

OEA/Ser.L/V/II.
Doc. 40
April 4, 2025
Original: Spanish

REPORT No. 37/25

CASE 12.952

REPORT ON MERITS (PUBLICATION)

MARIELA DEL CARMEN ECHEVERRÍA DE SANGUINO
COLOMBIA

Approved electronically by the Commission on April 4, 2025

Cite as: IACHR, Report No. 37/25, Case 12,952. Merits. Mariela del Carmen Echeverría de Sanguino. Colombia. April 4, 2025.

INDEX

I.	INTRODUCTION.....	2
II.	THE PARTIES' ARGUMENTS	2
	A. The petitioner	2
	B. The State	3
III.	FINDINGS OF FACT	3
	A. On the criminal trial	3
	B. Remedies pursued by Ms. Echeverría after the criminal trial	12
IV.	LEGAL ANALYSIS	14
	A. Rights to a fair trial and judicial protection (Articles 8 and 25 of the American Convention, in relation to Article 1(1) of the same instrument)	14
V.	REPORT No. 325/20 AND COMPLIANCE REPORTING.....	17
VI.	FINAL CONCLUSIONS.....	20
VII.	PUBLICATION	20

I. INTRODUCTION¹

1. On September 9, 1999, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission,” or “the IACHR”) received a petition filed by Jaime Sanguino Santander (hereinafter “the petitioner”) alleging the international responsibility of Colombia (hereinafter “the Colombian State,” “the State,” or “Colombia”) to the detriment of Mariela del Carmen Echeverría de Sanguino for the violations of the rights to a fair trial and to judicial protection in a criminal trial against her for the crimes of material misrepresentation in a private document, fictitious export, misrepresentation in document introduced into evidence (*falsedad ideológica*), and fraud (*estafa*).

2. The Commission approved Admissibility Report No. 47/14 of July 21, 2014.² On August 6, 2014, the Commission notified the parties of that report and placed itself at their disposal to pursue a friendly settlement, yet the conditions for doing so never materialized. The parties had the time periods as per the Rules of Procedure for filing their additional observations on the merits. All the information received from one party was duly forward to the other.

II. THE PARTIES’ ARGUMENTS

A. The petitioner

3. The petitioner reports that in February 1990 Ms. Echeverría, along with other persons, was implicated in a criminal trial for the crimes of use of a false public document in conjunction with fictitious export (*exportación ficticia*), material misrepresentation in a private document (*falsedad de documento privado*), and fraud (*estafa*). He indicates that the trial violated several of Ms. Echeverría’s guarantees associated with the right to a fair trial.

4. The petitioner argues that her right to defense was violated since during the trial evidence was introduced that was unlawfully obtained. He explains that there was a document from the Ministry of Foreign Affairs of Colombia indicating that permission had not been granted for judicial investigative steps to be taken by Colombian judges in Venezuela. He adds that despite that the judge in charge of the criminal proceeding against Ms. Echeverría did receive and weigh evidence sent from Venezuela.

5. The petitioner alleges that her right to defense was also violated because the judge in charge of the trial did not accept documentation produced by Ms. Echeverría. He argues that the judge merely indicated that such evidence was “inadmissible and irrelevant” without presenting further reasoning in this regard. He adds that Ms. Echeverría asked that several activities be conducted to collect evidence, yet they were not carried out.

6. In addition, the petitioner notes that the public defender assigned to Ms. Echeverría was not adequate. He indicates that initially she was assigned a public defender who was a specialist in family law, not criminal law, who (i) did not file any memorial of arguments or any motion to present or object to evidence; (ii) was not present when witnesses were questioned; (iii) did not provide concluding arguments in the preliminary phase of the criminal proceeding; and (iv) did not appeal the resolution handing down the charges. He argues that in response to Ms. Echeverría’s complaints other public defenders were assigned, yet they did not provide adequate legal counsel either, as they failed to study the record, did not present arguments or request evidence, and did not appeal the verdict finding her guilty. He explains that this situation left Ms. Echeverría in a defenseless position.

7. Finally, the petitioner alleges that the right to judicial protection was violated since Ms. Echeverría did not have an adequate and effective remedy to address the due process violations. He indicates that a motion for appeal was filed, as well as a motion for review and a *tutela* action, all of which were dismissed without having analyzed the merits.

¹ 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 decision in this case.

² IACHR. Report No. 47/14. Case 12,952. Admissibility. Mariela del Carmen Echeverría de Sanguino. Colombia. June 21, 2014. The IACHR found the petition admissible in relation to Articles 8 and 25 of the American Convention, in relation to Article 1(1) of the same instrument. In addition, the Commission found the petition inadmissible with respect to Article 7 of the American Convention.

B. The State

8. The State argues that the criminal trial of Ms. Echeverría complied with all due process guarantees. As regards the alleged taking of irregular evidence, Colombia argues that all the documentation received by the judge in the criminal trial, including what was obtained from Venezuela, was duly considered and analyzed by the parties. It adds that collaboration among states to ensure the investigation and punishment of crimes is of vital importance.

9. In addition, the State indicates that at all times Ms. Echeverría's right to defense was safeguarded. It argues that initially she was assigned a public defender, and that in response to her requests she was afforded the possibility of having other public defenders. It adds that the mere fact that Ms. Echeverría is not content with the activity of her legal representatives does not *per se* entail a due process violation.

10. The Colombian State also argues that Ms. Echeverría was duly notified, during the trial, and was able to access all mechanisms available in the Colombian judicial system, so that her situation could be examined by competent judges of various ranks and jurisdictions. It adds that while the decisions were not favorable to the alleged victim, the situation cannot give rise to international responsibility.

III. FINDINGS OF FACT

A. On the criminal trial

11. At the time of the facts Mariela del Carmen Echeverría de Sanguino worked as manager of the company "Comercializadora Cúcuta y Compañía Limitada," in the city of Cúcuta, Colombia.³

12. On February 2, 1990, the Deputy Manager for Internal Affairs at the Banco de la República sent a letter to the National Director of Criminal Investigation in which he reported possible frauds upon the property of the State administered by that bank.⁴ On February 12, 1990, the Division of Criminal Investigation for Bogotá ordered that an investigation proceed.⁵

13. On February 26, 1990, the Deputy Manager for Internal Affairs at the Banco de la República appeared before the 60th Itinerant Court of Criminal Investigation of Bogotá. He reported that it was learned that false documents were issued by "Industrias Sanguino Hermanos y Compañía" and other companies that depended on it, including the company where Ms. Echeverría worked as manager. He added that the companies involved issued false documents to indicate that they had engaged in export operations with companies from Venezuela. He said that as a result they requested tax refund certificates from the Banco de la República, which constitutes the offense of fraud and misrepresentation (*estafa y falsedad*).⁶

14. On March 23, 1990 the Technical Corps of the Judicial Police of the National Bureau of Criminal Investigation issued a report to the 60th Itinerant Court of Criminal Investigation. It was indicated that a "quick check" ("*ligera comprobación*") was done in the cities of Ureña and San Antonio, in Venezuela, by the Colombian border, regarding the companies that purportedly received the exports from the companies involved. It was found that those companies "do not exist."⁷

³ Annex 4. Report of the Technical Corps of the Judicial Police of March 23, 1990. Communication from the petitioner of September 9, 1999, marked as Annex 1.

⁴ Annex 1. Letter sent by the Deputy Manager for Internal Affairs of the Banco de la República, February 2, 1990. Communication from the petitioner of September 9, 1999, marked as Annex 1.

⁵ Annex 1.1. Clerk's report of March 27, 1990. Communication from the petitioner of September 9, 1999, marked as Annex 1. Note sent by the 60th Itinerant Judge of Criminal Investigation to the deputy manager for internal affairs of the Banco de la República, February 16, 1990. Communication from the petitioner of September 9, 1999, marked as Annex 1.

⁶ Annex 3. Complaint lodged by the deputy manager for internal affairs of the Banco de la República, February 26, 1990. Communication from the petitioner of September 9, 1999, marked as Annex 1.

⁷ Annex 4. Report of the Technical Corps of the Judicial Police, March 23, 1990. Communication from the petitioner of September 9, 1999, marked as Notebook 1 (Cuaderno 1).

15. On May 16, 1990, the Second Court of Criminal Investigation took up the preliminary inquiry into the crime of fictitious exports (*exportaciones ficticias*).⁸ In response to a request from the Court to take investigative steps in Venezuela, on June 26 the Adviser to the Minister of Justice of Colombia reported that the ambassador of the Republic of Venezuela “did not grant the corresponding permit as agreements or treaties allowing for the judicial activities by Colombian judges in Venezuela are not in place between the two countries.”⁹

16. On July 24, 1990 the Second Court of Criminal Investigation instituted proceedings against “Industrias Sanguino Hermanos y Compañía” and other companies for the crimes of fictitious export, misrepresentation, and embezzlement (*peculado*).¹⁰ The Court also issued arrest warrants for 12 persons, including Ms. Echeverría.¹¹ One week later the Judicial Police Group of the Administrative Security Department of Norte de Santander informed the Court that it was not possible to arrest Ms. Echeverría. This was because she was not found at the place indicated in the arrest warrant; a neighbor said, “it’s been days since I’ve seen her.” He added that according to the “girl who works there” (“*la niña del servicio*”), Ms. Echeverría “had travelled three days earlier and she did not know when she would be back.”¹²

17. On August 27, 1990, the Court issued a resolution in which it declared Ms. Echeverría to be a “person *in absentia*”; since that date she had not come forward and “her whereabouts are unknown.” The Court also appointed public defender Filomena Urbina de García to represent her.¹³ The next day the Court issued an official communication to Ms. Urbina informing her that she was designated Ms. Echeverría’s defense counsel.¹⁴

18. On September 5, 1990, the Judicial Police Group informed the Court that it was not possible to locate and arrest Ms. Echeverría. They added that according to the information received, she was in Venezuela.¹⁵ One week later the Second Court of Criminal Investigation issued a resolution in which it ordered the pretrial detention of 12 persons, including Ms. Echeverría, and reiterated the respective arrest warrants. It held that those persons, as legal representatives of the companies involved, “are fleeing to elude the action of the justice system.” It indicated that by taking various steps to investigate the facts “the supposed negotiations and introduction of the merchandise purportedly produced in Colombia and taken to Venezuela find no support in reality,” thus they should not have issued any tax refund at the Banco de la República.

