

OEA/Ser.L/V/II.150
Doc. 291
8 November 2022
Original: Spanish

REPORT No. 286/22

CASE 13.226

FRIENDLY SETTLEMENT REPORT

DORA INÉS MENESES GÓMEZ ET AL.
COLOMBIA

Electronically approved by the Commission on November 8, 2022.

Cite as: IACHR, Report 286/22, Case 13,226. Friendly Settlement. Dora Inés Meneses Gómez *et al.* Colombia. November 8, 2022.



REPORT No. 286/22
CASE 13.226
FRIENDLY SETTLEMENT REPORT
DORA INÉS MENESES GÓMEZ ET AL.
COLOMBIA¹
NOVEMBER 8, 2022

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On November 29, 2004, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission," "the Commission," or "the IACHR") received a petition filed by Ángel Emiro Meneses Gómez. His representation was subsequently taken over by the Corporación para el Manejo de Conflictos del Norte del Cauca (hereinafter "the petitioners"), which alleged that the Republic of Colombia (hereinafter "Colombia" or "the State") was internationally responsible for the violation of the rights set forth in article 4 (life), 5 (humane treatment), 7 (personal liberty), 8 (judicial guarantees), 19 (rights of the child), 22 (movement and residency), and 25 (judicial protection) of the American Convention on Human Rights (hereinafter the "Convention" or "American Convention"), to the detriment of Dora Inés Meneses Gómez, Luz Mérida Ocampo, Gonzalo Ocampo Meneses (child), Floresmiro Guasaquillo, Faber Gil Buitrago, Héctor Fabián Ocampo Meneses, and José Duván Gil Vásquez and their relatives (hereinafter the "alleged victims"), as well as for the violation of article 3 and 4 of the Convention of Belém do Pará with regard to Dora Inés Meneses Gómez and Luz Mérida Ocampo. They argued that this was due to the alleged failure to investigate the alleged extrajudicial executions of Dora Inés Meneses Gómez, Luz Mérida Ocampo, Gonzalo Ocampo Meneses, Faber Gil Buitrago, and Floresmiro Guasaquillo; the alleged injuries caused to Héctor Fabián Ocampo Meneses; the alleged deprivation of liberty of José Duván Gil Vásquez; and the alleged failure to hand over the victims' remains, as well as the subsequent failure to punish those responsible for the facts that took place.

2. On May 25, 2017, the Commission issued Admissibility Report No. 53/17, in which it declared the petition admissible and found it had the competence to hear the claim filed by the petitioners regarding the alleged violation of the rights enshrined in articles 3 (right to recognition of juridical personality), 4 (life), 5 (personal integrity), 7 (personal liberty), 8 (judicial guarantees), 11 (protection of honor and dignity), 19 (rights of the child), 22 (right to movement and residency), and 25 (judicial protection) of the American Convention, read in conjunction with the obligations established in Article 1(1) of the Convention and articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture.

3. On July 16, 2019, the parties signed a memorandum of understanding for the pursuit of a friendly settlement in this case, together with a work timeline to move the negotiations forward. Over the following months, the parties held bilateral meetings to analyze the reparation measures to be included in the friendly settlement agreement (hereinafter FSA), leading to the signing of the agreement on August 4, 2021, in the city of Bogota D.C. Subsequently, on December 24, 2021, the parties presented a joint report on the progress made toward implementing the FSA and asked the IACHR to approve it.

4. Pursuant to the provisions of Article 49 of the Convention and Article 40(5) of the Rules of Procedure of the Commission, this friendly settlement report will include an overview of the facts alleged by the petitioners and the transcription of the friendly settlement agreement signed by the petitions and the representatives of the Colombian State on August 4, 2021. Likewise, the agreement signed by the parties is approved, along with the publication of this document in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

II. THE FACTS ALLEGED

5. The petitioners alleged that, on November 29, 2003, the troops of Juananbú Infantry Battalion 12 of the Colombian Army, part of the Twelfth Brigade, had begun a military operation known as "Normandía"

¹ Commissioner Carlos Bernal Pulido, of Colombian nationality, did not participate in the discussion and decision on this case, pursuant to Article 17(2)(a) of the Rules of Procedure of the IACHR.

against insurgents from the 49th front of the now-defunct Armed Revolutionary Forces of Colombia (FARC). The petitioners indicated that on November 30, 2003, the troops went to the village of El Cedro, Zabaleta township, in the Municipality of San José de la Fragua, Department of Caquetá, with the objective of destroying a FARC communication station. On the way to the village in question, the soldiers detained Floresmiro Guasaquillo and Faber Gil Buitrago with the aim of getting them to tell them about the location from which the communication station supposedly operated.

6. The petitioners indicated that on that same day, at dawn, a group of armed persons, apparently belonging to the FARC, entered the village of El Cedro and forced Dora Inés Meneses, along with her children, Gonzalo and Héctor Fabián Ocampo Meneses, 9 months old and 4 years old, respectively, together with Luz Mélida Ocampo, to relocate from their house to where the communication antenna was operating. On their way there, the armed group detained José Duván Gil Vásquez, who was forced to accompany the women and carry one of the children.

