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REPORT No. 241/25
CASE 12.636
REPORT ON THE MERITS (PUBLICATION)

ÉDGAR QUIROGA, GILDARDO FUENTES, AND VICTORIA
DELGADO ANAYA
COLOMBIA

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I. INTRODUCTION¹

1. On May 14, 2001, the Inter-American Commission on Human Rights (hereinafter "the Commission," "the Inter-American Commission," or "the IACRH") received a petition presented by the Corporación Servicios Profesionales Comunitarios Sembrar (hereinafter "the petitioner") alleging the Republic of Colombia (hereinafter "the State," "the Colombian State," or "Colombia") was internationally responsible for the alleged forced disappearance of Édgar Quiroga and Gildardo Fuentes on November 28, 1999, in the town of Cerro Azul, San Pablo, Sur de Bolívar.²
2. The Commission approved admissibility report 72/07 on October 15, 2007.³ On November 8, 2007, the Commission notified the parties of the report and made itself available to help them reach a friendly settlement, but the conditions were not met for launching that process.
3. Likewise, on September 3, 2003, the Commission received a petition from the Comité de Solidaridad con los Presos Políticos (hereinafter "the petitioner") alleging the State was internationally responsible for two incidents of alleged kidnapping perpetrated against Victoria Delgado Anaya on May 16, 2001, and December 23, 2001, as well as her death, which took place on December 24, 2001. The Commission approved admissibility report 46/08 of July 24, 2008.⁴ On August 15, 2008, the Commission notified the parties of the report and made itself available to help them reach a friendly settlement, but the conditions were not met for launching that process.
4. On January 6, 2011, pursuant to Article 29(1)(d) of its Rules of Procedure, the Commission moved to combine these cases—that is, Case 12,657, regarding Victoria Delgado Anaya, and Case 12,636, regarding Édgar Quiroga and Gildardo Fuentes—because they involve individuals belonging to the same family and allegedly reveal the same pattern of conduct. The parties were given the time provided for in the Rules of Procedure to submit additional comments on the merits. All the information received was duly transferred between the parties.⁵

II. POSITIONS OF THE PARTIES

A. Petitioner

5. The petitioner states that during the second half of 1998, in Magdalena Medio, more than 10,000 campesinos participated in an exodus in order to call the Colombian government's attention to the systematic human rights violations perpetrated by members of the Autodefensas Unidas de Colombia ("AUC") and the Security Forces in the region. It states that in response to the campesino exodus, agreements were signed with the president at the time, who committed to protecting the lives and personal integrity of the campesinos and of the spokespersons who were participating in the exodus; this included Édgar Quiroga, who was a well-recognized leader in the region and was covered by this protection.

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 the decision-making process of the instant case.

² The IACRH received a request for precautionary measures on November 29, 1999, describing the alleged forced disappearance of Édgar Quiroga and Gildardo Fuentes on November 28, 1999. That same day, the IACRH granted precautionary measures ordering the Colombian State to adopt urgent and effective measures to protect the lives and integrity of these individuals and the residents of La Placita, who witnessed the facts and reported them to the authorities. The IACRH expanded the measure twice: once, to cover other spokespersons for the campesino exodus, and a second time to cover members of the Campesino Association of Valle del Río Cimitarra.

³ IACRH. Report 72/07. Petition 319-01. Admissibility. Édgar Quiroga and Gildardo Fuentes. Colombia. October 15, 2007. The Commission found the petition admissible regarding articles 3, 4(1), 5(1), 5(2), 7, 8(1), and 25 of the American Convention, in conjunction with Article 1(1) of the Convention and Article I(b) of the Inter-American Convention on Forced Disappearance of Persons.

⁴ IACRH. Report 46/08. Petition 699-03. Admissibility. Victoria Delgado Anaya. Colombia. July 24, 2008. The Commission found the petition admissible regarding articles 4(1), 5(1), 7(1), 8(1), and 25 of the American Convention, in conjunction with Article 1(1) of the Convention.

⁵ On May 19, 2001, the CSPP submitted a request to the Commission for precautionary measures to the benefit of Ms. Victoria Delgado Anaya, of which the State was informed on May 21, 2001. On June 28, 2001, the State reported that there were no ongoing investigations into the first kidnapping of Ms. Victoria Delgado Anaya. In a brief dated July 16, 2001, the petitioner asked that the precautionary measures for Ms. Victoria Delgado Anaya, the residents of the town of El Paraíso, and the communities of Agua Sucia, La Unión, Cañabral Alto, and La Fría be enforced. On July 24, 2001, the State said an investigation had been opened into the first kidnapping of Ms. Victoria Delgado Anaya, and that it was at the investigative stage.

6. It states that Gildardo Fuentes was a campesino and resident of the region who, at the time of his forced disappearance, was 19 years old. Between October 8 and 10, 1999, one month prior to his alleged forced disappearance, he was tortured by the AUC with the acquiescence of Battalion 45 Heroes of Majagual in the town of Cerro Azul.

7. Regarding Victoria Delgado Anaya, the petitioner indicates that she was the mother of Gildardo Fuentes, and that she earned an income by selling provisions, groceries, tools, and other items. It states that Ms. Delgado was threatened amidst the multiple reports and investigations intended to resolve the facts surrounding the disappearance of her son; kidnapped twice; and then murdered on December 24, 2001, in San Pablo Bolívar by the same paramilitary group.

8. It states that between November 24 and 26, 1999, two days prior to the forced disappearance of Édgar Quiroga and Gildardo Fuentes, these men appeared before the Office of the Public Prosecutor and the Office of the Procurator General of the Nation to report the human rights violations committed by members of the police force in Sur de Bolívar, in close coordination with members of the AUC

9. It also states that their forced disappearance was preceded by two events: (i) on November 26, 1999, in the town of Cerro Azul, in the municipality of San Pablo, a helicopter with green and red stripes flew overhead firing a machine gun and launching bombs around the village located in Villa Nueva; and (ii) on November 27, 1999, Cerro Azul was occupied by a group of armed men wearing military-style uniforms with AUC markings who set up a checkpoint and occupied homes, the health clinic, and the school. The petitioner said the group was approximately 300 armed men wearing camouflage who identified themselves as part of a group of 500 reservists who had been requested of the Fifth Brigade of the National Army.

10. The petitioner indicates that on the day of the facts—November 28, 1999—when Édgar Quiroga and Gildardo Fuentes arrived in Cerro Azul, at approximately 10:00 a.m., they were deprived of liberty by the armed group located in Cerro Azul. It adds that the testimony included herein, from the Search Commission, indicates that Édgar Quiroga was detained along with Gildardo Fuentes, and that both were taken to a public establishment where they were interrogated with regard to where they were coming from and their activities in the area.

11. It states that one of the commanders of the group that captured them said over the radio that he had captured one of the most important guerrilla leaders in Magdalena Medio, referring to Édgar Quiroga, whom they had tied by his hands and feet, kicking him and beating him with rifle butts. The petitioner indicates that on that day, helicopters similar to the one that had carried out the bombardments days prior landed across from the town's gas station and transported Édgar Quiroga to the municipality of San Blas, based on information provided by one of the members of the armed groups, nicknamed "El Niche."

12. It states that the victims' relatives began to receive phone calls at approximately 6:00 p.m. that day informing them that the detention had been carried out by armed and uniformed men belonging to Battalion 45 Heroes of Majagual.

13. Regarding the case of Victoria Delgado Anaya, the petitioner indicates that her first kidnapping was the result of a paramilitary incursion that took place on May 16, 2001, in which AUC members burned approximately 20 homes in the area. The petitioner states that she was released at that time, thanks to intervention from residents who demanded her release. It adds that the State implemented a plan for protection, but in the wrong community, enabling the second kidnapping and death of Ms. Delgado, which took place on December 23 and 24, 2001, respectively, at the hands of the AUC, after she had been tapped as a collaborator with the guerrillas.

14. The petitioner states that the situation of impunity persists as a result of a lack of diligence in the investigations. In this regard, it states that those who participated in the alleged forced disappearance of Édgar Quiroga and Gildardo Fuentes were not identified, and that Rodrigo Pérez Alzate alias "Julián Bolívar," who was convicted, was granted benefits without contributing to helping find them alive. In the case of Victoria Delgado Anaya, it indicates

the State failed to identify and punish all those who took part in her kidnappings and death, and the context of cooperation between the Security Forces and the AUC was never clarified.

B. State

15. The State argues that it took a series of measures to combat the violence in the area where the facts of this case took place. It specifically states that two parallel and permanent strategies were established: the first was to combat the illegal self-defense groups operating in the area by seizing their weapons, separating them from the civilian population, and turning them over to the competent authorities; the second involves internal surveillance work (with the cooperation of disciplinary and criminal authorities) to identify soldiers who may be supporting such groups' activities.

16. The State indicates that, in strict observance of constitutional law, the Armed Forces joined forces with the National Police, the Administrative Security Department, and the Office of the Attorney General of the Nation to build a series of strategies aimed at capturing them, preventing terrorist attacks, dismantling their cells, and fighting drug trafficking and extortion. In this particular case, it states that the agreements reached in 1998 with the campesino exodus from Sur de Bolívar and Valle de Cimitarra were aimed at defending and protecting human rights in the area and demonstrating institutional political willingness to fight these illegal armed groups and work together with the population to secure the conditions necessary for safety and for rebuilding the social and economic fabric of the Magdalena Medio region.

17. It adds that, even though in the case of Édgar Quiroga and Gildardo Fuentes, the investigation was complicated by fact that the southern part of Bolívar had been under siege by illegal armed groups from the 60s through the 80s, an investigation was launched into the crime of the forced disappearance of Édgar Quiroga and Gildardo Fuentes. It states that in the framework of this process, some suspects were convicted, while others remain under investigation. It specifically notes that in the framework of the proceeding against Rodrigo Pérez Alzate, he provided details of his criminal activities. The State holds that the petitioner did not prove that State agents participated in the disappearance of Édgar Quiroga and Gildardo Fuentes. Likewise, in the case of Victoria Delgado, the State denies both that State agents participated and that authorities were aware of that Ms. Delgado faced a real, imminent, and individual risk.

18. As regards the investigations aimed at identifying and punishing those responsible for the forced disappearance of Édgar Quiroga and Gildardo Fuentes, the State indicates that on December 2, 1999, Public Prosecutor Office 44 of the National Human Rights and IHL Unit opened investigation 650, under which, on October 22, 2007, Rodrigo Pérez Alzate (commander of the Bolívar Central Bloc of the AUC) was ordered placed in pretrial detention for the crime of forced disappearance. Later, on March 24, 2010, the 19th Criminal Court of the Cartagena Circuit convicted Rodrigo Pérez Alzate of the crime of forced disappearance, sentencing him to 380 months in prison and fining him the equivalent of 1,920 monthly minimum wages.

19. Likewise, it states that on March 19, 2010, the 19th Criminal Court of the Cartagena Circuit convicted Leocadio Bohorquez Jaramillo, alias Leo, a member of the AUC, of the crime of forced disappearance, sentencing him to 226 months and 24 days in prison and fining him the equivalent of 1,920 monthly minimum wages.

20. With regard to the processes awaiting guilty verdicts as part of the proceedings brought over the forced disappearance of Édgar Quiroga and Gildardo Fuentes, the State indicated that Mr. Ancízar Pareja, alias Mono Pareja, a member of the AUC, was being held in the Tumaco, Nariño, penitentiary, and on March 31, 2010, charges were handed down against him for the crimes of forced disappearance and criminal conspiracy, charges that were admitted. The State indicates that as of August 24, 2012, the process still awaited a guilty verdict. Likewise, it notes that in the process brought against Arturo Torres Pineda, alias *don Carlos*, on April 29, 2010, as part of the plea bargain, he accepted the charges of forced disappearance and aggravated criminal conspiracy, and as of August 24, 2012, he was awaiting sentencing.

21. Lastly, regarding Alexander Gutiérrez, alias Picua, a member of the AUC, as part of the plea bargain, on April 12, 2010, he pled guilty to the crimes of forced disappearance and aggravated criminal conspiracy. As of August 24,

2012, he was awaiting sentencing. The State indicates that lastly, with regard to Carlos Castaño Gil, the head of the AUC, on February 29, 2008, the process against him was terminated due to his death.

22. Additionally, as far as the investigation of the kidnapping of Victoria Delgado Anaya on December 23, 2001, and her murder on December 24, 2001, the State said that once it became aware of the facts, Public Prosecutor Office 54 of the Human Rights and International Humanitarian Law Unit of the Office of the Attorney General of the Nation opened investigation 1160. It states that as of February 19, 2010, no one had been convicted under this investigation. However, two individuals had been formally implicated.

III. ESTABLISHED FACTS

A. Regarding paramilitary activity in Colombia.

23. Violations of human rights in the context of Colombia's armed internal conflict, and the actions of paramilitary groups in particular, have been a subject of concern for the bodies of the Inter-American system. As the IACtHR has established, the State played an important role in developing the so-called paramilitary or self-defense groups, which it then allowed to act with legal protection and legitimacy during the 70s and 80s.⁶ It is generally responsible for both their existence and for strengthening them.⁷

24. The Commission observes that at the start, it was the State itself that fostered the creation of self-defense groups for specific purposes. However, they got out of control and began acting outside the law, including with the collaboration or acquiescence of State agents. The Court has observed that these "paramilitary groups are believed to be responsible for numerous (...) murders in Colombia and for a major part of the human rights violations in general."⁸

25. This situation has led the Commission to conclude that for the purposes of determining the State's international responsibility pursuant to the American Convention, in cases in which paramilitary soldiers and members of the Army carry out joint operations with the knowledge of senior officers, or when paramilitary soldiers are able to take action thanks to the acquiescence or collaboration of Security Forces, the members of paramilitary groups should be considered to be acting as State agents.⁹

26. For its part, the Inter-American Court has confirmed, during different time periods and in different geographical contexts, the existence of links between members of the Colombian Armed Forces and paramilitary groups. An analysis of all the cases decided by the Commission and later by the Inter-American Court reveals the existence of a link between paramilitary groups and members of the security forces in the form of direct actions of support, collaboration, and coordination, or omissions by members of security forces that have facilitated the actions of paramilitary groups. These cases include *19 Merchants*,¹⁰ *Mapiripán Massacre*,¹¹ *El Aro and Ituango Massacres*,¹² *Cepeda Vargas*,¹³ and others In the *Case of the Afro-descendant Communities displaced from the Cacarica*

⁶ Effectively, Decree 3398 of 1965 (National Defense Act) and Law 48 of 1968 authorized the creation of civilian patrols that would receive arms the use of which is reserved for State security forces with authorization from the Ministry of Defense. Article 25 of Decree 3398 of 1965 establishes that "All Colombians, men and women, who are not called to obligatory military service may be used by the Government in activities and work to contribute to reestablishing normalcy." Cf. IACtHR, Report No. 75/06, Jesús María Valle Jaramillo, October 16, 2006 ("IACtHR. Merits. Case of Valle Jaramillo, para. 61.

⁷ IACtHR, Third Report on the Human Rights Situation in Colombia. OEA/Ser.L/V/II.102 Doc. 9 rev. 1. February 26, 1999, Chap. IV, para. 236. IACtHR. Merits. Case of Valle Jaramillo, para. 61.

⁸ IACtHR. Report on the Demobilization Process in Colombia. III Context: Origin and characteristics of the internal armed conflict in Colombia, para. 50-58, December 13, 2004. Inter-American Court. *Case of the "Mapiripán Massacre" v. Colombia. Preliminary Objections*. Judgment of March 7, 2005. Series C No. 122, para. 96.18, and Inter-American Court. *Case of the Ituango Massacres v. Colombia*. Judgment of July 1, 2006. Series C No. 148, para. 125.

⁹ IACtHR. Report 37/00 *Monseñor Oscar Arnulfo Romero y Galdámez*, para. 64. IACtHR. Merits. *Case of Valle Jaramillo*, para. 63.

¹⁰ Inter-American Court, *Case of the 19 Merchants v. Colombia. Merits, Reparations, and Costs*. Judgment of July 5, 2004. Series C No. 109.

¹¹ Inter-American Court, *Case of the "Mapiripán Massacre" v. Colombia. Merits, Reparations, and Costs*. Judgment of September 15, 2005. Series C No. 134.

¹² Inter-American Court, *Case of the Ituango Massacres v. Colombia. Preliminary Objections, Merits, Reparations and Costs*. Judgment of July 1, 2006. Series C No. 148.

¹³ Inter-American Court, *Case of Cepeda Vargas v. Colombia. Preliminary Objections, Merits, Reparations, and Costs*. Judgment dated May 26, 2010. Series C No. 213.

River Basin (Operation Genesis), the Inter-American Court pointed to several decisions of Colombian high courts and of the Office of the Ombudsperson highlighting the links between paramilitary groups and members of Security Forces.¹⁴

B. The situation in Magdalena Medio

27. The Magdalena Medio region is the central area of the Magdalena River and includes territories spanning eight departments (Magdalena, Cesar, Bolívar, Santander, Boyacá, Cundinamarca, Caldas, and Antioquia)¹⁵. In the early 1980s, a number of armed groups were operating in Magdalena Medio region. The military thus began establishing "autodefensa (self-defense) groups" to push back against them. One of the groups was the Autodefensas del Magdalena Medio, led by Ramón María Isaza Arango and comprised of campesinos owning small and medium-sized pieces of land. By end of the 1980s, the self-defense groups, including the Autodefensas del Magdalena Medio, had "mutated swiftly into paramilitary groups." The groups received financial support from groups with economic interests in the areas where the subversive groups operated, including drug traffickers, ranchers, large landholders, trucking business owners, and merchants.¹⁶

28. The paramilitary project of the Autodefensas del Magdalena Medio encompassed a theater of operations of more than 4,000 square kilometers. Its members were equipped with short- and long-range firearms, communications systems, and a wide-ranging transportation infrastructure. According to intelligence reports, the group operated under a hierarchical command structure and was comprised of "former soldiers, former policemen, former guerrillas, paid mercenaries, and active-duty guides of the National Army," who received cash compensation and were "paid a bonus for each guerrilla member they killed."¹⁷

29. The AUCs consolidated as an anti-subversive political-military movement in 1997, and their mission focused mainly on pushing back on the democratization of the guerrillas and protecting the economic interests of certain private parties threatened by insurgent groups.¹⁸ In places where the State could not reach, such as Magdalena Medio, the AUCs were financially, logically, and politically supported by the country's elites and by the Armed Forces so they could maintain their economic and political dominance.¹⁹

30. In the case of *Vereda la Esperanza v. Colombia*, the Inter-American Court noted that a series of authorities had recognized the connections between the Magdalena Medio campesino self-defense forces and government security forces. In this regard, it stated:

(...) According to the Justice and Peace Chamber (...) the relationship between the ACMMs and the public entities in charge of security, protection, and investigation of crimes was characterized by: a) a functional rationale according to which the Security Forces and the paramilitaries were interchangeable, meaning that the paramilitary soldiers 'did what the Police Force could not,' which was the real reason for their cooperation with each other, and b) a 'positive' aspect involving a division of labor that translated into work to collaborate with members of the police force, including joint actions and exchanges of information. This also meant that members of the police and the Army frequently passed lists of suspects to the self-defense forces for assassination. The relationship is also characterized by strategic omissions involving the police simply not providing security to those opposing the self-defense forces, or giving the self-defense forces significant room to maneuver and thus take violent actions without being "seen" by the State.²⁰

¹⁴ Inter-American Court. *Case of the Afro-descendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*, paras. 249 and 252.