19. In addition, that resolution states that two letters rogatory were issued to the Consul General of Colombia in San Antonio, Venezuela, to confirm the existence of the Venezuelan companies that purportedly would have received the exports. It was said that the response to the letters rogatory indicated that (i) those companies “are straw entities or persons and that the certification that said merchandise was nationalized in Venezuela is false”; and (ii) that “the merchandise [that was supposedly exported] does not appear” at Customs in San Antonio.¹⁶

20. Ms. Echeverría recused the members of the Investigative Mobile Unit for several reasons, including: (i) having taken more time than provided by law for collecting evidence; (ii) allowing each member “to make decisions when these should have been made by the judge hearing the matter”; (iii) her defense counsel being

⁸ Annex 6. Official note from the Clerk of the Second Court of Criminal Investigation to the Principal Judge, of May 16, 1990. Communication from the petitioner of September 9, 1999, marked as Annex 1.

⁹ Annex 5. Note of June 26, 1990, sent by the Adviser to the Minister to the Chief Judge of the Superior Court of the Judicial District of Cúcuta. Communication from the petitioner of September 9, 1999, marked as Notebook 1.

¹⁰ Annex 8. Note from the Second Judge of Criminal Investigation to the Departmental Procurator (Procurador Departamental), June 24, 1990. Communication from the petitioner of September 9, 1999, marked as Annex 1.

¹¹ Annex 9. Official note 763 arrest warrant for Mariela del Carmen Echeverría de Sanguino, July 26, 1990. Communication to the State of March 6, 2009 marked as Annex 1.

¹² Annex 10. Official note 988 from the Judicial Police Group, July 30, 1990. Communication from the State of March 6, 2009, marked as Annex 1.

¹³ Annex 14. Resolution of the Second Court of Criminal Investigation, August 27, 1990. Communication from the petitioner of September 9, 1999, marked as Annex 1.

¹⁴ Annex 15. Official note from the Second Court of Criminal Investigation to Filomena Urbina de García of August 28, 1990. Communication from the State of March 6, 2009, marked as Annex 1.

¹⁵ Annex 17. Official note 1197 from the Judicial Police Group, September 5, 1990. Communication from the State of March 6, 2009, marked as Annex 1.

¹⁶ Annex 18. Resolution of the Second Court of Criminal Investigation, September 17, 1990. Communication from the State of March 6, 2009, marked as Annex 1.

denied access to the record; (iv) “allowing evidence to be collected behind the back of the defense”; and (v) planning trips to Bogotá and Barranquilla “to collect evidence that the parties have not yet requested.”

21. On September 28, 1990, the Eighth Itinerant Criminal Judge rejected the request. He indicated that given the length of the investigation and the number of persons prosecuted it was not possible to state unequivocally the legal time for the duration of the preliminary inquiry. He stated that “nor is it the case that the defense counsel for the accused have been denied access to the record.” He added: “we the officers of the court ... are competent to order that evidence be taken and to take it.”¹⁷ The IACHR also notes that Ms. Echeverría recused the Second Court of Criminal Investigation for the same reasons she stated in her recusal of the Mobile Investigative Unit. On October 1, 1990, that Court rejected the recusal.¹⁸

22. On November 9, 1990, the Criminal Chamber for Decision of the Superior Court of the Judicial District affirmed the decisions of the Eighth Judge and the Second Court. The Criminal Chamber indicated that Ms. Echeverría did not offer support for her arguments in favor of recusal.¹⁹

23. On September 11, 1991, Ms. Echeverría asked the Second Court of Criminal Investigation to collect various items of evidence tending to show her innocence related to the customs documentation.²⁰ The Commission notes that in said memorial Ms. Echeverría indicated: “I have begun my self-defense, I am married, a mother, without much in the way of economic resources.” The IACHR also observes that said memorial was signed by Ms. Echeverría and presented to the Court by her husband Jaime Sanguino Santander.

24. Six days later the Court found Ms. Echeverría’s request inadmissible. The Court indicated that Mr. Sanguino “is not an attorney nor is he defense counsel for the accused, which would be necessary to accept the pleading.” In addition, the Court held that “the clerk is advised henceforth to refrain from receiving and processing these kinds of pleadings.”²¹

25. On September 18 and October 4, 1991, Ms. Echeverría filed two memorials with the Second Court. She indicated that she was innocent and that her company did not engage in any illegal act. She explained that the officer of the Banco de la República who filed the complaint was out for revenge against her brother-in-law, the manager of one of the companies involved, due to “differences” between the two of them. She stated that the denial of her request to produce evidence violated her right to defense. She added that the production of that evidence is vital and that the items of evidence in question “neither lack probative value nor are irrelevant.” Ms. Echeverría stated the following regarding her public defender:

You adduce that I have a public defender, thank you for reminding me; I know very well that I am being tried *in absentia*, and for the purpose of mounting my defense I have the same rights as the public defender; don’t forget, no one can conduct their own defense better than oneself, because one knows all the ins and outs of the case, which is why I ask, hereafter, to channel all my petitions in the normal manner.²²

26. On October 30, 1991, the Second Court of Criminal Investigation issued a formal indictment, in which it identified 14 persons, including Ms. Echeverría, as perpetrators of the crimes of material misrepresentation in

¹⁷ Annex 19. Resolution of the Eighth Itinerant Criminal Court, September 28, 1990. Communication from the State of March 6, 2009, marked as Annex 1.

¹⁸ Annex 20. Resolution of the Second Court of Criminal Investigation, October 1, 1990. Communication from the State of March 6, 2009, marked as Annex 1.

¹⁹ Annex 23. Resolution of the Criminal Chamber for Decision of the Superior Court of the Judicial District, November 9, 1990. Communication from the State of March 6, 2009, marked as Annex 1.

²⁰ Annex 25. Memorial filed by Mariela Echeverría with the Second Court of Criminal Investigation, September 11, 1991. Communication from the State of March 6, 2009, marked as Annex 1.

²¹ Annex 26. Resolution of the Second Court of Criminal Investigation, September 17, 1991. Communication from the State of March 6, 2009, marked as Annex 1.

²² Annex 26.1. Memorial filed by Mariela Echeverría with the Second Court of Criminal Investigation on September 18, 1991. Communication from the petitioner of September 9, 1999 marked as Notebook 4.

Annex 27. Memorial filed by Mariela Echeverría with the Second Court of Criminal Investigation on October 4, 1991. Communication from the State of March 6, 2009, marked as Annex 1.

a private document, fictitious exports, misrepresentation in a document introduced into evidence, and fraud.²³ On November 25, 1991, notice of that resolution was given to Ms. Echeverría's public defender, Filomena Urbina.²⁴ The IACHR notes that the defense counsel did not appeal that resolution. On June 26, 1992, the Criminal Chamber for Decision of the Superior Court of the Judicial District affirmed Ms. Echeverría's indictment.²⁵

27. On July 28, 1992, Ms. Echeverría filed a memorial with the Fourth Criminal Circuit Judge in which she reported that Jairo Arbeláez Mendoza would assume her defense in the trial. On August 19, 1992, Mr. Arbeláez took over as her defense counsel.²⁶ On July 1, 1993, Mr. Arbeláez informed the Fourth Judge that he was designating Juvenal Valero Bencardino as alternate defense counsel capable of assuming her representation during the trial phase.²⁷

28. On September 15, 1993, Mr. Arbeláez asked the Fourth Judge for a copy of the record in the matter.²⁸ The IACHR does not have whether there was any response to that request. In addition, Mr. Valero filed a request to grant Ms. Echeverría house arrest due to "her precarious economic situation."²⁹ On December 7, 1993, the Fourth Criminal Circuit Judge indicated that it was not possible to grant house arrest since Ms. Echeverría was a fugitive, which demonstrated "open disregard for judicial decisions."³⁰ Mr. Valero filed a motion for appeal against that resolution. On December 13, Mr. Valero abandoned the appeal.³¹ The Commission observes that in this last memorial the reasons for abandoning the appeal were not stated.