7. The petitioners indicated that upon arrival to the site where the antenna was operating, the women were forced to move some communication equipment, at which point the National Army appeared and opened fire on the people there, causing the deaths of Dora Inés Meneses, Luz Mélida Ocampo, and the child Gonzalo Ocampo Meneses, and wounding the child Héctor Fabián Ocampo Meneses. The petitioners indicated that later, Faber Gil Buitrago identified his wife among the victims, which is why he shouted insults at the soldiers in the area. In response, they tortured and later executed him, together with Floresmiro Guasaquillo. The petitioners indicated that José Duván Gil Vásquez managed to escape from the shooting but was captured moments later by another group of soldiers and subsequently prosecuted for the crime of rebellion.

8. The petitioners stated that after the massacre, the soldiers buried the 9-month-old boy, Gonzalo Ocampo Meneses, as a John Doe at the scene of the facts. In addition, they took child Héctor Fabián Ocampo Meneses to the Florencia Hospital and later handed him over to the Family Welfare Institute with a report indicating that his parents had died in a clash with the Army. The Institute therefore entrusted him to the care of his paternal grandparents. The petitioners also indicated that the bodies of the other alleged victims had been taken to the city of Florencia and presented to the media as members of the FARC, and that later, members of the Army buried Dora Inés Meneses, Luz Mélida Ocampo, and Faber Gil Buitrago as John and Jane Does in a mass grave in the central cemetery of the city of Florencia, the capital of the Department of Caquetá. The petitioners alleged that sometime later, at the request of the next of kin, the bodies were ordered exhumed and tested against the DNA of their relatives; however, they indicated that 10 years since the exhumation and DNA comparisons, the remains of the victims had still not been delivered to their next of kin, nor the respective death certificates issued. In this regard, the petitioners added that as of the filing of the petition, the relatives did not know the location of the remains of the alleged victims, thus amounting to the crime of forced disappearance.

9. The petitioners reported that criminal proceedings had been initiated before the 14th Office of the Prosecutor of the city of Florencia for the crime of murder, aggravated by the facts, and that the investigation had been forwarded to the military criminal justice system by an order dated May 18, 2004. They also indicated that the criminal process had been assigned to the 45th Office of the Prosecutor Specialized in Human Rights of the city of Neiva, Department of Huila, following an order on jurisdiction issued by the Superior Council of the Judiciary. As of the presentation of the original petition before the IACHR, the process was at the preliminary investigation stage. The petitioners indicated that because of the petitions filed by Ángel Emiro Meneses—the brother of Dora Inés Meneses—he and his family have been subjected to threats and forced to move.

10. Additionally, the petitioning party indicated that relatives of Dora Inés Meneses Gómez, Gonzalo Ocampo Meneses, and Héctor Fabián Ocampo Meneses had filed suit for direct reparation before the Contentious Administrative Court of Caquetá. In this regard, they reported that, on June 29, 2012, the Second Administrative Decongestion Court of Florencia Caquetá found the State responsible. The judgment was appealed by the defendant entity, and a ruling on the appeal was pending before the Contentious-Administrative Court of Caquetá as of the time the original petition was presented before the IACHR.

11. Lastly, as regards the investigation before the military criminal justice system, the petitioners reported that on December 11, 2003, the Command of the Twelfth Brigade of the National Army had initiated a disciplinary investigation. That investigation was shelved after a March 16, 2004 judgment found that the facts did not amount to a disciplinary offense.

12. Concerning José Duván Gil Vásquez, the petitioners argued that he had been arbitrarily deprived of liberty and sentenced by the trial court for the crime of rebellion. They indicated that his statements were influenced by fear of being killed by the military, given that, upon his arrest, he heard his captors discuss whether or not they should execute him. The petitioners added that members of the Army repeatedly threatened him while he was in jail to get him to change his account of the facts. They also indicated that the criminal proceeding against him involved several due process violations, including a lack of legal defense. This was confirmed by a ruling issued by the Supreme Court of Justice on February 19, 2009, nullifying what was done in the process from the order to close the investigation, including giving the accused an opportunity to mount an adequate legal defense.

13. Lastly, it should be noted that as of the date the petition was filed, according to the petitioner, those responsible for the facts had not been punished, nor had the victims' relatives been fully compensated.

III. FRIENDLY SETTLEMENT

14. On August 4, 2021, the parties signed a friendly settlement agreement establishing the following:

FRIENDLY SETTLEMENT AGREEMENT CASE 13,226 – DORA INÉS MENESES GÓMEZ ET AL.

On August four (04), 2021, in the city of Bogotá D.C., on the one hand, Ana María Ordóñez Puentes, director for international legal defense of the National Agency for Legal Defense of the State, acting with due authorization on behalf of and representing the Colombian State, and who will hereinafter be referred to as the "State" or the "Colombian State;" and on the other, the Corporación para el Manejo de Conflictos del Norte del Cauca, hereinafter "COMAC," represented by Dr. Eyver Samuel Escobar Mosquera, who act on behalf of the victims and are hereinafter referred to as the "petitioners," sign this Friendly Settlement Agreement in the framework of Case 13,226 Dora Inés Meneses Gómez *et al.*, currently before the Inter-American Commission on Human Rights.

