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The Wound in the Heart of the World: Crimes against humanity committed against indigenous peoples of the Sierra Nevada de Santa Marta, Colombia

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Acronyms and abbreviations

ACMG	Autodefensas Campesinas del Magdalena y La Guajira (Farmer Self-Defence Forces of Magdalena and La Guajira)
AUC	Autodefensas Unidas de Colombia (United Self-Defence Forces of Colombia)
AUSAC	Autodefensas de Santander y Sur del Cesar (Self-Defence Forces of Santander and Southern Cesar)
AUSC	Autodefensas del Sur del Cesar (Self-Defence Forces of Southern Cesar)
CAJAR	Colectivo de Abogados José Alvear Restrepo
CEV	Comisión para el Esclarecimiento de la Verdad (Commission for the Clarification of Truth)
IACHR	Inter-American Commission on Human Rights
IACourtHR/ Inter-American Court	Inter-American Court of Human Rights
ICC	International Criminal Court
CSPP	Comité de Solidaridad con los Presos Políticos (Committee for Solidarity with Political Prisoners)
CTC	Consejo Territorial de Cabildos (Territorial Council of Cabildos)
ELN	Ejército de Liberación Nacional (National Liberation Army)
FARC-EP	Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (Revolutionary Armed Forces of Colombia – People's Army)
FIDH	International Federation for Human Rights
FUTCO	Fuerza de Tarea Conjunta Omega (Omega Joint Task Force)
JEP	Jurisdicción Especial para la Paz (Special Jurisdiction for Peace)
OIK	Organización Indígena Kankuama
ONIC	Organización Indígena de Colombia
OTP	Office of the Prosecutor of the International Criminal Court
OWYBT	Organización Wiwa Yugumaiun Bunkuanarrua Tayrona
SIVJRRR	Sistema Integral de Verdad, Justicia, Reparación y No Repetición (Comprehensive System of Truth, Justice, Reparation and Non-Repetition)
SNSM	Sierra Nevada de Santa Marta
UBPD	Unidad para la Búsqueda de Personas dadas por Desaparecidas (Unit for the Search for Persons Reported as Disappeared)
UN	United Nations

I. Introduction

Since 2004, the International Federation for Human Rights (FIDH), together with other organisations, has sent several communications to the Office of the Prosecutor of the International Criminal Court (ICC). The purpose of these communications has been to provide sufficient grounds to raise visibility on serious situations in various countries in the Americas in the face of crimes against humanity committed by State public forces and/or by other actors.¹

The communication presented in this report, submitted to the ICC Office of the Prosecutor by FIDH and the *Colectivo de Abogados José Alvear Restrepo* (CAJAR), aims to demonstrate the commission of crimes against humanity, specifically murders, against members of the indigenous peoples living in the Sierra Nevada de Santa Marta (SNSM), in Colombia.

To this end, the communication presents an analysis of the general context of violence in the SNSM, followed by the elements of the crime of murder that appear in the cases that form the basis of this document. In terms of time-period, the communication focuses on cases of crimes against humanity committed between 1 November 2002 and 2009. However, in order to properly understand the context, background information which explains the origin of the violence against the indigenous peoples of the SNSM is included. It also describes aspects of the current human rights situation in the SNSM, which can be explained by the climate of impunity and the failure to adopt guarantees of non-repetition.

This communication was written primarily on the basis of two reports submitted to the Colombian Comprehensive System of Truth, Justice, Reparation and Non-Repetition (SIVJNR):² 1) "*Y volveremos a cantar con los aires de la paz y el anhelo de justicia. Informe sobre ejecuciones extrajudiciales cometidas por la Primera División del Ejército Nacional en el Caribe Colombiano, entre 2003 y 2008*" ("And we will sing again with the winds of peace and yearning for justice. Report on extrajudicial killings committed by the First Division of the National Army in the Colombian Caribbean between 2003 and 2008"), presented to the Judicial Panel for Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct (*Sala de Reconocimiento de Verdad, De Responsabilidad y de Determinación de los Hechos y Conductas*) within the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz - JEP*) in Case 003 "*Muertes ilegítimamente presentadas como bajas en combate por agentes del Estado*" ("Deaths illegitimately presented as casualties in combat by agents of the State");³ and 2) "*La historia cierta del Pueblo Wiwa desde el corazón del mundo de 2019*" ("The true story of the Wiwa people from the heart of the world, 2019"), presented to the SIVJNR⁴ by CAJAR and OWYBT. This report describes crimes perpetrated against the Wiwa people including executions, murders, massacres, distinct forms of violence against women, and the destruction of sacred sites. These reports are the result of participatory research efforts and workshops held with victims that allowed identifying the context in which the events occurred, the effects caused by the

1 FIDH, CMDPDH, CCDH, *México. Informe sobre presunta comisión de crímenes de lesa humanidad en Baja California entre 2006 y 2012* (Mexico: Report on alleged crimes against humanity in Baja California between 2006 and 2012), October 2014, https://www.fidh.org/IMG/pdf/rapport_mexique-ld2-1-2.pdf; See also, FIDH, Centro Diocesano para los Derechos Humanos Fray Juan de Larios and Familias Unidas, *México: Asesinatos, desapariciones y torturas en Coahuila de Zaragoza constituyen crímenes de lesa humanidad* (Mexico: Murders, disappearances and torture in Coahuila de Zaragoza are crimes against humanity), June 2017.

2 The Comprehensive System of Truth, Justice, Reparation and Non-Repetition (*Sistema Integral de Verdad, Justicia, Reparación y No Repetición - SIVJNR*) is composed of the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz - JEP*), the Commission for the Clarification of Truth (*Comisión para el Esclarecimiento de la Verdad - CEV*) and the Unit for the Search for Persons Reported as Disappeared (*Unidad para la Búsqueda de Personas dadas por Desaparecidas - UBPD*).

3 Colectivo de Abogados José Alvear Restrepo (CAJAR), Comité de Solidaridad con los Presos Políticos (CSPP) and FIDH, *Y volveremos a cantar con los aires de la paz y el anhelo de justicia. Informe sobre ejecuciones extrajudiciales cometidas por la Primera División del Ejército Nacional en el Caribe Colombiano, entre 2003 y 2008*, Bogotá, June 2019.

4 Organización Wiwa Yugumaiun Bunkuanarrua Tayrona (OWYBT), Colectivo de Abogados José Alvear Restrepo (CAJAR) and FIDH, *La historia cierta del pueblo Wiwa - desde el corazón del mundo - en el marco del conflicto armado*, Sierra Nevada de Santa Marta, Colombia, 15 November 2019, p. 60. Summary available at: <https://www.colectivodeabogados.org/?La-historia-cierta-del-pueblo-Wiwa-llega-al-Sistema-Integral> (full version subject to reservation).

crimes, and proposals for reparation made by the victims' relatives and their organizational processes. The report focused on the description of patterns of crime and the state of impunity, based on primary sources such as direct testimonies from victims and indicted individuals, judicial records, as well as an investigation of the available literature on these events.

This communication is also based on the report "*Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*" ("Hoja de Cruz. Historical memory of the impacts of the armed conflict on the Kankuamo indigenous people 1985-2008"), produced by the *Organización Indígena Kankuama* (OIK). This report draws on memories to reconstruct cases of human rights violations suffered by the Kankuamo people during the armed conflict and includes the observations of the Kankuamo elders and authorities.⁵ The communication further takes into account the report "*Tejiendo Caminos para Volver al Origen*" ("Weaving paths to go back to the origin") presented by the OIK to the bodies of the SIVJNR in March 2021.

In addition, this communication draws on the findings of an FIDH mission that was carried out in situ in February 2020 and virtually in September 2020, including interviews with victims, and information provided by officials and specialists in the analysis of the violence perpetrated and which continues to be perpetrated against the indigenous peoples of the SNSM.

This communication is substantiated by a total of 131 documented cases, corresponding to at least 180 victims (Annex No. 1). Meanwhile, other reports provide information on at least 202 cases of aggression committed by members of the *Autodefensas Unidas de Colombia* (United Self-Defence Forces of Colombia - AUC), paramilitaries or State agents⁶ during the period in question. Among these cases, this communication contains information on two massacres committed against the Wiwa indigenous people of the SNSM. While a specific number of victims is indicated in relation to these massacres, the events may have involved a larger number which was not possible to determine for the purposes of this document. The identification of official, reliable, and up-to-date figures and statistics on murders committed in the SNSM represents a challenge. To date, cases of crimes committed against indigenous peoples have not been properly documented or brought to light in their true dimension. This is why this communication is of such fundamental importance. In addition, as these are crimes against humanity committed over a period spanning almost two decades, the cases and figures provided throughout this document represent a limited, albeit representative, sample of a broader phenomenon.

Where appropriate, the communication includes references to reports and resolutions issued by the bodies of the Inter-American Human Rights System and the United Nations (UN) where they mention the situation of the indigenous peoples of the SNSM in Colombia.

Regarding Colombia, the Office of the Prosecutor has already determined that there is a reasonable basis to believe that crimes against humanity under article 7 of the Rome Statute have been committed in the situation in Colombia by different actors, since November 1st, 2002⁷. On the other hand, according to the Prosecutor's Office, there is also a reasonable basis that allows to believe that war crimes, established in article 8 of the Rome Statute, have been committed in the framework of the non-international armed conflict in Colombia since November 1, 2009⁸.

In this regard, this communication aims to demonstrate that, between 2002 and 2009, crimes against humanity within the jurisdiction of the ICC were committed in the SNSM. Specifically, the crime of murder, committed since November 1, 2002, as part of a systematic attack against the civilian population of that State. From November 1, 2009, the aforementioned attacks against life would also qualify as the war crime of murder committed within the framework of the internal armed conflict in the country. This situation is particularly serious since the civilian population victim of the aforementioned crimes against

5 Organización Indígena Kankuama (OIK), *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*, Valledupar, 2009.

6 OIK, Report "*Tejiendo Caminos para Volver al Origen*" submitted by OIK to the bodies of the SIVJNR in March 2021.

7 ICC, The Office of the Prosecutor, Report on Preliminary Examination Activities, 5 December 2019, para. 90, <https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf>

8 Ibid, para. 91, <https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf>

humanity and war crimes is composed of the four indigenous peoples that inhabit the SNSM.

In addition, this communication is of particular interest to the Office of the Prosecutor of the ICC since it deals with processes related to the development and rise of paramilitary groups and cases of murders classified as “false positives”, committed by members of the armed forces.⁹

1. General context of violence in the Sierra Nevada de Santa Marta

The SNSM or “heart of the world” is the sacred territory of the *Kogui, Arhuaco, Wiwa* and *Kankuamo*¹⁰ indigenous peoples, settled in the Kogui Malayo Arhuaco reserves (*resguardos*), the large Arhuaco reserve (Bushinchama), and the Kankuamo reserve.¹¹ The ancestral territory is included within the so-called Black Line (*Línea Negra*), which is the demarcation of the territory assigned to the four indigenous peoples of the SNSM under the *Ley de Origen* (Law of Origin), the highest law,¹² for its protection. It is not a limit or border, but a system composed of land, sea and air “landmarks or spaces” that are interconnected.¹³ The Black Line is thus “the sufficient and necessary space granted from the origin, for the fulfilment of a specific function and [to] guarantee the natural balance of the beings existing in the universe”.¹⁴

This area of territory was acknowledged by the State under Resolution 0002 of 4 January 1973 recognising the Black Line, Resolution 837 of 1995 recognising the right to ancestral territory and Decree 1500 of 2018 which aimed to redefine the ancestral territory of the indigenous peoples of the

9 Ibid, para. 92, <https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf>. In addition, the OTP’s preliminary examination determined it would focus on forced displacements, sexual crimes and « (v) follow-up on the Legal Framework for Peace and other relevant legislative developments, as well as jurisdictional aspects relating to the emergence of ‘new illegal armed groups’ ».

10 The Kankuamo indigenous people are settled in twelve communities that are recognised by the municipal public administration at the *corregimiento* and *vereda* levels: the *corregimientos* of Atánquez, La Mina, Guatapurí, Chemesquemena, Los Haticos and Río Seco and the *veredas* of Ramalito, Rancho de la Goya, El Mojao, El Pontón, Murillo and Las Flores. See, Organización Indígena Kankuama (OIK), *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*, Valledupar, 2009, p. 7. “[TRANSLATION] The Kankuama indigenous population consists of around fifteen thousand (15,000) members, of which 65% live in the Reserve. The remaining 35% of the population is made up of displaced people in Valledupar and other parts of the country.” Organización Indígena Kankuama, *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*, Valledupar, 2009, p. 7.

11 These three reserves, recognised by the Colombian state, do not amount to the totality of the ancestral territory claimed by the four SNSM peoples.

