

June 3, 2014

Re: Cases Nos. 12,595, 12,596 and 12,621
Ana Teresa Yarce *et al.*
Colombia

Mr. Secretary:

On behalf of the Inter-American Commission on Human Rights, I have the honor to submit to the jurisdiction of the Inter-American Court of Human Rights, joined cases 12,595, 12,596 and 12,621 – Ana Teresa Yarce *et al.* v. the Republic of Colombia (hereinafter “the State”, “the Colombian State” or “Colombia”). This case is related to the provisional measures ordered by the Court in *Mery Naranjo et al.*, which are still in effect.

The case concerns the Colombian State’s international responsibility for a series of human rights violations committed against five human rights defenders and their families starting in 2002, in the place known as *Comuna 13* in the city of Medellín. This sequence of events took place amid the armed fighting being waged in that area, a situation of which the Colombian State was aware and which involved clashes between illegal armed groups and combined military and police forces for several decades. The fighting in *Comuna 13* intensified when, in 2002, the State staged military operations; in the wake of these operations, the paramilitary became a stronger presence in *Comuna 13*.

Against this backdrop, Mrs. Myriam Eugenia Rúa Figueroa and Mrs. Luz Dary Ospina were the targets of threats and harassment; their homes were searched and occupied, which ultimately forced them to move. For their part, Mery Naranjo, María del Socorro Mosquera and Ana Teresa Yarce were arbitrarily taken into custody. Then after filing a series of complaints about the unchecked activities of paramilitary groups, in connivance with the military and police forces, Mrs. Ana Teresa Yarce was killed on October 6, 2004. When this happened, Mrs. Mery Naranjo and Mrs. María del Socorro Mosquera were forced to move as well.

Mr.
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This serious sequence of events has had a profound impact on the nuclear families of the five human rights defenders; the children were particularly affected. No one has ever been made to answer for any of these events.

The Commission believes that all these events occurred because of the State's failure to fulfill its heightened duty to protect and respond, a duty that was even more pronounced because of the particular risk that the women defenders of human rights were facing given the discrimination they had historically suffered, the particular nature of their work, and the heightened danger in areas under the control of the actors involved in the armed conflict.

The Colombian State ratified the American Convention on Human Rights on July 31, 1973, and accepted the contentious jurisdiction of the Court on June 21, 1985.

The Commission has designated Commissioner José de Jesús Orozco Henríquez and Executive Secretary Emilio Álvarez Icaza L. as its delegates. Likewise, Elizabeth Abi-Mershed, Deputy Executive Secretary, and Silvia Serrano Guzmán and Rosa Celorio, attorneys with the IACHR's Executive Secretariat, have been designated to serve as legal advisors.

In keeping with Article 35 of the Rules of Procedure of the Inter-American Court, the Commission is attaching a copy of report 86/13, prepared pursuant to Article 50 of the Convention, and a copy of the complete file of the case with the Inter-American Commission (Appendix I) and the annexes used in the preparation of report 86/13 (Annexes). The State of Colombia was notified of that report by a communication dated December 3, 2013, and was given two months to report on its compliance with the recommendations.

When the Colombian State requested an initial extension, the Commission granted it a three-month extension and asked the State to submit a report on the progress it had made toward compliance with the recommendations. By a communication dated May 20, 2014, the State requested another extension. After examining the report presented by the State, the Commission concluded that it did not reflect any significant progress toward compliance with the recommendations. In particular, the investigative efforts, although relevant, have had no meaningful impact in terms of compliance with the obligation to investigate all the facts of the case. Furthermore, the information available indicates that the record on a number of cases remains closed.

Furthermore, the State has not come forward with a concrete proposal on the matter of reparations. In its report, the State mentioned the framework through which the eventual reparations would be channeled, but did not go into the specific reparations it plans for the victims in the case, the program for implementing the reparations, or how the reparations measure up to the standards of full reparation.