PART ONE: DEFINITIONS

For the purposes of this Agreement, the below terms shall be understood as follows:

IACHR or Inter-American Commission: Inter-American Commission on Human Rights.

Moral damage: Harmful effects of the facts of the case that are not economic or financial in nature but manifest in the form of pain, affliction, sadness, anguish, and anxiety felt by the victims.

Material damage: It supposes the loss or detriment of the victim's income, the expenses incurred as a result of the facts, and the consequences of a pecuniary nature that have a causal link with the facts of the case.²

² IHR Court. Cases of the Serrano Cruz Sisters vs. El Salvador, (Merits, Reparations and Costs). Judgment of March 1, 2005, Series C No. 120, para. 150.

Non-pecuniary damage: Includes distress and suffering caused to the victims, tampering with individual core values, and changes of a non-pecuniary nature in the living conditions of the victims or their families.³

State or Colombian State: In accordance with Public International Law, it shall be understood as the signatory subject of the American Convention on Human Rights, hereinafter “American Convention” or “ACHR.”

Measures of satisfaction: Non-pecuniary measures whose purpose is to help the victims recover from the damage that has been caused to them. Some examples of these measures include public dissemination of the truth and acts to make amends.

Parties: State of Colombia, relatives of the victim, and their representatives.

Acknowledgment of responsibility: Acceptance of the facts and the human rights violations attributed to the State.

Comprehensive reparations: All those measures which objectively and symbolically restore the victim to the state prior to the commission of the damage.

Representatives of the victims: The Corporación para el Manejo de Conflictos del Norte del Cauca (COMAC).

Friendly Settlement: Alternative dispute resolution mechanism, used for peaceful and consensual settlement before the Inter-American Commission.

Victims: Héctor Fabián Ocampo Meneses, José Duvan Gil Vásquez, and the next of kin of the seven direct victims of the facts of the case.

SECOND PART: BACKGROUND

BEFORE THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

1. On November 29, 2004, the Inter-American Commission received a petition filed by Mr. Ángel Emiro Meneses Gómez—subsequently taken over by the Corporación para el Manejo de Conflictos del Norte del Cauca—over the alleged murder and failure to hand over the remains of Dora Inés Meneses, Luz Mélida Ocampo, Gonzalo Ocampo Meneses (a minor at the time of the facts), Floresmiro Guasaquillo, and Faber Gil Buitrago, who were presented by the National Army in the Department of Caquetá as members of the FARC’s 49th Front (with the exception of the child Gonzalo Ocampo Meneses).
2. The petition was filed on behalf of Dora Inés Meneses, Luz Mélida Ocampo, Gonzalo Ocampo Meneses, Floresmiro Guasaquillo, Faber Gil Buitrago, Héctor Fabián Ocampo Meneses, José Duván Gil Vásquez, and their next of kin.⁴
3. In the initial petition, the petitioners alleged acts of torture against Floresmiro Guasaquillo and Faber Gil Buitrago prior to their execution. Likewise, they alleged that Héctor Fabián Ocampo Meneses (a minor) was injured in the facts, and that José Duván Gil Vásquez was arrested and prosecuted for the crime of rebellion.

³ Inter-American Court. *Case of Caesar v. Trinidad and Tobago* (merits, reparations and costs). Judgment of March 11, 2005. Series C No. 123, para. 125.

⁴ Ángel Emiro Meneses Gómez, Waldina Gómez, Jacobo Meneses, Ana Rosa Álvarez Devia, Rogerio Ocampo Ramada, María Nelly Ocampo Álvarez, Teresa de Jesús Devia de Álvarez, Yon Jair Ocampo Álvarez, Rosa Orfilia Ocampo Álvarez, José Duván Gil Vásquez, Blanca Elvia Iles de Buesaquillo, Nulvial Buesaquillo Iles, and others.

4. Additionally, the petition alleged a failure to investigate, sanction, and issue reparations over the facts alleged.

5. On May 25, 2017, through Report No. 53/17, the Inter-American Commission declared the petition admissible with respect to the Colombian State's alleged violation of articles 3 (right to recognition of juridical personality), 4 (right to life), 5 (right to personal integrity), 7 (right to personal liberty), 8 (judicial guarantees), 11 (protection of honor and dignity), 19 (rights of the child), 22 (right to movement and residency), and 25 (judicial protection) of the American Convention, read in conjunction with the obligations established in Article 1(1) of the Convention and articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture.

6. A Memorandum of Understanding on Reaching a Friendly Settlement was signed by the Colombian State and the petitioners on July 16, 2019, and brought to the attention of the Inter-American Commission on July 17, 2019.

DOMESTIC COURTS

1. A lawsuit for direct reparations was filed over the facts of the case before adversarial administrative courts by Ángel Emiro Meneses Muñoz, Waldina Gómez Ledezma, Ángel Emiro Meneses Gómez, Ruth Mercedes Meneses Gómez, and Miller Jacobo Meneses Gómez in their capacity as the next of kin of Dora Inés Meneses Gómez and minor children Gonzalo and Héctor Fabián Ocampo Meneses.