¹⁵ Inter-American Court. *Case of Vereda La Esperanza v. Colombia*. Preliminary Objections, Merits, Reparations and Costs. Judgment of August 31, 2017. Series C No. 341, parr.51.

¹⁶ IACHR. Report 85/13, Case 12,251. Admissibility and Merits. Vereda La Esperanza. Colombia, November 4, 2013, para. 65.

¹⁷ IACHR. Report 85/13, Case 12,251. Admissibility and Merits. Vereda La Esperanza. Colombia, November 4, 2013, para. 66.

¹⁸ ¡BASTA YA! Colombia: Memorias de guerra y dignidad. Informe general Grupo de Memoria Histórica. National Center for Historical Memory. Pg. 136.

¹⁹ ¡BASTA YA! Colombia: Memorias de guerra y dignidad. Informe general Grupo de Memoria Histórica. National Center for Historical Memory. Pg. 136.

²⁰ Inter-American Court, *Case of Vereda La Esperanza v. Colombia. Preliminary Objections, Merits, Reparations and Costs*. Judgment of August 31, 2017. Series C No. 341. Para. 72.

(...) According to information from the Office of the Attorney General of the Nation, the ACMM's operations were supported by members of the Police Force. The Office also stated that the Magdalena Medio paramilitary groups "received logistical support and consent for their actions from several members of the National Army, the National Police, and, in some cases, the DAS." The Office of the Attorney General of the Nation also indicated that members of the Police Force "in some cases directly participated with the paramilitary soldiers in committing atrocities, while in others, they served as accomplices or worked to cover them up. Thus, by 1996, the ACMMs "were traveling freely" on the Medellín-Bogotá highway and throughout the neighboring rural areas "where the presence of military forces and police is constant and visible." The group traveled riding in SUVs together with soldiers, displaying their weapons publicly. The commander of the ACMMs at the time of the facts stated that the ACMM members "were usually [...] accompanied by the Army." Without prejudice to this, the Chamber of Justice and Peace also noted that the relations had a "negative" aspect, with the police and the ACMM facing off over conflicting interests and practices, and that these tensions led to "fatal outcomes" that influenced the patterns of violence characterizing the ACMMs.²¹

C. Background and disappearances of Gildardo Fuentes and Édgar Quiroga

31. According to the information available, Édgar Quiroga was a campesino leader and one of the spokespersons for the campesino exodus that took place during the second half of 1998 in Magdalena Medio. Around 10,000 campesinos participated in the exodus, and it culminated in the signing of an agreement with the president at the time, Andrés Pastrana Arango, in which the government committed to guaranteeing the lives and personal integrity of the campesinos in general and the spokespersons in particular.²² His family members are: Luz Marina Vallejo, his life partner;²³ his daughter;²⁴ his mother, Ana Eugenia Rojas de Moreno;²⁵ and his sister, Noraída Quiroga.²⁶

32. For his part, at the time of the facts, Gildardo Fuentes was 19 years old. He worked as a grocer. At the time of the facts, he lived in the town of Aguas Lindas in Cerro Azul, San Pablo municipality.²⁷ His relatives are: his father, Vicente Fuentes; and his mother, Victoria Delgado Anaya.²⁸ The latter, as described hereinafter, filed a series of complaints over the disappearance of her son until her death in December 2001.

33. According to available information, on October 8, 1999, Gildardo Fuentes was kidnapped and subject to a series of beatings and abuse. However, he was able to escape. The information specifically indicates that, on that day, he was going with another person to drop a purchase off at his mother's business when they were detained by members of the National Army, who, after asking for their documents, let them continue on their way. After the military checkpoint, they encountered the paramilitary checkpoint, where they were asked where they were going with their load and who it was for. After Mr. Gildardo Fuentes answered that it was for his mother's business, the paramilitaries told him that this was the shipment they were waiting for and forced him into one of their SUVs.²⁹

34. According to the complaint filed by the alleged victim, the paramilitary soldiers held him for 48 hours, during which time he was tied up in a house in San Pablo, Bolívar, where he was interrogated and accused of being a guerrilla. He stated that he went an entire day without food, and at midnight, they took him and another person to the La Sierra River, where they threw them facedown and struck them on the back of the head with machetes.

²¹ Inter-American Court, *Case of Vereda La Esperanza v. Colombia. Preliminary Objections, Merits, Reparations and Costs*. Judgment of August 31, 2017. Series C No. 341. Para. 72-73.

²² Brief of the petitioner of August 15, 2006.

²³ Annex 1. Sentence 110016000253200680012 of the Superior Court of Justice of Bogotá, Chamber of Justice and Peace, Reporting Judge: Uldi Teresa Jiménez López, defendant Rodrigo Pérez Alzate. Crimes: Homicide of a protected person and others. Annex to the merits petition presented by the petitioner on December 7, 2018.

²⁴ The Commission does not have her personal identification information.

²⁵ Annex 2. Testimony given by Ana Eugenia Rojas de Moreno before the Office of the Specialized Prosecutor, December 2, 1999. Annex to the brief of the petitioner of August 15, 2006.

²⁶ Annex 3. Writ of *habeas corpus*. No. 005 of November 30, 1999. Petitioner Noraída Quiroga Medina. Victims: Édgar Quiroga and Gildardo Fuentes. Annex to the brief of the petitioner of July 1, 2011.

²⁷ Brief of the petitioner of August 15, 2006.

²⁸ Testimony given by Mr. Gildardo Fuentes Delgado to the Technical Investigation Unit on November 24, 1999. Annex to the brief of the petitioners of July 1, 2011, answering the communication to the IACRH of May 27, 2011.

²⁹ Annex 4. Testimony given by Mr. Gildardo Fuentes Delgado to the Technical Investigation Unit on November 24, 1999. Annex to the brief of the petitioner of August 15, 2006.

According to the alleged victim, he stood up and said he would rather be shot to death. He struggled with his attacker in the river, where he went underwater and was able to escape.³⁰ In his words, he stated as follows:

TESTIMONY. What happened was that my mother sent me to San Pablo (Bolívar) to get a shipment for the shop we have in Aguaslindas. It was October 8 of this year. So I went to San Pablo to find a car that could take me, we loaded the car up with groceries, rice, *panela*, molasses, and bran. The owner of the car helped me, I don't know him and didn't know him. That day was a Friday, and at three in the afternoon, we left for Aguaslindas. On the way out of San Pablo at the virgin was the Army checkpoint. They stopped us and asked for documents. They chose to keep going, and later on was the paramilitary checkpoint, outside Los Cagüises. They stopped us, they got us out, they searched us, they also asked for our documents. They asked me what the supplies are for. I said they were for my mother and they asked me where I was going. I told them I was going to Aguaslindas and they told me that these were the supplies they were waiting for and that they were going to seize them. They loaded it into their SUVs, and when they were finished, they loaded me into one of the paramilitary soldier SUVs as well and they took me and the driver of the car carrying the supplies, they took us back to San Pablo. We passed through the Army checkpoint again at the entrance to San Pablo. We passed through and they took me to the San Pablito neighborhood. There, they put me in an abandoned house and tied me up. They left me tied up for two days. I never saw the supplies again, they stole them. Around Saturday, near midnight, they took me and the other guy who was in there because they stole his motorcycle, they brought him in on Saturday morning, that is, the paramilitary soldiers stole his motorcycle and brought him in there and also tied him up. On Saturday, at around midnight, they took us out into the hills. They unloaded us from the SUV they took me behind the SUV and took the other guy to the bank of the river. They told me that if I tried anything they would kill me, and they struck the other guy three times in the back of the neck with a machete. Then they took me to the bank of the river as well where he was and the guy hit me in the back of the neck with a machete. When he hit me, I stood up and said I didn't want to die like that, they might as well shoot me. One of them told the other to cut my throat. He grabbed me from behind and took out a knife to cut my throat. Because they had taken off my shirt to kill me with the machete, I had the shirt tangled up in the ropes tying my hands. I grabbed the knife so he couldn't cut my throat and we started to fight. We fell into the river, and the paramilitary soldier on the bank took out a revolver he had and aimed it at me. The other guy who I was wrapped up with said don't shoot yet, and then the other guy who they had struck three times with the machete took off running. The paramilitary soldiers who were on the banks of the river took off after the guy who ran away, and that's when I had a chance to break free. In the struggle, the knife had fallen into the water and I was able to use it to cut myself free and escape. Later, when I came up and when I couldn't hold my breath any longer, I went up and saw the paramilitary soldiers going in the SUV. I left and swam to Magdalena and to the port in San Pablo. There I got out in the middle of San Pablo (...) and walked all day to get to Aguaslindas, and there I found my family.³¹ (...)

35. In the same testimony, Gildardo Fuentes requested measures of protection for himself and his family.³² On November 26, he filed a complaint before the National Special Investigations Office of the Human Right Unit,³³ along with a written statement before the Office of the Pro-curator General of the Nation, informing them of the close relationship between the paramilitaries and the Security Forces.³⁴ He likewise stated that the agreements between the national government and Magdalena Medio had not been complied with and that violence in the area had worsened, adding that between November 1 and 22, 1998, at least 100 people were massacred—decapitated and/or dismembered—across the 38 municipalities party to the commitment.³⁵

36. On November 26, 1999, Édgar Quiroga filed a complaint before the Office of the Procurator General of the Nation, National Office on Investigations, over the acts of torture suffered by Gildardo Fuentes on October 8, 1999.³⁶ The record also shows that in November 1999, Édgar Quiroga reported incidents of corruption committed

³⁰ Annex 4. Testimony given by Mr. Gildardo Fuentes Delgado to the Technical Investigation Unit on November 24, 1999. Annex to the brief of the petitioner of August 15, 2006.

³¹ Annex 4. Testimony given by Mr. Gildardo Fuentes Delgado to the Technical Investigation Unit on November 24, 1999. Annex to the brief of the petitioner of August 15, 2006.

³² Annex 4. Testimony given by Mr. Gildardo Fuentes Delgado to the Technical Investigation Unit on November 24, 1999. Annex to the brief of the petitioner of August 15, 2006.

³³ Annex 5. Testimony given by Mr. Gildardo Fuentes Delgado to the National Special Investigations Office of the Human Right Unit on November 26, 1999. Annex to the brief of the petitioner of July 1, 2011.

³⁴ Annex 6. Complaint of human rights violation and Operation Anaconda, filed by Édgar Quiroga before the Office of the Procurator General of the Nation, November 26, 1999. Annex to the brief of the petitioner of August 15, 2006.

³⁵ Annex 6. Complaint of human rights violation and Operation Anaconda, filed by Édgar Quiroga before the Office of the Procurator General of the Nation, November 26, 1999. Annex to the brief of the petitioner of July 1, 2011.

³⁶ Annex 6. Complaint of human rights violation and Operation Anaconda, filed by Édgar Quiroga before the Office of the Procurator General of the Nation, November 26, 1999. Annex to the brief of the petitioner of July 1, 2011.

by soldiers in the framework of Operation Anaconda, which took place between April and June 1999 and whose purpose was to apprehend alleged guerrilla fighters. Specifically, he stated the following:

The facts we submit herein are related to the so-called "Operation Anaconda," carried out from April to June 1999 in the vicinity of Bolívar (municipalities of San Pablo and Simití) by the counterguerrilla commandos and companies under the Fifth Brigade of the National Army, headquartered in Bucaramanga. Testimony has been collected from those affected by the grave human rights violations committed from the start of the aforementioned military operation through to today.

According to the residents of the town of Pozo Azul, on April 14, 1999, the Guanes Battalion and the Heroes of Majagual Battalion arrived in the area, accompanied by the paramilitary soldiers who had been seen regularly in the town of Monterey, Simití municipality, since March 1999.

The testimony states that the National Army forces entered the area in the company of several members of the paramilitary group, among which the local residents recognized: ANCIZAR PAREJA, nickname "EL MONO PAREJA," approximately 33 years old, who was working as a mule driver in the village of La Culebra, Monterrey jurisdiction, who was working as a coca shredder; and another individual named JIMY, the owner of some coca fields in the town of El Paraíso.

On April 14, soldiers and paramilitary members clashed with the FARC and ELN, displacing several families from this area to nearby villages and populations. (...) In the San Pablo urban area, the buyers of coca base were forced to attend a meeting hosted by alias Tayson, the paramilitary chief in that municipality. He ordered them to centralize their buying and selling in the towns of Monterey and Pozo Azul. The Army abandoned the village in early June and the paramilitary members withdrew to Monterrey. (...) Members of the Military also threatened the residents, telling them "the paramilitary fighters were behaving as long as they were there, but they could not be responsible for what would happen after they left." The Army was officially present in the village for four days. (...)

According to testimony from several residents, starting on April 13, the day on which the so-called "Operation Anaconda" began, the residents of the rural parts of the municipalities of Simití and San Pablo were left totally incommunicado. Roads to the urban centers were blocked by military checkpoints located in Pozo Azul, Cañabral, and Patio Bonito, and the soldiers did not let any kind of food through. Several people who were stopped at the checkpoints were forced to lie face down. Shots were fired close to their heads and their ears, while for others, their ears were twisted with pliers and their fingers were broken to force them to admit they were guerillas.³⁷

37. Regarding the facts of the disappearance of the alleged victims, the record shows that on November 28, 1999, while Édgar Quiroga and Gildardo Fuentes were in Cerro Azul, San Pablo jurisdiction, Sur de Bolívar, the former was recognized by a member of the Autodefensas Unidas de Colombia, alias "Pareja." Based on this, they were detained and taken to a place known as "Ricarena," where they were interrogated as to where they were coming from and their activities there.³⁸

38. On December 4, 1999, the Autodefensas Unidas de Colombia issued a communication to priest Francisco José de Roux, indicating that during the military expedition carried out on November 28, they captured several "guerrillas," including alias Tomás, who was later identified as Édgar Quiroga.³⁹ The communication stated as follows:

(...) On November 28, an expedition of the AUC High Command captured the guerillas Manuel Pacheco Salem alias Timoleón, Jairo Paternina Méndez alias Jeremías, Pablo Manuel Arteaga alias Otoniel, NN alias Tomás, NN alias Ermindo. A significant amount of war matériel and explosives was confiscated from these guerrillas, along with printed materials slandering the Autodefensas del Sur de Bolívar (...)

At your request, the Commander of the Autodefensas del Sur de Bolívar asked us on November 30 about an individual by the name of Édgar Quiroga. We said we did not have him, as none of the terrorists captured had

³⁷ Annex 6. Complaint of human rights violation and Operation Anaconda, filed by Édgar Quiroga before the Office of the Procurator General of the Nation, November 25, 1999. Annex to the brief of the petitioner of August 15, 2006.

³⁸ Annex 7. Commission on the Search for Édgar Quiroga and Gildardo Fuentes. Annex to the brief of the petitioner of September 17, 2001.

³⁹ Annex 8. Letter sent to Father Francisco José de Roux by the Autodefensas Unidas de Colombia, December 4, 1999. Annex to the brief of the petitioner of July 1, 2011.

identified themselves by that name. One of the five guerrilla fighters detained who had initially identified himself as Tomás turned out to be Édgar Quiroga.

You, esteemed father, asked us as to the whereabouts of a campesino leader, which seemed normal to us and we tried to help you. But we never imagined that the individual who you were really searching for was an ELN terrorist. For this reason, we never associated the individual you were seeking with the guerrillas captured in flagrante delicto. We are not willing to provide anyone with any type of additional information in this regard, as the ELN has its laws and we have ours.”⁴⁰

39. On May 5, 2000, the Office of the Ombudsperson met with Carlos Castaño, the leader of the AUC, who stated that Édgar Quiroga had been tried before witnesses and found to be a guerilla fighter, that he was dead, and that his body was located somewhere in Gabarra, in the region of Catatumbo, in Norte de Santander.⁴¹

40. On June 4, 2000, newspaper *El Espectador* published an article reporting that Édgar Quiroga’s body had been left in La Gabarra, Norte de Santander.⁴² The state was able to confirm through local Simití authorities that the body was not Édgar Quiroga’s;⁴³ to this day, his whereabouts are not known.

41. Regarding Gildardo Fuentes, according to the Search Commission established for both of the alleged victims, the following information was obtained:

(...) Regarding the fate of Mr. Gildardo Fuentes, they stated that they killed him immediately, as he had previously escaped—that is, on October 8, when he was attacked by members of the same armed group near the San Pablo headwater. At that time, he was injured in several places on his body with a machete.” Paramilitary soldier Niche “[sic] said he was most likely thrown from a helicopter.⁴⁴

D. Domestic proceedings regarding the disappearances of Édgar Quiroga and Gildardo Fuentes

1. *Hábeas Corpus*

42. On November 29, 1999, Noraída Quiroga Medina, Édgar Quiroga’s sister, filed a writ of *habeas corpus* before the civilian jurisdiction, stating “I hereby invoke before you the right to *habeas corpus* to the benefit of my brother, ÉDVAR QUIROGA, and his companion, GILDARDO FUENTE [sic] who were detained by members of Battalion 45 Heroes of Majagual on November 28 at 10 a.m. in the village of La Placita, in Cerro Azul.”⁴⁵

43. On November 30, 1999, the First Criminal Circuit Court of Barrancabermeja issued an injunctive order finding the writ of *habeas corpus* inadmissible based on the following considerations:⁴⁶

WHEREAS

Going to the heart of the matter, and according to the body of evidence, it is absolutely clear that citizens ÉDVAR QUIROGA and GILDARDO FUENTES have not been detained—legally or illegally—by any legitimate authority of this municipality, nor of San Pablo or Simití (Bol.).

But the statement made by the *habeas corpus* petitioner, Ms. NORAÍDA QUIROGA MEDINA, the sister of the allegedly disappeared person, to the effect that these citizens were supposedly detained by troops of Battalion 45 Heros of Majagual, stationed in the Municipality of San Pablo (Bol.), is false and slanderous; it is noted that this statement had no evidentiary basis, especially when the petitioner failed to point to the means, or to which people provided her with this information. Instead, she answered anonymously, evasively, and without any supporting

⁴⁰ Annex 8. Letter sent to Father Francisco José de Roux by the Autodefensas Unidas de Colombia, December 4, 1999. Annex to the brief of the petitioner of July 1, 2011.

⁴¹ Comments from the State of September 1, 2000.

⁴² Brief of the petitioner, July 17, 2001, p. 3.

⁴³ Comments of the State of July 7, 2006. Facts, point 10.

⁴⁴ Annex 7. Commission on the Search for Édgar Quiroga and Gildardo Fuentes. Annex to the comments of the petitioner of September 17, 2001.

⁴⁵ Annex 9. *Habeas corpus* of November 29, 1999 to the benefit of Édgar Quiroga and Gildardo Fuentes, signed by Noraída Quiroga Medina. Annex to the brief of the petitioner of September 17, 2001.

⁴⁶ Annex 10. Writ of *habeas corpus*. No. 005 of November 30, 1999. Petitioner Noraída Quiroga Medina. Victims: Édgar Quiroga and Gildardo Fuentes. Annex to the brief of the petitioner of July 1, 2011.

evidence, claiming she received a telephone call from a campesino whose name and whereabouts she does not know, but whose phone number she does know, stating that those who detained him were members of Battalion 45 Heroes of Majagual.