As for the measures relating to the victims' security and humanitarian assistance for the displaced persons, the State provided information on its compliance with the provisional measures in effect, which were ordered by the Inter-American Court. It also summarized a number of commitments undertaken at a recent meeting. Thus far, however, the Commission does not have precise information as to how or whether those commitments have been honored. In any event, as has been repeatedly pointed out while the provisional measures have remained in effect, although the State has claimed a willingness to provide protection to the beneficiaries, the implementation of those protective measures has been riddled with problems. Furthermore, serious events have occurred that have necessitated amplification of the protective measures.

Consequently, the Commission decided not to accede to the Colombian State's most recent request for an extension, and instead decided to take the present case to the Inter-American Court because of the need to obtain justice for the victims. The Inter-American Commission is submitting to the Court's jurisdiction all the facts and human rights violations described in merits report 86/13.

Accordingly, the Commission is asking the Court to adjudge and declare the Colombian State's international responsibility for violation of the following:

- Article 5(1) of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of Mrs. Miryam Eugenia Rúa Figueroa and Mrs. Luz Dary Ospina Bastidas.
- Articles 7(1), 7(3) and 5(1) of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of Mrs. Maria del Socorro Mosquera, Mrs. Mery Naranjo, and Mrs. Ana Teresa Yarce.
- Article 4(1) of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of Mrs. Ana Teresa Yarce.
- Article 22 of the American Convention, in conjunction with articles 5(1), 17(1) and 1(1) thereof, to the detriment of Mrs. Miryam Eugenia Rúa Figueroa, Mrs. María del Socorro Mosquera, Mrs. Luz Dary Ospina Bastidas, and Mrs. Mery Naranjo and their family members, who are identified in paragraphs 282, 293 and 304 (footnotes 384 and 430) of the merits report.
- Article 22 of the American Convention, in conjunction with articles 19 and 1(1) thereof, to the detriment of the following persons who were children at the time of the events: Bárbara del Sol Palacios Rúa; Úrsula Manuela Palacios Rúa; Valentina Estefanía Tobón Rúa; Migdalia Andrea Hoyos Ospina; Lubín Alfonso Villa Mosquera, and Marlon Daniel Herrera Mosquera.

- Article 21 (paragraphs 1 and 2) of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of Mrs. Miryam Eugenia Rúa Figueroa, Mrs. Luz Dary Ospina, and the family members identified in paragraph 321 of the merits report.
- Article 16 of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of Mrs. Miryam Eugenia Rúa Figueroa, Mrs. Luz Dary Ospina Bastidas, Mrs. Maria del Socorro Mosquera, Mrs. Mery Naranjo and Mrs. Ana Teresa Yarce.
- Articles 8(1) and 25 of the American Convention, in conjunction with Article 1(1) thereof, and Article 7 of the Convention of Belém do Pará, to the detriment of Mrs. Luz Dary Ospina Bastidas, Mrs. Miryam Eugenia Rúa Figueroa, Mrs. Maria del Socorro Mosquera, Mrs. Mery Naranjo and Mrs. Ana Teresa Yarce.
- Articles 8(1) and 25 of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of the family members of Mrs. Miryam Eugenia Rúa Figueroa, Mrs. Luz Dary Ospina Bastidas, and Mrs. Ana Teresa Yarce, identified in paragraphs 349, 354 and 357 of the merits report.
- Article 5(1) of the American Convention, in conjunction with Article 1(1) thereof, to the detriment of the family members of Mrs. Miryam Eugenia Rúa Figueroa, Mrs. Luz Dary Ospina Bastidas, Mrs. Ana Teresa Yarce, Mrs. Maria del Socorro Mosquera and Mrs. Mery Naranjo, identified in paragraph 367 (footnotes 532-536) of the merits report.