2. In a judgment dated June 29, 2012,⁵ the Second Administrative Court for Judicial Decongestion of the Florencia Circuit, Caquetá, found the Nation - Ministry of Defense - National Army administratively responsible. The decision was appealed.

3. In the appeal process, the Administrative Court of Caquetá issued a judgment on December 14, 2017,⁶ amending the first and second paragraphs of the judgment issued on June 29, 2012, declaring the Nation, Ministry of Defense, and National Army administratively responsible for the death of Dora Inés Meneses and the minor Gonzalo Ocampo Meneses, and of the injuries caused to the minor Fabián Ocampo Meneses, ordering the following measures of reparation:

- Issue, by way of compensation, for the moral damages caused to the next of kin of the victims, the following sums of money:

Beneficiary	Amount Ordered
Angel Emiro Meneses Munoz	205 monthly minimum wages
Waldina Gomez Ledezma	205 monthly minimum wages
Ángel Emiro Meneses Gómez	118.5 monthly minimum wages
Ruth Mercedes Meneses Gómez	118.5 monthly minimum wages
Miller Jacob Meneses Gómez	118.5 monthly minimum wages

⁵ Judgment 89 of the Second Administrative Court for Judicial Decongestion of the Florencia Circuit, Caquetá, in the direct reparations process brought by Ángel Emiro Meneses Muñoz *et al.* against the Nation - Ministry of Defense - National Army. File 180012331003-2005-00464-00.

⁶ Judgment 08-12-300-17/ORD-25-02 of the Administrative Court of Caquetá, in the direct reparations process brought by Ángel Emiro Meneses Muñoz *et al.* against the Nation - Ministry of Defense - National Army. File 18-001-33-31-002-2005-00464-01.

- Issue a request for a public apology in a newspaper with wide national and regional circulation, on its main pages, to be published three times.
- Publish the appeals court sentence in its entirety on the entity's website, on a variety of online media, and on social media for a minimum of 12 months.
- Conduct one or several training sessions in all battalions and brigades of the Department of Caquetá with representatives from all military ranks and members of each of military command, battalion, unit, and patrol, including civilians associated with the National Army, to provide instruction on the rights of children and their protection, on the State's responsibility to guarantee their rights and protect them, without using the internal armed conflict as an excuse, while emphasizing the rights and responsibilities contained in the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, [and the] American Convention on Human Rights.
- Send a copy of the case file and the judgment to the Office of the Attorney General of the Nation, [so that] the National Human Rights or International Humanitarian Law Unit and/or whoever would be the correct entity launches, reopens, or completes the corresponding criminal investigations into the facts that took place in this matter, investigations that must produce effective and substantive results.
- Install a commemorative plaque stating the following:

“MINOR VICTIMS OF FALSE POSITIVES
Facts that took place on November 30, 2003 in the rural area of San José del Fragua

Children and adolescents deserve special protection from the family, society, and the State.
They must be left out of the armed conflict in Colombia, and are to be supported and
protected by the National Army.
Nation – Ministry of Defense – National Army”

The Court also ordered that this plaque be placed in the parade square of the Juanambú Battalion of Florencia Caquetá, the battalion of the soldiers who took part in the facts that led to the deaths of minor Gonzalo Ocampo Meneses and his mother, Dora Inés, and the injury of minor Héctor Fabian Ocampo Meneses, indicating that it must include at the end the date on which it was installed.

4. The Ministry of National Defense is in the process of complying with the measures ordered by the Administrative Court of Caquetá's judgment of December 14, 2017.
5. Additionally, another lawsuit over the facts of the case was filed by Gonzalo Ocampo Álvarez, Héctor Fabián Ocampo Meneses, Rogerio Ocampo Ramada, Ana Rosa Álvarez Devia, María Nelly Ocampo Álvarez, Teresa de Jesús Devia de Álvarez, José Duván Gil Vásquez, Blanca Elvia Iles de Buesaquillo, and Nulbia Buesaquillo Iles, seeking direct compensation.
6. This lawsuit was decided by a judgment issued May 31, 2018,⁷ by the Second Administrative Court of Florencia, Caquetá, which found the Nation - Ministry of Defense - National Army administratively responsible for the facts that took place on November 30, 2003. It therefore ordered the payment of pecuniary damages⁸ for loss of future earnings, as

⁷ Judgment 281 of the Second Administrative Court of Florencia, within the direct reparations process brought by María Nelly Ocampo *et al.* against the Nation – Ministry of Defense – National Army. File 18-001-33-33-002-2015-00636-00.

⁸ For loss of earnings, \$248,925,474 was granted to Gonzalo Ocampo Álvarez and \$185,835,458 to Héctor Fabián Ocampo Meneses.

well as non-pecuniary damages⁹ for moral damage, damage to health, and damage to constitutionally protected rights, as well as measures of satisfaction.

7. This decision was appealed and is currently before the Administrative Court of Caquetá, awaiting a judgment.

8. On the other hand, in the investigation that continued against José Duván Gil Vásquez for the crime of rebellion before the 13th Sectional Prosecutor of Belén de los Andaquíes, in the Municipality of Caquetá, a Resolution of Preclusion of the Investigation was issued in his favor on July 3, 2009.