Therefore, the statement given by Major JESUS HERRERA GARCIA—an officer and second in command—of that tactical unit should be considered true in the sense that these individuals were not detained, especially considering that on that day, no patrols were conducted in the area where the disappeared individuals were detained—that is, in the village of La Placita, in Cerro Azul, in the San Pablo (Bol.) municipality.

What can be established from the inquiries of the Office of the Ombudsperson is that these campesino leaders were taken by paramilitary groups in the area, with no specific names being known. Therefore, given that the matter is moot, this writ of *habeas corpus* is denied because no authority is holding them.

IT RESOLVES:

FIRST: To DENY the writ of *habeas corpus* to the benefit of Mr. ÉDGAR QUIROGA and GILDARDO FUENTES, filed by Ms. NORAI DA QUIROGA MEDINA, finding it inadmissible for the reasons set forth in the legal grounds described herein.

SECOND: As it was noted that likely some illegal paramilitary group has detained them, it is hereby ordered to send an authentic copy of this WRIT OF HABEAS CORPUS to the Office of the Ombudsperson and the local office of the Procurator General for relevant inquiries to be made as to the whereabouts or fate of these citizens, who were arbitrarily and illegally detained by unidentified parties (...) if any criminal act is found to have been committed with this alleged disappearance, the corresponding copies should be ordered forwarded to the Regional or Delegated Office of the Public Prosecutor.⁴⁷

2. Search committees

44. On November 29, 1999, at the headquarters of the Ministry of the Internal Affairs, Human Rights Division, it was decided to establish two search groups to locate the whereabouts of Édgar Quiroga and Édgar Quiroga. Thus, two mixed groups of persons were put together, comprised of private parties and State agents, with the aim of deploying in the southern part of Bolívar to "verify the circumstances in which the individuals in question were kidnapped."⁴⁸ The record shows that a group traveled to San Blas on December 1, 1999, in order to locate the whereabouts of Édgar Quiroga and Gildardo Fuentes, with another group traveling to Cerro Azul on December 1-2, 1999, to verify the descriptions of the facts that took place on November 28, 1999.⁴⁹ The document containing the information collected by the San Blas Committee reads as follows:

(...) Members:

Prog. Por la Paz y Desarrollo del MM.
Servicio Jesuita a Refugiados
Ministry for Internal Affairs
Office of the Ombudsperson
Church.

On Wednesday, December 1, this Commission went to Santa Rosa, and there it had a short meeting with Captain Pérez, of the Army, Fifth Brigade, who was at the post located at the Santa Rosa airport. Captain Pérez said he had very little news regarding what happened, as the site where the detention took place is quite far from his jurisdiction, but that, in any case, if Édgar Quiroga had been transported by helicopter to Santa Rosa, it would have been easily detected, something that had not happened. He also stated that, in addition, if the transport via helicopter had been in a straight line from to Cerro Azul San Blas, they would not have been able to spot the movement from the base.

Later, contact was established with the AUC Commander of Sur de Bolívar, who was in the area. The AUC Commander was told that the Commission was there doing humanitarian work in response to the supposed message they had sent through Édgar Quiroga's relatives. The commander said no such call had been made, and that for such purposes, there were other channels of communication. He stated that on the day of the incidents, they were in Cerro Azul, that they had not been involved in combat, and that his troops had not detained Édgar Quiroga and Gildardo Fuentes.

⁴⁷ Annex 10. Writ of *Habeas Corpus* No. 005 of November 30, 1999. Annex to the brief of the petitioner of July 1, 2011.

⁴⁸ Annex 16. Communication from the Vice Presidency of the Republic of Colombia, May 2, 2000. Annex to the comments of the State of July 5, 2006.

⁴⁹ Annex 7. Commission on the Search for Édgar Quiroga and Gildardo Fuentes. Annex to the brief of the petitioner of September 17, 2001.

He stated that Carlos Castaño, who was in Sur de Bolívar, had called to ask if his troops had detained these two individuals. In response to the commander's answer that no, they had not, he had said that he would contact the other troops to find out if other commanders may have him. Although he said it was unlikely that they had been detained by the AUCs, he would find out for sure. Because the Commander of the AUC in Sur de Bolívar insisted that they did not have him, the Commission suggested it issue a public statement denying responsibility for the incident and commit to finding out what happened and presenting convincing evidence. The commander said he would do so (...).⁵⁰

45. Additionally, the Search Commission that traveled to Cerro Azul stated as follows:

OFFICE OF THE PEOPLE'S OMBUDSMAN
 RED DE SOLIDARIDAD SOCIAL
 PROGRAMA DE DESARROLLO Y PAZ DEL MM
 CREDHOS
 ORG. FEMENINA POPULAR
 CTE. SOL. CON LOS PRESOS POLITICOS
 MINGA
 HIGH COMMISSIONER FOR PEACE
 BRIGADAS INTERNAC. DE PAZ
 HUMAN RIGHTS OFFICE / MINISTRY OF THE INTERIOR

The Commission went to the county seat of San Pablo, where it collected initial witness accounts. On Thursday, the commissioners went to the town of Cerro Azul, where they conducted multiple interviews with the local population living there. The following report has been assembled from their accounts.

On the morning of Friday, November 26, the campesinos had to stop their regular work because of repeated flyovers by a white helicopter with red and green stripes on its tail dropping bombs and machine gun fire in the hills adjacent to the village and in the vicinity of Villanueva. On Saturday, shots were heard around Altos de Berlín, located in the vicinity of Cerro Azul. Shortly afterward, a group of armed men entered the town carrying guns of all types, dressed in camouflage uniforms. They had an emblem on their backs with the letters AUC in white on a black background. Most looked like soldiers, and they behaved like people who were experts at handling the situation. They arrived in vehicles and transporting an injured person, who minutes later was taken from the area in a helicopter. That afternoon, more members of the group arrived, appearing to come from San Pablo. There was a total of around 300. People were guessing at the meaning of the letters AUC, because many did not know what they stood for.

Around 11 a.m., they rounded up the population by force, rousing people from their homes with harsh words. The one identifying himself as "Commander Carlos" said he was leading the operation and that they were not there to kill anyone only if there was a militant among them (...) The armed men said they were part of a group of 500 reservists that the self-defense forces had called up to reinforce the Army's Fifth Brigade. Leading these people was a man calling himself "El Zorro" who his subordinates called "the captain."⁵¹ (...)

Before midday on Sunday, November 28, Édgar Quiroga and Gildardo Fuentes entered the town by the road that goes to Yanacué. Upon reaching the roadblock set up by the paramilitary soldiers, Mr. Quiroga was recognized by a young man with the surname Pareja who was with the armed group. Five minutes later, Quiroga and Fuentes were detained and taken to Mr. Tello's dance club, where they were interrogated. On the way there, they seized Mr. Quiroga's backpack and dumped its contents on the ground. They found that he had a cellular telephone, a camera, various papers, and hooks for hanging a hammock.

When he was asked his reason for being there, Mr. Quiroga said he was visiting the campesinos to organize a march. The indications are that at some point, Mr. Quiroga's hands were tied and they gave him food and water. During the conversation with "Commander Carlos," Mr. Quiroga explained the legitimacy of his work and said he had the support of the National Government, even providing a card with telephone numbers at the Ministry of Interior Affairs. The armed men responded to his statements with jokes and by shoving him, telling him that the government would not save him.

That afternoon, the group established radio communication through which they reported having captured the most important guerrilla leader in Magdalena Medio, Édgar Quiroga, known as Cuco, and would await instructions. Around 4:00

⁵⁰ Annex 7. Commission on the Search for Édgar Quiroga and Gildardo Fuentes. Annex to the brief of the petitioner of September 17, 2001.

⁵¹ Annex 7. Commission on the Search for Édgar Quiroga and Gildardo Fuentes. Annex to the brief of the petitioner of September 17, 2001.

p.m., a white helicopter with red and green stripes on its tail landed across from the town's gas station, and Mr. Quiroga and Mr. Fuentes were taken to it. Prior to being loaded into the vehicle, their hands and feet were tied and they were kicked and struck with rifle butts. Mr. Quiroga took one blow to the face that split open his nose and mouth and broke his glasses. The site was surrounded by two trenches.

Before the helicopter took off, the one they called "paramilitary soldier Niche" told people that Quiroga was being taken to San Blas because the commanders needed to talk with him. Regarding the fate of Mr. Gildardo Fuentes, they stated that they killed him immediately, as he had previously escaped—that is, on October 8, when he was attacked by members of the same armed group near the San Pablo headwater. At that time, he had been wounded in several places on his body with a machete. Paramilitary soldier Niche said he was most likely thrown from a helicopter.

The armed group remained in Cerro Azul until Monday night. When they left, they said they were going because the news of Édgar Quiroga had appeared on television and the Office of the Public Prosecutor was sure to be on its way. However, they told residents that they should get used to their presence because they would be back soon, as they had orders to establish a base there.

(...) CONCLUSIONS

1. The matching testimonies lead to the conclusion that the town of Cerro Azul, San Pablo, Sur de Bolívar, was subject to an invasion of the Autodefensas Unidas de Colombia on Saturday the 28th, Sunday the 29th, and Monday, 30 November, 1999 during which civilian and community property was occupied and looted.
2. During the invasion, residents were threatened, some specifically.
3. Mr. Édgar Quiroga and Mr. Gildardo Fuentes were detained by the members of the AUC occupying the town. During their detention, they were insulted and tortured.
4. Mr. Quiroga and Mr. Fuentes were taken from Cerro Azul alive and transported in a helicopter, supposedly toward the town of San Blas (...)

RECOMMENDATIONS

1. Continue pursuing joint actions to establish the whereabouts of Mr. Édgar Quiroga and Mr. Gildardo Fuentes and reestablish their rights to life, liberty, and personal security.
2. Demand that the Autodefensas Unidas de Colombia immediately and unconditionally release Mr. Édgar Quiroga and Mr. Gildardo Fuentes.
3. Pursue the relevant criminal and disciplinary processes applicable to the facts that took place during the invasion of the town of Cerro Azul and the illegal detention of Mr. Édgar Quiroga and Mr. Gildardo Fuentes.⁵²

3. Criminal investigation before the National Unit on Human Rights and International Humanitarian Law.

46. According to the information available, Public Prosecutor Office 44 of the National Unit on Human Rights and International Humanitarian Law of the Attorney General of the Nation opened an investigation into the crime of the forced disappearance of Édgar Quiroga and Gildardo Fuentes.⁵³ As part of this investigation, testimony was gathered to establish the facts.

47. Specifically, Noraida Quiroga Medina, the sister of Édgar Quiroga, stated that she received a phone call from someone presumed to be a campesino in the Cerro Azul area who told her that her brother had been detained by armed and uniformed men belonging to the Heroes of Majagual battalion. She also added that her brother had told her that he constantly received threats and experienced an attack "against him in Cuatro Bocas, which is near Yanacue. He was harassed by the Army. He said it was a group of armed men, that they were wearing Army uniforms, he didn't tell me anything else (...)."⁵⁴

48. For her part, Amparo Escobar Gonima stated that the last time she saw Édgar Quiroga was on November 26, 1999, in her office, when they were discussing activities to report human rights violations committed in Sur de Bolívar by Security Forces, in association with the paramilitary forces. She added that she was aware of the threats

⁵² Annex 7. Commission on the Search for Édgar Quiroga and Gildardo Fuentes. Annex to the brief of the petitioner of September 17, 2001.

⁵³ Annex 11. Charges against Carlos Castaño Gil, February 17, 2006, filed by the National Unit on Human Rights and International Humanitarian Law. File number 650. Annex to the brief of the petitioner of August 15, 2006.

⁵⁴ Annex 12. Testimony given by Noraida Quiroga Medina before the Office of the Specialized Prosecutor, December 2, 1999. Annex to the brief of the petitioner of August 15, 2006.

received by the alleged victim "from security forces. They accused him of helping the guerrilla forces and being part of the San Pablo paramilitary groups, especially one, alias TAISON, who tried to kidnap him during a hearing conducted by the Human Right Commission when Dr. PIEDAD CORDOBA visited (...). She stated that she learned of his disappearance because she received a phone call from a campesino from the region who told her that Édgar Quiroga "had been arrested by Battalion 45 Heroes of Majagual and had later been turned over to the paramilitary forces, who still held him in La Plasita (...)." She added that the Monday following, she received additional information from the La Placita region indicating that "GILDARDO FUENTES, the individual who was with ÉDGAR, they put him in a white helicopter that appeared from its route to be headed to Santa Rosa, Simití, or San Blas. It is worth noting that prior to the facts, the same helicopter was described as bombarding and machine gunning the area, and there was fighting between the Army and the guerrilla forces in the Villa Nueva area, which is two hours from La Placita. (...)."⁵⁵

49. Likewise, Lieutenant Colonel Jesús María Clavijo, Commander of Counter Guerrilla Battalion 45 Heroes of Majagual, stationed in Barrancabermeja, testified as follows:

On Monday, November 29, I was with an E Company platoon under the command of Lieutenant BRAVO and a section of the platoon that was located in Puente Sogamoso, carrying out a patrol of the Puerto Wilches jurisdiction (...) when Major HERRERA called to inform me that he urgently needed the brigade command and to tell me that a number of nongovernmental organizations were calling to ask about the capture that soldiers in my unit had allegedly carried out in the town of La Placita, San Pablo municipality. (...) Once I finished the patrol at seven in the evening, I made contact with the Brigade Commander by cellular phone (...) I explained to my General that only two platoons had been stationed in San Pablo since I received the Battalion (...) And they had not carried out any operation in that sector because their primary responsibility was to protect civilians (...) QUESTION Describe which aircraft the Heroes of Majagual counterinsurgency Battalion has available for performing its activities, specifying characteristics (color, capacity, registration, model, weaponry) and to whom they belong RESPONSE: A helicopter paid for by Ecopetrol that is used for administrative work, transporting troops on leave or when the injured need evacuation (...) the only way to detect if an aircraft flies over is by hearing it or seeing it. We don't have radars for that or reports from Civil Aeronautics (...) Our helicopter is blue and white, it's a BELL 212 (...) The only helicopters with this capacity are the Armed Forces aircraft, unless the violent actors have adapted civilian aircraft for their purposes (...) QUESTION Please describe any background you have with Mr. GILDARDO FUENTES and Mr. ÉDGAR QUIROGA ROJAS ANSWER I know they are two of the leaders and spokespersons of the campesino exodus carried out in Barrancabermeja last year. Intelligence reports indicate knowledge of (illegible) that the purpose of this campesino march is for the guerillas to stoke the situation currently taking place in the region while also giving it a political connotation with support from NGOs, MINGAS and CREDHOS. Likewise, they are inciting the civilian population to join the march. I assume ÉDGAR QUIROGA and GILDARDO FUENTES, LIBARDO TRASLAVIÑA, TITO MUÑOZ and ANDRES GIL are in charge of organizing and inciting this March to take place, destabilizing the government, and sowing social chaos. Where I do want to be clear is that in the agreement signed by the government last year, the spokespersons asked the Colombian State to protect their lives. If that is the case, I do not understand what ÉDGAR QUIROGA and GILDARDO FUENTES were doing in an area as dangerous as Cerro Azul without having asked the National Police or the Army for a report on the current public order situation or having requested protection, which I know he didn't do. But they went to an area that was completely under guerilla control.⁵⁶

50. On February 17, 2006, the National Unit on Human Rights and International Humanitarian Law filed charges against Carlos Castaño Gil for the crime of aggravated extortionary kidnapping. The charges read as follows:

On November 28, 1999, in the rural area of Cerro Azul, jurisdiction of San Pablo, Sur de Bolívar, GILDARDO FUENTES and ÉDGAR QUIROGA ROJAS, campesino leaders in San Pablo, Sur de Bolívar were kidnapped by an armed group of self-defense forces, the latter being the spokesperson for the campesino mobilization that took place in Barrancabermeja, Santander, in mid-1998 and a member of the negotiation Roundtable that at that time was negotiating agreements with the National Government to the benefits of the displaced population. (...) In this action, having taken a series of steps, information was obtained indicating that the individual responsible for the kidnapping went directly to the Joint Chiefs of Staff of the Autodefensas Unidas de Colombia AUC, headed by CARLOS CASTAÑO GIL.

⁵⁵ Annex 13. Testimony of Amparo Escobar Gonima, December 2, 1999. Annex to the brief of the petitioner of August 15, 2006.

⁵⁶ Annex 14. Testimony of Lieutenant Colonel Jesús María Clavijo of December 3, 1999. Annex to the brief of the petitioner of August 15, 2006.

Also ordered added to the process—in an order dated August 2001—is former soldier YESID FERNANDO LEMUS GUZMÁN, who was detained in the Fifth Brigade, accused of theft, after having admitted during the preliminary inquiry that he was part of an AUC counterinsurgency group that carried out the kidnapping of GILDARDO FUENTES AND ÉDGAR QUIROGA (pg 70-79). During the preliminary hearing, he denied this account, and on March 21, 2002, an order was issued on his legal status that declined to impose preventative measures (pages 206-9 and 18-10).⁵⁷

51. On February 29, 2008, the proceeding was closed due to the death of Carlos Castaño Gil.⁵⁸ On March 26, 2010, the Criminal Court of the Specialized Cartagena Circuit convicted Rodrigo Pérez Alzate⁵⁹ as co-perpetrator of multiple counts of aggravated forced disappearance against Édgar Quiroga and Gildardo Fuentes, sentencing him to 380 months in prison. The decision was upheld by the Superior Court of the Cartagena Judicial District.⁶⁰ On August 30, 2013, the Superior Court of Bogotá, Justice and Peace Chamber, joined the process described in the above paragraph to convict Rodrigo Pérez Alzate, sentencing him to 480 months in prison, a fine of 29,430 monthly minimum wages, and prohibiting him from exercising public rights and functions for a period of 240 months. It also ordered the execution of the sentence suspended, pursuant to articles 20 and 29 of Law 975 of 2005, granting him a prison alternative punishment equivalent to eight years in prison.⁶¹ The judgment states as follows:

(...) On November 28, 1999, in the town of Cerro Azul, San Pablo Bolívar municipal jurisdiction, members of the Central Bolívar Bloc of the Autodefensas Unidas de Colombia, led by RODRIGO PEREZ ALZATE, detained citizens Édgar Quiroga and Gildardo Fuentes Delgado, whose whereabouts remain unknown.

On March 26, 2010, RODRIGO PEREZ ALZATE was convicted by the Criminal Court of the Adjuncts Specialized Circuit of Cartagena and sentenced to 380 months in prison as the co-perpetrator of multiple counts of aggravated forced disappearance against Édgar Quiroga and Gildardo Fuentes Delgado. The decision was upheld on February 9, 2011, by the Criminal Chamber of the Superior Court of the Judicial District of Cartagena. (...) RESOLVES.

SIXTH: To convict RODRIGO PEREZ, known by the alias "Julián Bolívar y Pérez" (...) And sentenced him to FOUR HUNDRED AND EIGHTY (480) MONTHS IN PRISON, A FINE OF TWENTY-NINE THOUSAND FOUR HUNDRED AND THIRTY (29,430) LEGAL MONTHLY MINIMUM WAGES, A BAN ON EXERCISING PUBLIC RIGHTS AND FUNCTIONS FOR THE PERIOD OF TWO HUNDRED AND FORTY (240) MONTHS, AND A BAN ON PUBLIC RIGHTS AND FUNCTIONS FOR A TERM OF TWO HUNDRED AND TWENTY (220) MONTHS (...)