29. On November 28, 1994, attorney Arbeláez filed a memorial indicating that it was impossible for him to attend the public hearing scheduled by the Fourth Judge for December 5; accordingly, it was postponed.³² On March 4, 1995, Ms. Echeverría filed a memorial with the Fourth Criminal Circuit Judge in which she appointed Carlos Martín Echeverría Lizarazo as her defense counsel.³³ Ms. Echeverría asked that the public hearing be postponed to give him an opportunity to review the study the record in the case.³⁴

30. On March 21, 1995, the Fourth Criminal Circuit Judge rejected Mr. Echeverría's application on noting that he already "was familiar with the proceeding" since he was defense counsel for other persons implicated in the case. In response to a motion for reconsideration filed by Mr. Echeverría, the Fourth Judge ruled on April 17, 1995, to accept his request and postpone the holding of the public hearing.³⁵ The IACHR takes note that on April

²³ Annex 28. Indictment by the Second Court of Criminal Investigation, October 30, 1991. Communication from the petitioner of September 9, marked as Notebook 1.

²⁴ Annex 29. Notice of November 25, 1991 to Filomena Urbina de García. Communication from the State of March 6, 2009, marked as Annex 1.

²⁵ Annex 30. Resolution of the Criminal Chamber of the Superior Court of the Judicial District, June 26, 1992. Communication from the State of March 6, 2009, marked as Annex 1.

²⁶ Annex 31. Memorial from Mariela Echeverría filed with the Fourth Criminal Circuit Judge on August 18, 1992. Communication from the State of March 6, 2009, marked as Annex 1.

²⁷ Annex 32.1. Memorial from Jairo Arbeláez Mendoza filed with the Fourth Criminal Circuit Judge on July 1, 1993. Communication from the State of March 6, 2009, marked as Annex 1.

²⁸ Annex 33. Memorial from Jairo Arbeláez Mendoza filed with the Fourth Criminal Circuit Judge on September 15, 1993. Communication from the State of March 6, 2009, marked as Annex 1.

²⁹ Annex 34. Undated memorial by Juvenal Valero filed with the Fourth Criminal Circuit Judge, which requests house arrest. Communication from the State of March 6, 2009, marked as Annex 1.

³⁰ Annex 35. Resolution of the Fourth Criminal Circuit Court, December 7, 1993. Communication from the State of March 6, 2009, marked as Annex 1.

³¹ Annex 36. Undated memorial by Juvenal Valero filed with the Fourth Criminal Circuit Judge by which he files a motion for appeal. Communication from the State of March 6, 2009, marked as Annex 1.

³² Annex 37. Memorial by Jairo Arbeláez Mendoza filed with the Fourth Criminal Circuit Judge November 28, 1994. Communication from the State of March 6, 2009, marked as Annex 1.

³³ Annex 38. Memorial by Mariela Echeverría filed with the Fourth Criminal Circuit Judge on March 4, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

³⁴ Annex 39. Memorial by Carlos Martín Echeverría Lizarazo filed with the Fourth Criminal Circuit Court on March 9, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

³⁵ Annex 42. Resolution of the Fourth Criminal Circuit Court, April 17, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

26, 1995, Mr. Echeverría withdrew as defense counsel for Ms. Echeverría “for eminently economic considerations.”³⁶

31. On May 3, 1995, the Fourth Criminal Circuit Judge ordered Ms. Echeverría to state whether she wished to designate a new defense attorney for otherwise a public defender would be appointed for her. He added that what Mr. Echeverría had done was “irregular however you look at it” for he only sought to “thwart the holding of the public hearing.” The Fourth Judge sent a request to the Disciplinary Chamber of the Superior Judicial Council of the city to look into “the possible ethics violation” committed by the attorney by his actions in the prosecution.³⁷

32. Two days later Mr. Echeverría sent a memorial to the Fourth Criminal Circuit Judge indicating that he should appoint a public defender for Ms. Echeverría since “it would appear at this time that they do not have sufficient funds to cover expenses for her defense.”³⁸ On May 15, 1995, Jesús Libardi Colmenares Sayago was appointed Ms. Echeverría’s public defender.³⁹

33. On June 6, 1995, the public hearing was held. According to the minutes of that hearing, Mr. Colmenares indicated that he had recently been appointed as defense counsel for two of the defendants, including Ms. Echeverría. He added that due to how recent his appointment was, he was not familiar with the charges against her. Accordingly, Mr. Colmenares moved to have the hearing rescheduled to a later date. The Fourth Judge accepted Mr. Colmenares’s motion.⁴⁰

34. On July 18, 1995, Ms. Echeverría filed a memorial with the Fourth Criminal Circuit Judge in which she stated:

... at no time in the proceeding have I had a defense, at no time, which means that at each and every stage in this proceeding to this day, on which I am filing this memorial, I have not had a real defense.

35. With respect to attorney Filomena Urbina de García, she indicated as follows:

... all of the stages unfolded until the Public Hearing (Trial), my defense counsel remained absolutely passive in my defense, as she did not present any argument; she (the Defense Counsel) was just one more spectator of the criminal prosecution.

36. As regards attorney Jesús Libardi Colmenares Sayago, she stated as follows:

... he never went beyond being a spectator of the criminal proceeding...; he lacks professional ethics for in the record one cannot find a single communication by him, not even one asking to see the record so as to learn of the accusations against his client.⁴¹

37. On September 15, 1995, Mr. Colmenares filed a memorial with the Fourth Criminal Circuit Judge in which he indicated that what was stated by Ms. Echeverría “naturally impedes me from representing her with the humanly juridical serenity, spontaneity, and consideration” (*“me impiden defenderla con la serenidad,*

³⁶ Annex 43. Memorial filed by Carlos Martín Echeverría Lizarazo with the Fourth Criminal Circuit Court on April 26, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

Annex 43.1. Memorial filed by Carlos Martín Echeverría Lizarazo with the Fourth Criminal Circuit Court on May 1, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

³⁷ Annex 44. Resolution of the Fourth Criminal Circuit Court, May 3, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

³⁸ Annex 45. Memorial filed by Carlos Martín Echeverría Lizarazo with the Fourth Criminal Circuit Court on May 5, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

³⁹ Annex 47. Resolution of the Fourth Criminal Circuit Court, May 15, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

⁴⁰ Annex 49. Resolution of the Fourth Criminal Circuit Court, August 9, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

⁴¹ Annex 50. Memorial filed by Mariela Echeverría with the Fourth Criminal Circuit Court on July 18, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

espontaneidad y ponderación humanamente jurídicas”). He asked the judge to authorize his withdrawal as public defender for Ms. Echeverría.⁴²

38. The Fourth Criminal Circuit Judge accepted Mr. Colmenares’s request and on September 19, 1995, appointed Benjamín Jaimes Parada to serve as public defender for Ms. Echeverría. That judge indicated that since Mr. Jaimes was already defense counsel for another person facing the same charges “he [was] very familiar with the record.”⁴³

39. On November 9, 1995, the first session of the public hearing was held. The IACHR notes that it was suspended so as to collect evidence proposed by some attorneys for other persons facing charges. The IACHR observes that attorney Jaimes appeared at that hearing but did not speak at any point.⁴⁴ One week later Ms. Echeverría filed a memorial with the Fourth Criminal Circuit Judge in which she indicated that she was authorizing her husband, Jaime Sanguino Santander, to file the closing arguments and request for evidence before the Fourth Court.⁴⁵ Subsequently, in an undated memorial, Ms. Echeverría filed her closing arguments, in which she requested her acquittal in light of the “total absence of relevant and suitable evidence.”⁴⁶

40. On November 30, 1995, the public hearing was resumed. Mr. Jaimes filed a memorial in which he stated as follows, concerning Ms. Echeverría’s situation:

... she did not personally commit the crimes of material misrepresentation, nor misrepresentation of a document introduced into evidence in public documents, for all the documentation taken out to obtain the single export certificate from Incomex, and all other requirements demanded by the customs authorities, were performed by Customs Agent Mr. Rafael Bayona Núñez, who headed up the policy for exporting merchandise, especially to the Republic of Venezuela, such that defendant Sanguino appears as the principal in a transaction.... [I]t was completely impossible for them to reach agreement to convince more than 50 public servants, from Customs, Incomex, the Office of the Comptroller General, the Banco de la República, for the documents they issued to stamp misrepresentations in what they literally say, still one of two is likely, but that plurality, I believe, is completely impossible, verifying the conduct of collaboration and being considered as co-perpetrators so as to reach a determination.⁴⁷

41. On March 7, 1996, the Fourth Criminal Circuit Judge issued a guilty verdict against one of 14 persons, including Ms. Echeverría. Ms. Echeverría was considered a co-perpetrator of the crime of use of a false public document in conjunction with the crime of fictitious export, misrepresentation in a private document, and fraud. In addition, she was sentenced to 6 years and 1 day of prison, and a fine to be paid to the National Treasury.⁴⁸ On March 15, 1996, that court issued a new arrest warrant for Ms. Echeverría.⁴⁹

42. On March 27, 1996, Ms. Echeverría presented a memorial to the Fourth Criminal Circuit Judge, appealing the verdict at trial. Ms. Echeverría argued as follows: (i) that in the judgment reference was never made to the memorials that she filed; (ii) that she was not heard; (iii) that her defense counsel in the public hearing made reference to the lack of a proper defense on her behalf and that the judgment did not address this issue; (iv) that attorney Filomena Urbina never filed a single memorial on her behalf, and that in addition she is a specialist

⁴² Annex 52. Memorial filed by Jesús Libardi Colmenares with the Fourth Criminal Circuit Court on September 15, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

⁴³ Annex 53. Resolution of the Fourth Criminal Circuit Court, September 18, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

⁴⁴ Annex 55. Resolution of the del Fourth Criminal Circuit Court, November 9, 1995. Communication from the State of March 6, 2009, marked as Annex 1.