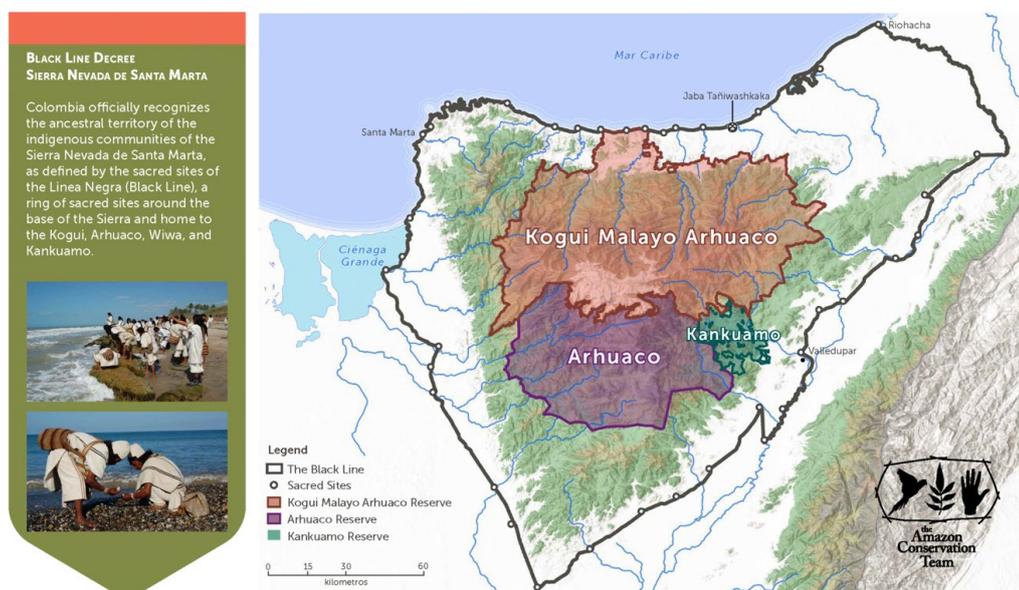
12 The Law of Origin is defined as: “[TRANSLATION] a set of teaching-learning codes that embody the knowledge system and ancestral wisdom of the indigenous peoples of the Sierra Nevada, which must be respected in order to guarantee social coexistence, harmony and balance between all the natural components that constitute the body of our Mother Earth.” See, CTC and Ministry of Culture, *Plan Especial de Salvaguardia: Sistema de conocimiento ancestral de los cuatro pueblos indígenas de la Sierra Nevada de Santa Marta* (Special Safeguard Plan: Ancestral knowledge system of the four indigenous peoples of the Sierra Nevada de Santa Marta) p. 57.

13 CTC and Ministry of Culture, *Plan Especial de Salvaguardia: Sistema de conocimiento ancestral de los cuatro pueblos indígenas de la Sierra Nevada de Santa Marta*, p. 60.

14 [TRANSLATION] Arroyo, José María (ed.), *Arhuaco Cabildo of the Sierra Nevada, Colombian Ministry of Mines and Energy, Entendimiento mutuo para el cuidado de nuestro territorio: Guía de relacionamiento y diálogo entre el sector minero-energético y el pueblo Arhuaco* (Mutual understanding for the care of our territory: Guide to relations and dialogue between the mining-energy sector and the Arhuaco people). *Niwi U'munukunu chwamu narigun re'no'kwamu*, Valledupar, 2015, p. 24. Available at: <http://bit.ly/2GBkhZr>.

SNSM, represented by the sacred spaces included within the Black Line.¹⁵

Geographically, this Black Line constitutes an isolated massif of the Andes mountain range that includes the above-mentioned indigenous reserves, their sacred spaces and sites, Afro-descendant Community Councils and other reserves of the Wayuu Indigenous People in the lower part of the Guajira,¹⁶ covering the departments of Cesar, Guajira and Magdalena, with 19 municipalities that include the main port areas of the country in Santa Marta, Barranquilla, Ciénaga, La Guajira, and near Cartagena.



Black Line that recognises the ancestral territory and the reserves of the indigenous peoples that inhabit the SNSM. Source: Amazon Conservation Team

¹⁵ On 6 August 2018, then President of Colombia, Juan Manuel Santos Calderón, issued Decree 1500 of 2018, in implementation of Law 21 of 1993, in compliance with Constitutional Court decision Auto 189 of 2013, which urged the National Government to update the boundaries of the Black Line. Constitutional Court of Colombia, Auto 189-13. Clarification order T-2128529. Action for protection (*acción de tutela*) brought by Julio Alberto Torres Torres and others against the Colombian Ministry of the Interior and Justice and others. Judge-Rapporteur Gabriel Eduardo Mendoza Martelo, 2 September 2013. Available at: <http://www.corteconstitucional.gov.co/relatoria/autos/2013/A189-13.htm>. Under this Decree, the Black Line was recognised as "the basis of the ancestral territory, the connection of the material world with the spiritual principles of the origin of life, and the sacred fabric of the territory" of the indigenous peoples of the SNSM". The Decree also extended the Black Line zones to 348 points, located in the areas of Guajira, Magdalena, Cesar and Bolivar. However, the national government stated that the rights acquired by third parties and other communities would be protected, without defining the mechanisms to protect them. Office of the President of the Republic, Decree 1500 of 6 August 2018, "By which the ancestral territory of the Arhuaco, Kogui, Wiwa and Kankuamo peoples of the Sierra Nevada de Santa Marta, expressed in the system of sacred spaces of the 'Black Line', is redefined as a traditional area of special protection, spiritual, cultural and environmental value, in accordance with the principles and foundations of the Law of Origin and Law 21 of 1991, and other provisions in force".

¹⁶ Organización Wiwa Yugumaiun Bunkuanarrua Tayrona (OWYBT), Colectivo de Abogados José Alvear Restrepo (CAJAR) and FIDH, *La historia cierta del pueblo Wiwa – desde el corazón del mundo – en el marco del onflict armado*, Sierra Nevada de Santa Marta, Colombia, 15 November 2019, p. 60. Summary available at: <https://www.colectivodeabogados.org/?La-historia-cierta-del-pueblo-Wiwa-llega-al-Sistema-Integral> (full version subject to reservation).

In addition, most of the country's exports pass through the SNSM, mainly coal, oil and agro-industrial products.¹⁷ The SNSM has an abundance of water sources, and as a result "supplies water to thirteen municipalities and agro-export industries in the flat areas of the Atlantic coast."¹⁸ Moreover, its parks and sanctuaries are destinations of great ecological and tourist interest.

As a result of all these characteristics, the SNSM has been the site of disputes over territorial control for the development of both legal and illegal activities, such as mega-projects in tourism, drug trafficking, mineral extraction, cattle ranching, exploitation of water resources, and military, guerrilla and/ or paramilitary domination.¹⁹

A. From the 1970s onwards: the emergence of guerrillas

Various guerrilla groups have been present in the SNSM since the 1970s, with differing levels of social, military, and territorial control during different periods. The strategic geographic location of the territories of the indigenous peoples of the SNSM meant that the guerrillas used them "as areas of refuge, to mobilise their troops, and to exercise control over economically and militarily strategic areas".²⁰

One of the first groups to establish a presence in the SNSM was the National Liberation Army (*Ejército de Liberación Nacional* - ELN), with the "6 December" Front (*Frente "Seis de Diciembre"*).²¹ From the mid-1980s, in the south-western fringe of the SNSM, the Revolutionary Armed Forces of Colombia - People's Army (*Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo* - FARC-EP) consolidated itself through three fronts, the 19th, 59th and 41st: "[T]he 19th with influence on the banks of the Córdoba and Ariguaní rivers in the Magdalena, the 59th with influence in La Guajira and Magdalena, and the 41st front with influence in the department of Cesar with more than three hundred men in total and a military power capable of paralysing the economic activities of the Sierra."²² In this way, the so-called Caribbean Bloc was formed.²³ These three fronts were spread across La Guajira, Magdalena and Cesar, often operating in concert with the ELN's "6 December" Front.²⁴

17 *El Tiempo*, "Puertos marítimos de la Costa, los más pujantes" (The most thriving coastal maritime ports), 28 August 2019, available at: <https://www.eltiempo.com/mas-contenido/puertos-maritimos-de-la-costa-los-mas-pujantes-405594>.

18 [TRANSLATION] Office of the Ombudsperson, *Informe de la Comisión de Observación de la Crisis Humanitaria en la Sierra Nevada de Santa Marta* (Report of the Observation Commission on the Humanitarian Crisis in the Sierra Nevada de Santa Marta), p. 5, available at: <http://bit.ly/2lxxdvJ>.

19 Office of the Ombudsperson, *Informe de la Comisión de Observación de la Crisis Humanitaria en la Sierra Nevada de Santa Marta* (Report of the Observation Commission on the Humanitarian Crisis in the Sierra Nevada de Santa Marta), available at: <http://bit.ly/2lxxdvJ>.

20 [TRANSLATION] Organización Indígena Kankuama (OIK), *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*, Valledupar, 2009, p. 22.

21 Ministry of the Interior, OWYBT and Organización Delegación Wiwa, *Diagnóstico y líneas de acción para las comunidades Wiwa de la Sierra Nevada de Santa Marta (departamentos Cesar, Magdalena y Guajira) en el marco del cumplimiento del Auto 004 de 2009* (Diagnosis and lines of action for the Wiwa communities of the Sierra Nevada de Santa Marta (Cesar, Magdalena and Guajira departments) in the framework of compliance with Auto 004 of 2009), Valledupar-Riohacha, 2015, p. 79.

22 Office of the Ombudsperson, *Desplazamiento Forzado en la Sierra Nevada de Santa Marta en los años 2006 y 2007* (Forced Displacement in the Sierra Nevada de Santa Marta in 2006 and 2007). Background Document for Ombudsperson Hearing of 25-26 June 2008 (unpublished document); Vice-Presidency of the Republic of Colombia, Observatory of the Presidential Programme for Human Rights and International Humanitarian Law (*Observatorio del Programa Presidencial de Derechos Humanos y Derecho Internacional Humanitario*), p. 6.

23 Vice-Presidency of the Republic of Colombia, Observatory of the Presidential Programme for Human Rights and International Humanitarian Law, p. 6.

24 Office of the Ombudsperson, *Desplazamiento Forzado en la Sierra Nevada de Santa Marta en los años 2006 y 2007*. Background Document for Ombudsperson Hearing of 25-26 June 2008 (unpublished document).

Initially, the guerrillas imposed “their strategies and measures of social control”,²⁵ murdering members of the indigenous peoples “allegedly involved in small-scale and large-scale theft”.²⁶ They then exercised control and usurped the “functions of the [S]tate in the territory and appl[ie]d the death penalty to [those] who committed serious crimes”, such as murder.²⁷ In addition, they stigmatised the civilian population, alongside other practices such as “[t]erritorial dispossession and the commission of systematic murders against [the] leaders and other members of the communities”;²⁸ “[t]he forced recruitment of [...] young people”; “[t]he disruption of the community's economic activities”, and “the extortion of [...] members” of indigenous peoples.²⁹

B. Emergence of paramilitary groups in the SNSM

Paramilitary activities in the SNSM began in the late 1990s. At the beginning of the decade, the *Autodefensas del Sur del Cesar* (Self Defence Forces of Southern Cesar - AUSC) and the *Autodefensas de Santander y Sur del Cesar* (Self Defence Forces of Santander and Southern Cesar - AUSAC) were formed in the south of the department of Cesar, with a presence in Chiriguaná, Curumaní, Tamalameque, Pailitas, Pelaya, La Gloria, Gamarra, Aguachica, Río de Oro, San Martín and San Alberto, which are cattle-raising and palm-growing areas. During their consolidation, the AUSC and the AUSAC, while claiming to combat alleged guerrilla support in southern Cesar, directed their attacks mainly against the trade union movement.³⁰ Self-defence groups were also formed in El Mamey and El Palmar, which fought for control of the access to the sea from the Sierra Nevada and the coca crops,³¹ a dynamic that continued until early 2002 under the command of Hernán Giraldo. That same year, the paramilitary organization was restructured to incorporate the *Autodefensas Campesinas del Magdalena y La Guajira* (Self-Defence Forces of Magdalena and La Guajira - ACMG), led by Giraldo to the Northern Bloc of the AUC under the command of Jorge 40, to form what would become known as the *Bloque de Resistencia Tayrona* (Tayrona Resistance Bloc)³² directed by Giraldo himself.

25 [TRANSLATION] Organización Indígena Kankuama (OIK), *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*, Valledupar, 2009, p. 24.

26 [TRANSLATION] Organización Indígena Kankuama (OIK), *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*, Valledupar, 2009, p. 24.

27 [TRANSLATION] Organización Indígena Kankuama (OIK), *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*, Valledupar, 2009, p. 24.

28 [TRANSLATION] Organización Indígena Kankuama (OIK), *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*, Valledupar, 2009, pp. 21-22 and 24.

29 [TRANSLATION] Organización Indígena Kankuama (OIK), *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuamo 1985-2008*, Valledupar, 2009, pp. 21-22.

30 Observatory of the Presidential Programme for Human Rights and International Humanitarian Law, *Dinámica reciente de la violencia entre la confluencia de los Santanderes y el sur del Cesar* (Recent dynamics of violence between the confluence of Santander and Southern Cesar), Bogotá, 2006, p. 21.

31 Vice-Presidency of the Republic of Colombia and Observatory of the Presidential Programme for Human Rights and International Humanitarian Law, *Dinámica reciente de la confrontación armada en la Sierra Nevada de Santa Marta* (Recent dynamics of the armed confrontation in the Sierra Nevada de Santa Marta), 2006, p. 8. Available at: <http://bit.ly/2Qipvys>.

32 Superior Court of the Judicial District of Barranquilla, Chamber of Justice and Peace. Judgment of Jhon Jairo Hernández Alias “Centella”. Speaker Judge: Cecilia Leonor Olivella Araujo. Court field: 08-001-22-52-003-2011-00253, pp. 36 and 37. Available at: <http://bit.ly/32LBUgL>.