TWENTY-NINTH: Ask the Office of the Public Prosecutor to certify the pertinent copies and investigate the other participants, especially the members of the different State entities that collaborated with the self-defense forces, in establishing them, expanding them, and of course in the perpetration of the different crimes.

THIRTIETH: Urge the Office of the Prosecutor to request provisional transfer of those members of the Armed Forces, the Army, or the Police being criminally or disciplinarily investigated until the investigations are completed.

52. The State also reported on a series of processes pursued over the disappearance of Édgar Quiroga and Gildardo Fuentes. Specifically, it pointed to the following: 1) Alexander Gutierrez, alias Picúa, a member of the AUCs, pleaded guilty to the crimes of forced disappearance and criminal conspiracy and is awaiting sentencing; 2) Arturo Torres Pienda, alias *Don Carlos*, member of the AUC, pleaded guilty to the crimes of forced disappearance and aggravated criminal conspiracy and is awaiting sentencing; 3) Ancizar Pareja Ramirez, alias Mono Pareja, member of the AUCs, pleaded guilty to the forced disappearances and is awaiting sentencing; 4) Leocadio Bohórquez Jaramillo, alias Leo, member of the AUCs, was convicted of the central charge of forced disappearance and sentenced to 226 months and 24 days in prison, along with a fine equivalent to 1920 monthly minimum wages.⁶²

E. Facts surrounding Victoria Delgado Anaya.

⁵⁷ Annex 11. Charges against Carlos Castaño Gil, February 17, 2006, filed by the National Unit on Human Rights and International Humanitarian Law. File number 650. Annex to the brief of the petitioner of August 15, 2006.

⁵⁸ Comments from the State of August 31, 2012. Pgs. 26-27.

⁵⁹ Commander of the Central Bolívar Bloc and the forces operating in Sur de Bolívar, Santander, Boyacá, and Cundinamarca.

⁶⁰ The judgements are not in the Commission's possession, but they are archived under file number 110016000253200680012 of the Superior Court of Justice of Bogotá, Chamber of Justice and Peace, Reporting Judge: Uldi Teresa Jiménez López, defendant Rodrigo Pérez Alzate. Crimes: Homicide of a protected person and others in "Facts" paragraph 35 in the "Facts" section.

⁶¹ Comments on the Merits signed jointly by the petitioner, Fundación Comité de Solidaridad con los Presos Políticos CSPP, and the Corporación Servicios Profesionales Comunitarios Sembrar, dated December 6, 2018, and received December 7, 2018, by the IACHR.

⁶² Comments from the State of August 31, 2012.

53. According to the information available, Victoria Delgado Anaya filed several complaints over the disappearance of her son, Gildardo Fuentes, in an attempt to establish his whereabouts. The petitioner indicated that on May 16, 2001, in Aguas Lindas, Bolívar, Victoria Delgado Anaya was kidnapped by AUC members and later released. Regarding this incident, it states that during a second invasion, the paramilitary forces kidnapped VICTORIA DELGADO and held her for several hours, taking her with them to other towns on the way to Pozo Azul. Thanks to quick mobilization by the Aguas Lindas residents, her captors let her go.⁶³

54. The petitioner indicated that on December 23, 2001, Victoria Delgado Anaya was again kidnapped by AUC members in Aguas Lindas, and on December 24, 2001, she was found dead.⁶⁴ Regarding the circumstances surrounding the facts, the petitioner stated as follows:

On December 23, 2001, a group of approximately 30 paramilitary soldiers entered Aguas Lindas, a rural part of the municipality of San Pablo, Bolívar. At around 1130 p.m., they took seven residents from their homes, including Ms. VICTORIA DELGADO. The armed group took the road toward the urban center of San Pablo. Ms. Victoria's children followed the armed group until one of the paramilitary soldiers told them to go back and that nothing was going to happen to her, that they were only taking her to give them a clear explanation of everything she had done in connection with the disappearance of Gildardo. The next day, they went to search for their mother and found her body on the road. According to them, she was still warm, an indication that she had been murdered just minutes before.⁶⁵

55. Testimony from the alleged victim's son transcribed by the petitioner describes the circumstances of Victoria Delgado's death as follows:

It was December 23, 11:00 or 11:30 at night. There was a paramilitary patrol in the town. They got everyone out (...) They took my mother, Ms. ANA VICTORIA. They took the detainees on the road to San Pablo. They took them about a half-hour up the road to a certain area, where they spent the night (...) I told them to take me too, that they would see that she had nothing to do with anything. Anyway, in the end, when we had almost reached the spot where they were going to camp, they told me to go back or they would kill me, and a guy told me: look buddy, they are only taking her to question her, nothing more, because she has some tales she's been telling about the disappearance, her tale about Gildardo and Édgar. She has a lot to tell us, so go back. Better yet, come back for her, nothing is going to happen to her, we are only taking her to ask questions, that's what's happening. So I calmed down a little bit and left. It was around midnight or one in the morning. The next day, we got up early to go get her, but we found tragically that they had killed her, they had killed my mother. We found her right where they were. She had died recently and was still warm. There were indications they had killed her only about 20 minutes before. (...)

(...) We held a wake in San Pablo. A lot of guys showed up. They came on motorcycles, even with guns and everything. In the end, they never identified me. I told my brothers to be careful, they were looking for me, and they began to ask me who had killed the woman, what had happened, where it happened, things like that maybe hoping someone would say something or in a moment of pain criticize them or curse them or anything like that to see what they would do (...) It was about 30 paramilitary soldiers who did this. They included kid named Luis and another nicknamed Machuca. Both of them are in Monterrey now. Luis is called El Alemán, and the Machuca guy they call Ben Laden (...).⁶⁶

56. Regarding this second kidnapping, Rodrigo Pérez Alzate, Commander of the Sur de Bolívar AUC, said in testimony that at the time of the facts, he was not in charge of the Sur de Bolívar area, but in order to help establish the truth, his attorneys interviewed the de mobilized paramilitary soldiers Alonso Pabón Correa, alias Alemán, and Arturo Torres Pineda, alias "Don Carlos," apparently enabling them to collect the following information:

During a search operation carried out on December 1, 2001, near El Paraíso, BCB troops led by alias Cónedor captured two ELN guerillas, known by the aliases Luís and Machuca, who were surprised as they slept. They were then taken to high command for the corresponding interrogation [...]. There, they voluntarily joined the self-defense forces. Consequently, and on orders from Commander Carlos, they were placed under the command of the LIBERTADORES DEL RÍO MAGDALENA faction. (...) Several days after returning from the operation carried

⁶³ Brief of the petitioner of August 15, 2006.

⁶⁴ Briefs of the petitioner of August 22, 2003, and January 16, 2007.

⁶⁵ Brief of the petitioner of August 15, 2006.

⁶⁶ Brief of the petitioner of August 15, 2006.

out against the CAMPO FRIO base, while the soldiers rested, information was received on the permanent encampment of the guerrilla forces in the towns known as Aguas Lindas and La Virgencita, in the municipalities of Simití and San Pablo, respectively. According to information provided by intelligence units, members of the guerrilla forces arrived in these two small villages, divided by the Santo Domingo River, to provide supplies. They frequently drank liquor at public establishments in small groups of 2 to 5 men in order to avoid being discovered by the self-defense troops.

Once this information was received, Commander Carlos planned an operation to capture the guerrilla fighters at the location indicated by the informants. The Commander alias Cónedor was in charge of the operation. He prepared 100 men, and in order to dispel any doubt as to the identity of the guerrillas, he brought "Luís" and "Machuca" with, who, now part of the organization and answered to the aliases "Alemán" and "Paisa." The group departed on the afternoon of December 23, intending to reach the objective by dawn.

[...] Lastly, Ms. ANA VICTORIA DELGADO, the owner of a grocery store in Virgencita, was apprehended by alias Rolo (sub-commander of the counterinsurgency forces). She was fingered by "El Paisa (Machuca)" as being a collaborator with the ELN guerrillas, specifically the Heroes of Santa Rosa group. He also stated that when he worked as a mule driver for the guerrilla fighters, he repeatedly picked up groceries, boots, and other articles at the above-cited woman's business, headed for the aforementioned group, which at that time was commanded by alias "Robert."

The statements of alias "El Paisa (Machuca)" made against Ms. Victoria were rejected by "El Alemán (Luís)," who even stated: "that he recognized the woman but that there was no basis for the information implicating her as a collaborator with the guerrilla fighters." Later [...] Commander Carlos himself, ordered the detainees taken to the base in Monterrey to interrogate them [...].

Flouting these orders, alias "El Rolo" at the location known as "La Base" of La Virgencita, on the shoulder of the highway leading to the municipality of San Pablo, ignored the order and stated: "(...) I am not going to take guerrilla snitches (...)." He shot the detainees in the back, murdering Ms. Victoria Delgado Anaya and the dark-skinned man. [...] This took place on December 24 at 6:00 a.m., approximately.⁶⁷

57. The petitioner also indicated that on October 29, 2000, Victoria Delgado Anaya's companion and Gildardo Fuentes's step-father, Naysir Benítez, was murdered by paramilitary soldiers.⁶⁸

F. Investigations into the death of Victoria Delgado Anaya

58. Regarding the investigations carried out to establish the facts surrounding the death of Ms. Victoria Delgado Anaya, according to the information available, investigation 1160 was opened by Public Prosecutor Office 54 of the National Unit on Human Rights and International Humanitarian Law of the office of the Attorney General of the Nation into the crime of kidnapping. The State reported that in the framework of this process, a series of steps have been taken, specifically:

(...) February 27, 2009. Arturo Torres Pineda was arraigned by means of in absentia declaration for the crimes of multiple counts of homicide, criminal conspiracy, and kidnapping.

(...) June 26, 2009. The juridical status of defendant Arturo Torres Pineda (alias "don Carlos") was established to include precautionary measures consisting of pretrial detention without provisional release for the crimes of multiple counts of homicide, criminal conspiracy, and kidnapping.

(...) November 9, 2009. Alonso Pabón Correa (alias El Alemán) was arraigned by means of in absentia declaration. According to the report of the Office of the Attorney General of the Nation, steps were taken in November to resolve his juridical status.⁶⁹

(...) November 10, 2009. Mediante providencia se adicionó la decisión of precautionary measures adopted on June 26, 2009, against Arturo Torres Pineda (alias "don Carlos"), consisting of pretrial detention without release, extending it to include the crime of aggravated homicide (...)

(...) November 11, 2009. The investigation into Manuel Antonio Serna López (alias "Cónedor or Rubén") was ordered closed due to the termination of the criminal action upon his death.

⁶⁷ Annex 15. Testimony of Rodrigo Pérez Alzate, September 30, 2008-09-29. Subject: Death of Victoria Delgado Anaya. Annexed to the State's comments dated April 23, 2009.

⁶⁸ Brief of the petitioner of August 15, 2006.

⁶⁹ Comments of the State of December 24, 2009. Pg. 3-6

(...) November 30, 2009. Alonso Pabón Correa (alias "El Alemán") was arrested and brought before Prosecutor's Office 54 of the National Human Rights Unit. He was held in precautionary detention in the Puerto Berrío penitentiary (in Antioquia).

(...) December 16, 2009. Arturo Torres Pineda (alias "don Carlos") arrested.⁷⁰

IV. ANALYSIS OF LAW

A. The rights to life,⁷¹ humane treatment,⁷² and personal liberty⁷³ and the relevant provisions of the ICPPT⁷⁴ regarding the allegations of the torture and attempted murder of Gildardo Fuentes.

59. The IACtHR has emphasized that the American Convention prohibits the use of torture and of cruel, inhuman, or degrading treatment against persons in any circumstance. The Commission has found that "an essential aspect of the right to personal security is the absolute prohibition of torture, a peremptory norm of international law creating obligations *erga omnes*."⁷⁵ Likewise, the IACtHR has classified the prohibition on torture as a *jus cogens* standard.⁷⁶

60. For its part, the Court has repeatedly found that "International Human Rights Law strictly prohibits torture and cruel, inhuman, or degrading punishment or treatment. The absolute prohibition of torture, both physical and psychological, is currently part of the domain of the international *jus cogens*."⁷⁷ "Said prohibition remains valid even under the most difficult circumstances, such as war, threat of war, the fight against terrorism and other crimes, state of siege, or a state of emergency, civil commotion or domestic conflict, suspension of constitutional guarantees, domestic political instability or other public emergencies or catastrophes."⁷⁸ The Court has also indicated that both universal and regional treaties enshrine this prohibition, along with the inviolable right to not be tortured. Likewise, numerous international instruments enshrine this right and reiterate this prohibition, including under international humanitarian law.⁷⁹

61. According to the case law of the Inter-American System, in order for conduct to be classified as torture, it must include the following elements: i) an intentional act committed by an agent of the State or with the State's

⁷⁰ Comments of the State of December 19, 2010. Pg. 3.

⁷¹ Article 4(1) of the American Convention stipulates that 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.

⁷² Article 5 of the American Convention establishes the following: 1. Every person has the right to have his physical, mental, and moral integrity respected. 2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

⁷³ Article 7. Right to Personal Liberty 1. Every person has the right to personal liberty and security.

⁷⁴ The Inter-American Convention to Prevent and Punish Torture establishes as follows: Article 1. The State Parties undertake to prevent and punish torture in accordance with the terms of this Convention. Article 6. In accordance with the terms of Article 1, the States Parties shall take effective measures to prevent and punish torture within their jurisdiction. The States Parties shall ensure that all acts of torture and attempts to commit torture are offenses under their criminal law and shall make such acts punishable by severe penalties that take into account their serious nature. The States Parties likewise shall take effective measures to prevent and punish other cruel, inhuman, or degrading treatment or punishment within their jurisdiction. Article 8. The States Parties shall guarantee that any person making an accusation of having been subjected to torture within their jurisdiction shall have the right to an impartial examination of his case. Likewise, if there is an accusation or well-grounded reason to believe that an act of torture has been committed within their jurisdiction, the States Parties shall guarantee that their respective authorities will proceed properly and immediately to conduct an investigation into the case and to initiate, whenever appropriate, the corresponding criminal process. After all the domestic legal procedures of the respective State and the corresponding appeals have been exhausted, the case may be submitted to the international fora whose competence has been recognized by that State.

⁷⁵ IACtHR, Report on Citizen Security and Human Rights. OEA/SER.L/V/II.116, Doc. 5 rev. 1, corr., October 22, 2002. Citing. IACtHR, Report on the Situation of Human Rights of Asylum Seekers within the Canadian Refugee Determination System, OEA/Ser.L/V/II.106, Doc. 40 rev., February 28, 2000, para. 118.

⁷⁶ IACtHR, Report on Citizen Security and Human Rights. OEA/SER.L/V/II.116, Doc. 5 rev. 1, corr., October 22, 2002. Citing. IACtHR, Report on the Situation of Human Rights of Asylum Seekers within the Canadian Refugee Determination System, OEA/Ser.L/V/II.106, Doc. 40 rev., February 28, 2000. Para. 154.

⁷⁷ Inter-American Court. Case of Bueno Alves v. Argentina. Merits, Reparations, and Costs. Judgment of May 11, 2007. Series C No. 164, para. 76; Inter-American Court. Case of *Penal Miguel Castro Castro v. Peru*. Merits, Reparations, and Costs. Judgment of November 25, 2006. Series C No. 160, para. 271, and Inter-American Court. Case of *Baldeón García v. Peru*. Merits, Reparations, and Costs. Judgment of April 6, 2006. Series C No. 147, para. 117.

⁷⁸ Inter-American Court. Case of *Bueno Alves*. Judgment of May 11, 2007. Series C No. 164. Para. 76; Inter-American Court, *Case of Miguel Castro Castro Prison*. Judgment of November 25, 2006. Series C No. 160. Para. 271; and Inter-American Court, *Case of Baldeón García*. Judgment of April 6, 2006. Series C No. 147. Para. 117.

⁷⁹ Inter-American Court. Case of *Bueno Alves*. Judgment of May 11, 2007. Series C No. 164. Para. 77.

authorization or acquiescence; ii) that causes severe physical or mental suffering, and iii) is committed with a certain purpose or aim.⁸⁰

62. In addition, with regard to the right to life, the Commission recalls that both the Commission and the Inter-American Court have found violations of this right in cases in which individuals have not died as a result of the acts committed in violation but survived only by chance.⁸¹ This case law is consistent with that of the European Court of Human Rights in the case of *Acar et al. v. Turkey*, in which armed municipal guards stopped two vehicles, ordered their 15 occupants out of the vehicles, told them line up on the road, and fired at them. Six died and nine were injured. The European Court found they were victims of conduct that, by its nature, posed a grave risk to their lives, even though they survived the attack.⁸²

63. With regard to the duty to investigate acts of torture, the Inter-American Court has found that in the event of a complaint or sound basis for believing that an act of torture has been committed, States have an obligation to launch an immediate and effective *ex officio* investigation to identify, try, and punish those responsible, pursuant to the general obligation set forth in Article 1(1) of the Convention to guarantee the human rights enshrined therein for everyone under their jurisdiction, in conjunction with the right to humane treatment.⁸³ This investigation must be conducted using all available legal means to determine the truth and to investigate, pursue, arrest, prosecute, and punish all those responsible for such acts.⁸⁴ The obligation to exhaustively investigate incidents of torture is even more important should such incidents take place while the victim is in State custody.⁸⁵

64. In this case, the Commission recalls that on October 8, 1999, Gildardo Fuentes was kidnapped and subjected to abuse by paramilitary forces, who accused him of being a guerrilla. However, he was able to escape after 48 hours thanks to fortuitous circumstances. The Commission will hereinafter examine whether these facts can be classified as torture pursuant to the above-described elements.

65. As regards the first element, the Commission observes that there is no dispute as to the fact that those who detained and abused the alleged victim were not State agents but rather members of paramilitary groups. It therefore must be examined whether these illegal groups acted with the authorization or acquiescence of State agents. On this point, the Commission underscores in particular the overall context of paramilitarism already demonstrated in Colombia, in which at different points in history, ties have existed between paramilitary forces and members of security forces in the form of direct actions of support, collaboration, and coordination, or direct omissions by security forces. Additionally, the IACtHR underscores that the Inter-American Court has specifically addressed the relationship between paramilitarism and security forces in the Magdalena Medio region, where the facts of this case took place. Specifically, it has found that, in that area, the relationship between the self-defense forces and security forces has been characterized by a functional rationale according to which the paramilitary forces did what the security forces could not, and a division of labor that translated into collaboration with members of the police force, including joint actions and exchanges of information.

66. In addition to this general context, the Commission underscores that on the day of the facts, the alleged victim was first detained at a National Army checkpoint, "on the way out of San Pablo, at the virgin,"⁸⁶ where they asked

⁸⁰ IACtHR Report No. 5/96, Case 10,970, Merits, Raquel Martín de Mejía (Peru), March 1, 1996, section 3. analysis, and Inter-American Court Case of Bueno Alves v. Argentina. *Merits, Reparations, and Costs*. Judgment of May 11, 2007. Series C No. 164, para. 79.

⁸¹ IACtHR. Merits Report 40/15. Case 11,482. Merits. Noel Emiro Omeara Carrascal, Manuel Guillermo Omeara Miraval, Héctor Álvarez Sánchez et al. Colombia. July 28, 2015. Para. 143, and Inter-American Court. *Case of the "La Rochela Massacre."* Judgment of May 11, 2007. Series C No. 163, para. 127.