⁴⁵ Annex 56. Memorial by Mariela Echeverría de Sanguino directed to the Fourth Criminal Circuit Judge, November 16, 1995. Communication from the petitioner of September 9, 1999, marked as Annex 1.

⁴⁶ Annex 57. Memorial by Mariela Echeverría de Sanguino directed to the Fourth Criminal Circuit Judge, undated. Communication from the petitioner of September 9, 1999, marked as Annex 1.

⁴⁷ Annex 59. Minutes of November 30, 1995 drawn up by the Fourth Criminal Circuit Judge. Communication from the petitioner of September 9, 1999, marked as Annex 1.

⁴⁸ Annex 60. Judgment handed down by the Fourth Criminal Circuit Court, March 7, 1996. Communication from the State of March 6, 2009, marked as Annex 1.

⁴⁹ Arrest warrants issued by the Judicial Police Group of the Administrative Security Department, September 5, 1990, October 29, 1990, February 19, 1991, October 30, 1991, December 10, 1992, May 9, 1995, and March 15, 1996, respectively.

in family law, alimony, successions, and divorces; (v) that she filed six memorials before being convicted and that she never obtained a response to any of them; (vi) that in the trial phase her new defense counsel did not present any memorial whatsoever; (vii) that there is evidence that is not valid because it was obtained in foreign territory even though there is no judicial cooperation treaty between Venezuela and Colombia.⁵⁰

43. By official note of April 15, 1996, the Clerk of the Fourth Criminal Circuit Court noted that Ms. Echeverría's memorial was filed after the time for doing so had lapsed.⁵¹ That same day the court rejected Ms. Echeverría's motion to appeal.⁵²

44. The IACHR notes that Ms. Echeverría's public defender, Benjamín Jaimes, did not file a motion for appeal in response to the March 1996 verdict. The Commission observes that Mr. Jaimes declared that he did not file a motion for appeal considering that "since the indictment was already firm and the date of the public hearing had already been set, he could not add other evidence on behalf of his clients." He added that "the reason that led him not to appeal the verdict handed down ... was that the court handed down the judgment based on the evidentiary analysis in the indictment..., which led it to the conclusion that as the defense had led it to seek to find fault with the evidence adduced for handing down the resolution in question, and considering that the guilty verdict was based on the same evidence already recounted, he decided to refrain from filing the motion to appeal."⁵³

45. On August 15, 1996, the Criminal Chamber of the Superior Court of the Judicial District of Cúcuta handed down a judgment in which it ruled on the motions to appeal filed by the four persons convicted and affirmed the judgment of first instance in its entirety.⁵⁴

46. A motion for review was presented by a new defense attorney for Ms. Echeverría, Ángel Samuel Sierra González, on May 26, 1998, to the Chamber of Criminal Cassation of the Supreme Court of Justice, which rejected it. It did so because that appeal did not meet the admissibility requirements since it considered that Mr. Sierra "did not produce evidence to support his motion for review."⁵⁵

47. On October 20, 1998, attorney Ángel Samuel Sierra González filed a *tutela* action before the Judicial Tribunal (Tribunal Seccional de la Judicatura) for the Judicial District of San José de Cúcuta, to request the nullity of everything done from the time that public defender Filomena Urbina came on as defense counsel. Mr. Sierra argued as follows:

The guilty verdict from the First Criminal Circuit Court of Cúcuta is illegal, for while other procedural requirements are met, as regards my client MARIELA DEL CARMEN ECHEVERRÍA DE SANGUINO, no part whatsoever addresses her, or at least a single shred of analysis and synthesis in its objective and subjective accusation, as a result of the conduct claimed to be criminal, in relation to her, there is no evaluation defining criminal conduct, or guilt, much less of anti-legal conduct; quite simply, there is a universalist, common, collective, and joint-and-several analysis of liability....

The absolute lack of a defense, in the investigative phase, and even in the trial or prosecution phase, for since the designation of Ms. FILOMENA URBINA DE GARCÍA, as of August 28, 1990, up to the day of the public hearing, as defense counsel ... she did not file any argument in defense of my client's interests, and her position was that of a nonplussed spectator in the world of criminal procedure. Therefore, we only find

⁵⁰ Annex 62. Undated memorial filed by Mariela Echeverría with the Fourth Criminal Circuit Court. Communication from the State of March 6, 2009, marked as Annex 1. Annex 63. Report of the Clerk of the Fourth Criminal Circuit Court, April 15, 1996. Communication from the State of March 6, 2009, marked as Annex 1.

⁵¹ Annex 63. Report of the Clerk of the Fourth Criminal Circuit Court, April 15, 1996. Communication from the State of March 6, 2009, marked as Annex 1.

⁵² Annex 65. Resolution of the Fourth Criminal Circuit Court, April 15, 1996. Communication from the State of March 6, 2009, marked as Annex 1.

⁵³ Annex 67. Resolution of the Disciplinary Judicial Chamber of the Judicial Council, Norte de Santander, April 17, 1997. Communication from the State of March 6, 2009, marked as Annex 4.

⁵⁴ Annex 65.1. Judgment on appeal by the Superior Court of the Judicial District of Cúcuta, Criminal Chamber for Decision, August 15, 1996. Communication from the petitioner of September 9, 1999 marked as Notebook 1.

⁵⁵ Annex 69. Resolution by the Chamber of Criminal Cassation of the Supreme Court of Justice, May 26, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 1.

memorials by the accused, throughout the whole proceeding, requesting a defense, such as the memorial of August 30, 1995, in which she begs of the Judge ... for a genuine defense....

Here it cannot be argued, in FAVOR of the activity of the public defender or hired counsel, either in favor of his or her negligence or during the criminal proceeding, that this position answers to a defense strategy, for mute silence, in the exercise of the defense of the accused, is a sign of either ignorance or of failure to perform the duties of the position, which no doubt indicates a violation of this right or privilege....

And the thing is there is no reference to the arguments of the defense in the public hearing because, quite simply, MARIELA ... had no defense in the hearing, and less during the investigation, and therefore she is only mentioned to impose on her a six-year prison sentence and the accessory penalties that necessarily apply. Such a fiasco unrefutably gives rise to the absence of the right to a proper defense.... Therefore, neither the judge nor the chamber of decision of the Superior Court ... could render an analysis either accepting or rejecting the defense's arguments, because there were none, strictly speaking from the standpoint of the law and of strict legal hermeneutics.

The rejection of the argument on APPEAL, the appeal having been filed in timely fashion by MARIELA ... challenging the verdict at trial, and which she was denied for nor having filed the memorial personally, was absolutely illegal and against the criminal procedure, for Article 157 of the Code of Criminal Procedure, section four, reads: "memorials, when corrected, only require authentication of the power of attorney granted by the accused when not filed personally." Which leads us to think that here again was a violation of the right to defense, on requiring the personal filing of the accused in order to exercise the right to appeal....⁵⁶

48. On October 28, 1998, the Disciplinary Judicial Chamber of the Judicial Council for Norte de Santander ordered that the *tutela* action be declared inadmissible on procedural grounds. The Chamber held as follows:

Neither in substance nor in form can it be said that the convict lacked a proper defense. Formally she always had legal representation in the proceeding. And materially, while it is true that in particular public defender Filomena Urbina de García did not act objectively, this does not indicate, in the specific case, that there has been a violation of the right to due process, or to defense, for since the attorney was notified of the indictment on November 25, 1991 (before being replaced by decision of the petitioner in August 1992); this objectively discards the possible abandonment of the process. Moreover, looking at the proceeding as a whole, none of the other defense attorneys who objectively represented the accused, up until the handing down of the judgment on appeal, succeeded in calling into question the evidence in the record against the accused without proving a due process violation. In addition, the objective omission of the attorney that reportedly triggered a disciplinary inquiry – which would now be barred by the tolling of the limitations period – was not due to any act or omission by the judges."

49. The Chamber indicated that "the moving party did have the ability to mount a defense and the services of a legal professional in both the investigative phase and at trial." It added that "one can affirm that the passivity and omission of defense counsel cannot be remedied through this means, for if that were the case it would take one further from the very basis of the *tutela* action; it would become an alternative mechanism and one more level of review in the judicial process."

50. With respect to the action of public defender Benjamín Jaimes Parada, the Chamber stated as follows:

[He] represented her in the public hearing and his attitude and professional performance as a public defender of the two accused whose defense was entrusted to him, according to the judicial inspection of the proceeding and the reading of the relevant part, is considered reasonable and adequate legally speaking. There is no evidence that he ignored defendant Mariela E. de Sanguino, as is suggested in the action. To the contrary, he reflected upon her legal situation in light of her procedural position.⁵⁷

51. On November 3, 1998, Mr. Sierra challenged that resolution before the Disciplinary Chamber of the Judicial Council, Norte de Santander. Mr. Sierra reiterated that Ms. Echeverría was not afforded a defense for her multiple defense counsel did not carry out their legal and criminal procedural obligation "on failing to request any type of evidence to benefit the interests of the accused, they did nothing to produce such evidence, they did not present concluding arguments, they did not challenge any type of ruling, whether in the investigation, or at

⁵⁶ Annex 70. Memorial filed by Ángel Samuel Sierra González to the Sectional Court of the Judiciary, October 20, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 4.