C. Between 2002 and 2005: Resurgence of violence and imposition of megaprojects

Between 2002 and 2005, there was an upsurge in violent actions against the civilian population in the form of massacres, land dispossession, displacements, and the sowing of terror among the population. Acts of violence spread against people from the political left, human rights activists, and others from different social sectors. The guerrilla groups moved into the higher parts of the Sierra, leaving the middle and lower parts under paramilitary control.³³ The paramilitary structures consolidated relations with traditional politicians and the commercial and business sector in the region, establishing agreements to provide security services in exchange for payment, or support for political campaigns.³⁴

Among the violent events during this period in Wiwa territory, the "Massacre of El Limón" and the "Marokazo Massacre" should be noted. The Massacre of El Limón took place between 29 August and 6 September 2002.³⁵ During this time, State security forces failed to intervene, despite the fact that the community had been threatened by paramilitary groups seven months earlier.³⁶ In this case, "[a]n armed group operating outside the law, wearing military clothes and carrying rifles and handguns, made incursions ... [into] the site known as 'El Limón', in the palm sector of the Tomarrazón *corregimiento* (*Treinta*)"³⁷, where the community of "El Limón" (one of the 27 communities of the Wiwa people) is based. According to testimonies and other evidence obtained during the investigation, between 200³⁸ and 400 men³⁹ from the *Autodefensas Unidas de Colombia* (United Self-Defence Forces of Colombia - AUC) carried out a campaign of stigmatisation, intimidation and terror against the civilian population, which involved murders and enforced disappearances.⁴⁰

The following year, on 21 April 2003, the Marokazo Massacre took place. According to the Colombian Constitutional Court, National Army troops from the Rondón and Cartagena Battalions, who had been stationed since 16 April in the Caracolí *corregimiento*, "entered Marokazo with artillery helicopters and carried out bombardments, causing material damage and threatening the population".⁴¹ Once the army left, the AUC entered. They "murdered, tortured and beat men and women; destroyed the health centre, taking medicines and equipment; burnt houses; killed animals; and destroyed a community shop and a privately owned shop". This event led to the displacement of 19 families – 175 people – to the communities

33 Observatory of the Presidential Programme for Human Rights and International Humanitarian Law, 2006. p. 10.

34 Verdad Abierta, *The Battles of Hernán Giraldo*; Verdad Abierta, "Ojitos Azules" (*Blue Eyes*), *el verdadero poder del paramilitarismo en Atlántico* (the real power of paramilitarism in Atlántico), 8 April 2019, available at: <https://verdadabierta.com/ojitos-azules-el-verdadero-poder-del-paramilitarismo-en-atlantico/>.

35 CAJAR, *Estado pidió perdón por masacre y desplazamiento de comunidad del pueblo Wiwa* (State apologises for massacre and displacement of Wiwa community), available at: <https://colectivodeabogados.org/Estado-pidio-perdon-por-masacre-y-desplazamiento-de-comunidad-del-pueblo-Wiwa>.

36 See *Equipo Nizkor*, "Cien niños y 50 adultos perdidos en la Sierra Nevada huyen de la matanza de 12 indígenas" (One hundred children and 50 adults missing in Sierra Nevada as they flee massacre of 12 members of the indigenous community), *Procuraduría Delegada Disciplinaria para la Defensa de los Derechos Humanos* (Office of the Inspector General Disciplinary Representative for the Defence of Human Rights), Record No. 3707 of 24 September 2002, c. 1, fls. 36 - 40.

37 [TRANSLATION] *Idem*.

38 Attorney General's Office, UNDH 1450, Report on the inspection of the body, Record No. 149, c. 1, fl. 22.

39 Attorney General's Office, UNDH 1450, Testimony of Mr. Jesualdo Enrique Loperena, 10 October 2002, c. 1, fl. 97.

40 Attorney General's Office, UNDH 1450, Report of 23 October 2002 by the Technical Investigations Unit (*Cuerpo Técnico de Investigación* - CTI) of the Attorney General's Office, c. 1, fl. 218, and Attorney General's Office, UNDH 1450, CTI Report No. 2146 of 29 October 2002.

41 [TRANSLATION] Constitutional Court of Colombia, Auto 004/09 of 26 January 2009. Annex, "Análisis focalizado de la situación de los pueblos indígenas colombianos mayormente afectados por el conflicto armado interno y el desplazamiento forzado" (Focused analysis of the situation of the Colombian indigenous peoples most affected by the internal armed conflict and forced displacement).

of El Machín, La Peña de los Indios, Ulago and the municipality of San Juan del Cesar.⁴² A Mission of the Ombudsman's Office found that in said military and later paramilitary incursion, homes were burned, including houses of sagas and mamos of the indigenous communities, as well as the burning of Kunkuruas, Education Centres, and supply stores⁴³, along with the murder of at least one farmer and the disappearance of one Wiwa⁴⁴ indigenous person. These phenomena show a pattern of discriminatory treatment and of practices of cultural violence against indigenous peoples on the basis of ethnicity.

This time frame was also the period of the worst violence against the Kankuamo indigenous people. On 24 September 2003, the Inter-American Commission on Human Rights (IACHR) granted precautionary measures in favour of the Kankuamo indigenous people. By then, in the first half of 2003 alone,⁴⁴ indigenous people had been murdered, the vast majority by members of paramilitary groups.⁴⁵ In our records for the study period from November 2002 to 2009, the murder of at least 3 mamos and ethnic authorities of the Kankuamo people, 3 of the Wiwa people, and 1 saga were documented (Annex 1).

Five months later, on 4 February 2005, the IACHR granted precautionary measures in favour of the Wiwa indigenous people of the SNSM. The court took into consideration that "[o]ver the last two years this indigenous people has been the victim of a series of acts of paramilitary violence, including the murder of approximately 50 indigenous leaders, the forced displacement of more than 800 people and the deterioration of the humanitarian situation of the communities of La Laguna, El Limón, Marokazo, Dudka, Linda and Potrerito".⁴⁶

On 5 July 2005, the Inter-American Court of Human Rights (IACourtHR) ordered provisional measures in favour of the Kankuamo indigenous people, two years after the IACourtHR issued precautionary measures.⁴⁷ Despite these measures, indigenous peoples continued to be victims of different situations of risk, harassment, and individual and collective stigmatization.

42 Constitutional Court of Colombia, Auto 004/09 of 26 January 2009. Annex, "*Análisis focalizado de la situación de los pueblos indígenas colombianos mayormente afectados por el conflicto armado interno y el desplazamiento forzado*". In relation to the events, on 19 July 2018, the State apologised for the massacre and displacement of the Wiwa community, in the context of the judgement of the Guajira Administrative Court of 19 July 2017, a second instance ruling in a class action brought by members of the Wiwa indigenous community.

43 Follow-up report on the situation of human rights and international humanitarian law of the Wiwa people of the Sierra Nevada de Santa Marta- 2002 - 2005 http://www.archivodelosddhh.gov.co/saia_release/1/almacenamiento/APROBADO/2018-03-30/430753/anexos/1_1522427050.pdf

44 Colombian Commission of Jurists - CCJ, Colombia: "Veinte razones para afirmar que la situación de derechos humanos y derecho humanitario es muy grave y tiende a empeorar Balance del año 2003" (Twenty reasons to affirm that the situation of human rights and humanitarian law is very serious and tends to worsen. Balance of the year 2003), https://www.coljuristas.org/documentos/libros_e_informes/colombia_veinte_razones.pdf

45 IACHR, Precautionary Measures, Kankuamo Indigenous People. The IACHR requested the Colombian State to adopt the necessary measures to safeguard the life and personal integrity of the Kankuamo people, respecting their cultural identity and protecting the special relationship they have with their territory; to provide emergency care to the victims of forced displacement; and to adopt the necessary measures to investigate the acts of violence and threats against the beneficiary community. Available at: <https://www.oas.org/en/iachr/indigenous/protection/precautionary.asp> - Kankuamo.

46 IACHR, Precautionary Measures No. 21/05. The IACHR requested the Colombian State to adopt the necessary measures to protect the life and personal integrity of the members of the Wiwa People of the Sierra Nevada de Santa Marta, respecting their cultural identity and protecting the special relationship they have with their territory, in accordance with the obligations undertaken by the State; provide humanitarian attention to the victims of displacement and the food crisis, in particular to the children of the indigenous people; agree on collective protection measures, including the presence of a community defender, with the beneficiaries, through their representative organisations, Wiwa Yugumai un Bukuanarúa Tayrona OBYBT, the Gonabindua Tayrona Organisation and the petitioners; adopt the necessary measures to put an end to the violence and threats against the beneficiary community. Available at: <http://www.cidh.org/medidas/2005.eng.htm>.

47 On 24 September 2003, the Commission granted this protection to the Kankuamo indigenous people on the grounds of the 44 murders committed during the first half of 2003. The IACHR requested the Colombian State to adopt the necessary measures to preserve the life and personal integrity of the members of the Kankuamo people, respecting their cultural identity and protecting the special relationship they have with their territory; to provide emergency care to the victims of forced displacement; and to adopt the necessary measures to investigate the acts of violence and threats made against the beneficiary community. Currently, the Commission is hearing cases 12.509 and 12.510 concerning extrajudicial executions committed by the National Army against two members of the Kankuamo indigenous community.

Regarding the Kogui people, who are located in the highest part of the Sierra Nevada, there were cases of murders, enforced disappearances, and ethnic and cultural violence, which followed the same patterns of violence against the other peoples of the Sierra. According to the United Nations, “from the end of early 2004 to mid-2005, approximately ten Kogui have been killed and disappeared, all in the Ancho and Jerez river basins within the jurisdiction of the Guajiro municipality of Dibulla”⁴⁸.

These acts of violence occurred in a specific context of economic and political interests in the ancestral territory of the indigenous peoples of the SNSM, in conjunction with a process of militarisation of the region through agreements between companies and State security forces.⁴⁹ This was the case of the El Cercado dam and irrigation district on the Ranchería River and the Brisa S.A. multipurpose port, which launched the construction process, charging into ancestral territory, violating indigenous peoples right to prior consultation, free, prior and informed consent, but above all, violating their own or higher law, the Law of Origin that governs the four peoples that inhabit the SNSM.⁵⁰

In the process of Justice and Peace, various calls were made to investigate businessmen involved in livestock, palm and other businesses who were part of the paramilitary structures as sponsors or even members.

In the communities' view, there was a link between the human rights violations and the progress of said Megaprojects: according to what was stated by members of the communities, the process surrounding the El Cercado dam was not fortuitous: “In the paramilitary detention centre 2001, Manuel Gil was assassinated, along with three farmers and Kankuamo indigenous persons, at that time the paramilitary checkpoints were started, a checkpoint was installed on the El Cercado bridge and until now it was in technical studies and they moved with ease, but the indigenous people were not able to move with ease.” In addition to this, there is also the damage caused by the dam to the cultural heritage of the Wiwa people, such as the looting and burning of the Indigenous Cemetery.⁵¹

48 [TRANSLATION] United Nations System. Situation of the Indigenous Peoples of Colombia Statement of the United Nations in the framework of the National Forum of Indigenous Peoples September 28, 2006, http://www.archivodelosddhh.gov.co/saia_release1/almacenamiento/APROBADO/2018-03-30/431182/anexos/1_1522431678.pdf

49 In this regard, it has been shown that the troops of the *Batallones Especiales Energéticos y Viales* (Special Energy and Road Battalions) have grown exponentially since 2000, by between 15 and 20 per cent. Ibid. In addition, *Centros Especiales para la Protección de la Infraestructura Crítica y Económica del Estado* (Special Centres for the Protection of the Critical and Economic Infrastructure of the State - COPEI) have been created, which involve coordination plans between members of the Military Forces, the National Police and companies to develop strategies to protect the mining and energy infrastructure and prevent insurgent groups from attacking it. Mining-energy companies operating in the centre of Cesar, in particular Drummond, Colombian Natural Resources and Provdeco, signed 23 agreements with the Military Forces between 2000 and 2014, for a total of more than ten billion pesos. Furthermore, Gary Drummond, former CEO of Drummond Ltda., stated that between 2002 and 2003, close to five hundred thousand dollars were paid to the military forces for protection. Ibid.

50 The Constitutional Court of Colombia, in reviews of actions for protection (*acciones de tutela*), has heard several cases related to the violation of the fundamental right to prior consultation of the Indigenous Peoples of the SNSM. In some cases, the Constitutional Court ordered the revocation of the environmental licences that had been granted to authorise the initiation of projects and, in others, the suspension of the project. In this regard see: Constitutional Court, Judgements T-849 of 2014; T 0005 of 2016 and T-549 of 2010. The *Consejo Territorial de Cabildos* (Territorial Council of Cabildos - CTC) has expressed its disagreement with the way in which consultation processes have been carried out, affecting the autonomy, self-government, ancestral territory, sacred sites and places of earning, sovereignty, life, culture and food security of these peoples. *Consejo Territorial de Cabildos Indígenas de la Sierra Nevada de Santa Marta* (Territorial Council of Indigenous Cabildos of the Sierra Nevada de Santa Marta), *Posición Indígena De La Sierra Nevada De Santa Marta Frente A Los Proyectos Multipropósitos Puerto Brisa En Dibulla, Represas En Besotes Y Ranchería: Afectación A Nuestras Culturas* (Position of the indigenous people of the Sierra Nevada De Santa Marta regarding the Puerto Brisa multipurpose projects in Dibulla and dams in Besotes and Ranchería: Affecting our cultures), Mingueo, 18 April 2007.

51 Ministry of the Interior, OWYBT and Wiwa Delegation Organization, Diagnosis and lines of action for the Wiwa communities of the Sierra Nevada de Santa Marta (Cesar, Magdalena and Guajira departments) within the framework of compliance with Order 004 of 2009, Valledupar-Riohacha, 2015, p. 97.