⁸²Cf. Eur.C.H.R., *Acar and Others v. Turkey*, Judgment of 24 May 2005, App. Nos. 36088/97 and 38417/97, para. 77.

⁸³ Inter-American Court, *Case of Baldeón García*. Merits, Reparations, and Costs. Judgment of April 6, 2006. Series C No. 147, para. 156; *Case of Gutiérrez Soler*. Merits, Reparations, and Costs. Judgment of September 12, 2005. Series C No. 132, para. 54; *Case of Tibi*. Judgment of September 7, 2004. Series C No. 114, para. 159, and *Case of Ximenes Lopes*. Merits, Reparations, and Costs. Judgment of July 4, 2006. Series C No. 149, para. 148. Likewise, see *Eur.C.H.R., Assenov and others v. Bulgaria*, no. 90/1997/874/1086, Judgment of 28 October 1998, par. 102 and *Eur.C.H.R., Ilhan v. Turkey* [GC], no. 22277/93, Judgment of 27 June 2000, paras. 89-93.

⁸⁴ Inter-American Court. *Case of Montero Aranguren et al. (Detention Center of Catia) v. Venezuela*. Merits, Reparations, and Costs. Judgment of July 5, 2006. Series C No. 150, párr.79.

⁸⁵ Inter-American Court. *Case of Bueno Alves v. Argentina*. Merits, Reparations, and Costs. Judgment of May 11, 2007. Series C No. 16, párr.109.

⁸⁶ Annex 4. Testimony given by Mr. Gildardo Fuentes Delgado to the Technical Investigation Unit on November 24, 1999. Annex to the brief of the petitioner of August 15, 2006.

for his documents and, after he presented them, permitted him to continue on his way. Later, "before Los Caguis,"⁸⁷ he was stopped at a paramilitary checkpoint where he was loaded into an SUV and taken back over the route by which he had come, passing again by the Army checkpoint. The victim was then taken to an abandoned house and then the bank of the river, where he was attacked with a machete.

67. The Commission surmises that the geographic proximity of the two checkpoints, as well as the likelihood that the paramilitary groups were traveling in a vehicle visible to the Army with the victim on board, demonstrate at the very least a context of acquiescence between the paramilitary groups and the Army, which applied in this case.

68. Additionally, with regard to the intensity of the abuse inflicted, the Commission recalls that, according to the alleged victim's account, after being taken to the bank of a river, he was struck in the back of the neck with a machete, but he was able to stand up and say he did not want to die like that and that he would rather be shot. However, one of the paramilitary soldiers gave the order to cut his throat, at which point he was able to struggle with that person and finally escape by jumping into the river. The Commission notes that an attack with a machete causes intense physical and mental suffering, to the point that the alleged victim would ask to be shot to death rather than continue being attacked with the machete. Lastly, as far as the third element of torture, according to the alleged victim's testimony, he was interrogated and accused of being a guerrilla fighter, demonstrating that the aim or purpose of the torture was associated with that aspect.

69. In view of these considerations, the Commission concludes that Gildardo Fuentes was the victim of torture at the hands of illegal groups operating with the acquiescence of State agents. Consequently, the Commission finds that the Colombian State is responsible for the violation of articles 5(1), 5(2), and 7(1) of the American Convention, in conjunction with Article 1(1) of the Convention and with articles 1 and 6 of the ICPPT. Likewise, given that the alleged torture victim's survival was merely fortuitous, the Commission finds that the State also violated the right to life set forth in Article 4(1) of the American Convention.

70. Additionally, the Commission observes that, after these facts took place, the alleged victim filed a complaint and requested measures of protection. However, the record does not show that the State launched and completed an investigation into the allegations, even though, given that these were allegations of torture, it should have launched an *ex officio* investigation after learning about them. Consequently, the IACHR concludes that the Colombian State violated the rights enshrined in articles 8(1) and 25(1) of the American Convention, in conjunction with the obligations established in Article 1(1) of the Convention, to the detriment of Gildardo Fuentes. The IACHR likewise concludes that the State failed to comply with its obligations set forth in articles 1, 6, 8, and 10 of the ICPPT.

B. Rights to recognition of juridical personality, personal liberty, humane treatment, and life in conjunction with the obligation to respect and guarantee rights⁸⁸ and Article I(a)⁸⁹ of the ICFDP regarding the disappearances of Édgar Quiroga and Gildardo Fuentes.

71. The case law of the Inter-American System in cases of forced disappearance of persons has indicated consistently that this phenomenon constitutes an illicit act that gives rise to multiple and ongoing violations of

⁸⁷ Annex 4. Testimony given by Mr. Gildardo Fuentes Delgado to the Technical Investigation Unit on November 24, 1999. Annex to the brief of the petitioner of August 15, 2006.

⁸⁸ The articles of the American Convention referred to in the heading establish the following:

Article 3. Right to Juridical Personality: Every person has the right to recognition as a person before the law.

Article 4. Right to Life 1. 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.

Article 5. Right to Humane Treatment 1. Every person has the right to have his physical, mental, and moral integrity respected. 2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

Article 7. Right to Personal Liberty 1. Every person has the right to personal liberty and security.

Article 1(1) 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 (...) sex (...) or other social condition.

⁸⁹ These articles establish as follows: Article 1. The States Parties to this Convention undertake: a) Not to practice, permit, or tolerate the forced disappearance of persons, even in states of emergency or suspension of individual guarantees; b) To punish within their jurisdictions, those persons who commit or attempt to commit the crime of forced disappearance of persons and their accomplices and accessories.

various rights protected by the American Convention. It also places the victim in a state of complete defenselessness, leading to other related crimes.⁹⁰

72. Pursuant to its settled case law, the Commission notes that forced disappearance is a complex human rights violation that persists over time for as long as the whereabouts of the victim or the victim's remains are unknown. The disappearance itself only ends when the victim appears or the victim's remains are located,⁹¹ such that the victim's identity can be clearly established.⁹²

73. With regard to the rights violated, forced disappearance violates the right to personal liberty and places the victim at grave risk of irreparable damage to the rights to humane treatment and life. The Court has indicated that forced disappearance violates the right to humane treatment, as "prolonged isolation and being held incommunicado constitute, in themselves, forms of cruel and inhuman treatment."⁹³ The Commission and the Court have established that it is clear that victims of forced disappearance experience violations of all aspects of their personal integrity.⁹⁴ Likewise, the Court has found that even if facts of torture or deprivation of liberty of the individual who is the victim of a forced disappearance in a specific case cannot be demonstrated, exposing detainees to State agents or to private parties who act with their acquiescence who commit torture and murder represents in itself a violation of the rights to humane treatment and life.⁹⁵

74. According to the case law of both bodies of the Inter-American system, the practice of disappearances has frequently involved the execution of detainees, in secret and without any type of trial, followed by hiding the body with the objective of erasing all material evidence of the crime and securing absolute impunity. This is a brutal violation of the right to life as set forth in Article 4 of the Convention.⁹⁶ The case law has also established that when an individual has disappeared for a long period of time in the context of violence, it is enough to conclude that the individual was deprived of their life.⁹⁷

75. Additionally, the Commission has consistently found that in cases of forced disappearance, in view of the multifaceted and complex nature of this grave human rights violation, such cases involve a specific violation of the

⁹⁰ IACtHR. Report 101/01. Cases 10,247 and others. Extrajudicial executions and forced disappearances of persons. Peru. October 10, 2001. Para. 178; IACtHR. Application before the Inter-American Court, Case 11,324, Narciso González *et al.*, Dominican Republic, May 2, 2010, para. 103; IACtHR. Application before the Inter-American Court, Case 12,517, Gregoria Herminia Contreras *et al.*, El Salvador, June 28, 2010, para. 131; Inter-American Court, *Case of Goiburú et al.* Judgment on Merits, Reparations, and Costs. Judgment of September 22, 2006. Series C No. 153. Para. 82; Inter-American Court, *Case of Gómez Palomino*. Judgment of November 22, 2005. Series C No. 136. Para. 92; Inter-American Court, *Case of the Serrano Cruz Brothers*. Preliminary Objections. Judgment of November 23, 2004. Series C No. 118, paras. 100 to 106; Inter-American Court, *Case of Molina Theissen*. Reparations (Article 63(1) American Convention on Human Rights). Judgment of July 3, 2004, Series C No. 108, para. 41.

⁹¹ IACtHR. Application before the Inter-American Court, Case 12,529, Rainer Ibsen Cárdenas and José Luis Ibsen Peña, Bolivia, Mayo 12, 2009, para. 106.

⁹² See *inter alia* *Case of Velásquez Rodríguez v. Honduras*. Merits, *supra*, paras. 155 to 157, and *Case of Osorio Rivera and Relatives v. Peru*, *supra*, para. 31.

⁹³ Inter-American Court. *Case of Chaparro Álvarez and Lapo Íñiguez v. Ecuador*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 21, 2007. Series C No. 170, para. 171; and, *Case of Anzulado Castro v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202, para. 85.

⁹⁴ Inter-American Court. *Case of Ticona Estrada et al. v. Bolivia*. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 191, para. 58; and IACtHR Report No. 5/16, Cases 11,053, 11,054, 12,224, 12,225, and 12,823. Merits. Peru. April 13, 2016, para. 167.

⁹⁵ Inter-American Court. *Case of Ticona Estrada v. Bolivia*. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 191, para. 59; *Case of Anzulado Castro v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202, para. 85; and *Case of Radilla Pacheco v. Mexico*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 23, 2009. Series C No. 209, 154.

⁹⁶ Inter-American Court. Case of the 19 Merchants. Judgment of July 5, 2004. Series C No. 109, para. 154; Inter-American Court, *Case of Bámaca Velásquez*. Judgment of November 25, 2000. Series C No. 70, para. 130; and IACtHR Report No. 44/00. Case 10,820. Américo Zavala Martínez. Peru. April 13, 2000, para. 41.

⁹⁷ Inter-American Court, *Case of Velásquez Rodríguez*. Judgment of July 29, 1988. Series C No. 4, para. 188; and IACtHR. Application before the Inter-American Court in case 12,529. Rainer Ibsen Cárdenas and José Luis Ibsen Peña v. *Bolivia*. May 12, 2009, para. 248.

right to recognition of juridical personality.⁹⁸ The Inter-American Court has also recognized this.⁹⁹ This is because, in addition to the fact that the disappeared person can no longer exercise and enjoy the rights to which he or she is entitled, forced disappearance is “not only one of the most serious forms of placing the person outside the protection of the law but also denies the victim’s existence and places him or her in a kind of limbo or uncertain legal situation before society and the State.”¹⁰⁰ The Commission notes that forced disappearance also entails a violation of the rights to a fair trial and judicial protection with regard to the disappeared victim, as regards the failure to take action to establish their whereabouts using efficient investigations and the impossibility of filing for remedies on their behalf due to the State’s denial of the fact that the individual is in its custody.

76. The concurrent and constituent of elements for determining whether a forced disappearance took place in a certain case are as follows: (i) deprivation of liberty; (ii) direct intervention by State agents or authorization, support, or acquiescence provided by them; and (iii) refusal to recognize that the detention took place or to reveal the fate or whereabouts of the disappeared person.¹⁰¹

77. Next, the Commission will determine whether what happened to Édgar Quiroga and Gildardo Fuentes constituted a forced disappearance. As far as the first element—deprivation of liberty—according to the information available, on November 28, 1999, while Édgar Quiroga and Gildardo Fuentes were in Cerro Azul, San Pablo, they were detained by the Autodefensas Unidas de Colombia and taken into an establishment called Ricarena, where they were interrogated about their activities in the area. From that point forward, their whereabouts are unknown. Regarding this fact, neither from the State before the IACtHR nor in the framework of investigations and internal processes has any contravening information emerged as to the initial disappearance of the alleged victims, for which reason the Commission concludes that this element is fulfilled.

78. Regarding the second element—direct intervention of State agents or their acquiescence—the Commission notes that there is a series of elements indicating that the alleged victims were disappeared by members of paramilitary groups and that they acted with the support or acquiescence of State agents.

79. First, the Commission reiterates the context described in the previous section as to the links between paramilitary groups and the members of Colombia’s security forces, specifically the close collaborative relationship in the Magdalena Medio region, where the facts of this case took place. Second, the Commission notes a series of indications that, taken together, lead to the conclusion that State agents either acquiesced to or provided support for the facts of the case:

-The Commission recalls that prior to the disappearance of the alleged victims, they had reported incidents of collaboration between the paramilitary forces and the Army to commit human rights violations. Specifically, in November 1999, Gildardo Fuentes had reported the close relationship between paramilitary forces and security forces and that between November 1 and November 22, 1998, at least 100 people were massacred in a region that the State had specifically committed to protecting. Likewise, he had requested measures of protection after having experienced torture and a murder attempt. However, the record does not show that the State adopted any measure to protect him. For his part, on November 26, 1999, two days before his disappearance, Édgar Quiroga had reported the incidents of torture suffered by Gildardo Fuentes to the Office of the Procurator general, along with incidents of corruption committed by soldiers in the framework of Operation Anaconda, which took place between April and June 1999 and whose purpose was to apprehend alleged guerrilla fighters.

⁹⁸ IACtHR. Applications before the Inter-American Court in the following cases: *Case of Ticona Estrada et al.* (12,527), paras. 153-165; *Rosendo Radilla Pacheco* (12,511), paras. 138-145; *Kenneth Ney Anzualdo Castro* (11,385), paras. 167-176; *Julia Gómez Lund et al.* (11,552), paras. 208-220; *Florencio Chitay Nech* (12,599), paras. 136-146; *Rainer Ibsen Cárdenas and José Luís Ibsen Peña* (12,529), paras. 251-262; and *Narciso González Medina et al.* (11,324), paras. 138-149.

⁹⁹ Inter-American Court. *Case of Anzulado Castro v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202, paras. 91-92; *Case of Radilla Pacheco v. Mexico*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 23, 2009. Series C No. 209, para. 157.

¹⁰⁰ Inter-American Court. *Case of Anzulado Castro v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202, para. 90. Also see: IACtHR, Report 5/16, Cases 11,053, 11,054, 12,224, 12,225, and 12,823. Merits. *Peru*. April 13, 2016, para. 166.

¹⁰¹ IACtHR. Report 111/09. Case 11,324. Merits. *Narciso González Medina*. Dominican Republic. November 10, 2009. Para. 130; and Inter-American Court, *Case of Anzulado Castro v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202, para. 60.

- Likewise, although the facts that took place on November 28, 1999, the record shows that on the morning of November 26, 1999, armed men entered the outskirts of Cerro Azul, flying over in a helicopter with red and green stripes on the tail, said to "be part of a group of 500 reservists that the self-defense forces had called up as reinforcements for the Fifth Brigade of the Army."

- For her part, Noraida Quiroga Medina, Édgar Quiroga's sister, reported that, according to a report she received from a campesino, the alleged victims were detained by members of Battalion 45 Heroes of Majagual. She also reported that the first attack on her, from which she was rescued, had been perpetrated by armed men wearing military uniforms. For her party, Amparo Escobar Gonima testified that Édgar Quiroga had told her that he had been threatened by security forces, who had accused him of helping the guerrilla forces. She said he had also been threatened by the paramilitary forces in San Pablo. She noted that a campesino told her that Édgar Quiroga had been detained by Battalion 45 and then turned over to the paramilitary forces.

- Likewise, one of the search commissions looking for the alleged victims concluded after collecting testimony from campesinos that, following his detention and interrogation by the Autodefensas Unidas de Colombia, the alleged victims were taken to the town gas station where a white helicopter with red and green stripes landed. The alleged victims were tied up and the helicopter transported them out of Cerro Azul

- Lieutenant Colonel Jesús María Clavijo of Battalion 45 Heroes of Majagual emphasized that they did not detain the alleged victims. However, he said that they have a blue and white helicopter and that "the violent actors" do not have helicopters. He said that by leading the "campesino March," the alleged victims had destabilized the government and created social chaos and that he did not understand what Édgar Quiroga and Gildardo Fuentes were doing in a high risk area like Cerro Azul.

- Lastly, the Commission notes that in the same judgment convicting Rodrigo Pérez Alzate, the Public Prosecutor is urged to investigate the different State entities that cooperated with the self-defense forces in committing the different crimes.

80. The Commission notes that all the aforementioned elements put together lead to the conclusion that the disappearance of the alleged victims was carried out by members of paramilitary groups with the collaboration or acquiescence of State agents. The evidence of State participation has not been discredited by the State, nor, as will be described later on, has the State contradicted this hypothesis through effective investigations and criminal processes. In conclusion, the Commission finds that the second element of forced disappearance has been established.

81. As regards the third element, related to the refusal to recognize the detention or to reveal the fate or whereabouts of the disappeared person, the Commission observes that on November 29, 1999, Édgar Quiroga's sister filed a writ of habeas corpus indicating that the alleged victims were detained by members of Battalion 45 Heroes of Majagual. However, it was denied on November 30, 1999, by the First Criminal Circuit Court of Barrancabermeja, on the grounds that there was no evidence that the alleged victims were detained by government authorities, and that instead, it was established that they were detained by paramilitary groups.

82. The IACtHR observes that the First Court described as "false and slanderous" Édgar Quiroga's sister's claim of having received information from a campesino indicating that the alleged victims were detained by members of Battalion 45. It also described as "true" the claim by a major in that battalion who stated that no one had been detained and no patrolling had been conducted where the facts took place, but failed to offer convincing arguments. The Court therefore dismissed the account of the peasant and, with no further inquiry, accepted the account of the Battalion 45 major as true. Upon denying the writ of habeas corpus, the First Court limited itself to forwarding an authenticated copy to the Office of the Ombudsperson on the Provincial Office of the Procurator for them to make the necessary inquiries. However, it did not order any action to establish the whereabouts of the alleged victims.

83. In addition to this, the Commission recalls that Victoria Delgado Anaya was kidnapped twice before she was murdered by members of the military groups after she filed multiple complaints over the disappearance of her son, Gildardo Fuentes. Their aim was to cover up the disappearances. The IACtHR does not have information on the actions the State took to investigate these reports effectively or protect Victoria Delgado despite being aware of the situation in the area where the facts took place and her having been the victim of one kidnapping already. All of this took place in the context of collaboration with or acquiescence to paramilitary groups by State agents. In sum, the

Commission finds that the elements described lead to the conclusion that the third element has been fulfilled, and thus the incidents can be classified as forced disappearances.

84. Therefore, the Commission concludes that Édgar Quiroga and Gildardo Fuentes were the victims of forced disappearance starting on November 28, 1999, for which reason the Colombian State violated, to their detriment, the rights set forth in articles 3, 4(1), 5(1), 5(2), and 7 of the American Convention, in conjunction with Article 1(1) of the Convention. Likewise, the Stated violated Article 1(a) of the Inter-American Convention on Forced Disappearance of Persons.