⁵⁷ Annex 71. Resolution of the Disciplinary Judicial Chamber of the Judicial Council, Norte de Santander, October 28, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 4.

trial, they did not advise the judicial authorities in their conduct of the proceeding, and, in general, they sought refuge in procedural silence and in a passive defense.” He added the following:

[His] client never had a proper defense, neither objectively or subjectively (the intention of the defense counsel to mount a defense, or even a substantive defense, of course, if one takes into account her requests, her supplications, and her implorations such that her problem were really studied and such that her attorneys would work honestly, seriously, and diligently; in that sense she was absent from the proceeding.

Attorney FILOMENA URBINA DE GARCÍA ... did not argue, did not challenge the arrest warrant, chose not to be present when evidence was being taken, did not request any evidence whatsoever, did not present any concluding argument, and did not appeal the order for the matter to go to trial.

By means of this *TUTELA* ACTION we have not alleged the INNOCENCE OF THE PETITIONER IN THE CRIMINAL CASE IN QUESTION..., intention and claim are ... recognition of the violation of due process and the right to defense, and recognition of the right to question the evidence offered against her and to have evidence produced on her behalf.

[T]he defense counsel for MARIELA DEL CARMEN ECHEVERRÍA DE SANGUINO, among them FILOMENA URBINA DE GARCÍA, JAIRO ARBELÁEZ, JUVENAL VALERO BENCARDINO, CARLOS MARTÍN ECHEVERRÍA LIZARAZO, JESÚS LIBARDI COLMENARES SAYAGO, and BENJAMÍN JAIMES PARADA never ever, as a matter of reasoned opinion, syncretically, and synchronically ... defended the accused *in absentia* OBJECTIVELY, SUBSTANTIVELY, AND REALLY... for the first did not submit a memorial, or request evidence, or participate when evidence was taken, etc.; the second (JAIRO ARBELÁEZ) apart from a memorial to request copies of the record, took no initiative on behalf of her defense, and his alternate, JUVENAL VALERO BENCARDINO, only requested a novation in respect of house arrest, which was absolutely inadmissible, appealed its denial, the appeal was rejected, thus he abandoned it; JESÚS LIBARDI COLMENARES SAYAGO, appointed by the Court, without mounting any defense and without filing any memorial whatsoever, withdrew from the appointment as public defender; CARLOS MARTÍN ECHEVERRÍA LIZARAZO, having been chosen by my client, requested a copy of the record, and moved to have the public hearing postponed, but did not achieve his objective, and also withdrew from the representation and, therefore did not advocate for my client; and finally, BENJAMÍN JAIMES PARADA, who was asked by MARIELA DEL CARMEN’s husband to appeal the conviction, did not do so, but in the public hearing, as said above, in the contest over the *TUTELA* action, only defended MARIA JAIMES ESQUIVEL, and only referred in vague terms to MARIELA DEL CARMEN ECHEVERRÍA DE SANGUINO, to ask that she be acquitted, without having undertaken a study of the purported unlawful conduct, guilt, and liability or innocence of my client.

... Ms. MARIELA DEL CARMEN ECHEVERRÍA DE SANGUINO did not have any defense.... For this reason, her constitutional right to challenge the evidence against her and introduce her own evidence was violated, as she was not involved in any of the acts by which evidence was collected by either the investigative judge or the trial judge.⁵⁸

52. On December 10, 1998, the Disciplinary Judicial Chamber of the Superior Judicial Council found the challenge inadmissible. The Chamber considered that “the passivity and omission of the defense lawyers cannot be remedied through a *tutela* action.” It added that Ms. Echeverría had the legal means available to uphold her claims within the proceeding.⁵⁹

53. On January 18, 1999, Ms. Echeverría sent a memorial to the Chief Judge of the Constitutional Court of Colombia by means of which she requested a final review of the record in her case.⁶⁰ On March 8, 1999, Mr. Sierra applied to the Constitutional Court for review of the record in the *tutela* action. He added that it was necessary to define a proper defense and the specific activity that a public defender or hired defense counsel must engage in for there to be justice.⁶¹ On March 17, 1999 the Constitutional Court informed Ms. Echeverría that the *tutela* was turned down for review by the judges who make up the Chamber of Selection.⁶²

⁵⁸ Annex 72. Memorial filed by Ángel Samuel Sierra González with the Sectional Court of the Judiciary, November 3, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 4.

⁵⁹ Annex 73. Judgment handed down by the Disciplinary Judicial Chamber or the Superior Judicial Council, December 10, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 4.

⁶⁰ Annex 74. Memorial filed by Mariela Echeverría to the Chief Judge of the Constitutional Court, January 18, 1999. Communication from the petitioner of September 9, 1999, marked as Notebook 4.

⁶¹ Annex 76. Memorial filed by Ángel Samuel Sierra González with the Judge of the Constitutional Court Alfredo Beltrán Sierra, March 8, 1999. Communication from the petitioner of September 9, 1999, marked as Notebook 4.

⁶² Annex 79. Official note issued by the General Clerk of the Constitutional Court, March 17, 1999. Communication from the petitioner of September 9, 1999, marked as Notebook 4.

54. In her recent communications the petitioner argued that after the conviction Ms. Echeverría had to go into exile in Venezuela for more than 12 years, to avoid being imprisoned.⁶³ She indicated that her husband, Jaime Sanguino, died of a terminal illness in 2016. The IACHR does not have information as to whether, to date, Ms. Echeverría has served the prison sentence imposed when the guilty verdict was handed down.

B. Remedies pursued by Ms. Echeverría after the criminal trial

1. Disciplinary complaints

55. The IACHR takes note that in 1996 Ms. Echeverría filed disciplinary complaints against Carlos Arturo Arévalo Salcedo (Second Judge of Criminal Investigation of Cúcuta), José Fuentes Trigos (Fourth Criminal Circuit Judge), and Benjamín Jaimes Parada and Jesús Libardi Colmenares (public defenders).

56. By memorial of September 11, 1996, Ms. Echeverría stated that Mr. Jaimes acted with “negligence, bad faith, lack of professionalism, lack of ethics,” and that all of that was prejudicial to her. She added that all her public defenders “acted with the same common denominator: not exercising the constitutional mandate, being spectators to a criminal trial, causing moral harm to the accused.” In addition, she added that she brought these irregularities to the attention of the Fourth Criminal Circuit Judge of Cúcuta but that he “kept silent” despite being in charge of exercising authority and seeing to it that the public defenders that he himself appointed perform their work properly.⁶⁴

57. On November 15, 1996, the Disciplinary Judicial Chamber of the Judicial Council for Norte de Santander decided to archive the complaint against the two judges on the grounds that there was no basis for determining that they committed a disciplinary breach.⁶⁵ On April 17, 1997, the Disciplinary Judicial Chamber of the Judicial Council for Norte de Santander refrained from bringing a formal ethical action against Messrs. Jaimes and Colmenares. The Chamber indicated as follows:

[While Mr. Colmenares did not file an appeal this] by itself does not inexorably lead to it being a violation of professional ethics, one observes that the omissive attitude of the professional was not due to intent or gross negligence on his part, for the only plausible explanations are those set forth in his version, i.e. that he believed that such an act on behalf of his clients would not have any effect, for if, as he states, the verdict was based on the considerations taken into account for the indictment affirmed by the court, his perception – that since as there was no new evidence certainly the court would uphold the judgment – was not ridiculous.⁶⁶

58. On May 8, 1997, the Disciplinary Judicial Chamber of the Judicial Council for Norte de Santander denied the appeal filed by Ms. Echeverría, as the memorials were not filed personally by her nor does there appear to be any power of attorney legally conferred on the attorney proposed by her.⁶⁷

2. Criminal complaint and *tutela* actions

59. On May 28, 1997, Jaime Sanguino Santander filed a criminal complaint against Carlos Arturo Arévalo Salcedo (Second Judge of Criminal Investigation of Cúcuta) for the crime of procedural fraud. It was alleged that Mr. Arévalo previously served as Delegate Prosecutor before the Superior Court of Cúcuta, accordingly his actions taken in his capacity as a judge were alleged not to have been impartial. On September 11, 1997, the

⁶³ Communication from the petitioner, October 17, 2017.

⁶⁴ Annex 65.1. Judgment on appeal by the Superior Court of the Judicial District of Cúcuta, Criminal Chamber for Decision, August 15, 1996. Communication from the petitioner of September 9, 1999, marked as Annex 1.

⁶⁵ Annex 66. Resolution of the Disciplinary Judicial Chamber of the Judicial Council, Norte de Santander. Communication from the State of March 6, 2009 marked as Annex 3.

⁶⁶ Annex 67. Resolution of the Disciplinary Judicial Chamber of the Judicial Council, Norte de Santander, April 17, 1997. Communication from the State of March 6, 2009, marked as Annex 4.

⁶⁷ Annex 68. Resolution of the Disciplinary Judicial Chamber of the Judicial Council, Norte de Santander, May 8, 1997. Communication from the State of March 6, 2009, marked as Annex 4.

Deputy Attorney General for the Nation before the Contentious-Administrative Court of Cundinamarca ordered the matter archived. On October 9, 1997, the Deputy Attorney General rejected the motion for appeal.