D. From 2006 to the present: Demobilisation and successor groups to paramilitarism

In March 2006, the process of demobilising of the AUC Northern Bloc began. Despite this demobilisation, new groups that had close relations with the Northern Bloc and the Central Bolívar Bloc⁵² inherited military structures, stolen land, illicit crops, political alliances, drug trafficking zones and trade in petrol and arms, among other activities.⁵³

This region became “the scene of fierce and bloody disputes between rival illegal armed factions competing to capitalise on the legacy of the paramilitaries”. Thus, it can be considered that paramilitarism continued with the irruption of various illegal armed groups such as “Los Nevados”, “Los Paisas”, “Los Rastrojos”, “Los Urabeños” and “Los Pachencas”, “Águilas Negras”, “Organización Nueva Generación”, “Banda de la Alta Guajira”, “Autodefensas Gaitanistas”, “Los Giraldo”,⁵⁴ which amid their disputes left behind a trail of violence and death”.⁵⁵ Initially, “Los Urabeños” took control of the north of the department of Magdalena over the “Águilas Negras”, while “Los Paisas” were based in the Zona Bananera, and the armed wing of “Los Giraldo” exercised control in the Central Zone of the Sierra together with “Los Rastrojos”.⁵⁶

In 2010, “Los Urabeños” and the armed group “Los Giraldo” established alliances for the control of the region along with a number of arrangements to co-opt public institutions.⁵⁷ However, in 2012 this agreement that kept “Los Urabeños” in control of Santa Marta came to an end when the so-called *Oficina del Caribe* was revived in conjunction with the armed wing of “Los Giraldo”. This new dispute for historical control of the region left approximately 150 people dead in three months. Two of Hernán Giraldo’s nephews are said to have been in charge of the recapture of the region. One of them was linked to the “Los Nevados” gang, and the other had applied for demobilisation under the Justice and Peace Law, but never participated in the *versiones libres* (voluntary statements), made reparations to the victims, nor was he summoned by the Attorney General’s Office.⁵⁸ By 2013, the Giraldo clan had regained control of the city of Santa Marta and eventually drove out “Los Urabeños” after the capture and murder of several of its members.⁵⁹

52 Observatory of the Presidential Programme for Human Rights and International Humanitarian Law, Vice-Presidency of the Republic of Colombia, *Diagnóstico de la situación del pueblo indígena Wiwa* (Diagnosis of the situation of the Wiwa indigenous people), available at: http://historico.derechoshumanos.gov.co/Observatorio/Documents/2010/DiagnosticoIndigenas/Diagnostico_WIWA.pdf, p. 31.

53 In recent reports, the MAPP-OEA, the Ombudsperson’s Office and other organisations have described the rearmament situation in detail, characterising the problem. Some of these reports show the strong link between demobilised former AUC combatants who operated in the Sierra Nevada and the newly formed groups, which, rather than engaging in counterinsurgency, have mainly been involved in the illicit activities described above. See MAPP-OEA, Volume II, Reports of the Secretary General to the Permanent Council, 2007-2015, available at: <https://www.mapp-oea.org/wp-content/uploads/2019/06/TOMO-II.pdf> p. 39.

54 The groups under the command of Hernán Giraldo reorganised as the Tayrona Resistance Bloc (*Bloque de Resistencia Tayrona*) to maintain control of the region, but after their formal demobilisation and Hernán Giraldo’s extradition to the US in 2008, a new period of dispute over territorial control began. <https://www.eltiempo.com/colombia/otras-ciudades/hernan-giraldo-genera-temor-en-sierra-nevada-de-santa-marta-529390>.

55 Office of the Ombudsperson, Early Warning No. 044-19, Date: 30 October 2019.

56 *Centro Nacional de Memoria Histórica (CNMH), Desmovilización y reintegración paramilitar. Panorama posacuerdos con las AUC* (Demobilisation and paramilitary reintegration. Post-agreements with the AUC), Bogotá, CNMH, 2015, <https://www.centrodememoriahistorica.gov.co/descargas/informes2015/desmovilizacionDesarmeReintegracion/desmovilizacion-y-reintegracion-paramilitar.pdf>.

57 CNMH-DAV, Santos Alberto, Zúñiga Priscila, Jaimés Margarita and Rodríguez Lukas, 2014, pp. 100-101, <https://www.centrodememoriahistorica.gov.co/descargas/informes2015/desmovilizacionDesarmeReintegracion/desmovilizacion-y-reintegracion-paramilitar.pdf>.

58 *El Tiempo*, “Guerra de ‘Urabeños’ y los Giraldo deja más de 150 muertos” (War between the ‘Urabeños’ and the Giraldos leaves more than 150 dead), 1 October 2012, <https://www.eltiempo.com/archivo/documento/CMS-12275027>.

59 Office of the Ombudsperson, Early Warning No. 044-19, Date: 30 October 2019.

One of the captured members of the “Los Urabeños” group was Jesús Aguirre Gallego, a.k.a “Chucho Mercancía” or “Chucho Pachenca”.⁶⁰ In 2015, he was released again⁶¹ by a judge who was later convicted of misconduct for granting freedom to people linked to paramilitary groups.⁶² That same year, “Chucho Mercancía” took over the command of the armed group “Los Giraldo”, which from then on would be known as “Los Pachencas”. To this day, “Los Pachencas” have managed to impose themselves and obtain control over the main licit and illicit activities in the SNSM, through their armed actions and in association with local criminal gangs through “outsourcing” agreements.⁶³

Currently, risks persist and a “law of silence” and control has been maintained in the region through “violent forms of social regulation that seek the silencing and subjugation of the civilian population, such as the issuing of pamphlets that determine the times when the population can move around, night-time tours on motorbikes and in tinted cars without license plates, the murder of emblematic leaders, as well as the use, involvement and forced recruitment of children and adolescents, forced displacements and extortion”.⁶⁴

Thus, murders continue in the SNSM. On 5 January 2019, Maritza Quiróz Leiva, deputy leader of the Mesa de Víctimas de Santa Marta and leader of Afro-descendant women victims of forced displacement in the Sierra Nevada, was assassinated.⁶⁵ “[A]rmed men came to her farm in the hamlet of San Isidro, in a rural area of Santa Marta, and shot her dead.”⁶⁶ Days later, on 14 January 2019, Wilton Fauder Orrego León, an official at the Sierra Nevada de Santa Marta National Natural Park, was shot dead. This National Park, as well as the Tayrona Natural Park in the SNSM have become “a hiding place for criminal gangs and illegal armed groups such as the Pachenca”.⁶⁷ On 30 October 2019, Edison José Maestro Nieves, a member of the Wiwa people, was murdered on the boundaries between the Margaritas and Los Escondidos farms in the jurisdiction of Patillal (Valledupar). Next to his lifeless body “there was a pamphlet signed by

60 Chucho Mercancía started in the *Autodefensas Unidas de Córdoba y Urabá* (United Self-Defence Forces of Córdoba and Urabá - ACCU). He was a front man for the Giraldo family and had been working since 2006 with “Los Nevados”, a group formed by “the twins” Víctor and Miguel Mejía Munera (who allegedly bought a “franchise” from the AUC to benefit from the Justice and Peace Law, without complying with their commitments or serving their sentences), and then with the armed wing that remained after the formal demobilisation of the *Bloque de Resistencia Tayrona* (Tayrona Resistance Bloc), and was then under the command of *Los Urabeños* while the latter dominated drug trafficking in Santa Marta and the region. He had already been convicted in 2000 and 2007 for drug trafficking and carrying weapons. <https://www.asuntoslegales.com.co/actualidad/chucho-mercancia-objetivo-de-alto-valor-mas-esquivo-para-las-autoridades-2874859>.

61 *Semana*, “La banda de los Pachencas revive el miedo en Santa Marta” (The Pachencas gang reignites fear in Santa Marta), 15 January 2015, <https://www.semana.com/nacion/articulo/juez-dejo-en-libertad-a-17-miembros-de-los-pachencas-en-santa-marta/453691/>.

62 *El Tiempo*, “Las polémicas decisiones que abren huecos en el sistema judicial” (Controversial decisions that open holes in the judicial system), 13 January 2018, <https://www.eltiempo.com/justicia/cortes/la-polemica-por-corrupcion-en-el-sistema-judicial-170802>.

63 Together with the so-called *Oficina del Caribe* (Caribbean Office), which has maintained a lower profile since 2013 and is said to be in charge of the organisation’s commercial activities and management. Office of the Ombudsperson, Alert. This group operates in the same way as the Giraldo clan used to, through extortion of the region’s lawful economies, as the Office of the Ombudsperson has highlighted: “(...) the imposition of forced taxation by criminal structures is a reality that can be seen in the following ways: (a) charging for each tourist who enters the region, (b) charging for the consumption of food in commercial establishments, (c) charging tolls under a purportedly communal cover, (d) charging for the entry of products and foodstuffs, (e) charging for intermediaries in land transactions”, in addition to drug trafficking, theft and petrol smuggling. Office of the Ombudsperson, Alert.

64 [TRANSLATION] Office of the Ombudsperson, Early Warning No. 044-19, Date: 30 October 2019.

65 Murdered leaders documented since the signing of the Accord, <https://www.lapazenelterreno.com/lider-social/maritza-quiroz-leyva>

66 [TRANSLATION] *La paz en el terreno, Líderes asesinados documentados desde la firma del Acuerdo* (Murdered leaders documented since the signing of the Accord), <https://www.lapazenelterreno.com/lider-social/maritza-quiroz-leyva>.

67 [TRANSLATION] “Colombia: asesinato de guardaparque en Santa Marta prende todas las alarmas” (Colombia: murder of park ranger in Santa Marta triggers all alarms), 18 January 2019, <https://es.mongabay.com/2019/01/parques-nacionales-colombia-asesinato-guardaparques-santa-marta/>.

the *Águilas Negras*, threatening the lives of authorities and members of the Wiwa people".⁶⁸

This situation has had a differential impact on the indigenous peoples of the SNSM, in particular a cultural impact on the pillars of the indigenous cosmogony, which puts their survival at risk. It is important to underline that the burning of houses and sacred sites that were perpetrated in the massacres of the early 2000s have recently been repeated on sacred sites of the indigenous peoples of the SNSM. Places known as the "Kankuruas" have been burned on multiple occasions, according to complaints from the towns in January 2015, February 2016, February, August and October 2017, with no progress in clarifying those responsible⁶⁹ despite the calls of the Public Ministry for the protection of these places as cultural heritage of the nation and of humanity.⁷⁰

2. Crimes against humanity committed in the Sierra Nevada de Santa Marta: The crime of murder

This communication is based on an analysis of 131 cases concerning 180 victims of the crime against humanity of murder in the SNSM (See Annex No. 1).

Taking into account the context described above, the following section will focus on demonstrating that, in the SNSM between 2002 and 2009, the crime against humanity of murder, which falls under the jurisdiction of the ICC, was committed against members of the *Kogui*, *Arhuaco*, *Wiwa* and *Kankuamo* indigenous peoples, the latter two being the most affected. In addition to the armed forces of the State, the physical perpetrators of these crimes are paramilitary groups acting with their support, tolerance and/or acquiescence. As of November 2009, the cases that are the subject of this communication also qualify as war crimes within the jurisdiction of the ICC, in the form of murders and attacks against the civilian population.

From the cases reviewed (Annex No. 1), we identified two patterns:

- Murders committed by members of the army, or by third parties with the army's support, tolerance or acquiescence, in the form of "false positives". As recognised by the Inter-American Court, this practice consists of "extrajudicial killings in the context of the Colombian armed conflict, with a modus operandi characterised by the killing of civilians subsequently presented as members of illegal armed groups killed in combat, through various methods of distorting the scene of the crime and the circumstances regarding the manner, time and place in which the events took place".⁷¹

- Murders committed directly by paramilitary groups, with the support, tolerance or acquiescence of the State. Such support, tolerance and/or acquiescence is demonstrated by the configuration of the murders of members of indigenous peoples by paramilitary groups in settlements and at checkpoints

68 [TRANSLATION] Online press release, "*No se detiene el exterminio hacia los pueblos indígenas*" (Extermination of indigenous peoples continues unabated), 1 November 2019, <https://www.contagioradio.com/no-se-detiene-el-exterminio-hacia-los-pueblos-indigenas/>.

69 Communication from the Kankuamo Indigenous People to the public opinion "*Atentado al corazón de nuestra cultura: Kankuruas o centro ceremoniales de Minakalwa*". ("Attack against the Heart of our Culture: Kankuruas or Minakalwa Ceremonial Centre.")

70 Attacks with arson consume two indigenous ceremonial centres of the Sierra Nevada, <https://www.elheraldo.co/magdalena/incendio-provocado-consume-dos-centros-ceremoniales-indigenas-de-la-sierra-nevada-393903>

71 [TRANSLATION] IACourtHR. *Case of Villamizar Durán and others v. Colombia*. Preliminary Objections, Merits, Reparations and Costs, Judgment of 20 November 2018, Series C No. 364, para. 115.

that were already known to State authorities and located in highly militarised areas, without any timely action to protect the civilian population.

There are several links between these two patterns. First, it is important to note at the national level that, since the 1990s, the paramilitaries have been in charge of the 'dirty war', as has been shown by numerous judgments of Justice and Peace in coordination with the military in different areas. Our research shows that, in the Sierra area, the stigmatization and the false pointing of indigenous communities as collaborators of the guerrillas, due to the fact that they are located in a territory with the presence of these armed groups, motivates the murders of members of these communities. This is done with the tolerance and sometimes support of the military present in the area. As of 2002, the bodies of the murdered persons acquire a value, because they can be presented as casualties, when the paramilitaries begin to hand over the people that they murdered to members of the army so that they can be counted in their results as casualties. These two patterns of assassinations of indigenous people of the Sierra by paramilitaries coexisted until 2009, despite the paramilitary demobilization.