C. Right to fair trial and to judicial protection in conjunction with the obligation to respect human rights and duty to adopt domestic legal effects¹⁰² and Article I(b) of the ICFDP¹⁰³

85. Inter-American case law indicates that, for reports of the disappearance of a person, there is an unbreakable link between the State's response and protection of the life and integrity of the individual reported disappeared. The immediate and exhaustive nature of the State's response is independent of whether the disappearance was perpetrated by private parties or by State agents. The Commission reiterates that when there is reason to suspect that an individual has been disappeared, it is crucial that prompt and immediate action be taken by prosecutorial and judicial authorities to order timely and necessary measures aimed at determining the whereabouts of the victim or the place where the victim might be found deprived of liberty.¹⁰⁴

86. The Court has expressed that the States are required to provide effective judicial remedies to victims of human rights violations (Article 25), which should be in accordance with the rules of legal due process (Article 8(1)), pursuant to States' general obligation to guarantee the free and full exercise of rights recognized by the Convention for all persons subject to their jurisdiction (Article 1(1)).¹⁰⁵

87. Likewise, the Court has indicated that the obligation to investigate means that once State authorities become aware of an incident, they must initiate, *ex officio* and without delay, a serious, impartial and effective investigation using all available legal means, aimed at determining the truth and the pursuit, capture, prosecution and eventual punishment of all the perpetrators of the facts,¹⁰⁶ especially when State agents are or may be involved.¹⁰⁷ This duty is an obligation of means, not of results, that must be carried out by the State as a juridical duty and not as a simple formality doomed from the start to failure or as a mere processing of private interests that depends on the

¹⁰² Article 8(1) of the American Convention establishes that: 1. 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. Likewise, Article 25(1) of the Convention stipulates that: 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. For its part, Article 2 of the American Convention establishes the following: Duty to Domestic Legal Effects. Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.

¹⁰³This article establishes that States parties to the Convention commit: b) To punish within their jurisdictions, those persons who commit or attempt to commit the crime of forced disappearance of persons and their accomplices and accessories.

¹⁰⁴ IACHR. Report 111/09. Case 11,324. Merits. Narciso González Medina. Dominican Republic. November 10, 2009. Para. 225; Inter-American Court. *Case of Anzulado Castro v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202, para. 134; *Case of Radilla Pacheco v. Mexico*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 23, 2009. Series C No. 209, para. 221, *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Merits, Reparations, and Costs. Judgment of September 1, 2010. Series C No. 217, para. 167. Also see Matter of Natera Balboa. Provisional Measures regarding Venezuela. Order of the Inter-American Court of February 1, 2010, Considering 13, and Matter of Guerrero Larez. Provisional Measures regarding Venezuela. Order of the Inter-American Court dated August 29, 2013. Considering 6.

¹⁰⁵ Inter-American Court. *Case of Velásquez Rodríguez v. Honduras*. Preliminary Objections. Judgment June 26, 1987. Series C No. 1, para. 91; *Case of Gutiérrez and Family v. Argentina*. Merits, Reparations, and Costs. Judgment of November 25, 2013. Series C No. 271, para. 97; and *Case of the Landaeta Mejías Brothers et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 27, 2014. Series C No. 281, para. 215.

¹⁰⁶ Inter-American Court. *Case of Velásquez Rodríguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 1, para. 177; and *Case of Veliz Franco et al. v. Guatemala*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of May 19, 2014. Series C No. 277, para. 183.

¹⁰⁷ Inter-American Court. *Case of Myrna Mack Chang v. Guatemala*. Merits, Reparations, and Costs. Judgment dated November 25, 2003. Series C No. 101, para. 156; and *Case of the Afro-descendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 20, 2013. Series C No. 270, para. 371.

procedural initiative of victims or their relatives or the submission of evidentiary elements by private parties.¹⁰⁸ The State's obligation to investigate must be diligently discharged to prevent impunity and ensure such acts are not repeated.¹⁰⁹

88. Also, with regard to due diligence during the investigation, the Inter-American Court has established that "Each act of the State that forms part of the investigative process, as well as the investigation as a whole, should have a specific purpose: the determination of the truth, and the investigation, pursuit, capture, prosecution and, if applicable, punishment of those responsible for the facts."¹¹⁰ In this regard, the State must demonstrate that it has conducted an immediate, exhaustive, serious, and impartial investigation¹¹¹ aimed at exploring all potential lines of investigation.¹¹² The State can be responsible for failure to "order, practice, or evaluate[...]" evidence that could be fundamental for solving the facts.¹¹³

89. Additionally, Article 8(1) of the American Convention establishes that one of the elements of due process is that courts must decide on cases brought before them within a reasonable period of time. Pursuant to the terms of this provision, the Commission will take into consideration the elements that the bodies of the Inter-American system have taken into account, including: i) the complexity of the matter; ii) the procedural activity of the interested party; iii) the conduct of judicial authorities; and iv) the effect the legal situation has had on the person involved in the process.¹¹⁴ The Inter-American Court has established that an extensive delay could in itself constitute a violation of the right to a fair trial,¹¹⁵ for which reason it is the State's responsibility to explain and demonstrate why it has needed more time than reasonable to issue a final judgment in a specific case.¹¹⁶

90. In this case, the Commission recalls that the State was made aware of the disappearance of Édgar Quiroga and Gildardo Fuentes on November 29, 1999, when Noraida Quiroga Medina filed a writ of *habeas corpus* before civilian courts.

91. On that same date, the Human Rights Office of the Ministry of Interior Affairs established mixed search groups composed of private parties and State agents with the aim of "verifying the circumstances in which [the alleged victims] were kidnapped. As described above, these Commissions obtain testimony indicating that paramilitary groups and State agents both participated. Furthermore, the Commission has no information on the activation of any immediate search efforts to establish the whereabouts of the alleged victims. Although, as described, in rejecting the writ of *habeas corpus*, the First Criminal Judge ordered the action forwarded to the Office of the Ombudsperson and to the Office of the Provincial Procurator for inquiries to be made, the record does not show that doing so led to any specific actions to search for the alleged victims. The IACtHR recalls that in cases of forced disappearance, a rapid and exhaustive response is needed in the initial hours after becoming aware of the situation to determine the victim's whereabouts or the place where the victim is being held.

¹⁰⁸ Inter-American Court. *Case of Velásquez Rodríguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 1, para. 177; and *Case of Veliz Franco et al. v. Guatemala*. Preliminary Objections. Merits, Reparations, and Costs. Judgment of May 19, 2014. Series C No. 277, para. 183.

¹⁰⁹ Inter-American Court. *Case of the Ituango Massacres v. Colombia*. Judgment of July 1, 2006, Series C No. 148, para. 319; *Case of Véliz Franco et al. v. Guatemala*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of May 19, 2014. Series C No. 277, para. 183; and *Case of the Landaeta Mejías Brothers et al. v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 27, 2014. Series C No. 281, para. 216.

¹¹⁰ Inter-American Court. *Case of Cantoral Huamaní and García Santa Cruz v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C No. 167, para. 131.

¹¹¹ IACtHR. Merits Report 55/97, Juan Carlos Abella *et al.* (Argentina), November 18, 1997, para. 412.

¹¹² IACtHR. Report 25/09 Merits (Sebastião Camargo Filho) Brazil, March 19, 2009, para. 109. Also see IACtHR, Access to Justice for women who are Victims of Violence in the Americas, OEA/Ser. L/V/II. doc.68, January 20, 2007, para. 41.

¹¹³ Inter-American Court. *Case of the "Street Children" (Villagrán-Morales et al.)*. Judgment of November 19, 1999. Series C No. 63, para. 230. Also see IACtHR, Access to Justice for women who are Victims of Violence in the Americas, OEA/Ser. L/V/II. doc.68, January 20, 2007, para. 41.

¹¹⁴ IACtHR. Report 111/10, Case 12,539, Merits, Sebastián Claus Furlan and family, Argentina, October 21, 2010, para. 100. Inter-American Court, *Case of the Santo Domingo Massacre v. Colombia*. Preliminary Objections, Merits, and Reparations. Judgment of November 30, 2012. Series C No. 259, para. 164.

¹¹⁵ Inter-American Court. *Case of García Asto and Ramírez Rojas v. Peru*. Judgment of November 25, 2005. Series C No. 137, para. 166; *Case of Gómez Palomino v. Peru*. Judgment of November 22, 2005. Series C No. 136, para. 85; *Case of the Moiwana Community v. Suriname*. Judgment of June 15, 2005. Series C No. 124, para. 160.

¹¹⁶ Inter-American Court. *Case of Ricardo Canese v. Paraguay*. Judgment of August 31, 2004. Series C No. 111, para. 142.

92. Additionally, the Commission is aware of one criminal investigation launched by the National Unit on Human Rights and International Humanitarian Law, which, on March 26, 2010, culminated in the criminal conviction of one individual as co-perpetrator of the crime of the forced disappearance of Édgar Quiroga and Gildardo Fuentes. The State also reported on another series of processes against individuals involved in the facts. However, the Commission has no supporting evidence or information to indicate their progress for results, or if the conviction of another AUC member that was reported was related to the material facts of this case.

93. The IACtHR recalls that investigations must be exhaustive and aimed at establishing the responsibility of all perpetrators and masterminds, as well as determining the whereabouts of the alleged victims, for which purpose the State must explore all possible lines of investigation. However, in this case, the State did not prove that immediate inquiries were made in the framework of this investigation or that steps were ordered to search for the alleged victims and establish their whereabouts. Additionally, the Commission underscores that, despite the available evidence on cooperation of State agents in the facts of this case, the State did prove that they were analyzed and ruled out in the framework of the investigation.

94. All these elements taken together lead to the conclusion that the State has not investigated the facts of this case with due diligence, in violation of the rights established in articles 8(1) and 25(1) of the American Convention, in conjunction with Article 1(1) of the Convention, as well as with Article I(b) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Édgar Quiroga and Gildardo Fuentes.

95. Additionally, the Commission takes note that more than 20 years have passed since the State learned of the facts. However, it has provided no proof that the investigations have concluded following an exhaustive investigation that meets the standards set forth above, nor has it provided justification for the delay. The IACtHR recalls that the burden of argument and truth rests on the State, which is responsible for explaining and demonstrating why it has needed more time than reasonable to issue a final judgment in a specific case.¹¹⁷

96. Therefore, the Commission concludes that the State has failed to guarantee investigation of the facts of this case within a reasonable period of time, in violation of the rights established in articles 8(1) and 25(1) of the American Convention, in conjunction with Article 1(1) of the Convention and Article I(b) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Édgar Quiroga and Gildardo Fuentes and their relatives.

D. Rights to life,¹¹⁸ fair trial,¹¹⁹ and judicial protection¹²⁰ as regards the murder of Victoria Delgado Anaya

97. The Commission underscores that the right to life is a prerequisite for enjoyment all other human rights and without which respect for the other rights is meaningless.¹²¹ Compliance with Article 4, in relation to Article 1(1) of the American Convention, requires not only that no person be deprived of their life arbitrarily, but also that States adopt all appropriate measures to protect and preserve the right to life, under their obligation to ensure the full and free exercise of the rights of all those subject to their jurisdiction.¹²² For its part, the European Court has pointed to the importance of the right to life being interpreted and applied in such a way that its safeguards are practical and effective.¹²³

¹¹⁷ IACtHR, Report 3/16. Case 12,916. Merits. Nitza Paola Alvarado Espinoza, Rocío Irene Alvarado Reyes, José Ángel Alvarado Herrera et al. Mexico. April 13, 2016. Para. 271.

¹¹⁸ The relevant content of Article 4 of the Convention is cited above.

¹¹⁹ The relevant content of Article 8 of the Convention is cited above.

¹²⁰ The relevant content of Article 25 of the Convention is cited above.

¹²¹ IACtHR, Case 12,270, Report No. 2/15, Merits, Johan Alexis Ortiz Hernández, Venezuela, January 29, 2015, para. 185. ECHR, Case McCann and others v. The United Kingdom. Application No. 27229/95, 27 September 1995, § 146.

¹²² Inter-American Court. Case of Zambrano Vélez et al. v. Ecuador. Merits, Reparations, and Costs. Judgment dated July 4, 2007. Series C No. 166, para. 80. Also, see: IACtHR, Case 12,270, Report No. 2/15, Merits, Johan Alexis Ortiz Hernández, Venezuela, January 29, 2015, para. 186.

¹²³ ECHR, Case McCann and others v. The United Kingdom. Application No. 27229/95, 27 September 1995, § 146.

98. The Commission has indicated 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—although not directly attributable to the State because they were committed by private party—when the State has not been able to determine who perpetrated the acts due to a lack of diligence to reasonably prevent the violation or address it in keeping with the provisions of the Convention. It is consequently crucial to determine if the illicit act has involved the participation, support or tolerance of State agents, or if it has resulted from the State's failure to comply with its obligation to provide reasonable prevention of human rights violations and to investigate them seriously in order to punish those responsible and provide victims or their relatives with adequate reparations for the damage caused.¹²⁴

99. The Court has indicated the following with regard to protection of the right to life:

(...) This active protection of the right to life on the part of the State involves not only its legislators but also all State institutions whose duty is to provide security, whether they be police or armed forces. Based on the aforementioned, the States must adopt the necessary measures not only to prevent and punish the deprivation of life as a consequence of criminal acts, but also to prevent arbitrary executions by their own police force (...).¹²⁵

100. For its part, the Inter-American Commission has stated as follows on previous occasions:

(...) Extrajudicial or summary executions are characterized by being deliberate and illegitimate deprivations of life by State agents, generally acting under orders or at least with the consent or acquiescence of authorities. Therefore, extrajudicial executions are illicit actions committed by individuals vested with power precisely conceived of to protect and guarantee the security and lives of persons.¹²⁶

101. Specifically, regarding the duty to prevent, the Court has indicated that a State cannot be held responsible for all the human rights violations committed between individuals within its jurisdiction. Effectively, the *erga omnes* nature of the State's obligations to guarantee under the Convention does not entail limitless State responsibility for any act of private parties,¹²⁷ as its duties to adopt measures to prevent and protect regarding their relations with each other are conditioned on i) whether the State was or should have been aware of a situation of risk; ii) if that risk was real or immediate; and iii) if the State adopted measures reasonably expected to prevent that risk from becoming realized.¹²⁸

102. With regard to the facts surrounding the death of Victoria Delgado Anaya, the Commission notes that on December 23, 2001, she was kidnapped by AUC members in Aguas Lindas, and on December 24, 2001, she was found dead. According to a son of the alleged victim, one of the people who took her told him that she was being taken for interrogation regarding what she knew about the disappearance of Édgar Quiroga and Gildardo Fuentes.

103. Regarding these facts, the IACHR underscores that they took place in a demonstrated context of collaboration or at least acquiescence between paramilitary groups and members of the military. Additionally, the Commission has a variety of evidence indicating that, although the State knew that Victoria Delgado Anaya was at risk, it did not take effective measures to protect her. First of all, the record shows that following the disappearance of Gildardo Fuentes and Édgar Quiroga, on November 29, 1999, the IACHR granted precautionary measures and ordered the Colombian State to adopt urgent measures to protect the lives and integrity of both men, as well as protect the residents who witnessed the facts and reported them to the authorities. Victoria Delgado reported the disappearances of Gildardo Fuentes and Édgar Quiroga multiple times.

¹²⁴ IACHR, Report No. 65/01. Case 11,073. Merits. Juan Humberto Sánchez. Honduras. March 6, 2001, para. 88.

¹²⁵ Inter-American Court. *Case of Penal Miguel Castro Castro v. Peru*. Merits, Reparations, and Costs. Judgment of November 25, 2006. Series C No. 160, para. 237; *Case of the "Mapiripán Massacre" v. Colombia*. Merits, Reparations, and Costs. Judgment of September 15, 2005. Series C No. 134, para. 231; and *Case of Huilca Tecse v. Peru*. Merits, Reparations, and Costs. Judgment of March 3, 2005. Series C No. 121, para. 66.

¹²⁶ IACHR, Report No. 25/02, Plan de Sánchez Massacre, case 11,763, February 28, 2002, para. 114. Inter-American Court. *Case of the "Las Dos Erres" Massacre v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 24, 2009. Series C No. 211.

¹²⁷ Inter-American Court. *Case of the "Pueblo Bello Massacre."* Para. 117.

¹²⁸The case law of the European Court on the elements of the duty to prevent has been cited by the Inter-American Court in several of its judgments. In this sense, see: Inter-American Court. *Case of the "Pueblo Bello Massacre" v. Colombia*. Judgment of January 31, 2006. Series C No. 140, para. 124; Inter-American Court. *Case of González et al. ("Cotton Field") v. Mexico*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No. 205, para. 284; Inter-American Court. *Case of Luna López v. Honduras*. Merits, Reparations, and Costs. Judgment of October 10, 2013. Series C No. 269, para. 124.

104. On May 16, 2001, Victoria Delgado Anaya was kidnapped by the AUC. However, thanks to the mobilization of the Aguas Lindas residents, she was released. In response to this, her representatives filed for a precautionary measure on May 19, 2001, and in the framework of this proceeding, the State reported that on July 24, 2001, it had launched an investigation into the kidnapping.

105. The Commission underscores that, from the context in which the facts took place, the fact of the first kidnapping, and the content of the complaints filed by Victoria Delgado in reporting the disappearance of Édgar Quiroga and Gildardo Fuentes, the State should have been able to tell the alleged victim was at real and immediate risk. However, there is no indication the State took effective measures to prevent the risk to her life from materializing. Effectively, although the record shows that the State adopted a series of measures, according to information provided by the petitioner (which the State did not contest), the State adopted "a plan for protection, but in the wrong community, enabling the second kidnapping and death of Ms. Delgado," after she was tapped her as a collaborator with the guerrillas.

106. Additionally, regarding the investigations into the kidnapping and murder of Victoria Delgado Anaya, the IACtHR has information on investigation 1160, brought by Public Prosecutor Office 54 of the National Unit on Human Rights and International Humanitarian Law, in the framework of which a number of people were processed. However, the State did not report that anyone had been convicted, nor did it prove that the investigation has been completed, establishing responsibility of all the perpetrators and masterminds involved in the facts, even though almost 19 years have passed since they took place.

107. The Commission highlights that the death of Victoria Delgado Anaya, which occurred in the context of the armed conflict, is also part of the violent dynamics against women who are looking for their missing relatives. As the IACtHR has stated that an armed conflict reproduces and deepens discrimination and "although men are most frequently the victims of summary executions and massacres, violence against women, particularly sexual violence by armed groups, has become a common practice in the context of a conflict"¹²⁹. Specifically, according to the facts, Victoria was detained by members of the AUC to know information related to her son, Gildardo; so the violation of her rights that led to his death was related to her role as mother and the search of her son, for being a visible figure to advance the claims that will lead her to find him and, precisely because of this active role, to have information that may possibly interest the AUC.

108. Based on these considerations, the Commission concludes that the State is responsible for the violation of the rights to life, fair trial, and judicial protection, established in articles 4(1), 8(1), and 25(1) of the American Convention, in conjunction with Article 1(1) of the Convention, to the detriment of Victoria Delgado Anaya.

E. Right to personal integrity of the relatives (Article 5, in conjunction with Article 1(1) of the American Convention)

109. The right to humane treatment in Article 5(1) of the American Convention establishes that "Every person has the right to have his physical, mental, and moral integrity respected."

110. With regard to the relatives of victims of certain human rights violations, the Commission and the Inter-American Court have found that the relatives of victims can themselves be considered victims.¹³⁰ Regarding this, the Court has found that their psychological and moral integrity can be affected as a result of the particular situation suffered by victims, as well as by subsequent actions or omissions of domestic authorities in response to such acts.¹³¹

¹²⁹ IACtHR. Women facing violence in Colombia and discrimination in the context of conflict. October 18, 2006.

¹³⁰ IACtHR. Report 11/10. Case 12,488. Merits. Members of the Barrios Family. Venezuela. March 16, 2010. IACtHR. Report on Terrorism and Human Rights. Para. 227; Inter-American Court. *Case of Cantoral Huamaní and García Santa Cruz v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of July 10, 2007. Series C No. 167, para. 112; and *Case of Bueno Alves v. Argentina*. Merits, Reparations, and Costs. Judgment of May 11, 2007. Series C No. 164, para. 102.