60. On July 28, 1998, Mr. Sanguino filed a *tutela* action before the Disciplinary Judicial Chamber of the Judicial Council against the Deputy Attorney General's decision. He argued that her right to appeal was violated insofar as he himself ruled on the motion for appeal. On August 13, 1998, the Chamber found that it did not have jurisdiction to hear the matter.⁶⁸

61. By memorial of August 20, 1998, Mr. Sanguino filed a motion for reconsideration against the ruling in which the Chamber found itself without jurisdiction. He reiterated the request in memorials dated August 7 and September 1, 1998.⁶⁹

62. On September 21, 1998, Mr. Sanguino filed a second *tutela* action before the Contentious-Administrative Court of Cundinamarca.⁷⁰ On October 29, 1998, that court ruled in the matter, denying the protection sought.⁷¹ On December 3, 1998, the Chamber for Contentious-Administrative Matters of the Council of State heard the challenge presented and found that the *tutela* action was not admissible, insofar as there had been no violation of the moving party's fundamental rights. It added that "given the specialty of the measures in respect of which the Deputy Attorney General of the Nation is competent to act, the matter allowed of no appeal, accordingly it was not in order to grant the motion for appeal ... against the ruling in question...."⁷²

63. On February 6, 1999, Mr. Sanguino sent the First Administrative Chamber of the Council of State a memorial in which he made some observations on the ruling of December 3, 1998.⁷³ On February 11, 1999, the Constitutional Court reported that the *tutela* action filed was excluded from review.⁷⁴

3. Right of petition (*derecho de petición*) and *tutela* action

64. On April 16, 1998, Jaime Sanguino Santander filed a right of petition (*derecho de petición*) before the First Criminal Circuit Court for it to issue a photocopy of certain documents contained in the record of the criminal proceeding against his wife.⁷⁵ The Court proceeded to provide the documents in the record.⁷⁶ The IACHR notes that in May 1998 Mr. Sanguino filed several memorials with the Court indicating that his request had been answered only in part, for he was given copies from the record but they were not certified.⁷⁷ On June 5, 1998, the First Court rejected his application.⁷⁸

⁶⁸ Annex 90. Resolution of the Disciplinary Judicial Chamber of the Superior Judicial Council, August 13, 1998. Communication from the State of March 6, 2009, marked as Notebook 3.

⁶⁹ Annex 91. Memorial filed by Jaime Sanguino Santander with the Superior Judicial Council, August 20, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 3.

⁷⁰ Annex 92. Undated memorial filed by Jaime Sanguino Santander with the Contentious-Administrative Court of Cundinamarca. Communication from the petitioner of September 9, 1999, marked as Notebook 3.

⁷¹ Annex 94. Telegram sent to the Administrative Court of Cundinamarca, November 4, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 3.

⁷² Annex 97. Resolution of the Contentious-Administrative Chamber of the Council of State, December 3, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 3.

⁷³ Annex 98. Memorial filed by Jaime Sanguino Santander with Contentious-Administrative Chamber, February 6, 1999. Communication from the petitioner of September 9, 1999, marked as Notebook 3.

⁷⁴ Annex 99. Memorial filed by Jaime Sanguino Santander with the Office of the Human Rights Ombudsperson (la Defensoría del Pueblo), March 1, 1999. Communication from the petitioner of September 9, 1999, marked as Notebook 3.

⁷⁵ Annex 80. Memorial filed by Jaime Sanguino Santander with the First Criminal Circuit Court, April 16, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 2.

⁷⁶ Annex 81. Notice from the First Criminal Circuit Judge, April 22, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 2.

⁷⁷ Annex 82. Memorial filed by Jaime Sanguino Santander with the First Criminal Circuit Court, May 6, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 2.

⁷⁸ Annex 83. Resolution of the First Criminal Circuit Court, June 5, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 2.

65. On June 24, 1998, Mr. Sanguino filed a *tutela* action against the First Criminal Circuit Court of Cúcuta.⁷⁹ On July 14, 1998, the Administrative Court of Norte de Santander denied his motion, considering that there was no violation of the right to petition.⁸⁰ Mr. Sanguino challenged that decision before the Council of State, which, by resolution of August 21, 1998, denied his request. The Council of State indicated that it confirmed that the copies requested by Mr. Sanguino were given to him.⁸¹

4. Right of petition

66. Ms. Echeverría sent three requests, dated July 6, July 13, and August 13, 1998, respectively, to the Disciplinary Chamber of the Judicial Council for Norte de Santander. This was for the purpose of requesting a certified copy of the memorial, which she directed to her then-defense counsel Benjamín Jaimes Parada, by which she asked him to challenge the guilty verdict at trial. The Chamber rejected the requests, indicating that the record was illegible, that the requests were not submitted personally, that she was not a party in the record, and that the Chamber had refrained from investigating attorney Jaimes.⁸²

IV. LEGAL ANALYSIS

A. Rights to a fair trial and judicial protection (Articles 8 and 25 of the American Convention, in relation to Article 1(1) of the same instrument⁸³)

67. The Commission recalls that the person subjected to a criminal trial should be able to defend his or her interests or rights effectively and in conditions of procedural equality, so that the person subjected to the punitive power of the state may make arguments on his or her own behalf with all the necessary information. The Inter-American Court has argued that the very first steps in a criminal prosecution should be accompanied by the maximum procedural guarantees to safeguard the right of the accused to a defense.⁸⁴ In addition, the elements necessary must come together for there to be greater balance between the parties, for the proper defense of their interests and rights, which means, among other things, that principle of the presence of both parties in the procedural acts.⁸⁵

68. Regarding public defenders, both the IACHR and the Inter-American Court have noted that pursuant to the guarantees established in Articles 8(2)(d) and 8(2)(e) of the American Convention, once the state provides a public defender to the accused, defense counsel must be effective. To that end, the State must adopt all

⁷⁹ Annex 84. Memorial filed by Jaime Sanguino Santander with the Contentious-Administrative Court, July 1, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 2.

⁸⁰ Annex 86. Official note from the Administrative Court of Norte de Santander, July 14, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 2.

⁸¹ Annex 87. Resolution of the Contentious-Administrative Chamber of the Council of State, August 21, 1998. Communication from the petitioner of September 9, 1999, marked as Notebook 2.

⁸² Annex 101. Memorials of July 13, August 13, and July 6, 1998, filed by Mariela Echeverría with the Regional Superior Judicial Council, and resolutions of August 21, July 27, July 13, August 25, July 22, and August 19, 1998, issued by the Disciplinary Judicial Chamber of the Sectional Judicial Council. Communication from the petitioner of September 9, 1999, marked as Notebook 4A.

⁸³ Article 8(1): Everyone 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.

2. Every person accused of a criminal offense has the right to be presumed innocent so long as his guilt has not been proven according to law. During the proceedings, every person is entitled, with full equality, to the following minimum guarantees:

(d) the right of the accused to defend himself personally or to be assisted by legal counsel of his own choosing, and to communicate freely and privately with his counsel;

(e) the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides, if the accused does not defend himself personally or engage his own counsel within the time period established by law.

Article 25(1): 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.

⁸⁴ I/A Court HR. *Case of Palamara Iribarne v. Chile*. Merits, Reparations and Costs. Judgment of November 22, 2005. Series C No. 135, paras. 174 and 175.

⁸⁵ I/A Court HR. *Judicial Condition and Human Rights of the Child*. Advisory Opinion OC-17/02, August 28, 2002. Series A No. 17, para. 132.

appropriate measures.⁸⁶ The Court has held that “the appointment of a defense counsel for the sole purpose of complying with a procedural formality would be tantamount to not having a technical legal representation; therefore, it is imperative that the defense counsel act diligently in order to protect the procedural guarantees of the accused and thereby prevent his rights from being violated.”⁸⁷ In this connection, the Commission has recognized that the state is responsible if the public defender engages in omissions or errors that evidently allow one to conclude that effective legal representation was not provided.⁸⁸

69. The IACHR has held that the state cannot be considered responsible for all the errors of a public defender; nonetheless, when the national authorities are informed that the public defense has been ineffective or when the lack of diligence of the public defender is evident, then they are obligated to intervene for the purpose of guaranteeing that effective legal representation be provided.⁸⁹

70. The Inter-American Court has found that it is imperative that the public defender act with due diligence to protect the procedural guarantees of the accused and thereby keep the accused’s rights from being violated. For this reason, the State must adopt all appropriate measures to provide suitable and trained defense attorneys who can act with functional autonomy. In this way they will strengthen the defense of the concrete interest of the accused and not simply as a means to formally comply with the legitimacy of the process.⁹⁰

71. Furthermore, the Court has considered that in order to analyze whether a violation of the right to defense by the State has occurred, it must evaluate whether the omissions of the public defender constitute inexcusable negligence or a manifest failure in the exercise of the defense that had or could have a decisive effect against the interests of the accused.⁹¹

72. As a preliminary matter, the Commission notes that in the instant case the State indicated that Ms. Echeverría had an adequate technical defense as she had various attorneys throughout the prosecution. In this respect, the Commission emphasizes that this implies that the assistance of counsel given to the accused is effective. Accordingly, the mere designation of counsel without ensuring its effectiveness is not sufficient to satisfy this right. In this regard, the European Court of Human Rights has held that the right to assistance of public defense counsel cannot be equated to the mere designation of a public defender.⁹²

73. In view of the foregoing, the IACHR observes that the dispute lies in whether the defense provided by the State for the criminal prosecution of Ms. Echeverría acted effectively and in keeping with the previously indicated standards. The Commission observes that according to available information, the alleged victim had at least three public defenders during the criminal prosecution: (i) Filomena Urbina de García; (ii) Jesús Libardi Colmenares Sayago; and (iii) Benjamín Jaimes Parada.