Alleged perpetrators:

In general, these murders were allegedly committed by members of battalions (tactical units) attached to the Second Brigade⁷² and Tenth Armoured Brigade⁷³ of the National Army, whose commanders can be identified for each period as shown in the annexed table (Annex 2); as well as by members and leaders of the North Bloc of the AUC and, in particular, by the Tayrona Bloc.

A. Murders committed in the form of “false positives”

a.1 Existence of an attack against the civilian population

The conduct was committed as part of a systematic attack directed against the civilian population (indigenous peoples of the SNSM), precisely for the purpose of presenting the victims as members of non-state armed groups killed in combat (FARC-EP and ELN), and this was known to the perpetrators.⁷⁴

In this regard, according to the 2010 report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, “the armed conflict disproportionately affects the indigenous peoples of the country. The strategic location of the territories of indigenous peoples, both for the development of the armed confrontation and for drug trafficking activities, make them particularly vulnerable. In 2007, statistics from the Ombudsman's Office on SAT activities show that of the 38 risk reports issued, 45% had to do with indigenous peoples.”⁷⁵

In 2009, the Colombian Constitutional Court concluded that some 34 indigenous peoples in Colombia were at risk of physical and cultural extermination as a result of the internal armed conflict and forced displacement, including the *Wiwa*, *Kankuamo*, *Arhuaco* and *Kogui* indigenous peoples of the SNSM.⁷⁶ The

72 The Second Brigade was created in 1934, by Resolution No. 1691 of 28 August. Its headquarters are located in Barranquilla (Atlántico) and it has jurisdiction over the departments of Atlántico, Magdalena and Sur de Bolívar.

73 Created on 30 April 2004 by Resolution 393 of 2004 issued by the Minister of National Defence Jorge Alberto Uribe Echavarría. This Brigade replaced Operational Command No. 7.

74 Article 7(1)(a). Elements of Crimes.

75 UN. Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. The situation of indigenous peoples in Colombia: follow-up to the recommendations made by the previous Special Rapporteur. A / HRC / 15/37 / Add.3, May 25, 2010, para. 14.

76 Constitutional Court of Colombia, Auto 004 of 2009. Judge-Rapporteur, Manuel José Cepeda Espinosa.

Constitutional Court also found that members of Colombia's indigenous peoples have been victims of extrajudicial killings.⁷⁷ Furthermore, the Attorney General's Office reported the commission of 32 acts of violence perpetrated by State security forces between 2002 and 2009. According to its report, the National Army carried out "actions that failed to respect human rights and international humanitarian law. Such actions refer to extrajudicial killings of members of the Indigenous Peoples of the SNSM, which were presented as combat casualties". They also refer to a series of "threats against and intimidation of the communities; arbitrary detention, sexual violence against minors⁷⁸ and alliances with paramilitary groups".⁷⁹

Except in the case of Uriel Evangelista Arias (Tito Arias), the victims were not members of the military forces or those considered to have combatant status and, more generally, in all the cases covered by this communication, at the time of the events there was no situation of confrontation, and the victims were strictly members of the civilian population.⁸⁰

According to Auto 033 of 12 February 2021, the investigation of the Chamber for the Recognition of Truth, Responsibility and the Determination of Facts and Conduct (*Sala de Reconocimiento de Verdad, de Responsabilidad y de Determinación de los Hechos y Conductas* - SRVR) of the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz* - JEP) will prioritise the geographical area in the departments of Cesar and La Guajira and the period between 2002 and 2005: "[T]he department of Cesar has the third highest incidence in the country of victims of ['false positives'], with 7.7% of the cases analysed by the Attorney General's Office in its report (corresponding to 173 contested deaths), and La Guajira has the ninth highest incidence, with 90 contested deaths, equivalent to 4%".⁸¹

At the national level, "41 indigenous victims [...] have been identified, corresponding to 2% of the total number of victims".⁸² Of these, 22 members of the Kankuama, Wiwa and Wayuu ethnic groups "were presented as having been killed in combat mainly by members of the *La Popa* Battalion and the Mechanised Group (*Grupo Mecanizado*) "Juan José Rondón" (GMRON)".⁸³ Thus, more than half of the indigenous victims of "false positives" are members of the indigenous peoples of the SNSM.

77 Constitutional Court of Colombia, Auto 004 of 2009. Judge-Rapporteur, Manuel José Cepeda Espinosa.

78 For further details, see Constitutional Court Autos 251 and 092 of 2008. The former analyses the impact of violence on minors from indigenous communities, while the latter analyses sexual violence.

79 Attorney General's Office.

80 *The Prosecutor v. Germain Katanga*, Judgment pursuant to article 74 of the Statute, ICC-01/04-01/07-3436, para. 1102.

81 SRVR, Auto 033, "*Hacer de público conocimiento la priorización interna del Caso 03 denominado 'muertes ilegítimamente presentadas como bajas en combate por agentes del Estado'*" (Make public the internal prioritisation of Case 03 entitled "deaths unlawfully presented as combat casualties by agents of the State"), 12 February 2021, para. 55.

82 SRVR, Auto 033, "*Hacer de público conocimiento la priorización interna del Caso 03 denominado 'muertes ilegítimamente presentadas como bajas en combate por agentes del Estado'*", 12 February 2021, para. 58.

83 SRVR, Auto 033, "*Hacer de público conocimiento la priorización interna del Caso 03 denominado 'muertes ilegítimamente presentadas como bajas en combate por agentes del Estado'*", 12 February 2021, para. 58.



Kankuamo people, 2021. Source: OIK

a.2 Systematic nature of the attack

Members of the armed forces have demonstrated clear organisation in the commission of their acts of violence. As described above, the incursions into the SNSM to murder members of the indigenous peoples who live there were not fortuitous, unplanned or improvised events, but rather were intended to present the victims as guerrilla members killed in combat, "through various means of distorting the scene of the crime and the circumstances regarding the manner, time and place in which the events occurred".⁸⁴

According to Auto No. 033 of the SRVR of the JEP, "[t]he First Division of the Army, between 2002 and 2005, had the highest number of [false positive] deaths contested at the national level.⁸⁵ "[M]ost of those deaths were concentrated in the north of Cesar, under the jurisdiction of the Artillery Battalion No. 2 'La Popa' ([...] BAPOP) and the south of La Guajira, under the jurisdiction of the Mechanised Group *Juan José Rondón* ([...] GMRON)".⁸⁶ Thus, "the First Division registered 15% of the questioned casualties analysed at the national level and, of those, the BAPOP had the highest number of cases investigated (166), representing 51% of the Division's total. This makes it the battalion with the highest number of cases investigated under Law 600 by the Attorney General's Office, followed by the GMRON with 24% of the deaths".⁸⁷

84 [TRANSLATION] IACourtHR, *Case of Villamizar Durán and others v. Colombia*. Preliminary Objection, Merits, Reparations and Costs. Judgement of 20 November 2018, Series C No. 364., para. 115.

85 SRVR, Auto 033, "Hacer de público conocimiento la priorización interna del Caso 03 denominado 'muertes ilegítimamente presentadas como bajas en combate por agentes del Estado'", 12 February 2021, para. 54.

86 SRVR, Auto 033, "Hacer de público conocimiento la priorización interna del Caso 03 denominado 'muertes ilegítimamente presentadas como bajas en combate por agentes del Estado'", 12 February 2021, para. 54.

87 SRVR, Auto 033, "Hacer de público conocimiento la priorización interna del Caso 03 denominado 'muertes ilegítimamente presentadas como bajas en combate por agentes del Estado'", 12 February 2021, para. 55.

With regard to the murders committed by paramilitary groups in the pattern of “false positives”, it is also possible to identify those responsible, either because they wear military-style uniforms and weapons, or because they wear insignia that identify them as belonging to a certain group. Although the physical perpetration of the crime is carried out by the paramilitaries, the execution of the practice of “false positives” necessarily requires the intervention of the armed forces, who ultimately present the victim as a combat casualty. In this way, the support and coordination between the army and the paramilitaries is evident. The case of **Ildomar José Montero Romero**, murdered by members of the Mártires del Cesar Front of the Northern Bloc of the AUC, demonstrates the joint action of the army and paramilitary groups in the pattern of “false positives”.

The highest number of cases of crimes against the Wiwa indigenous people “occurred under the jurisdiction of the *La Popa* and *Juan José Rondón* Battalions, attached to the Tenth Brigade of the National Army, [and] whose commanders have not been investigated”.⁸⁸ They had several particular characteristics:

1. Those murdered were not involved in a confrontation in the context of hostilities, contrary to what was claimed, as in the case of the murder of **Enrique Laines Arias Martínez** (Annex No. 1).
2. In addition, the victims were presented wearing camouflage suits or armed forces uniforms, with military weapons (grenades, grenade launchers, shotguns, handguns, portable communication radios, cartridges and/or ammunition of different calibres) which, as shown by closed or ongoing investigations, were planted by those responsible to show an alleged confrontation, as in the case of the murder of the Wiwa girl **Noemi Ester Pacheco Zabatá** and her Kankuamo husband, **Hermes Enrique Carrillo**.
3. The military prepared official reports on the events according to which the victims belonged to a guerrilla group and were killed in combat, such as in the case of the murder of **Ever José Vega Vega** and **Jeiner Vega Radillo**. These reports contain multiple inconsistencies regarding ballistics and falsehoods, as in the investigation of the murder of **Noemi Ester Pacheco Zabatá** and **Hermes Enrique Carrillo**; the murder of **Víctor Hugo Maestre Rodríguez**; and the case of **Yajaira Cristina Nieves Oñate**, an indigenous Wiwa woman who was declared to have died in combat.
4. Guidelines to prevent the practice were ignored, as acknowledged by the SRVR of the JEP in Auto 033 referring to possible alliances between BAPOP and GMRON and paramilitary groups concerning the pattern of “false positives” which led to “ethnic victimisation”.
5. The violation of minimum judicial guarantees for victims’ families seeking justice, as well as intimidation of witnesses or family members to prevent the opening or conduct of investigations or prosecutions, as in the case of **Víctor Hugo Maestre**.

a.3 State policy to commit the attack

The attack on the civilian population is neither accidental nor coincidental. It does not involve isolated individual actions by state officials, although such motives may exist among the perpetrators.⁸⁹ This attack is part of a policy. The demand by state institutions that members of the armed forces obtain results has been a determining factor in the emergence of the so-called “false positives”, a practice whose

⁸⁸ Report “The True History of the Wiwa People”, supra.

⁸⁹ As the judges underlined in the Germain Katanga judgment, it is not necessary, in order to show policy, to match the criminal intent of those carrying out the specific acts with the policy of the attack, for the purposes of proving the general elements of the crime against humanity.

existence has been recognised by the OTP⁹⁰ itself and by Inter-American human rights bodies.⁹¹

This is demonstrated by the case of **Noemí Ester Pacheco** and her husband, **Hermes Enrique Carrillo**. One of those responsible acknowledged this before the JEP, stating that there was a results-based "policy" at the national level to apply pressure: "when General Montoya's policy was in place, demanding operational results from the battalions for each unit, at that time all the units had to contribute, to present a number of casualties" (...) "when you didn't present casualties, you were sanctioned, the battalion sanctioned you on your personal record, they put poor performance on your record" (Annex No. 1).

In this regard, the Colombian Ministry of National Defence issued Permanent Ministerial Directive No. 029 of 17 November 2005, which, as a "Ministerial Policy", "defines criteria for the payment of rewards for the capture or killing in combat of leaders of illegal armed organisations, military, logistical or communication material and information on activities related to drug trafficking and payment for information that serves as a basis for the pursuit of intelligence activities and the subsequent planning of operations".⁹²

In relation to this practice, there is evidence of the payment of rewards by commanders of the Tenth Armoured Brigade of the National Army (Chief of Staff Colonel Jesús Martínez Espinel and Lieutenant Colonel Sergio Alberto Tafur García), for "information provided" on alleged members of guerrilla groups "giving excellent operational results".

As documented in detail in the report "*El deshonroso primer lugar*" ("Dishonourable First Place"),⁹³ as described below, it was also a common practice to use members of paramilitary groups with whom the Battalion command or the troops had contacts as guides, informants or recruiters.⁹⁴ This is corroborated by statements such as that of paramilitary Rodrigo Alberto Zapata, a.k.a Ricardo, a well-known chief of the *Casa Castaño*, who stated in court proceedings that "[...] the Fourth Brigade had good relations with the paramilitaries and with Duncan or Jerónimo (paramilitaries) they coordinated the conduct of operations to obtain casualties as an operational result [...]".⁹⁵

It has been established, based on the evidence from criminal investigations, that in documented cases on Artillery Battalion Number 4 "Coronel Jorge Eduardo Sánchez Rodríguez" (BAJES) rewards were paid to guides and informants for deaths reported as operational results. The creation of the National Fund for Citizen Security and Coexistence (*Fondo Nacional de Seguridad y Convivencia Ciudadana*) by Law 782 of 2002, for the operation of intelligence networks, and the rewards and bonuses to demobilised combatants provided for under Decree 128 of 2003 and Decree 2767 of 2004, contributed to this practice.