¹³¹ Inter-American Court. *Case of Vargas Areco v. Paraguay*. Judgment of September 26, 2006. Series C No. 155, para. 96.

111. The Commission notes that, pursuant to the Court's case law, "in cases involving the forced disappearance of persons, it can be understood that the violation of the right to mental and moral integrity of the victims' next of kin is a direct result, precisely, of this phenomenon, which causes them severe anguish owing to the act itself, which is increased, among other factors, by the constant refusal of the State authorities to provide information on the whereabouts of the victim or to open an effective investigation to clarify what occurred."¹³²

112. In this case, the Commission finds that the mere fact of the victims' forced disappearance has caused deep feelings of pain, anguish, and uncertainty for their relatives, intensified further by the violations found in the previous section, including their long search for justice and the failure to resolve what happened to their loved ones.

113. Therefore, the Commission concludes that the State is responsible for the violation of the right to psychic and moral integrity set forth in Article 5(1) of the American Convention, in conjunction with the obligations set forth in Article 1(1) of the Convention, to the detriment of the relatives of Édgar Quiroga and Gildardo Fuentes identified herein.

V. REPORT No. 300/20 AND INFORMATION ON COMPLIANCE

114. The Commission adopted Merits Report No. 300/20 on October 29, 2020, comprising paragraphs 1 to 113 above, and transmitted it to the State on December 28 of the same year. In that report, the Commission concluded that the Colombian State was responsible for the violation of the rights established in Articles 3 (legal personality), 4 (right to life), 5.1, 5.2 (personal integrity), 7 (personal liberty), 8.1 (judicial guarantees), 25.1 (judicial protection) of the American Convention, in relation to Article 1.1 of the same instrument. It also found it responsible for violating Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture and Articles I.a) and I.b) of the Inter-American Convention on Forced Disappearance of Persons. The IACtHR recommended that the Colombian State:

1. To make full reparation for the human rights violations declared in this report, both in their material and non-material aspects. The State must adopt measures of economic compensation and satisfaction.
2. Investigate the fate or whereabouts of the disappeared victims and, if necessary, adopt the necessary measures to identify and deliver the mortal remains to their families.
3. To initiate, continue, or reopen the corresponding criminal and disciplinary investigations into all the human rights violations declared in this Merits Report related to the kidnapping and torture of Gildardo Fuentes, the forced disappearance of Edgar Quiroga and Gildardo Fuentes, and the murder of Victoria Delgado Anaya. These investigations must be carried out diligently, effectively, and within a reasonable period of time in order to clarify the facts in a complete manner, identify all possible responsibilities, and impose the appropriate sanctions in proportion to their seriousness and taking into account the links and patterns of joint action among paramilitaries identified in this report.
4. Provide for the necessary physical and mental health care measures for the rehabilitation of the victims' families, if they wish and in a concerted manner, which must be provided free of charge.
5. Adopt the necessary measures to prevent a repetition of the events of this case in the future, in particular by strengthening: (i) the capacity to investigate the contexts and patterns of joint action between State agents and illegal armed groups in the area where the events of this case occurred, and (ii) protection mechanisms for human rights defenders who defend or promote causes in the area where the events of this case occurred. that the facts of the present case occurred.

¹³² Inter-American Court. *Case of Blake v. Guatemala*. Merits. Judgment of January 24, 1998. Series C No. 36, para. 114; *Case of Ticona Estrada v. Bolivia*. Merits, Reparations, and Costs. Judgment of November 27, 2008. Series C No. 191, para. 87; *Case of La Cantuta v. Peru*. Merits, Reparations, and Costs. Judgment of November 29, 2006. Series C No. 162, para. 123; and, *Case of Anzulado Castro v. Peru*, Judgment of September 22, 2009, Series C No. 202, para. 105.

115. In the procedure followed after the notification of the Merits Report, the IACtHR received reports from the State on compliance with the established recommendations and observations from the petitioner. During this period, the Commission granted 13 extensions to the State to suspend the time period provided for in Article 51 of the American Convention. The State also reiterated its willingness to comply with the recommendations and expressly waived its right to file preliminary objections with respect to compliance with the deadline provided for in that article, in accordance with the provisions of Article 46 of the Commission's Rules of Procedure.

116. During this stage, on February 23, 2021, the Committee of Ministers issued a favorable opinion on the first recommendation, referring to comprehensive reparation, based on Law 288 and, on March 17, the Ministry of Foreign Affairs issued Resolution No. 1101 establishing that the procedure provided for in the aforementioned Law will be assumed by the National Agency for the Legal Defense of the State (ANDJE).

117. In September 2021, the State attached a list of victims who were included in the Single Registry of Victims (RUVC). In turn, it reported that, in relation to the case of Mrs. Ana Victoria Delgado Amaya, a pecuniary compensation that had been deposited in July 2021 had been recognized in favor of the beneficiary Sandra Milena Fuentes Delgado. With respect to the rest of the victims, the State reported that it was collecting information on the values recognized for the beneficiaries in the context of the administrative compensation processes carried out by the Unit for the Comprehensive Care and Reparation of Victims.

118. On September 24, 2021, the State submitted its "Proposal for Comprehensive Reparation" in which it included: the public act of acknowledgment of responsibility, a radio or audiovisual production, books, training workshops, installation of plaques or monuments, and the granting of scholarships.

119. After a series of meetings, counterproposals, and negotiations on June 12, 2024, the State reported that the parties signed a Recommendation Compliance Agreement on April 5, 2024 (hereinafter the "Compliance Agreement"). In that agreement, the State recognized international responsibility for the facts and established measures of pecuniary reparation, measures of satisfaction, measures of justice, search measures, guarantees of non-repetition, and measures of rehabilitation. In addition, in the Compliance Agreement, the parties request the Commission to develop the compliance verification mechanism through the powers granted in Article 51 of the Convention.

120. In that Compliance Agreement, the State and the petitioner agreed as follows:

- The ANDJE will assume the procedure for the payment of material and immaterial reparations, framed in Law 288 of 1996.
- The Act of Recognition of Responsibility by the State.

The following were to be established:

- Educational Aids:
Access to the offer of the National Learning Service, commemorative scholarships of the legacy of Edgar Quiroga, Gildardo Fuentes and Victoria Anaya Delgado and two Literature Stimuli "Edgar Quiroga, Gildardo Fuentes and Victoria Delgado".
- Short film of 10 to 15 minutes exalting the quality of leaders of Edgar Quiroga, Gildardo Fuentes and Victoria Delgado, their roles in the peasant movement and the social implications of the crimes of which they were victims. The State guaranteed its dissemination via Public TV.
- Adaptation and endowment of the Pozo Azul Agricultural and Business Technical Educational Institution, La Virgencita township headquarters Jurisdiction of the municipality of San Pablo Sur de Bolívar including the endowment with a focus on art and culture for memory and life, the delivery of at least 5 laptops and the adaptation of the multipurpose court.
- Elaboration, design, printing and wide dissemination of a booklet that recounts the struggles, history and events in relation to Edgar Quiroga, Gildardo Fuentes and Victoria Delgado.
- Exemption from military service and any payment to obtain the military card to certain persons.
- Conferences of socialization, information and eventual linkage in public policy programs of attention and comprehensive reparation to victims of the armed conflict.

121. Regarding the payment of pecuniary reparations, the State reported that a request for conciliation was pending before the Office of the Attorney General of the Nation.

122. With respect to the Act of Recognition of State Responsibility, the State indicated that it was developing an inter-institutional proposal on the conduct of the act that will be presented to the victims and their representatives. In this regard, he reported that the event was scheduled to take place at the end of November 2024 as part of the commemoration of the 25th anniversary of the forced disappearance of Mr. Edgar Quiroga and Mr. Gildardo Fuentes. The State also stated that it was arranging a date to hold a meeting with the Ministry of National Education and the representatives and victims to address issues related to educational aid. In addition, the State stated that it was working with the National Center for Historical Memory to begin the materialization of the short film.

123. In relation to the measures at the Pozo Azul Agricultural and Business Technical Educational Institution, the State stated that it was coordinating with the Ministry of Culture, the Ministry of Information Technologies, and the National Real Estate Agency to begin the implementation of the measure and, in particular, with respect to the multiple court, a meeting was held on June 3, 2024, with the participation of the victims and their representatives. With respect to the booklet, the State reported that the ANDJE will coordinate with the Unit for Comprehensive Attention and Reparation to Victims an enlistment meeting.

124. With respect to the **second recommendation**, referring to the search for the victims, the State reported that the Unit for the Search for Disappeared Persons (UBPD) received the request to search for the victims and has determined the "Status of the Search Process," while the humanitarian and extrajudicial investigation was being carried out on the basis of a Regional Plan. It indicated that they met with the relatives of Messrs. Quiroga and Fuentes to provide them with information, answer questions and that follow-up commitments were generated, such as the holding of meetings; the taking of biological samples for genetic profiles; and the entry of Mr. Fuentes' case into the Information System of the Network of Missing Persons and Cadavers of the National Institute of Legal Medicine and Forensic Sciences. The State proposed to continue with the search and identification of the victims through the UBPD and the FGN.

125. The State and the petitioner held a series of coordination meetings in which progress was made. The petitioner stressed the need for the active participation of the relatives in the search processes.

126. The State reported that, thanks to the cooperation of the UPBD with the FGN, it was possible to obtain the judicial file of Messrs. Quiroga and Fuentes, which was being analyzed, in the ordinary courts. It also reported that on November 16 and 17, 2022, the UBPD facilitated a meeting with relatives to jointly agree with their representatives on a search plan. Subsequently, the State submitted the agreed work plan.

127. In September 2023, the parties sent the IACHR a joint note in which they indicated that the State will provide the UBPD with all the information – including that under legal or national security confidentiality – held by the Army and the National Police regarding the three victims and that the relatives and petitioners will participate effectively in the framework of the Regional Search Plan and will be informed of the progress of the investigation. the UBPD.

128. In the Compliance Agreement, the State committed to advance the search for Edgar Quiroga and Gildardo Fuentes, with the aim of locating them, recovering their remains, identifying them and delivering them with dignity to their families. To this end, THE UBPD, the Prosecutor's Office, the Internal Working Group for the Search, Identification and Delivery of Disappeared Persons (GRUBE) and the National Institute of Legal Medicine and Forensic Sciences would coordinate efforts. In addition, the State must implement a search plan with activities, a schedule and periodic follow-up, and semi-annual meetings with family members.

129. In June 2024, the State reported that it will hold an inter-institutional table that will be made up of the FGN, the Institute of Legal Medicine and the UBPD.

130. With respect to the **third recommendation**, concerning the reopening of criminal and disciplinary investigations, the State reported that in the investigation of the alleged forced disappearance of Édgar Quiroga and Gildardo Fuentes, there have been several convictions, in which the criminal responsibility of four paramilitaries

has been resolved. He indicated that, in the jurisdiction of Justice and Peace, there is a conviction for material co-authorship in disappearance, homicide and forced displacement of both alleged victims. This, in addition, of an indictment for the murder of both, which had been scheduled for August 23, 2021.

131. The State reported that the Attorney General's Office had advanced the case following all possible lines and hypotheses of investigation to demonstrate the responsibility of all the perpetrators of the disappearance of Messrs. Quiroga and Fuentes, indicating that the hypothesis of the participation of members of the security forces did not have the necessary evidence to link them to the process.

132. In relation to the murder of Mrs. Victoria Delgado, the State indicated that two convictions had been handed down. He indicated that it had been possible to identify four defendants, against whom the prosecution should have been terminated because they were murdered.

133. The State reiterated several times what it had reported regarding the lack of proof of the alleged participation of members of the security forces in the events of detention and disappearance of the victims, attributing responsibility exclusively to the members of the "Central Bolívar Bloc of the United Self-Defense Forces of Colombia."

134. The petitioner considered that the State is unwilling to initiate or reopen criminal and disciplinary investigations into all the human rights violations declared in the report on the merits, including the kidnapping and torture of Gildardo Fuentes. It indicated that there was also no willingness to investigate the links and patterns of joint action between paramilitaries and the security forces, nor to fully clarify the responsibilities of both the perpetrators and co-participants, and those who, through action by omission, contributed to the violations recognized in the report on the merits.

135. The State indicated that the Attorney General's Office issued an order to locate Mr. Jesús Ignacio Roldán Pérez and that it was possible to locate him and several former members of the so-called Casa Castaño, who would be interrogated.

136. It added that, due to the meeting held with the petitioner, on June 1, 2022, the Prosecutor's Office indicated that it may initiate a line of investigation to verify who was in the position of guarantor on the day of the events. Then the Prosecutor's Office also reported the possibility of opening a line of investigation into the participation of the Public Force in the events.

137. On December 13, 2022, the State added that the FGN clarified that the investigation is with orders to the judicial police in terms of execution and its results would be evaluated to adopt the corresponding decisions.

138. In the joint note of September 13, 2023, the parties indicated that the biannual inter-institutional tables will follow up and progress will also be made with regard to the investigation, with the participation of the victims.

139. In the Compliance Agreement, the State and the Petitioner agreed that:

The Office of the Attorney-General of the Nation, within the framework of its powers, shall continue with due diligence the judicial proceedings that allow the promotion of investigations to clarify the facts and the possible identification and individualization of the perpetrators and participants in the criminal conduct that is established, also adopting the corresponding decisions in law.

140. With respect to the **fourth recommendation**, concerning physical and mental health care, the State expressed its willingness to hold meetings with the Ministry of Health and Social Protection and the victims and their representatives, the purpose of which would be to publicize the Program for Psychosocial Care and Comprehensive Health for Victims (PAPSIVI); and to absolve any doubts and observations that may arise regarding the execution and implementation of the same.

141. The State and the victims' representatives held a series of meetings. Throughout 2022, the State referred individually to the health situation of people who have an urgent medical matter¹³³. It also reported that on November 24, 2022, the victims' representatives requested that an assessment be made of the suitability and effectiveness of the mechanism to deal with situations of an urgent nature, and the State was in a position to do so.

142. In their joint note of June 13, 2023, the parties recalled that this measure has been difficult to implement, so they have agreed to hold inter-institutional meetings with the participation of: Ministry of Health, Superintendence of Health, EPS and IPS, representatives, family members and the ANDJE, with the aim of identifying the main obstacles and barriers to access and managing through a work route with a schedule the overcoming of the obstacles and progress in the implementation of the measure in the field of health.

143. In their joint note of September 13, 2023, the parties indicated that as a result of the technical tables developed to overcome barriers in care and access to health services, the provision of the service has been achieved in a way that is more appropriate to the needs and expectations of family members. They also stated that the victims' relatives authorized the implementation of the PAPSIVI and therefore their identification in the IPS and EPS in which they are affiliated for their care under the differential criteria of this program.

144. On December 18, 2023, the State reported that to comply with this recommendation, the Ministry of Health and Social Protection held three days of work with the family members on June 23, 2023, July 11, 2023, and August 10, 2023, in which the family members agreed to begin the implementation of the PAPSIVI.

145. In the Compliance Agreement, the State and the petitioner agreed that the Ministry of Health and Social Protection will coordinate the health care and rehabilitation measures constituting medical, psychological, and psychosocial care through the General Social Security Health System and its members, as well as the PAPSIVI, so as to guarantee adequate treatment, timely and priority and for as long as necessary. To follow up on this measure, the parties established that a quarterly meeting will be held convened by the Ministry of Health and Social Protection with the participation of representatives, family members and the ANDJE and that, in the event of an emergency situation, the Ministry of Health and Social Protection may be requested to convene an extraordinary meeting.

146. On June 12, 2024, the State reported that the Ministry of Health and Social Protection accompanied the serious health case of Mr. Hernán Quiroga Medina. In addition, the State reported that the Ministry of Health and Social Protection, with the support of the Superintendence of Health, is in the process of overcoming identified access barriers and accompanying the process of transferring EPS for family members.

147. With regard to the **fifth recommendation** on measures of non-repetition, in particular the strengthening of: (i) the capacity to investigate the contexts and patterns of joint action between State agents and illegal armed groups in the area where the events of this case occurred and (ii) protection mechanisms for human rights defenders who defend or promote causes in the area where the events of the present case occurred; with respect to subparagraph (i), the State reported that progress had been made in clarifying "patterns of macro-criminality" and in unveiling the contexts, causes, and motives of the acts of organized armed groups. He indicated that it was possible to identify the support and financing networks of these groups and that for this purpose the Chamber for the Definition of Legal Situations has implemented a specific investigation methodology, with the aim of associating cases that share common criminal dynamics and processing them according to the parameters of investigation and processes of facts identified as international crimes.

148. The State said that in Judgment C-080 of 2018, the Constitutional Court ruled that it is the responsibility of the Special Jurisdiction for Peace to identify the context of the events, the patterns that explain their commission, define the territorial and temporal scope, and identify the structure of the organizations involved in the planning and execution of the crimes.

¹³³ Ana Eugenia Rojas de Moreno, Yeison Quiroga Carpio, Consuelo Quitian Quiroga, Joshua Alexander Villamarín Gelves and Vicente Fuentes Méndez.

149. The State indicated that the Attorney General's Office launched the "Plan for the Investigation and Effective Prosecution of Third Parties, Civilians and State Agents Linked to Illegal Armed Actors" and has developed an investigative methodology to generate progress in clarifying the facts, associating them and criminal structures; and the strategic identification of objectives for the dismantling of criminal organizations. It indicated that for this purpose, itinerant and territorial teams were created, strategically located to respond to the cases of their competence. It reported that, thanks to these, between 2018 and 2022, 13 research projects were defined.

150. With respect to paragraph (ii), the State reported that in 2015 the National Protection Unit (UNP) Program for the Prevention and Protection of the Rights to Life, Liberty, Integrity, and Security of Certain Persons, which was created in 2011, was organized. It reported that the UNP has prioritized attention to human rights defenders. It said that the UNP has deployed territorial strategies for the rapprochement between officials and the community; and a territorial strategy within the framework of the Timely Action Plan for Women Human Rights Defenders, whose objective is the prevention and protection of Regional Risk.

151. The State indicated that in a meeting held on June 7, 2022, the family members stated that they had received threats and that they were immediately forwarded the contact details of the officials in charge of dealing with such complaints. He reported that that same day the relatives filed the corresponding complaint that was already in the investigation stage.

152. In June and September 2023, the parties jointly reported on coordinations carried out to guarantee the connectivity of the rural area of San Pablo, Bolívar and facilitate the implementation of individual and collective protection measures through the UNP, with networks and infrastructure. Additionally, the parties indicated that in a meeting with the UNP, the work route was defined to expedite analysis and decision in case of urgency for the relatives and for the implementation of Decree 660 of 2018 in order to develop collective protection measures.

153. On the other hand, the State reported that, as a guarantee of non-repetition associated with enhancing the effectiveness of the protection measures granted, the UNP advanced the installation of a Digital Center in the I.E. of Pozo Azul - La Virgencita Headquarters, which has a coverage area of up to 7,800 m2.