Based on these conclusions, the Commission recommended the following to the State:

1. Complete swift, thorough, impartial and effective investigations into the violations described in the report. Those investigations are to be conducted by the judicial authorities within a reasonable period of time and without delay, with a view to establishing the facts and punishing those responsible. These measures must also be implemented mindful of the specific nature of the violence that the affected women human rights defenders have endured and the discrimination they suffer by virtue of being both community leaders and women, and the notorious dangers surrounding their work. These investigations must also be geared to identifying all the actors presumably involved in the human rights violations established here, which include members of the paramilitary groups, State agents and all the material and intellectual authors of these events.
2. Adopt urgent and immediate protective measures to ensure the safety of the affected human rights defenders and their family members. These measures must include steps taken to enable their prompt and safe return to *Comuna 13*.

3. Provide the displaced victims and their family members the necessary comprehensive humanitarian care and security.
4. Make full reparations to the victims for the human rights violations established in the present report. The measures must be orchestrated jointly with the affected parties and from their perspective.
5. Implement policies, programs and measures aimed at creating safe working conditions for the human rights defenders in *Comuna 13*, as a fundamental guarantee ensuring that these events will never recur.
6. Take measures in *Comuna 13* calculated to promote a culture of human rights in which the fundamental role that human rights defenders play is publicly acknowledged. The State's commitment to this policy must be reflected within all three branches of government: executive, legislative and judicial.
7. Create the space for dialogue between the organizations that work on the defense of human rights in *Comuna 13* and high-level authorities, with a view to identifying policies, programs and measures that can be adequate and effective in guaranteeing their security.

Apart from the need to obtain justice for the failure to comply with the recommendations contained in the merits report, the Commission believes that this case raises issues of inter-American *ordre public*. Specifically, the present case offers the Court another opportunity to address a situation involving connivance and collaboration between the military and police forces, on the one hand, and paramilitary groups on the other. The instant case involves poverty-stricken urban areas like *Comuna 13* in the city of Medellín, where the connivance and collaboration mechanisms have certain peculiar characteristics. The present case also raises the problem of the heightened risk that human rights defenders face amid Colombia's armed conflict, which takes a particularly heavy toll on women human rights defenders. Here, the Honorable Court will be able to explore the special and enhanced duties of protection that States have vis-à-vis women human rights defenders and its international responsibility when it fails to discharge those duties.

Because the issues that this case raises have a significant impact on inter-American *ordre public*, in keeping with Article 35(1)(f) of the Rules of Procedure of the Inter-American Court, the Inter-American Commission will offer the following statements by the following experts.

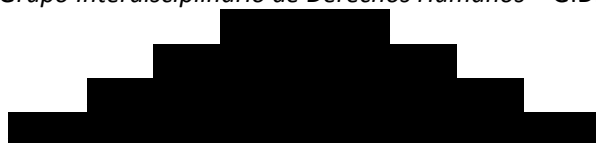
An expert, whose name will be reported shortly, who will make a statement on the importance of examining human rights violations like those committed in the present case, in the context of the specific circumstances in which they occurred. The expert will detail the specific impact that these examinations of context have on determining the full extent of the States' responsibility and on getting at the truth and securing justice. The expert will illustrate his remarks by describing the particular context in *Comuna 13* in the city of Medellín in 2002 and thereafter.

An expert, whose name will be reported shortly, who will make a statement about the heightened risks that human rights defenders face against the backdrop of an armed conflict, with particular emphasis on the situation of women human rights defenders. The expert will examine the States' correlative obligations to respond promptly and effectively to these heightened risks. The expert will also take the context of the Colombian armed conflict into account and the multiple dangers that women human rights defenders face. For purposes of illustration, the expert will refer to the facts of the present case.

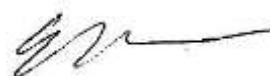
The curriculum vitae of the experts being offered will be included among the annexes to merits report 86/13.

The *Grupo Interdisciplinario de Derechos Humanos* (GIDH) [Interdisciplinary Human Rights Group] is the organization that served as petitioner throughout the processing of the case with the Commission. The contact data for this group are as follows:

Grupo Interdisciplinario de Derechos Humanos – GIDH



Please accept assurances of my highest regards.



Elizabeth Abi-Mershed
Deputy Executive Secretary

Enclosure