Furthermore, with respect to this pattern, the cover-up and/or the situation of impunity that continues in most of the cases reported, demonstrates a deliberate omission by the State which encourages the chronic repetition of a systematic attack against the civilian population, as in the cases of **Robinson Francisco Daza, Pedro Enrique Daza and Manuel Enrique Flores Daza, Ferides Nieves Nieves and José María Maestre Cuello** in which the military criminal justice system failed to open investigations.

90 ICC Office of the Prosecutor.

91 IACourTHR. Case Villamizar Durán and others vs. Colombia

92 Ministerial Directive 029/2005 of 17 November 2005, http://justiciaporcolombia.org/sites/justiciaporcolombia.org/files/u2/DIRECTIVA_MINISTERIAL_COLOMBIA.pdf.

93 CAJAR, CSPP, CJL, MOVICE, *El deshonroso primer lugar: Informe sobre responsabilidad de la Plana Mayor de la Primera División del Ejército Nacional de Colombia por la comisión de ejecuciones extrajudiciales en el periodo 15 de diciembre de 2003 al 38 de abril de 2005* (Dishonourable first place: Report on the responsibility of the senior staff of the First Division of the Colombian National Army for the commission of extrajudicial executions in the period 15 December 2003 to 38 April 2005), 2020.

94 Among the paramilitaries who acted as guides and have been identified by the FGN are: guides, of whom paramilitaries were identified in 5 cases, namely: Oscar Iván Tamayo Marulanda a.k.a. Rolo; Carlos Mario Giraldo Giraldo a.k.a. Matute; Juan Carlos Sierra Cano a.k.a. Carmelo.

95 [TRANSLATION] Statement of Rodrigo Alberto Zapata Sierra, 28 December 2015, Office of the Special Prosecutor for Human Rights and IHL No. 37, Rad 9729.

B. Murders committed directly by paramilitary groups

b.1 Existence of an attack against a civilian population

The conduct was committed as part of a systematic attack directed by paramilitary groups (with the support, tolerance and/or acquiescence of the State) against the civilian population (indigenous peoples from SNSM), and the respective perpetrators were aware of it.⁹⁶ A hundred of the 131 cases on which this communication is based include acts that conform to this pattern.

Evidence of the State's knowledge is shown by the existence of multiple reports that contained alerts about these human rights violations, which, despite such warnings, persisted over time.

In 2002, the Office of the Ombudsperson issued Resolution No. 24 of 2002⁹⁷ in which, based on its own reports, the compilation of testimonies and a Humanitarian Mission carried out in July 2000 on the situation of the indigenous peoples in SNSM and the Serranía del Perijá, it concluded that "in the period 2000-2001, illegal armed actors committed a series of targeted murders, massacres, acts of torture, detentions, disappearances, blockades and theft of food, arbitrary entry of illegal actors into reserve territories, with disregard for the rights to autonomy and self-government, and for the jurisdiction and legitimacy of the indigenous authorities to govern the destinies of their peoples".⁹⁸ More specifically, the Office of the Ombudsperson referred to Record DPSVUP - 0784 of 9 May 2000 by which it informed the Artillery Battalion No. 2 *La Popa* (BAPOP) of a series of killings committed by the AUC against members of the Kankuama ethnic group⁹⁹ and also to Ombudsperson request No. 4080-0494 answered by the Vice-Ministry of Defence, concerning the arbitrary detention and subsequent murder of Víctor Manuel Villazón, Eneida Arias and Fredys Arias, members of the Kankuamo indigenous people, in the context of events committed on 18 October 2000 in Río seco (Cesar) by members of the AUC.¹⁰⁰

In November 2003, the Office of the Ombudsperson and the National "Pastoral Social" Secretariat (*Secretariado Nacional de Pastoral Social*), under the supervision of the United Nations, sent a humanitarian delegation to the SNSM and reported serious human rights violations against indigenous peoples and settlers, including an increase in killings by the AUC. They also gathered testimonies about operations carried out by the Military Forces (Popa, Cartagena and Rondón battalions) in Wiwa territory, sometimes with paramilitary groups,¹⁰¹ leading to the destruction of the communities of El Limón, La Laguna, Potrerito and Marocaso.¹⁰²

96 Article 7(1)(a). Elements of crimes.

97 [TRANSLATION] Office of the Ombudsperson, Resolution 024 of 2002. *Situación de los Derechos humanos de los pueblos indígenas de la Sierra Nevada de Santa Marta y de la Serranía del Perijá* (The human rights situation of the indigenous peoples of the Sierra Nevada de Santa Marta and the Serranía del Perijá), 18 September 2002, available at: <https://www.defensoria.gov.co/es/public/resoluciones/1359/Resoluci%C3%B3n-24-Defensorial.htm>.

98 Ibidem, p. 3.

99 Ibidem, p. 5.

100 Ibidem, p. 6.

101 Report of the Humanitarian Delegation (*Comisión Humanitaria*), p. 36.

102 Ibidem, p. 37.



Destruction of La Laguna Community, 2003. Source: OWYBT

In 2003, the Office of the Ombudsperson reported that the *Arhuacos* indigenous people had denounced the continued activity of groups such as the ELN and the AUC, including threats to indigenous leaders, the murder of members of their community and illegal detentions. Regarding the *Kankuamos* indigenous people, it reported that approximately 204 murders had been perpetrated, largely as a result of a policy of stigmatisation against them, as they were accused of collaborating with the armed groups operating in the area.

Members of indigenous peoples were murdered mainly in the departments of La Guajira (San Juan del Cesar, Riohacha) and Cesar (Valledupar, La Mina), between 2002 and 2005.

b.2 Systematic nature of the attack

In the case of killings perpetrated by paramilitary groups, they received the support, tolerance and/or acquiescence of the armed forces, stationed in the territories of the indigenous peoples of the SNSM. The paramilitaries are identifiable insofar as they wore uniforms exclusively used by the armed forces and carried rifles and handguns, for example. As members of the indigenous peoples of SNSM themselves underlined, "the main interest" of the paramilitary groups "is not occupation of the land but control [of] the territory".¹⁰³

These cases also present a clear regular pattern of criminal activity. Paramilitaries burst into homes, communities, streets or main roads to murder their victims. The practice of murders at illegal roadblocks just metres away from military units is particularly common when the perpetrators are paramilitary groups. The victims are murdered immediately or, in some cases, after having been subjected to torture. This was the case in the **Massacre of El Limón**, which left several bodies mutilated by the AUC "with machetes", their corpses abandoned on the banks of a stream. During this massacre, the paramilitaries murdered indigenous Wiwa children, adolescents and adults, burned their homes, tortured and disappeared people and displaced survivors (Annex No. 1).

Moreover, crimes are particularly serious when the victim was an indigenous *saga* (case of Zunilda Villazón Montaña) or *mamo* (cases of **Juan Rafael Alberto Gil** and **Abel Francisco Alvarado Maestre**), that is, sage women and men from the communities.¹⁰⁴

In the context of this repeated and deliberate criminal action perpetrated by paramilitaries against the civilian population, public resources were also involved, including training received by the armed forces, as well as clothing, food, and use of vehicles and weapons.

b.3 State policy to commit the attack

In this section we refer to the policy designed and carried out by the Northern Bloc of the AUC to commit an attack against a civilian population with the support, tolerance and/or acquiescence of the state through the military division.

103 [TRANSLATION] Organización Indígena Kankuama (OIK), *Hoja de Cruz. Memoria Histórica de los Impactos del Conflicto Armado en el Pueblo Indígena Kankuama 1985-2008*, Valledupar, 2009

104 Observatory of the Presidential Programme for Human Rights and International Humanitarian Law, Vice-Presidency of the Republic of Colombia, *Diagnóstico de la situación del pueblo indígena Wiwa* (Diagnosis of the situation of the Wiwa indigenous people), available at: http://historico.derechoshumanos.gov.co/Observatorio/Documents/2010/DiagnosticoIndigenas/Diagnostico_WIWA.pdf.

The paramilitaries had the objective of social control and territorial expansion through fear. This, with military support, tolerance and/or acquiescence, together with the indiscriminate use of violence as a means of control, reinforced the paramilitaries' capacity to carry out attacks against the civilian population. Concretely, the analysis of the 134 killings shows a recurrent pattern of violence, as elements of planning and organisation can be found both in the description of the massacres as well as the individual killings.

The ruling of the Justice and Peace Chamber of Barranquilla of 18 December 2019¹⁰⁵ also details the intent, in addition to the murders, to deconstruct the culture of these indigenous communities. In this regard, the paramilitary group "prohibited the indigenous people from making payments, visiting sacred places, moving freely through the territory and, in general, living their spirituality". With all these actions, they "broke this spiritual order of integrity with culture".

The report "*El deshonoroso primer lugar*" presented to the JEP¹⁰⁶ also contains evidence of the widespread, general and systematic nature of "paramilitary activities in Colombia, perpetrated in coordination with the Military Forces as a state strategy or policy"¹⁰⁷.

Such relations of coordination between paramilitary groups and state agents were also established between the Northern Bloc of the AUC and members of tactical units of the Tenth Armoured Brigade and the Second Brigade that operated in different camps, which were part of the First Division. This is revealed by the confessions of former members of the illegal armed group and of the military ranks themselves, which will be outlined below, showing the existence of mutual support in specific cases in which extrajudicial killings of civilians were committed, with the aim of portraying them as combatants killed in the midst of hostilities.

Although the reasons for the attack against the civilian population are not a legal element of the definition of crimes against humanity, they can help understand the facts. Our research allows us to hypothesise that the paramilitary groups considered that they could kill members of indigenous peoples in order to gain control over their territories. With such killings, they terrorised the civilian population and were thus able to continue their activities. The stigmatisation of members of indigenous peoples contributes to the continuation of this policy of extermination.

With respect to the support, tolerance and/or acquiescence of the state through the military First Division, Artillery Battalion No. 4 "Coronel Jorge Eduardo Sánchez Rodríguez" (BAJES) operating in the department of Antioquia and Artillery Battalion No. 2 "La Popa" (BAPOP) with territorial jurisdiction, are two of the tactical units that form part of the First Division, and whose close relationship and joint action with the paramilitary groups has been demonstrated.¹⁰⁸

Numerous statements made to the JEP attest to these links:

Major Heber Hernán Gómez Naranjo reaffirmed this situation: "he literally [...] stated his specific objective of establishing alliances with the self-defence groups".¹⁰⁹ This was implemented through meetings with

105 Sentencia de la Sala de Justicia y Paz de Barranquilla, 18 de diciembre de 2019 <https://www.ramajudicial.gov.co/documents/6342549/58955478/Rese%C3%B1a+-+Hern%C3%A1n+Giraldo+Serna.pdf/73d05e13-9027-41ef-b420-14691924d1b0>

106 CAJAR, CSPP, CJL, MOVICE, *El deshonoroso primer lugar: Informe sobre responsabilidad de la Plana Mayor de la Primera División del Ejército Nacional de Colombia por la comisión de ejecuciones extrajudiciales en el periodo 15 de diciembre de 2003 al 38 de abril de 2005* (Dishonourable first place: Report on the responsibility of the senior staff of the First Division of the Colombian National Army for the commission of extrajudicial executions in the period 15 December 2003 to 38 April 2005), 2020.

107 CAJAR, CSPP, CJL, MOVICE. *El deshonoroso primer lugar: Informe sobre responsabilidad de la Plana Mayor de la Primera División del Ejército Nacional de Colombia por la comisión de ejecuciones extrajudiciales en el periodo 15 de diciembre de 2003 al 38 de abril de 2005*. 2020.

108 Statements made to the SJP are confidential and subject to judicial reservation. They are transmitted to the CEV in accordance with the principle of comprehensiveness for the fulfilment of its functions within the framework of its clarification mandate.

109 [TRANSLATION] Voluntary account of Major Heber Hernán Gómez Naranjo: "that loyalty, I was later able to understand from what he told us, that it was aimed in that direction... to establish under his leadership these alliances with self-defence groups formed, and of which we were aware, in areas very close to the city of Valledupar".

leaders of self-defence groups.¹¹⁰

However, in addition to meetings in which Colonel Mejía Gutiérrez participated as commander of BAPOP, there was also a close relationship coordinated by the battalion's intelligence section, which acted as a liaison with the paramilitary groups, as underlined by Eduard Álvarez Mejía.¹¹¹

This was so to the extent that this relationship was formalised by a person who served as a liaison, as stated by Sergeant Efraín Andrade Perea.¹¹²

Joint operations were also carried out in Sierra Nevada, as shown in the voluntary account given by Captain Omar Enrique Quintana, who explained that the close relationship with paramilitaries was not only established among BAPOP's senior staff but also among its companies and squads, which coordinated actions to deliver results in the alleged operational arena.

This extended to the high command, as shown by the participation of Mario Montoya Uribe as commander of the First Division in the department of Antioquia, since the operations they carried out were conducted jointly with the *Autodefensas Unidas de Colombia* (United Self-Defence Forces of Colombia – AUC), based on the rationale of an ally on the battlefield, in charge of the Colombian State's dirty work, as indicated by Mr. Edwin Leonardo Toro Ramírez¹¹³ in a statement in legal proceedings.

The ruling of the Justice and Peace Chamber of Barranquilla on December 18, 2019¹¹⁴ details the violence against indigenous communities: one of Hernán Giraldo's methods to expand his control in the territory consisted of financing Christian religious groups in order to "affect the cultural patterns of native peoples." Besides, the ruling evidenced that the Tayrona Resistance Front led by Hernán Giraldo Serna attacked the Kogui, Arhuaco, Wiwa and Kankuamo peoples that inhabit the Sierra Nevada with the aim of gaining territorial control.