THIRD PART: BENEFICIARIES

For the purposes of this agreement, the Colombian State recognizes the following as victims:

Direct victims:

- Héctor Fabián Ocampo Meneses, ID number [...], of San José del Fragua, Caquetá.
- José Duván Gil Vásquez, ID number [...], of Puerto Boyacá, Boyacá.

Indirect victims:

- Gonzalo Ocampo Álvarez, ID number [...]
- Ángel Emiro Meneses Muñoz, ID number [...]
- Waldina Gómez Ledezma, ID number [...]
- Ángel Emiro Meneses Gómez, ID number [...]
- Ruth Mercedes Meneses Gómez, ID number [...]
- Miller Jacob Meneses Gómez, ID number [...]
- Luz Mary Gómez, ID number [...]
- Rogerio Ocampo Ramada, ID number [...]
- Ana Rosa Álvarez Devia, ID number [...]
- Yon Jair Ocampo Álvarez, ID number [...]
- Rosa Orfilia Ocampo Álvarez, ID number [...]
- María Nelly Ocampo Álvarez, ID number [...]
- Teresa de Jesús Devia de Álvarez, ID number [...]
- Blanca Elvia Iles de Buesaquillo, ID number [...]
- Elber Fabián Buesaquillo Iles, ID number [...]
- Nulbia Buesaquillo Iles, ID number [...]
- Omar Buesaquillo Gaviria, ID number [...]
- Amanda Buesaquillo Gaviria, ID number [...]
- Peregrino Gaviria, ID number [...]
- Jesús Antonio Gaviria, ID number [...]
- Ubaldina Gaviria, ID number [...]
- Blanca Eider Buesaquillo Gaviria, ID number [...]

The indirect victims recognized in this Friendly Settlement Agreement will benefit provided that they prove: (i) relationship by affinity, namely, spouse or permanent partner, or (ii) relationship by consanguinity with any of the seven direct victims of the facts of the case, namely, as grandparent, parent, sibling, or child.

⁹ For moral damage, 300 monthly minimum wages were granted to Gonzalo Ocampo Álvarez and 180 monthly minimum wages to Rogerio Ocampo Ramada, Ana Rosa Álvarez Devia, María Nelly Ocampo Álvarez, and José Duván Gil Vásquez. Likewise, an amount equivalent to 60 monthly minimum wages was granted to Héctor Fabián Ocampo Meneses for damage to health, along with an amount equivalent to 50 monthly minimum wages for damage to constitutionally protected rights.

Likewise, regarding pecuniary compensation, the victims will be granted such reparations if they have not been compensated within the framework of the decision issued on December 14, 2017, by the contentious-administrative jurisdiction—that is, Contentious Administrative Court of Caquetá Judgment 18001-33-31-002-2005-00464-01.

Lastly, the victims benefiting from this Friendly Settlement Agreement shall be those who were alive at the time of the victimizing act¹⁰ and remain alive as of signing the Agreement.

FOURTH PART: ACKNOWLEDGMENT OF RESPONSIBILITY

The Colombian State acknowledges its international responsibility by omission, for the violation of the rights recognized in articles 8 (judicial guarantees) and 25 (judicial protection) of the American Convention on Human Rights, read in conjunction with Article 1(1), to the detriment of Ángel Emiro Meneses Muñoz, Waldina Gómez Ledesma, Ángel Emiro Meneses Gómez, Ruth Mercedes Meneses Gómez, and Miller Jacob Meneses Gómez, as a consequence of the failure to investigate and punish those responsible for the facts that took place on November 30, 2003, in the framework of the criminal proceeding.¹¹

The Colombian State acknowledges its international responsibility, in action, for the violation of the rights recognized in articles 4 (life), 5 (humane treatment), 7 (personal liberty), 11 (protection of honor and dignity), 19 (rights of the child), and 22 (movement and residency) of the American Convention on Human Rights, read in conjunction with Article 1(1), to the detriment of Héctor Fabián Ocampo y de Gonzalo Ocampo Álvarez, Luz Mary Gómez, Rogerio Ocampo Ramada, Ana Rosa Álvarez Devia, Yon Jair Ocampo Álvarez, Rosa Orfilia Ocampo Álvarez, María Nelly Ocampo Álvarez, Teresa de Jesús Devia de Álvarez, Blanca Elvia Iles de Buesaquillo, Elber Fabián Buesaquillo Iles, Nulbia Buesaquillo Iles, Omar Buesaquillo Gaviria, Amanda Buesaquillo Gaviria, Peregrino Gaviria, Jesús Antonio Gaviria, Ubaldina Gaviria, Blanca Eider Buesaquillo Gaviria, and José Duvan Gil Vásquez, for the facts that took place on November 30, 2003. Likewise, with respect to these victims, the State acknowledges its international responsibility in omission for the violation of the rights recognized in articles 8 (judicial guarantees) and 25 (judicial protection) of the American Convention, with respect to the criminal proceeding pursued.

The State also accepts international responsibility in action for the violation of the rights recognized in articles 5 (humane treatment) and 7 (personal liberty) of the American Convention on Human Rights, read in conjunction with Article 1(1), to the detriment of José Duván Gil Vásquez, as a result of his detention and prosecution for the crime of rebellion.