74. As regards attorney Urbina, the Commission emphasizes that the indictment resolution issued by the Second Court of Criminal Investigation on October 30, 1991, does not indicate that she has filed any memorial or any argument for the defense on behalf of her client from the time she was appointed. In addition, the IACHR observes that the petitioner emphasized that the attorney did not attend witness examinations and that she was an expert in “family law, alimony, successions, and divorces,” and not in criminal law. In addition, the Commission notes that she did not file any appeal in response to that resolution. Moreover, the IACHR takes note that Ms. Echeverría indicated that the attorney “remained absolutely passive since she did not submit any argument, she was like one more spectator of the criminal prosecution.”

⁸⁶ IACHR. Report No. 82/13. Case 12,679. Merits. José Agapito Ruano Torres and family. El Salvador. November 4, 2013, para. 145. I/A Court HR. *Cabrera García and Montiel Flores v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 26, 2010. Series C No. 220, para. 155.

⁸⁷ I/A Court HR. *Case of Cabrera García and Montiel Flores v. Mexico*. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 26, 2010. Series C No. 220, para. 155.

⁸⁸ IACHR. Report No. 41/04. Case 12,417. Merits. Whitley Myrie. Jamaica. October 12, 2004, para. 62.

⁸⁹ IACHR. Report No. 41/04. Case 12,417. Merits. Whitley Myrie. Jamaica. October 12, 2004, para. 62.

⁹⁰ I/A Court HR. *Case of Ruano Torres et al. v. El Salvador*. Merits, Reparations and Costs. Judgment of October 5, 2015. Series C No. 303, para. 164.

⁹¹ I/A Court H.R., *Case of Ruano Torres et al. v. El Salvador*. Merits, Reparations and Costs. Judgment of October 5, 2015. Series C No. 303, para. 164.

⁹² ECHR. *Case of Artico v. Italy*. Communication 6694/74. Judgment of May 13, 1980, para. 33.

75. With respect to attorney Colmenares, the IACHR observes that after being appointed public defender he asked that the public hearing be postponed, since he had recently been appointed and therefore was not yet familiar with the charges against Ms. Echeverría. With respect to his activity in the criminal prosecution, Ms. Echeverría said that Mr. Colmenares “was like a spectator of the criminal prosecution” and that “in the record one does not find a single official note sent by that attorney, not even to ask to see the record so as to become familiar with the accusations against his client.” The Commission observes that in the record before it no acts performed by that attorney are to be found.

76. Finally, regarding attorney Benjamín Jaimes Parada, the IACHR notes that he appeared at the public hearing on November 9, 1995, and that he did not speak at any time. Subsequently, the Commission observed that during the continuation of the hearing on November 30, 1995 the attorney filed a memorial in which he noted that Ms. Echeverría “did not personally commit the crimes.” Ms. Echeverría stated that this attorney did not file any other memorial during the trial phase. The IACHR also notes that said attorney did not file any other memorial during the trial phase. The IACHR also notes that after the verdict finding Ms. Echeverría guilty, he did not file a motion for appeal.

77. In view of all the foregoing, the Commission notes that in the instant matter the public defenders who represented Ms. Echeverría during the criminal prosecution did not file memorials on behalf of the defense to call into question purported irregularities in the evidence obtained, request any judicial investigative steps, or present new evidence. In addition, the IACHR finds that the public defense did not file motions for appeal to challenge the indictment or the guilty verdict at trial, instead allowing it to become a firm judgment.

78. Given this situation, the Commission observes that there is considerable information in the record that allows once to conclude that Ms. Echeverría, who was prosecuted and convicted *in absentia*, sought by all means to make timely use of the right to defense. As the European Court of Human Rights has recognized, any limitation on the relationships of clients and attorneys, whether inherent or express, should not thwart the effectiveness of the legal representation.⁹³ And so in the instant case Ms. Echeverría attempted to make timely use of her right to defense through communications with her public defenders, requests to change defense counsel, as well as formal complaints on the public defense function during the prosecution and even afterwards. In view of all the foregoing, the Commission considers that the public defense of Ms. Echeverría was not effective but that rather, to the contrary, it impaired her right to defense. In addition, on having made omissions such as those recapitulated above, the IACHR considers that it has sufficient information to conclude that the deficient performance of the public defense played an essential role in the conviction of Ms. Echeverría.

79. As regards the right to judicial protection, according to the reiterated case-law of the Inter-American Court, Article 25(1) of the American Convention establishes the following:

... an obligation for States Party to guarantee all persons under its jurisdiction access to an effective judicial remedy against acts that violate their fundamental rights. This effectiveness supposes that in addition to the formal existence of the remedies, they get results or responses to the violations of the rights contemplated in the Convention, in the Constitution or in laws.... Thus, the proceeding must tend toward the materialization of the protection of the right recognized in the judicial ruling through the suitable application of that ruling.⁹⁴

80. Accordingly, the IACHR stresses that for there to be an effective remedy it is not enough that it be provided for in a legal provision or that it be formally admissible. It must also be actually suitable to establish whether there has been a human rights violation and to provide as necessary to remedy it.⁹⁵

81. In the instant case, the IACHR takes note of the various remedies pursued before the Fourth Criminal Judge in the context of the criminal prosecution, as well as the various remedies pursued subsequently. The Commission takes note that the judicial authorities who took cognizance of the motions for review, the total

⁹³ ECHR, Judgment 29652/04, Case of Orlov v. Russia, June 21, 2011, para. 106.

⁹⁴ I/A Court HR. *Case of Abrill Alosilla et al. v. Peru*. Interpretation of the Judgment on Merits, Reparations and Costs. Judgment of November 21, 2011. Series C No. 235, para. 75.

⁹⁵ I/A Court HR. *Case of the Yakye Axa Indigenous Community v. Paraguay*. Judgment of June 17, 2005. Series C No. 125, para. 61.

actions, and the disciplinary complaints failed to adopt the measures necessary to remedy the violation of the right to defense. Even though some of those authorities recognized the “omission” and “passivity” of the public defense of Ms. Echeverría, they merely indicated that evidence of it was not shown, without providing any further reasoning. In addition, mindful of the late activity, the Commission notes that it was considered that in the extraordinary remedies could no longer be pursued for the arguments that were part of the defense would become one more procedural level among the various procedures.

82. For that reason in the instant case the Commission considers that the remedies pursued before the various judicial bodies were not effective for protecting Ms. Echeverría’s right to defense. In that regard, the Commission concludes that the State violated, to her detriment, Article 25 of the American Convention in relation to Article 1(1) of that same instrument, to the detriment of Mariela del Carmen Echeverría de Sanguino. The Commission considers that in addition is the fact that the State did not provide a prompt and adequate response to the allegations put forward by Ms. Echeverría.

83. In view of all the foregoing, the Commission considers that the activity of Ms. Echeverría’s public defenders had a detrimental impact on her right to defense, and the judicial remedies for addressing that situation were not effective. Accordingly, the IACHR considers that it has sufficient information to conclude that the deficient performance of the public defenders played an essential role in Ms. Echeverría’s conviction. Therefore, the Commission finds that the State of Colombia violated the rights to a fair trial and to judicial protection established at Articles 8(2), 8(2)(d), 8(2)(e) and 25(1) of the American Convention, in relation to Article 1(1) of the same instrument, to the detriment of Mariela del Carmen Echeverría de Sanguino.

84. Finally, the Commission takes note of the other arguments presented by the petitioner with respect to the violation of the right to defense due to: (i) the irregular manner in which evidence was incorporated in the criminal prosecution; and (ii) the refusal of the judicial authorities who participated in the criminal prosecution to accept documentation and evidence put forward by Ms. Echeverría. In this respect, the IACHR considers that it does not have sufficient information to rule on those aspects.

V. REPORT No. 325/20 AND COMPLIANCE REPORTING

85. The Commission adopted Merits Report No. 325/20 on November 19, 2020 in which it concluded that the State is responsible for the violation of the rights to judicial guarantees and judicial protection, established in Articles 8(2), 8(2)(d), 8(2)(e) and 25(1) of the American Convention on Human Rights in relation to its Article 1(1), to the detriment of Mariela del Carmen Echeverría de Sanguino. The IACHR transmitted its report to the State on January 7, 2021. In said report, the Commission recommended:

1. Make full reparation for the human rights violations found in this report, including the payment of compensation for the damages caused.
2. Strengthen, within a reasonable period of time, the systems for selecting public defenders to ensure the appointment of persons who meet the requirements of suitability and proven technical capacity, as well as develop controls through protocols to ensure the effectiveness of the management of public defense in criminal matters, in accordance with the Inter-American standards indicated in this report.
3. Implement, within a reasonable period of time, if they do not currently exist or, as the case may be, strengthen training programs, as a system of continuing education, aimed at public defenders, which should be supported with adequate budgetary allocations.

86. In the proceedings subsequent to the notification of the Merits Report, the State reported on its compliance with the recommendations established by the IACHR. During this period, the Commission granted an extension to the State for the suspension of the time period provided for in Article 51 of the American Convention. In this 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 non-compliance with the aforementioned deadline in the event that the case was submitted to the Inter-American Court.

87. On June 16, 2021, the parties signed an Agreement on Compliance with the Recommendations, which includes pecuniary and non-pecuniary reparation measures.