Regarding this pattern, most of the reported cases stay in secrecy and/or in impunity, which demonstrates a deliberate omission by the State that encourages the chronic repetition of the systematic attack against the civilian population. Without prosecution and eventual penal, administrative or disciplinary sanctions for those responsible, only the state policy behind the actions of the paramilitary groups can be confirmed.

110 Voluntary account of Major Heber Hernán Gómez Naranjo: [TRANSLATION] "I know from Colonel Mejía himself that he participated in meetings with 39 people outside the battalion, I cannot tell you what issues were discussed".

111 Voluntary account of Lieutenant Eduard Álvarez Mejía.

112 Voluntary account of Professional Soldier Efraín Andrade Perea.

113 Additional Statement of Edwin Leonardo Toro Ramírez, 11 May 2015, Office of the Special Prosecutor for Human Rights and IHL No. 37, Rad. 9729.

114 Judgment of the Justice and Peace Chamber of Barranquilla, December 18, 2019 <https://www.ramajudicial.gov.co/documents/6342549/58955478/Rese%C3%B1a+-+Hern%C3%A1n+Giraldo+Serna.pdf> / 73d05e13-9027-41ef-b420-14691924d1b0

C. Order 128 of 2021 of the SRVR of the JEP

One of the most relevant decisions to date is Order No. 128 of 2021 of the Chamber for the Acknowledgment of Truth, Responsibility and Determination of Facts and Conduct ("*Sala de Reconocimiento de Verdad, de Responsabilidad y de Determinación de Hechos y Conductas*") of the JEP. The Chamber concluded that it has sufficient bases to affirm that between January 9, 2002 and July 9, 2005, members of the BAPOP unlawfully presented 126 people who were killed as combat casualties, in 71 events that took place in the municipalities of Valledupar, San Diego, Pueblo Bello, El Copey, Codazzi, Manaure, La Paz and Bosconia, north of Cesar, and San Juan del Cesar and Urumita, south of La Guajira (para. 90). This figure shows that of the 199 combat casualties reported by the unit in this period (see Annex IV), 73 were combat casualties, while 126 were non-combat killings (equivalent to 63% of the total). More precisely, of the 86 casualties that were reported during the Mejía Gutiérrez command (January 2002 and January 2004), 75 were illegitimate (87%); and of the 113 casualties reported during the command of Figueroa Suárez (January 2004 and July 2005), 51 were illegitimate (45%).

With regard to members of ethnic communities, the Chamber recognized that between 2000 and 2005, 253 indigenous people from the SNSM were murdered. 42% of these murders are attributed to paramilitary groups. 68% of the indigenous people belonged to the Kankuamo people, 11% to the Wayú, 12% to Wiwa and 4% to the Arhuaco people. Regarding the extrajudicial executions that were reported, the Chamber proclaimed that 41 victims were indigenous peoples, of which 22 were part of the ethnic groups Kankuamo, Wiwa and Wayú, which were presented as combat casualties by BAPOP and GMRON (DIV1). These executions generated collective and community impacts on the Wiwa and Kankuamo Indigenous Peoples, such as the breakdown of their belief systems, the breakdown of collective trust, the impossibility of grieving, the chronic fear that affects community relations, social polarization, and the discrediting of institutions.

The Chamber concluded the existence of two (2) patterns. The first i), aimed at presenting as operational results people killed out of combat, was motivated by accusations against victims, claiming they belonged to illegal armed groups or common criminal groups. The second ii), consisted of the assassination of civilians without any prior indication by a group of members of the Army, motivated by the interest in continuing to present combat casualties and respond to pressure for operational results, with the sole purpose of presenting fictitious operational results (paras. 91 and 92). The Chamber indicated that this period corresponded to a scenario after the demobilization of the paramilitaries and the withdrawal of the guerrillas and was due to the "difficulty in continuing to give fictitious operational results with the motives and modes of operation of the first pattern".

We consider that Order 128 does not sufficiently emphasise the scale of the criminal organisation as this includes the entire chain of command of the battalion, the Division and probably even higher.

II. Admissibility

According to article 17, paragraph 1, of the Rome Statute, admissibility requires an assessment of complementarity (paragraphs a), b) and c)) and gravity (paragraph d)). In this sense, the Office of the Prosecutor must assess the complementarity and gravity in relation to the most serious alleged crimes and to the people who appear to have the greatest responsibility for those crimes¹¹⁵.

Complementarity

In terms of complementarity in this communication, the murders committed in the SNSM refer us to some investigations or prosecutions in the ordinary jurisdiction, the special Justice and Peace procedures and in the Special Jurisdiction for Peace (JEP). However, despite the existence of such investigations or prosecutions, impunity is maintained to the extent that the responsible high-ranking officials have not been charged, or because the progress in the investigation is modest compared to the magnitude of the crimes committed against the indigenous peoples of the SNSM, among others.

A1. The situation before the JEP

On July 17, 2018, the Chamber for the Acknowledgment of Truth, Responsibility and Determination of Facts and Conducts of the Special Jurisdiction for Peace (JEP) ordered the opening of Case 003 that investigates the "illegitimate deaths presented as combat casualties by State agents", that is, the cases of extrajudicial executions that occurred between 1984 and 2014 directly or indirectly related to the armed conflict.

In this regard, although Case 003 did not exclusively single out the executions of members of ethnic peoples, some of these crimes are part of those prioritized by the JEP in the investigation of events that occurred between 2002 and 2005 on the Caribbean Coast, especially the cases related to the Artillery Battalion No. 2 "La Popa" assigned to the First Division of the National Army. This is precisely the region where the peoples of the Sierra Nevada de Santa Marta live.

On February 12, 2021, the Chamber for the Acknowledgment of Truth, Responsibility and Determination of Facts and Conducts (*"Sala de Reconocimiento de Verdad, de Responsabilidad y de Determinación de los Hechos y Conductas"* SRVR) within the framework of the JEP issued Order 033 by means of which "It [made] public knowledge the prioritization of Case 03 that happened internally"¹¹⁶. According to the SRVR, "during the period between 2002 and 2008 approximately 6,402 people were killed illegitimately

115 Situation in the Republic of Kenya, Request for authorization of an investigation pursuant to Article 15, ICC-01 / 09-3, November 26, 2009, paras. 55 and 78; Situation on the Republic of Kenya, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, ICC-01 / 09-19-Corr, 31 March 2010, for. fifty.

116 [Translation] SRVR, Order 033, "Make public the internal prioritization of Case 03 called 'deaths unlawfully presented as casualties in combat by State agents'", of February 12, 2021. By Order No. 05 of July 17, 2018, the SRVR took cognizance of Case 03, based on Report No. 5 presented by the Attorney General of the Nation, called "Illegitimate deaths presented as casualties in combat by State agents" (MIPCBC).

to be presented as combat casualties throughout the national territory"¹¹⁷. According to Order 033, six sub-cases will be prioritized within the aforementioned macro-case, with respect to six regions where the military units are located with the greater number of cases of false positives. The events committed between 2002 and 2005 in the departments of Cesar and La Guajira fall within the Coast region¹¹⁸, that is, the dates and geographic space of the murders of members of indigenous peoples of the SNSM.

The JEP adopted a bottom-up research strategy¹¹⁹, identifying participants and those responsible at the regional level, to later determine the highest officials at the national level. To date, only soldiers and lower-level commanders have been accused and tried. For this reason, this new strategy could perpetuate a dynamic that leaves the high-ranking commanders responsible for the practice of false positives in impunity. Therefore, and without ignoring the importance of the advances at the JEP level, it should be noted that the investigations into false positives have focused on low and middle-ranking officers.

On the other hand, impunity has been perpetuated through the state practice of promoting those senior military commanders involved in the phenomenon of false positives. Some examples of this are that of the brigadier general (r) **Adolfo Leon Hernandez**, who was commander of the Artillery Battalion 'La Popa' between December 2007 and June 14, 2019, and **Nicasio de Jesús Martínez Espinel**, second commander of the Tenth Armoured Brigade in 2005, who was appointed commander of the Colombian Army on December 10, 2018, a position he held until November 2019, when he was relieved alleging "family reasons". Although the Bogota High Court ordered an investigation into the superiors of the soldiers and officers convicted of these acts¹²⁰, said investigation was never initiated.

For years, victims have presented various appeals to request the prosecution of Mario Montoya Uribe, retired general and former commander of the National Army, but the Prosecutor's Office had refused, arguing that the jurisdiction of the JEP prevailed (circular 003 of the FGN and sentence C-080 of 2019)¹²¹.

Weeks before the publication of this report, the Prosecutor's Office announced that it was going to charge Mario Montoya Uribe with the crimes of homicide against 104 victims of extrajudicial executions in the form of false positives, four of whom are minors. The events allegedly occurred between November 2007 and November 2008, the latter date corresponding to his request for retirement from the National Army. According to the Prosecutor's Office, the accusation is based on the fact that the high-ranking officer ignored internal Armed Forces directives, in particular Directive 300-28 of the command of the Armed Forces, which changed the way in which operational results were measured, moving from an approach that favoured combat casualties to one that favoured demobilisations and captures. Disregarding this directive, the officer continued to pressure his subordinates to report combat casualties as the main indicator of his men's success, a context that influenced his men to commit criminal acts.

However, in August, the Bogotá High Court decided not to hold an indictment hearing against Mario Montoya Uribe but rather to send the case to the JEP to determine whether it is competent to indict him.

Thus, the Prosecutor's Office will have to send the evidence against former General Montoya to the transitional justice system and await the decision of the JEP, which creates a new legal limbo to the detriment of the victims.

117 SRVR, Order 033, "Make public the internal prioritization of Case 03 called 'deaths unlawfully presented as casualties in combat by State agents'", of February 12, 2021, para. 14. In Order 005 of 2018, through which knowledge of the macrocase 003, the Chamber counted that between 1988 and 2014 there were approximately 2,248 victims of deaths unlawfully presented as combat casualties in Colombia.

118 SRVR, Auto 033, op. cit., paras. 53-64.

119 SRVR, Auto 033, op. cit., para. 15.

120 Tribunal Superior del Distrito Judicial de Bogotá Sala de Decisión Penal. Rad. 11001 0704 002 2008 0004303. M.P. Fernando Adolfo Pareja Reinemer.

121 See recommendations of the impunity note available at "*Colombia at risk of impunity: Blind spots of Transitional Justice in the face of international crimes within the jurisdiction of the ICC*" ("*Colombia en riesgo de impunidad: Puntos ciegos de la Justicia Transicional frente a crímenes internacionales de competencia de la CPI*") https://www.fidh.org/IMG/pdf/fidh-cajar_informe_colombia_en_riesgo_de_impunidad.pdf

A2. The situation before the Justice and Peace Courts

In 2008, in the face of the parapolitics scandal, at a time when some paramilitary commanders began to give information about their links with politicians in the hearings of the Justice and Peace courts, the 15 main paramilitary leaders were extradited to the United States overnight on drug trafficking charges¹²²

Despite the promises of the Colombian State, these extraditions hampered the participation of these high-ranking paramilitary commanders in hearings of the Justice and Peace courts. 13 years later most of them are finishing their sentences or are being released. That is the case of **Salvatore Mancuso**, former leader of the AUC, who served 15 years and 8 months in prison in the United States of America only for drug trafficking¹²³; of **Rodrigo Tovar Pupo, Jorge 40**, former commander of the Northern Bloc of the United Self-Defence Forces of Colombia, demobilized in 2006; and of **Hernán Giraldo Serna**, who was head of the Tayrona Resistance Bloc of the Self-Defence Forces, who served 12 years in prison in the United States of America solely for drug trafficking¹²⁴ through a plea agreement, in the process of which victims of other human rights violations, including violations of the right to life, did not have an opportunity to participate¹²⁵.

The above shows that the measures implemented by the Justice and Peace authority have been manifestly insufficient in the face of the challenges of the crimes committed in Colombia and, specifically, in the face of those committed against the indigenous peoples of the SNSM. The time that has elapsed in some of the investigations and prosecutions maintains a situation of impunity.

All this seriously affects the right of access to justice and the right to truth of the relatives of victims of murder in the SNSM. The investigation, prosecution and, where appropriate, punishment of those responsible for the crime of murder in the cases included in this communication require an ethnic, differentiated, and intercultural approach that guarantees justice, truth, and reparation for the victims' families.

Another indicator of particular concern is the threat and risk against the life and integrity of human rights defenders in Colombia, given that 199 human rights defenders were murdered in 2020 alone. The attacks against the life and integrity of defenders have a chilling effect among the families of the victims of the crime of murder, as well as among the defenders themselves in their work of monitoring and denouncing crimes committed in the SNSM.

Finally, and despite the efforts made by some courts in Colombia, especially the Constitutional Court, it is clear that there are no authentic guarantees of non-repetition since the murder of members of indigenous peoples of the SNSM continues in total impunity. While impunity persists and the high military and paramilitary commanders continue without being prosecuted, those responsible for the crimes are reorganized with the consequent perpetuation of violence in the SNSM.

122 FIDH. «Colombian Government consolidates impunity for crimes against humanity and war crimes committed in Colombia» 2008. <https://www.fidh.org/es/region/americas/colombia/colombia-cpi/Gobierno-colombiano-consolida-the>

123 US Department of Justice, 'Colombian Paramilitary Leader Sentenced to More Than 15 Years in Prison for International Drug Trafficking', June 30, 2015, <https://www.justice.gov/opa/pr/colombian-paramilitary-leader-sentenced-more-15-years-prison-international-drug-trafficking>.