FIFTH PART: MEASURES OF SATISFACTION

The parties establish that, within the framework of this Agreement, the following measures of satisfaction will be carried out:

i. Publication of the Article 49 Report:

Once it is approved by the Inter-American Commission, the Colombian State will publish the pertinent sections of the friendly settlement report on the websites of the National Legal Defense Agency of the State and the Ministry of National Defense for a period of one year.¹²

¹⁰ Pursuant to the case law of the Inter-American Court. See Inter-American Court. 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. 425

¹¹ Bearing in mind that at the domestic level, State responsibility in action was established via the judgment issued by the Administrative Court of Caquetá on December 14, 2017, which identified the violations and ordered their redress. The State acknowledges to these victims, by virtue of the principle of subsidiarity, its responsibility for omission with respect to the investigation carried out within the framework of the criminal process as regards the rights to judicial guarantees and judicial protection.

¹² Ministry of National defense. Email dated June 2, 2021.

ii. Economic assistance grant:

One (1) economic assistance grant will be provided to Héctor Fabián Ocampo Meneses, to pay for an undergraduate education at an institute of higher learning in Colombia.

The grant will cover the enrollment costs of a professional, technical, or university academic program with a cost per semester equivalent to up to 11 monthly minimum wages, along with per-semester stipend of up to 2 monthly minimum wages should the institute of higher learning be located in the municipality where the beneficiary resides or up to 4 monthly minimum wages should the institute of higher learning be located outside the beneficiary's municipality of residence.

Within the framework of university autonomy, the Ministry of National Education will refrain from arranging or requesting admission or a seat at an institute of higher learning. The beneficiary must carry out the procedures necessary to secure admission, ensuring adequate academic performance.

Should the beneficiary be expelled for disciplinary reasons or poor academic performance, the measure will be understood to have been fulfilled by the Colombian State.

The economic assistance grant must be used within a term five years of the signing of this agreement. Otherwise, the State shall be considered to have complied fully with granting the measure.

This measure is the responsibility of the Ministry of National Education and the Colombian Institute of Educational Credit and Technical Studies Abroad (ICETEX).¹³

SIXTH PART: HEALTH AND REHABILITATION MEASURES

The Ministry of Health and Social Protection will implement health rehabilitation measures consisting of medical, psychological, and psychosocial care via the General System of Social Security in Health (SGSSS) and the Psychosocial Care and Comprehensive Health Program for Victims (PAPSIVI). Adequate, timely and priority treatment will be guaranteed to people needing it and for as long as necessary once they consent to receive it.

When providing the psychological treatment and psycho-social support, the specific circumstances and needs of each person must be taken into consideration so that they are offered collective, family, and individual care, as agreed with each of them and following an individual assessment.

For access to comprehensive healthcare, access in timely and quality conditions to the required medications and treatments (which include physical and mental health) is guaranteed to the beneficiaries of the measures following the provisions that govern the SGSSS. At the same time, the beneficiaries must be provided with priority and differentiated care in view of their status as victims.

These measures are to be implemented starting from the signing of the friendly settlement agreement.¹⁴

¹³ Ministry of Education. Official letter, file 2021-EE-064334 of April 13, 2021.

¹⁴ Ministry of Health and Social Protection. Official letter, file 202016101275551 of August 20, 2020.

SEVENTH PART: MEASURES OF JUSTICE

In exercise of its authorities and in application of its legal regime, the Special Jurisdiction for Peace (SJP) will conduct the investigation into the dynamics of the extrajudicial executions in the framework of macro case 003, "Deaths unlawfully presented as combat casualties by State agents."¹⁵

Additionally, the Office of the Attorney General of the Nation, within the framework of its powers, will continue to pursue with all due diligence the investigative steps necessary to secure the evidence required to establish who else is responsible for the facts that took place.¹⁶

EIGHTH PART: MEASURES OF COMPENSATION

Compensation for the damages caused by the violations recognized in this Friendly Settlement Agreement will be issued by the Ministry of National Defense, in accordance with the parameters indicated below:

- **Withdrawal of suit for direct reparations.** With the signing of this friendly settlement agreement by the State and the representatives of the victims, the petitioners commit to withdrawing Direct Reparations Suit 18-00-33-33-002-2015-00636-00, which is currently being appealed before the Administrative Court of Caquetá. Likewise, they expressly waive the possibility of filing another legal action domestically regarding the same facts and claims.

- **Execution of pecuniary reparations.** The Ministry of National Defense undertakes to provide compensation for the pecuniary and non-pecuniary damage proven to have been caused by the violations recognized in this agreement through the mechanism established by Law 288 of 1996.

The mechanism in question is triggered once the petitioners withdraw Direct Reparation Suit 18-00-33-33-002-2015-00636-00 and the friendly settlement agreement is approved through the issuance of the Article 49 of the American Convention report. The aim is to redress the damage caused to the next of kin of the duly validated victims who can demonstrate the harm caused by the facts involved in this case and who have not been awarded compensation domestically by the contentious administrative courts.¹⁷

NINTH PART: APPROVAL AND MONITORING:

The parties ask the Inter-American Commission to approve this Agreement and monitoring.