154. In the Compliance Agreement, on section i), the State undertook to initiate, in concert with the representatives, the prevention route within the framework of Decree 660 of 2018, through the Ministry of the Interior, advising and accompanying the formulation and implementation of the prevention plans that may be necessary. Regarding section ii), it was agreed that the UNP will initiate the protection route in a concerted manner with the relatives and representatives, advising and accompanying the activation, monitoring and follow-up of the individual and/or collective route that may be necessary. The agreement indicates that an annual meeting convened by the UNP will be held to follow up on this measure with the participation of representatives, family members and the ANDJE.

155. The State reported that a meeting was held on June 6, 2024, with family members and representatives, in which it was defined that section i) would include all prevention and inter-institutional coordination actions in the territory in the intervention approach of the Ministry of the Interior, and that a work plan would be developed to facilitate follow-up. With respect to paragraph (ii) with respect to protection measures, the State stated that it is working with the UNP to begin implementing the measure, pending the definition of the meeting.

156. Based on the information provided by the parties at this stage, on June 28, 2024, the IACtHR decided not to send the case to the Inter-American Court and to proceed with the publication of the Merits Report, in accordance with the provisions of Article 51 of the American Convention and Article 47 of the IACtHR's Rules of Procedure. The Commission informed the parties that:

examining the case, the Commission noted that on April 5, 2024, the parties signed a Compliance Agreement that includes measures of economic reparation, measures of satisfaction, justice, and guarantees of non-repetition, the implementation of which will allow the victims to obtain comprehensive reparation. The Commission also noted that, in clause eight of the Compliance Agreement, the parties request that the mechanism for verifying the Agreement be developed through the IACtHR by virtue of the powers granted in accordance with the provisions of Article 51 of the

American Convention and Articles 47 and 48 of the Commission's Rules of Procedure. The Commission will continue to monitor compliance with the Agreement signed by the parties and the recommendations of the Report.

157. From the foregoing information, with respect to the **first recommendation**, regarding comprehensive reparation, the Commission notes that the State acknowledged responsibility in the Compliance Agreement and that the ANDJE will assume the procedure derived from Law 288 of 1996 for the payment of compensation by way of pecuniary reparation and that there is a request for conciliation pending before the Office of the Attorney General of the Nation. The Commission also takes note of the agreement of the parties to implement a series of satisfaction measures. However, the State has not provided information on the actual payment of compensation or the implementation of the agreed satisfaction measures. Therefore, the Commission concludes that this measure is still pending compliance.

158. With respect to the **second recommendation**, regarding the search for the two disappeared victims, the Commission notes that the parties agreed to make inter-institutional efforts to deepen the search for Edgar Quiroga and Gildardo Fuentes, with the aim of locating them, recovering their remains, identifying them, and handing them over to their families with dignity. It is noted that the parties agreed on a search plan. The Commission also notes that the State indicated that it would provide the UBPD with the information under legal or national security confidentiality relating to the three victims, in the possession of the Army and the National Police. The State has not reported progress on these commitments. Therefore, the Commission concludes that this measure is still pending compliance.

159. With respect to the **third recommendation**, on criminal and disciplinary investigations, the Commission notes that several convictions have been handed down, in which the criminal responsibility of four paramilitaries for the deaths of Messrs. Quiroga and Fuentes has been resolved. Likewise, in the jurisdiction of Justice and Peace, there is a conviction for material co-authorship in disappearance, homicide and forced displacement of both alleged victims. The Commission observes that the indictment for the murder of both, the trial of which is still in process. On the other hand, in relation to the murder of Mrs. Victoria Delgado, the IACHR notes that two convictions were handed down.

160. The IACHR also notes that, through the Agreement on Compliance with Recommendations, the State undertook to continue with due diligence in the judicial proceedings that allow the investigations to be carried out. It also notes that follow-up meetings were set up with the participation of victims to publicize progress in promoting criminal investigations.

161. The Commission also notes that the Prosecutor's Office indicated that it could initiate a line of investigation to verify who had a position of guarantor on the date of the events and the participation of the security forces in them.

162. The Commission has not received updated information on progress in the pending criminal investigation, progress in the new lines of investigation of State agents, or information regarding disciplinary investigations. Therefore, the Commission concludes that, notwithstanding this progress, this measure is still pending compliance.

163. With regard to the **fourth recommendation**, concerning medical and psychological care, the Commission notes that the parties indicated that the provision of the service has been achieved in a manner more appropriate to the needs and expectations of the family members. It also notes that the victims' relatives authorized the implementation of the PAPSIVI and therefore their identification in the IPS and EPS in which they are affiliated for their care under the differential criteria of this program. The IACHR also notes that the Agreement on Compliance with Recommendations establishes that the State shall coordinate health care and rehabilitation measures that constitute medical, psychological, and psychosocial care; through the General System of Social Security in Health and its members, as well as the PAPSIVI, to guarantee adequate, timely and priority treatment and for as long as necessary. Therefore, the Commission concludes that this recommendation is being complied with and, due to its nature, the IACHR will continue to follow up on it.

164. With respect to the **fifth recommendation**, referring to measures of non-repetition, in particular the strengthening of investigative capacity and protection mechanisms, the Commission notes the mechanisms reported by the State for strengthening the investigation and the protection system of the UNP. It also notes that the Compliance Agreement includes prevention and protection routes, established by the Ministry of the Interior and the UNP respectively, as well as periodic follow-up meetings for both issues. The Commission has not received updated information on compliance with these measures, therefore, it concludes that this measure has been partially complied with.

165. The Commission appreciates the efforts of the petitioner and the State to advance in the implementation of the recommendations and to reach the signing of the Agreement on Compliance with the Recommendations of the Merits Report; and remains attentive to information on its full implementation.

VI. THE DUPLICATION OF PROCEEDINGS IN RELATION TO EDGAR QUIROGA

166. On March 19, 2025, the State asked the IACR for a pronouncement on what it identified as duplication of proceedings in relation to Mr. Edgar Quiroga, who was a victim listed in Annex 3 of the judgment Members and Militants of the Patriotic Union v. Colombia and Merits Report No. 300/20 on the same facts, of both international proceedings, namely, the forced disappearance that occurred on November 28, 1999 in the municipality of San Pablo, Bolívar and the impunity in which the facts remain, and that the legal basis was identical, referring to the violation of Articles 3, 4, 5, 7, 8 and 25 of the ACHR and Articles I.A and I.B of the Inter-American Convention against Forced Disappearance.

167. On March 26, 2025, the petitioner informed the IACR that since 2020, they have asked the Reiniciar Corporation to remove the name of Mr. Edgar Quiroga from the list of victims of the case "Members and Militants of the Patriotic Union v. Colombia", since he was never part of the Patriotic Union. It indicates that on July 9, 2020, it requested the Inter-American Court to exclude from the list of victims in the case of Members and Militants of the Patriotic Union v. Colombia, and that after the issuance of the judgment in that case, on July 27, 2022, since the victim was not excluded, said request to the Court was reiterated on March 20, 2025.

168. The petitioner maintains that the State had announced that it was going to request "the Administrative Court of Cundinamarca to suspend the judicial approval process against Mr. Edgar Quiroga and his beneficiaries," which filled the next of kin of Mr. Quiroga Rojas with anguish and pain, given that the measures of reparation, satisfaction, search, justice and not agreed repetitions, would be suspended.

169. On April 7, 2025, the State informed the IACR that the Inter-American Court, in a note dated March 28, 2025, reported the following:

"This Court finds that the Reiniciar corporation had requested during the processing of the case in question the exclusion of Mr. Edgar Quiroga Rojas from the list of victims in the case. Despite this, this person appears in Annex III of the list of victims in the case. Consequently, following instructions from the Plenary of the Court, I would like to inform you that it was deemed appropriate to make the following material change in the Judgment of this case, in accordance with Article 76 of the Rules of Procedure: To delete from Annex III record 4055 of the judgment of July 27, 2022 in the Case of Members and Militants of the Patriotic Union v. Colombia, which currently contains the following text: "QUIROGA ÉDGAR Forced Disappearance San Pablo Bolívar; 28-Nov.-1999".

170. In this regard, the State indicated that it will continue to make progress in the implementation of the measures agreed upon in the Agreement on Compliance with Recommendations, in order to achieve prompt reparation for the victims.

171. In this regard, the Commission observes that the Inter-American Court excluded Mr. Quiroga from the list of victims in the case "Members and Militants of the Patriotic Union v. Colombia" and that the State indicated that it will continue to implement the reparation measures agreed upon in the Agreement on Compliance with Recommendations in this case.

172. The Commission adopted Merits (Final) Report No. 90/25 on June 24, 2025, comprising paragraphs 1 to 171 *above*. In that report, the IACtHR reiterated its recommendations:

1. To make full reparation for the human rights violations declared in this report, both in their material and non-material aspects. The State must adopt measures of economic compensation and satisfaction.
2. Investigate the fate or whereabouts of the disappeared victims and, if necessary, adopt the necessary measures to identify and deliver the mortal remains to their families.
3. To initiate, continue, or reopen the corresponding criminal and disciplinary investigations into all the human rights violations declared in this Merits Report related to the kidnapping and torture of Gildardo Fuentes, the forced disappearance of Edgar Quiroga and Gildardo Fuentes, and the murder of Victoria Delgado Anaya. These investigations must be carried out diligently, effectively, and within a reasonable period of time in order to clarify the facts in a complete manner, identify all possible responsibilities, and impose the appropriate sanctions in proportion to their seriousness and taking into account the links and patterns of joint action among paramilitaries identified in this report.
4. Provide for the necessary physical and mental health care measures for the rehabilitation of the victims' families, if they wish and in a concerted manner, which must be provided free of charge.
5. Adopt the necessary measures to prevent a repetition of the events of this case in the future, in particular by strengthening: (i) the capacity to investigate the contexts and patterns of joint action between State agents and illegal armed groups in the area where the events of this case occurred, and (ii) protection mechanisms for human rights defenders who defend or promote causes in the area where the events of this case occurred. that the facts of the present case occurred.

VII. SUBSEQUENT PROCEEDINGS TO REPORT No. 90/25 AND INFORMATION ON COMPLIANCE

173. The Commission transmitted Merits (Final) Report No. 90/25 to the State on July 9, 2025, giving it a period of three weeks to report on the measures adopted to comply with the pending recommendations. On August 8, 2025, the Commission received the State report, a communication that was forwarded to the petitioner.

174. In compliance with the seventh clause of the compliance agreement, on June 27, 2025, the parties sent the IACtHR a joint note reporting on compliance with the first recommendation regarding the comprehensive reparation of the victims, in particular on the implementation of the act of recognition of state responsibility and on the provision of computers to the Pozo Azul educational institution.

175. The parties reported that the State delivered ten laptops to the Pozo Azul Educational Institution, highlighting that twice as many computers were delivered.

176. The parties reported on the act of recognition of state responsibility, on June 20, 2025, in Bogotá, as agreed with the relatives of the victims and their representation. They indicated that this act was led by the Unit for Comprehensive Attention and Reparation to Victims, which implemented a participatory methodology for its planning and methodological and symbolic construction, with meetings with family members, in which there was psychosocial accompaniment, and an audiovisual piece of memory was constructed in honor of the victims. This event was presided over by the Presidential Advisor for Human Rights and International Humanitarian Law. They reported that, although it had initially been proposed that the act would be of a public nature, later the relatives and their representatives requested that it be private.

177. The parties indicated that within the framework of the processing of Law 288 of 1996, the Administrative Court of Cundinamarca, Third Section - Subsection B, by order of June 13, 2025, approved the Judicial Conciliation held on September 19, 2024 before the First Judicial Prosecutor's Office II for Administrative Affairs and that progress will be made in the procedures for filing the collection account for the corresponding payment.

178. On August 8, 2025, the State continued to inform about the delivery of the agreed educational aid. In this regard, it indicated that Angie Paola Quiroga Carpio has been studying a Labor Technician for Cooking Competencies at the "*Gato Dumas*" Institution since the first semester of 2025, having an outstanding performance and continuing her studies currently. It pointed out that the State has covered the enrollment and maintenance of the first semester and that it is generating the disbursements corresponding to the second semester of 2025.

179. Also, it reported that the support for the beginning of Sandra Milena Fuentes Delgado's studies at the Universidad Santo Tomás is expected in the undergraduate program in Business Administration and that she is advancing the necessary administrative procedures for the implementation of the educational aid from the first semester of 2026. Regarding Luis Alfredo Fuentes Delgado, he reported that he is attentive to the definition of the beginning of his studies to articulate the procedures corresponding to the beginning of the implementation of this aid.

180. Regarding the delivery of the commemorative scholarships, the State reported on a meeting held on July 11, 2025, with the relatives and their representatives and that the implementation of this measure is expected to begin in the first half of 2026, with the corresponding steps for the application to obtain resources.

181. Regarding access to SENA's offer, the State indicated that the beneficiaries have not expressed the will to begin its implementation.

182. With respect to the short film, the State reported that, under the coordination of the National Center for Historical Memory, consultation meetings have been held with the relatives and their representatives in which it presented and explained the dialogic and constructivist methodological process designed for the implementation of the measure. It indicated that on July 29, 2025, the execution of the methodological proposal began through days of interviews with relatives and progress in the collection of information. It refers that this two-year process is essential for the reconstruction of memory and for giving meaning to the final product.

183. With regard to literature stimuli, it reported that preliminary actions have been carried out in coordination in order to make it possible to convene such stimuli in literary creation and journalistic chronicles, aimed at promoting critical reflection on human rights, the defense of the territory, socio-environmental conflicts and memory. It indicated that a meeting space is being articulated with the victims and their representatives to jointly agree on its implementation.

184. Regarding the endowment of the Pozo Azul Educational Institution, it reported that it has advanced preliminary actions in order to make this endowment viable with a focus on art, culture, memory and life. It indicated that a meeting space is being articulated with the victims and their representatives in order to agree on its implementation. Regarding the adaptation of the multiple court, it indicated that the Virgilio Barco Vargas National Real Estate Agency is advancing in the designs and costing of the multiple court and in the management and processing of permits and authorizations with the territorial entity.

185. Regarding the exemption from military service and any payment to obtain the military booklet, the State indicated that the beneficiaries and their representatives were informed of the step-by-step steps for obtaining the free digital military booklet for victims of the armed conflict, which is a free and expeditious procedure that must be carried out directly by each beneficiary. The State considers that this measure has been complied with.

186. With regard to the second recommendation, with respect to the search for the two disappeared victims, the State reported that it is working with its entities to develop an Inter-Institutional Search Plan, which will be submitted for the observations and approval of representatives and their families.

187. With respect to the fourth recommendation, relating to medical and psychological care, the State reported that it has been accompanying the relatives in the various processes of overcoming barriers to access identified and accompanying the family members in the process with the health care providers. It indicated that the Ministry of

Health and Social Protection and the Superintendence of Health have taken various actions to guarantee the prompt and correct provision of the services required by Mr. Hernán Quiroga, taking into account his state of health.

188. With respect to the fifth recommendation, regarding measures of non-repetition, the State reported that progress has been made in holding semi-annual meetings with family members and their representatives to report on the progress of this process. With regard to the component in charge of the UNP, the State indicated that the entity has expressed its willingness to activate the individual protection route. Consequently, once the relatives express their willingness to begin implementing this measure and submit the requested documentation, it will begin with the agreed annual meetings.

189. The IACtHR values the communication and dialogue that is maintained between the parties. With respect to the **first recommendation** regarding comprehensive reparation, the IACtHR appreciates the fact that the private act of acknowledging the State's responsibility was carried out, in agreement with the next of kin, as a contribution to the dignity and memory of the victims and to the obtaining of justice and reparation.

190. The Commission notes the provision of computers to the educational institution and the educational aid provided, which are having an effect on the development of the victims; as well as the progress of the procedure provided for in Law 288 of 1996. It also values that the procedure for obtaining the military card be free of charge for victims of the armed conflict. The IACtHR also notes the progress made in the State's coordination of meetings and procedures for the implementation of the other satisfaction measures. Notwithstanding these advances in partial compliance with this recommendation, the IACtHR observes that compliance with this recommendation is still pending.

191. With respect to the **second recommendation** regarding the search for the two victims who are still disappeared, the Commission is attentive to the State's report on the presentation, approval, and implementation of the aforementioned Inter-Institutional Search Plan. The Commission recalls that 26 years have passed since these crimes were committed and five since the IACtHR issued this recommendation. In view of the fact that the State has not yet complied, the IACtHR urges the State to carry out a serious search, without further delay.

192. The Commission notes that the State has not provided updated information on compliance with the **third recommendation** regarding criminal and disciplinary investigations. Therefore, this recommendation is still pending compliance.

193. With respect to the **fourth recommendation**, concerning medical and psychological care, the Commission notes that it is being provided to Mr. Hernán Quiroga. Nonetheless, it remains attentive that the State reports on its implementation with respect to the other family members. Therefore, the IACtHR considers that compliance with this recommendation is pending.

194. With respect to the **fifth recommendation**, referring to measures of non-repetition, the Commission observes that, in addition to the UNP's willingness to move forward with the activation of the individual protection route, the State has not provided information on concrete actions for the implementation of these measures, and therefore considers compliance with them pending.

VIII. CONCLUSIONS AND FINAL RECOMMENDATIONS

195. The Commission concludes that the Colombian State is responsible for the violation of the rights established in Articles 3 (juridical personality), 4 (right to life), 5(1), 5(2) (humane treatment), 7 (personal liberty), 8(1) (right to a fair trial), and 25(1) (judicial protection) of the American Convention, in relation to Article 1(1) of the same instrument. It is also responsible for the violation of Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture and Articles I(a) and I(b) of the Inter-American Convention on Forced Disappearance of Persons.

196. Based on the analysis and conclusions of this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RECOMMENDS THAT THE STATE OF COLOMBIA:

1. To make full reparation for the human rights violations declared in this report, both in their material and non-material aspects. The State must adopt measures of economic compensation and satisfaction.
2. Investigate the fate or whereabouts of the disappeared victims and, if necessary, adopt the necessary measures to identify and deliver the mortal remains to their families.
3. To initiate, continue, or reopen the corresponding criminal and disciplinary investigations into all the human rights violations declared in this Merits Report related to the kidnapping and torture of Gildardo Fuentes, the forced disappearance of Edgar Quiroga and Gildardo Fuentes, and the murder of Victoria Delgado Anaya. These investigations must be carried out diligently, effectively, and within a reasonable period of time in order to clarify the facts in a complete manner, identify all possible responsibilities, and impose the appropriate sanctions in proportion to their seriousness and taking into account the links and patterns of joint action among paramilitaries identified in this report.
4. Provide for the necessary physical and mental health care measures for the rehabilitation of the victims' families, if they wish and in a concerted manner, which must be provided free of charge.
5. Adopt the necessary measures to prevent a repetition of the events of this case in the future, in particular by strengthening: (i) the capacity to investigate the contexts and patterns of joint action between State agents and illegal armed groups in the area where the events of this case occurred, and (ii) protection mechanisms for human rights defenders who defend or promote causes in the area where the events of this case occurred. that the facts of the present case occurred.

IX. PUBLICATION

197. In accordance with the foregoing and in accordance with the provisions of Article 51(3) of the American Convention and Article 47(3) of its Rules of Procedure, 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 govern its mandate, will continue to evaluate whether the State of Colombia provides full reparations to the victims in accordance with the provisions of the recommendations indicated above, until it determines that they have been fully complied with.

Approved by the Inter-American Commission on Human Rights on November 14, 2025. (Signed): José Luis Caballero Ochoa, President; Andrea Pochak, First Vice President; Arif Bulkan, Second Vice President; and Roberta Clarke, member of the Commission.