parties and taking into account the nature of the violation, in the circumstances of this case, this recommendation will not be followed up on.

114. Regarding the **fourth recommendation**, on August 30, 2022, the State informed that the Office of the Attorney General Delegate for Administrative and Judicial Oversight, after analyzing the documentation, declared that after more than 17 years had passed, the legal phenomenon of lapsing had occurred, and therefore no disciplinary action could be pursued, and ordered it to be filed. In view of this, the Commission considers that the State does not need to promote any further action to comply with it. Consequently, in the circumstances of this case, this recommendation will not be followed up on.

115. Regarding the **fifth recommendation**, the Commission notes that Colombia has a regulatory and institutional protection framework with the capacity to ensure due institutional coordination of the existing mechanisms to identify and classify situations of risk to life and personal integrity; and to ensure that in situations of risk to life and personal integrity, due protection is provided by State agencies. The Commission observes that this framework is intended to provide for different groups that require special protection, as well as victims of human rights violations in general. The Commission also notes that under this framework, beneficiaries can access a broad catalog of emergency, prevention and protection measures that are not limited only to self-protection guidelines. In view of this, the Commission considers that the State has complied with this recommendation.

116. The IACHR values the measures adopted by the State to comply with its recommendations and considers recommendations 2 to 5 to have been complied with. The Commission notes that the first recommendation regarding integral reparation is still pending compliance, with respect to pecuniary reparation, which is fundamental to achieve total compliance with the recommendations.}

117. The Commission adopted Merits Report (Final) No. 44/25 on April 14, 2025. In this report, the IACHR reiterated its first recommendation:

1. Make full reparation for the human rights violations declared in this report in both material and non-material aspects, including measures of compensation and satisfaction.

## **VI. ACTIONS SUBSEQUENT TO REPORT No. 44/25 AND COMPLIANCE INFORMATION**

118. The Commission transmitted Merits Report (Final) No. 44/25 to the State on April 16, 2025, granting it three weeks to report on the measures adopted to comply with the pending recommendation. On May 7, 2025, the Commission received the State's report, which was transmitted to the petitioner.

119. The State informed that on April 5, 2024, the Third Section, Subsection A of the Administrative Court of Cundinamarca issued an order decreeing two expert opinions: i) the first by an appraiser from the National Appraisers' Association to determine aspects such as the material damage caused to Mr. Morales Díaz in the form of consequential damage and loss of earnings (consolidated and future), and ii) the second by a psychologist from the National University of Colombia so that, based on the psychological assessment and the medical history and medical records of Mr. Morales Díaz from the date of the facts to the present, he could determine the moral or emotional damage suffered by the victim.

120. The State indicated that on April 10, 2024, Mr. Morales Díaz filed a motion for reconsideration and an appeal against the order that ordered evidence. It reported that, in his brief, Mr. Morales Díaz indicated that the Administrative Court of Cundinamarca did not take into account his current place of residence for the execution of the expert opinions and did not order the psychological examination of his next of kin, who, in his opinion, are also victims in the proceedings. The State informed that on March 28, 2025, the case file entered the office to decide the appeal for reconsideration filed by Mr. Morales Díaz.

121. The State indicated that it is awaiting the decision issued by the Administrative Court of Cundinamarca and that it will inform the Commission of the progress of this process.

## **VII. CONCLUSIONS AND FINAL RECOMMENDATION**

122. The Commission concludes that the State of Colombia is responsible for the violation of Articles 4.1 (life), 5.1 (personal integrity), 8.1 (judicial guarantees), 22.1 (movement and residence) and 25.1 (judicial protection) of the American Convention on Human Rights, in relation to the obligations established in Article 1.1 of the same instrument.

123. By virtue of the foregoing conclusions and given that the reparation determined in its Merits Report (final) regarding integral reparation, with respect to pecuniary reparation, is still pending compliance;

## **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS REITERATES TO THE STATE OF COLOMBIA THE FOLLOWING RECOMMENDATIONS:**

1. To provide full material and non-pecuniary reparation for the human rights violations declared in the instant report, including measures of compensation and satisfaction.



## VIII. PUBLICATION

124. Pursuant to the foregoing and in accordance with the provisions of Article 51(3) of the American Convention, the Inter-American Commission on Human Rights decides to publish this report and include it in its Annual Report to the General Assembly of the Organization of American States. The Inter-American Commission, in accordance with the norms established in the instruments that regulate its mandate, will continue to evaluate that the State of Colombia makes full reparations to the victim in accordance with the provisions of the aforementioned recommendation, until it determines that it has been fully complied with.

Approved by the Inter-American Commission on Human Rights on June 26, 2025. (Signed): José Luis Caballero Ochoa, President; Andrea Pochak, First Vice President; Arif Bulkan, Second Vice President; Edgard Stuardo Ralón Orellana, Roberta Clarke, and Gloria Monique De Mees, Members of the Commission.