With the Agreement having been read and the parties understanding of its legal scope and content, it is signed on the fourth day of the month of August 2021.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

15. The IACHR reiterates that in accordance with Articles 48.1.f and 49 of the American Convention, the purpose of this procedure is to "reach a friendly settlement of the matter based on respect for the human rights recognized in the Convention". The acceptance to carry out this procedure expresses the good faith of the State to comply with the purposes and objectives of the Convention by virtue of the principle *pacta sunt servanda*, by which the States must comply in good faith with the obligations assumed in the treaties.¹⁸ The Commission also wishes to reiterate that the friendly settlement procedure provided for in the Convention

¹⁵ Special Jurisdiction for Peace. Official letter, file 202002003089 dated August 3, 2020.

¹⁶ Office of the Attorney General of the Nation. Official letter, file 20211700031231 of May 7, 2021

¹⁷ Ministry of National defense. Email dated June 2, 2021.

¹⁸ Vienna Convention on the Law of Treaties, U.N. Doc. A/CONF.39/27 (1969), Article 26: "*Pacta sunt servanda*." "Every treaty in force is binding upon the parties to it and must be performed by them in good faith."

allows for the termination of individual cases in a non-contentious manner, and has proven, in cases involving several countries, to offer an important vehicle for settlement, which can be used by both parties.

16. The Inter-American Commission has closely followed the development of the friendly settlement reached in this case and values the efforts made by both parties during the negotiation to reach this friendly settlement, which is compatible with the objective and aims of the Convention.

17. Pursuant to the agreement signed between the parties whereby they asked the Commission to approve the friendly settlement agreement provided for under Article 49 of the American Convention and taking into consideration the request of the parties on December 24, 2021, to move forward in this regard, the Commission will now assess compliance with the commitments made herein.

18. The Inter-American Commission notes that the first (Definitions), second (Background before the Inter-American Human Rights System), third (Beneficiaries), and fourth (Acknowledgment of Responsibility) clauses of the agreement are declarative in nature, so there is no need to monitor compliance with them. The Commission welcomes the declarative fourth part, wherein the Colombian State acknowledges its international responsibility in omission for the violation of the rights recognized in articles 8 (judicial guarantees) and 25 (judicial protection) of the American Convention on Human Rights to the detriment of Ángel Emiro Meneses Muñoz, Waldina Gómez Ledesma, Ángel Emiro Meneses Gómez, Ruth Mercedes Meneses Gómez, and Miller Jacob Meneses Gómez, as a consequence of the failure to investigate and punish those responsible for the facts that took place on November 30, 2003, in the framework of the criminal proceeding. The Commission also welcome's the State's recognition of its international responsibility by action, for the violation of the rights recognized in articles 4 (life), 5 (humane treatment), 7 (personal liberty), 11 (protection of honor and dignity), 19 (rights of the child), and 22 (movement and residency) of the American Convention on Human Rights to the detriment of Héctor Fabián Ocampo y de Gonzalo Ocampo Álvarez, Luz Mary Gómez, Rogerio Ocampo Ramada, Ana Rosa Álvarez Devia, Yon Jair Ocampo Álvarez, Rosa Orfilia Ocampo Álvarez, María Nelly Ocampo Álvarez, Teresa de Jesús Devia de Álvarez, Blanca Elvia Iles de Buesaquillo, Elber Fabián Buesaquillo Iles, Nulbia Buesaquillo Iles, Omar Buesaquillo Gaviria, Amanda Buesaquillo Gaviria, Peregrino Gaviria, Jesús Antonio Gaviria, Ubaldina Gaviria, Blanca Eider Buesaquillo Gaviria, and José Duvan Gil Vásquez, for the facts that took place on November 30, 2003. Likewise, the Commission recognizes that, with respect to these victims, the State acknowledged its international responsibility in omission for the violation of the rights recognized in articles 8 (judicial guarantees) and 25 (judicial protection) of the American Convention, regarding the criminal proceeding pursued.

19. Regarding section (i) "*Publication of the Article 49 Report*," of the fifth clause (measures of satisfaction), of the friendly settlement agreement, and by virtue of the joint request of the parties to move forward on approval of the agreement prior to its execution, the Commission observes that the measure must be complied with after the publication of this report, and therefore finds and declares it to be pending compliance. Based on the foregoing, the Commission will await updated information from the parties on execution following approval of this report.

20. As regards section (ii) "*Economic Assistance Grant*" of the fifth clause (measures of satisfaction) of the friendly settlement agreement, in their joint report of December 24, 2021, the parties indicated that on November 3, 2021, a meeting was held in which Héctor Fabián, his representative, the Ministry of National Education, and the National Agency for Legal Defense of the State participated. The purpose of the meeting was to hear about the progress made by Héctor Fabián in taking the Saber 11 test and on his search for a program he would like to attend. During the meeting, the beneficiary reported that he had not yet been able to take the test. However, he promised to take it, if possible, in the first semester of 2022, given that holding a secondary school diploma and passing the Saber 11 test are requirements for accessing the measure in question. By virtue of the foregoing and of the parties' joint request to move forward on approval of the agreement, the Commission observes that the measure must be complied with after the publication of this report, and therefore finds and declares it to be pending compliance. The Commission will therefore await updated information on progress made toward its execution following approval of this report.