88. Regarding the **first recommendation**, the Agreement contemplates the application of Law 288 of 1996, in order to repair the non-pecuniary and material damages that may be proven in favor of Mrs. Echeverría, deducting, if applicable, the amounts recognized for administrative reparations, for which purpose the criteria and amounts recognized by the current case law of the Council of State will be used. This procedure will be carried out by the National Agency for the Legal Defense of the State (ANDJE). Likewise, the agreement establishes as a measure of satisfaction, that the State will carry out an Act of Acknowledgment of International Responsibility with the active participation of the victim.

89. With regard to the **second recommendation**, the parties agreed that they understand that the full validity of the Unified Hiring Manual for the selection of public defenders, adopted by Resolution 1409 of 2020, guarantees that the hiring of public defenders is in accordance with constitutional and legal provisions, and that the creation of Internal Working Groups in the National Public Defender's Office aimed at ensuring compliance and effectiveness of the management of public defense, satisfies compliance with the same.

90. With regard to the **third recommendation**, the parties agreed that the National Training Plan for Public Defenders, the Guidelines for the Education and Training of Operators and Professionals who are part of the National Public Defense System, in addition to the education and training provided by the Training and Research Group of the National Public Defense Directorate, constitute actions and measures that satisfy this recommendation.

91. After evaluating this information and considering the victim's interest that "this case should come to an end," on July 7, 2021, the Commission decided, by an absolute majority, not to send the case to the Inter-American Court and to proceed toward the publication of the Merits Report. The Commission values the measures adopted by the State to reach this agreement to comply with the recommendations.

92. The Act of Recognition of Virtual Responsibility, which was disseminated on social networks, took place on August 10, 2021, with the participation of the IACHR. In this act, the Director of the ANDJE apologized to the victim and acknowledged the State's responsibility for the human rights violation declared in the Merits Report.

93. At the event, the IACHR Rapporteur for Colombia stated that:

"This type of acts constitutes an essential component of comprehensive reparation, since the acceptance of the facts by the State and the recognition of its responsibility for them in the terms of the IACHR's report on the merits dignifies the victims and conveys a message of official condemnation of the human rights violations committed by the State.

[...] [t]he Commission highlights the effort of the parties to reach an agreement to comply with the recommendations before the IACHR, which benefits the victim, who will be able to obtain full reparation without having to resort to the jurisdiction of the Inter-American Court, and also the State, since it is a demonstration of its commitment to the Inter-American human rights system and its international obligations".

94. With regard to **monetary reparations**, the IACHR notes that in the framework of Law 288 of 1996, the conciliation hearing held on February 27, 2023 was declared unsuccessful for lack of agreement on the proposed reparations.

95. For her part, on July 25, 2023, the victim informed the IACHR that the parties have not reached a final agreement on pecuniary reparation given that the ANDJE's proposal does not include reparation for her next of kin and requests the IACHR to give its opinion on whether her husband (QEPD) and her four children are entitled to compensation.

96. The Commission notes that the ANDJE proceeded to file the incident for the regulation of damages before the competent Contentious Administrative Court and that on November 3, 2023, the victim's attorney presented his considerations to the Administrative Court of Cundinamarca. It also notes that this incident was resolved on February

21, 2024 by the aforementioned court and ANDJE was ordered to pay the victim 40 SMMLV for moral damages and 40 SMMLV for the violation of conventionally protected constitutional goods. For its part, the victim considered this compensation to be unjust, amounting to approximately US\$ 26,500, and requested the IACHR to make a fair and adequate appraisal of the compensation.

97. In April and May 2024, the victim submitted to the State all the documents required for payment. On May 29, 2024, the ANDJE issued Resolution 383, by which it complied and ordered the payment of damages caused to the victim, regulated by the Administrative Court of Cundinamarca Third Section Subsection "C" within process No. 25000-23-36-000-2023-00386-00.

98. On June 19, 2024, the State contested the victim's request regarding her children and husband, since they were not identified as such in the Merits Report, based on inter-American jurisprudence⁹⁶. In this regard and in response to the victim's request, the IACHR recalls, first of all, that the initial petition was presented to the IACHR by the petitioner Jaime Sanguino -on behalf of his wife Mariela del Carmen Echeverría de Sanguino- for violations of her rights in a criminal proceeding against her. The victim's children and husband were not included in the processing of the petition; and in the Merits Report they were not identified as possibly affected. Indeed, after analyzing the case, in its Merits Report, the IACHR concluded that the rights to judicial guarantees and judicial protection had been violated only to the detriment of Mariela del Carmen Echeverría de Sanguino.

99. Second, the IACHR recalls the State's duty under Article 1(1) of the American Convention to redress human rights violations if they are so identified, notwithstanding the IACHR's determination in its Report on the Merits. The IACHR also notes that although its recommendations are independent of those established in domestic proceedings at the national level, they may be taken into account when evaluating compliance. The IACHR emphasizes that an aspect of great importance when defining and implementing the recommendations has been the active participation of the victim and his or her representation.

100. On July 14, 2024, the State sent the payment order, which is in "paid" status.

101. In this regard, the Commission notes that in relation to the first recommendation regarding integral reparation, the parties agreed to apply the procedure established in Law 288 of 1996, in order to repair the non-pecuniary and material damages that may be proven in favor of Mrs. Echeverría, discounting, if applicable, the amounts recognized for administrative reparations, for which purpose the criteria and amounts recognized by the current jurisprudence of the Council of State would be applied. The Committee notes that the procedure established in Law 288 of 1996 was followed internally, as agreed between the parties, and that the victim and his representation have participated in said procedure and in the subsequent incident for the regulation of damages. The Commission notes that the compensation is in the "paid" status, and therefore considers the first recommendation to have been complied with.

102. With regard to the second and third recommendations, the IACHR notes that the parties understand that both the Unified Hiring Manual for the selection of public defenders and the plan, guidelines and training described in paragraph 90 above are measures that comply with them, respectively. With this consideration and taking into account that the manual and the Internal Working Groups in the National Public Defender's

⁹⁶ Cf. I/A Court H.R., Case of Baptiste et al. Case of Baptiste et al. v. Haiti, Merits and Reparations, Judgment of September 1, 2023, Series C No. 503, para. 13; Case of Valencia Campos et al. v. Bolivia, Preliminary Objection, Merits, Reparations and Costs, Judgment of October 18, 2022, Series C No. 469, para. 34; Case of Maidanik et al. v. Uruguay, Merits and Reparations, Judgment of November 15, 2021, Series C No. 444, para. 15; Case of Barbosa de Souza et al. v. Brazil, Preliminary Objections, Merits, Reparations and Costs, Judgment of September 7, 2021, Series C No. 435, para. 38; Case of Guachalá Chimbo et al. v. Ecuador, Merits, Reparations and Costs, Judgment of March 26, 2021, Series C No. 423, para. 23; Case of Spoltore v. Argentina, Preliminary Objection, Merits, Reparations and Costs, Judgment of June 9, 2020, Series C No. 404, para. 52; Judgment of June 9, 2020. Case of López et al. v. Argentina, Preliminary Objections, Merits, Reparations and Costs, Judgment of November 25, 2019, Series C No. 396, para. 32; Case of Girón et al. v. Guatemala, Preliminary Objection, Merits, Reparations and Costs, Judgment of October 15, 2019, Series C No. 390, para. 23; Case of Rodríguez Revolorio et al. v. Guatemala, Preliminary Objection, Merits, Reparations and Costs, Judgment of October 14, 2019, Series C No. 387, para. 19; Case of Gorioitía v. Argentina, Preliminary Objection, Merits, Reparations and Costs, Judgment of September 2, 2019, Series C No. 382, para. 26; Martínez Coronado Case Vs. Guatemala, Merits, Reparations and Costs, Judgment of May 10, 2019, Series C No. 376, para. 17; Case of Terrones Silva et al. v. Peru, Preliminary Objections, Merits, Reparations and Costs, Judgment of September 26, 2018, Series C No. 360, para. 39; Case of I. V. v. Bolivia, Preliminary Objections, Merits, Reparations and Costs, Judgment of November 30, 2016, Series C No. 329, para. 43; Case of Cajahuanca Vásquez v. Peru, Preliminary Objections and Merits, Judgment of November 27, 2023, Series C No. 509, para. 49.

Office, cited above, provide reinforcement for the hiring of public defenders and that Colombia has reported on its training programs, as a system of continuing education, aimed at public defenders; the IACHR considers that both recommendations have been complied with.

VI. FINAL CONCLUSIONS

103. The Commission values the actions taken by the State to comply with the recommendations and, in view of the compliance agreement signed between the parties and the foregoing analysis, concludes that the three recommendations of its Merits Report No. 325/20 were complied with.

104. Based on this total compliance, the Commission considers that the matter has been resolved, and therefore it is not appropriate to issue the final report established in Article 47.1 of its Rules of Procedure, but to proceed directly to the publication of the Report on the Merits.

VII. PUBLICATION

105. In view of the foregoing and in accordance with Articles 51(3) of the American Convention and 47(3) of its Rules of Procedure, the IACHR decides to make this report public and to include it in the Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 4th day of the month of April, 2025. (Signed): José Luis Caballero Ochoa, President; Andrea Pochak, First Vice-President; Arif Bulkan, Second Vice-President and Roberta Clarke, member of the Commission.