21. Additionally, with respect to the sixth clause (health and rehabilitation measures), on December 24, 2021, the parties reported that on October 7, 2021, the contact information of the beneficiaries interested in accessing the psychosocial care and comprehensive healthcare programs was sent to the Ministry of Health and Social Protection. In this regard, the Ministry of Health and Social Protection indicated regarding psychosocial care that the respective contact would be made during the first half of 2022 to initiate the care for the beneficiaries of the measure. Additionally, regarding comprehensive health care, it indicated that the beneficiaries are registered and active in the General System of Social Security in Health. That ministerial portfolio thus proceeded to notify the respective health promotion agency to initiate the program and committed to conducting the corresponding follow-up with the health promotion agencies on these efforts. In view of the information provided by the parties, the Commission finds and declares that this measure remains pending compliance. The Commission will therefore await updated information on progress made toward its execution following approval of this report.

22. As regards the seventh clause (justice measures), on December 24, 2021, the parties reported on macro case 003, "*Deaths unlawfully presented as combat casualties by State agents*," which is now called "*Murders and forced disappearances presented as combat casualties by agents of the State*." In this regard, they indicated that through Order 005 of July 17, 2018, the Examination Chamber of the SJP took over Case 003, from Report 5, presented by the Office of the Attorney General of the Nation. In the second paragraph of the aforementioned Order, the Examination Chamber opened the stage of contribution to the truth and acknowledgment of responsibility regarding the conduct associated with the deaths illegally presented as combat casualties by State agents and issued a call for voluntary testimony. Subsequently, through Order 033 of February 12, 2021, the same body publicized the criteria for internal prioritization adopted in the framework of Case 003. Based on this, it moved to internally prioritize six sub-cases, while indicating that, in addition to the six prioritized sub-cases, the facts that took place in other departments of the country—including Caquetá—were in the analysis and documentation phase. Therefore, the facts involved in this case were to be subjected to review and analysis in the second investigative phase of macro case 003, which, pursuant to the "bottom to top" investigation strategy, will focus on determining the facts, conduct, perpetrators, and masterminds at other levels at the territorial and national scale.

23. Therefore, the Commission finds and declares that the seventh clause (justice measures) remains pending compliance. In this regard, the Commission will await updated information on progress made by the SJP on Case 003, as well as on the actions of the Office of the Attorney General of the Nation within the framework of its powers, to secure the evidence required to establish who else is responsible for the facts described in the original petition.

24. As regards eighth clause (measures of compensation), on December 24, 2021, the parties reported that the petitioners filed a brief on September 28, 2021, before the Administrative Court, requesting withdrawal of the Direct Reparations Suit 18-00-33-33-002-2015-00636-0, which is currently being appealed before the Administrative Court of Caquetá. Later, on November 5, 2021, the Ministry of National Defense filed a brief with the Administrative Court of Caquetá supporting the request for withdrawal presented by the petitioners as asking the court to complete the process, order the case file closed, and refrain from ordering the payment of costs.

25. Based on the foregoing, the Commission finds and declares that part eight (measures of compensation) meets with partial compliance. The Commission will therefore await updated information from the parties on execution of the other components of this measure following approval of this report.

26. Based on the foregoing, the Commission finds that verbatim (i) (publication of the article 49 report) and (ii) (economic assistance grant) of the clause five, clause six (health and rehabilitation measures), and seven (justice measures) are pending compliance and declares it so. Additionally, the Commission finds and declares part eight (measures of compensation) of the friendly settlement agreement has met with partial compliance. In this regard, the Commission finds that the friendly settlement agreement meets with partial compliance and declares it so. Lastly, the Commission reiterates that the remaining content of the agreement is of a declaratory nature, and therefore, is not up to the IACHR to supervise its compliance.

V. CONCLUSIONS

1. Based on the aforementioned considerations and by virtue of the procedure established in articles 48(1)(f) and 49 of the American Convention, the Commission wishes to reiterate its recognition of the efforts made by the parties and its satisfaction at the friendly settlement agreement reached in this case, based on respect for human rights and compatible with the object and purpose of the American Convention.

2. By virtue of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the friendly settlement agreement signed by the parties on August 4, 2021.

2. To declare verbatim (i) (publication of the article 49 report) and (ii) (economic assistance grant) of clause five, clause six (health and rehabilitation measures), and clause seven (justice measures) to be pending compliance, pursuant to the analysis found in this report.

3. To declare clause eight (measures of compensation) of the friendly settlement agreement as meeting with partial compliance, pursuant to the analysis in this report.

4. To continue supervision the commitments made in verbatim (i) (publication of the article 49 report) and (ii) (economic assistance grant) of clause five, clause six (health and rehabilitation measures), and clause seven (justice measures) to be pending compliance, pursuant to the analysis found in this report. With this purpose, to remind the parties of their commitment to report regularly to the IACHR on compliance.

5. To make this report public and to include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on November 8, 2022. (Signed): Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice President; Margarete May Macaulay, Second Vice President; Esmeralda E. Arosemena de Troitiño; Joel Hernández Garcia and Roberta Clarke, members of the Commission.