124 <https://www.elespectador.com/judicial/exjefe-paramilitar-jorge-40-regreso-a-colombia-a-12-anos-de-su-extradicion-articulo/>

125 US Department of Justice, 'Former Colombian Paramilitary Leader Sentenced to More than 16 Years in Prison for International Drug Trafficking', November 6, 2015 <https://www.justice.gov/opa/pr/former-colombian-paramilitary-leader-sentenced-more-16-years-prison-international-drug>. See also Deborah Sontag, 'Justice Interrupted: Paramilitaries in Colombia, Privileged Prisoners in the United States', *New York Times*, September 9, 2016, <https://www.nytimes.com/es/2016/09/09/espanol/america-latina/paramilitares-colombia-narcotrafico-uribe-violencia-justicia-paz.html>.

Gravity

Based on the cases that support this communication (Annex No. 1), it is possible to demonstrate the gravity of the scale, nature, manner, and impact of the commission of the crime of murder committed against members of the indigenous peoples of the SNSM.

Before proceeding to elaborating each one of the aforementioned factors, it is worth framing this question within the parameters indicated by the Colombian Constitutional Court. In the aforementioned Order 004 of 2009, the Court accounts for the "acute and differential impact" that the displacements have on indigenous communities as a result of the armed conflict. The High Court continues to point out that this situation "has become a certain and imminent danger to their very existence, to their individual processes of ethnic and cultural consolidation, and to the effective enjoyment of the individual and collective fundamental rights of their members."¹²⁶ The Court adds that we are facing "an emergency as serious as it is invisible. This process has not yet been recognized in its real dimensions, by the authorities in charge of preserving and protecting the indigenous peoples of the country"¹²⁷.

B.1 Scale of the commission of the crime of murder

The scale of the commission of the crime of murder in the SNSM denotes gravity due to the number of victims it has generated. In addition to the direct victims of murder, their relatives also become victims because of the suffering, anguish and despair they suffer in the face of impunity. Likewise, the seriousness of the scale of the commission of this crime is reflected in its differentiated impact on the *Kogui*, *Arhuaco*, *Wiwa* and *Kankuamo* indigenous peoples, as it occurred in sacred territory, within the framework of the internal armed conflict that the country experienced.

B.2 Nature of the commission of the crime of murder

Throughout this communication, the facts presented have been categorized as crimes against humanity, since it has been demonstrated that they constituted a systematic attack against the civilian population (art. 7 of the Rome Convention). In the context of the armed conflict, they are categorized as war crimes (art. 8 of the Rome Convention).

Based on the evidence collected, it should be noted that for the acts that may separately constitute crimes against humanity and war crimes, there is a possibility that, ultimately, extermination was intended, not only culturally (ethnocide) but even physically. As it is well known, this would lead us to the crime of genocide, which is also included in the Statute of the International Criminal Court (art. 5.1 a) and 6 of the Rome Statute). Beyond the numerous cases of murder, one of the central facts to consider is the cases of forced displacement. As Auto 004/09 points out, due to its destructive consequences on the ethnic and cultural fabric of these groups, "forced displacement generates a clear risk of extinction, cultural or physical, for indigenous peoples. Those who were already at risk prior to the impact of the armed conflict are now nearing the end; those that were not now fall into the category of high risk of cultural and physical extinction".

126 Order 004/09, which addresses the protection of fundamental rights of people and indigenous people displaced by the armed conflict in the framework of overcoming the unconstitutional state of affairs declared in judgment T-025/04.

127 Order 004/09, which addresses the protection of fundamental rights of people and indigenous people displaced by the armed conflict in the framework of overcoming the unconstitutional state of affairs declared in judgment T-025/04.

B.3 Way of commission of the crime of murder

Regarding the way in which the crime of murder was committed, the seriousness lies in the fact that it has been carried out by members of the armed forces - or by paramilitary groups with the support, tolerance and / or acquiescence of those - against the civilian population they were supposed to serve.

As the Constitutional Court points out in its Order 004/09, "given that the State's response to the situation of indigenous peoples has been merely formal and has resulted in the issuance of policy documents without practical repercussions, the Constitutional Court concludes that the Colombian State has seriously breached its constitutional duties in this area". In this sense, in general terms, the impunity that characterizes all the serious violations of rights committed must be pointed out.

B.4 Impact of the commission of the crime of murder

Regarding the impact of the crime, the seriousness has also been shown in the physical and / or psychological, and even economic damage caused to the families of the victims and to the indigenous peoples of the SNSM in general. We cannot forget that the seriousness of the personal impact of the crimes includes the stigmatization to which the victims and their families have been subjected, in the cases that have been linked to non-state armed groups in the context of the internal armed conflict in Colombia.

On the other hand, the seriousness of the impact of the crime is reflected in the social and cultural damage caused to the indigenous peoples of the SNSM. The special impact of murder, as a systematic pattern of aggression against indigenous peoples, can be seen in the large number of forced displacements, individual, of families, or massive, which often implies, as has already been pointed out, a certain risk of extinction, whether cultural or physical.



Wiwa mother and daughter at a meeting to deliver a report to the JEP. Source: FIDH-CAJAR

III. Conclusion and requests

In sum, this communication provides a reasonable basis for concluding that in Colombia, in the SNSM, between 2002 and 2009, the crime against humanity of murder (art. 7.1 of the Rome Statute) within the jurisdiction of the ICC was committed as part of a systematic attack against the civilian population of that State.

The civilian population is represented by members of the four indigenous peoples that inhabit the SNSM, the *Kogui*, *Arhuaco*, *Wiwa* and *Kankuamo*. These communities are in a particularly vulnerable situation. The crime against humanity of murder committed against them has accentuated this vulnerability, placing the physical and spiritual survival of these peoples at serious risk, even compromising their very existence.

The total number of documented cases that support this communication amounts to 131, corresponding to at least 180 victims of murder, between 2002 and 2009 (Annex No. 1). Specifically, with regard to the crime against humanity of murder, our investigation identified two patterns:

- Killings committed against indigenous peoples of the SNSM by members of the army, or by paramilitaries, with their support, tolerance and/or acquiescence, in the form of "false positives".
- Killings committed against indigenous peoples of the SNSM directly by paramilitary groups, with the support, tolerance or acquiescence of the State.

The aforementioned attacks against life would also qualify as the war crime of murder committed within the framework of the non-international internal armed conflict.

According to the information available, to date, there have been no known concrete results in which the hierarchical superiors of the Colombian armed forces, responsible by action or omission, nor the highest paramilitary commanders that operated in the area, have been punished for the crime against humanity of murder of indigenous peoples of the SNSM. As mentioned above, in the specific case of the *Wiwa* indigenous people, for the first time its members have narrated the events of which they were victims in the interviews and activities that resulted in the report "*La historia cierta del Pueblo Wiwa desde el corazón del mundo de 2019*" (The true history of the *Wiwa* people from the heart of the world, 2019), submitted to the SIVJNRN.¹²⁸

Ending impunity and allowing an access to the truth about the crimes against humanity outlined in this report constitute an essential guarantee for the non-repetition of these murders. Today, in the Sierra Nevada, the prevailing scenario continues to present severe risks for the survival of its indigenous peoples. Currently, a reconfiguration of illegal violence is taking place in the area, at the hands of armed groups that control the main legal and illegal activities in the Sierra in search of greater territorial control. Some of them have links with former paramilitary groups. The current reconfiguration has been expressed in the destruction of cultural property, the assassinations of people who support the communities, the control of mobility, the forced recruitment of minors, and the forced displacement of the population.

The Special Jurisdiction for Peace (JEP) has proceeded with the investigation of the murders of the indigenous peoples of the Sierra Nevada de Santa Marta directly attributable to state agents as false positives, but to date there have been no prosecutions nor sentences that incriminate the hierarchical superiors of the Colombian armed forces responsible for these crimes by action or omission.

On the other hand, the bulk of violations of the right to life committed by paramilitary actors, who acted with State acquiescence, tolerance, omission, and/or collaboration, have not been fully investigated. The relationship between paramilitary actors and the State, as well as the responsibility of senior

128 The report was prepared by the Organización Wiwa Yugumaian Bunkuanarua Tayrona (OWYBT) and CAJAR with the support of FIDH.

officers in the murders of members of the indigenous peoples of the SNSM, is far from being clarified and sanctioned.

FIDH and CAJAR therefore make the following requests:

To the Office of the Prosecutor of the ICC, we respectfully request:

1. Keep the preliminary examination of Colombia open. While we recognize some progress, regarding the work of the Special Jurisdiction for Peace (JEP), we believe that much of this progress would not have been achieved without the monitoring carried out by the Office of the Prosecutor (OTP) of the ICC. As the OTP itself acknowledges in its report "Situation in Colombia, Benchmarking Consultation" of 15 June 2021, regarding the national accountability process, the presence of the OTP had the effect of galvanizing the domestic will and capacity of the Colombian judicial system. At the same time, at times the OTP warned that in certain cases the State was doing the minimum necessary to keep the ICC 'at bay', given the disruptions and a lack of activity in certain national proceedings. The preliminary examination should be kept open until the end of the transitional justice process.
2. In order to be able to assess progress in the investigation, prosecution, and punishment of perpetrators of international crimes within the ICC's jurisdiction, the Office of the Prosecutor of the ICC should not act with discretion or be satisfied with progress in certain specific cases. Rather, it should be guided by pre-established benchmarks and indicators that are in line with the principles of the Rome Statute. This could be done through interim reports.
3. With regard to the 180 killings in the SNSM described in this communication, we note that there is a significant number of State actors involved in the pattern of extrajudicial killings in the form of false positives, who have not been investigated by ordinary courts, nor have they been called to testify before the JEP. We therefore respectfully request that the Office of the Prosecutor of the ICC, in its evaluation of progress in the context of the preliminary examination in Colombia, consider the number of alleged perpetrators of these crimes who have not yet been called upon to testify before or charged by the JEP; and include crimes against humanity committed against indigenous people among the priority topics of its analysis, due to the differential impact that these crimes have had and are still having on the survival of these peoples.
4. Verify the degree of investigation, prosecution, and punishment in the ordinary and transitional justice bodies, regarding State agents, as well as members of paramilitary groups, who are linked to the commission of extrajudicial killings in the SNSM, not limiting this analysis to the pattern of false positives, but also including the pattern of killings of members of indigenous communities in the SNSM at the hands of paramilitaries, where State actors were involved.
5. The benchmarks and indicators considered by the Office of the Prosecutor of the ICC, with regards to the JEP should include an analysis of whether or not there is a genuine contribution to the truth by the perpetrators. This is necessary to determine whether the proceedings are capable of leading to the establishment of the relevant facts and circumstances, as well as the identification and punishment of those responsible.
6. In the absence of an investigation, prosecution, and punishment of individuals in the chain of command, especially those most responsible, whether civilian or military, for the crimes described in this communication, open an investigation into these crimes.

To the State of Colombia, FIDH and CAJAR request:

1. The adoption of guarantees of non-repetition, among them the purification of the institutions, beginning with the dismissal of those civil, judicial and military officials who by action or omission participated, facilitated, or allowed the commission of war crimes and crimes against humanity in the SNSM against the indigenous peoples that inhabit it.
2. Fully comply with the Final Agreement for the Termination of the Armed Conflict ("*Acuerdo Final para la Terminación del Conflicto Armado*"), in particular the ethnic chapter and the measures related to the dismantling of the successor groups of the paramilitaries.

To the JEP, FIDH and CAJAR request:

1. The opening of a macro-case that considers the impact of mass murders against indigenous peoples and the role of the public force in the paramilitary expansion and in the commission of these crimes. This with the objective that the macro-cases account for the total universe of international crimes that have been committed in Colombia within the framework of the armed conflict.
2. Reinforce the adoption of investigation criteria that adopt differential criteria, allowing to identify the magnitude of violence in the case of crimes against indigenous peoples.
3. Refrain from implementing criteria that hinder the prosecution of those most responsible, ensuring that all transitional justice measures are in accordance with the Rome Statute.
4. Define criteria to evaluate the contribution of those appearing with the conditionality regime, as well as the celerity and due diligence for the resolution of all incidents that invoke the existence of non-compliance with the commitments of full truth and non-repetition, allowing for an evaluation of the consequences and sanctions for non-compliance.
5. Advance in the processes against combatant state agents in Case 003, allowing for the effective sanction of those most responsible for all tactical units and regions related to extrajudicial executions, including progress in clarifying the responsibilities of high officials in the military.

To the Office of the Attorney General of the Nation and the Justice and Peace courts, FIDH and CAJAR request:

1. Submit to the JEP a report on all the events related to the promotion and expansion of paramilitary groups that involve combatant State agents.
2. Prioritize investigations against all those appearing, especially combatant State agents, who, in application of the conditionality regime, see the competence of Transitional Justice reversed on their conduct back to Ordinary Jurisdiction, guaranteeing due diligence and collaboration with the JEP for their effective prosecution.
3. Diligently assume jurisdiction over all cases involving combatant State agents related to international crimes known to the Military Criminal Justice.
4. Make decisive progress in strengthening institutional capacities for the genuine investigation of crimes committed by civilian third parties and non-combatant State agents.
5. Incorporate methodological, criminal policy and / or administrative guidelines aimed at guaranteeing harmonious collaboration with the JEP for the investigation of third parties and non-combatant State agents.
6. Guarantee the transparency of the information on the progress of the macro-investigations against third parties and non-combatant State agents, and on all the processes prioritized to comply with Legislative Act 01 of 2017 in its complementary competence of this process of transitional justice.

To the Supreme Court of Justice, FIDH and CAJAR request that it:

1. Continues the process of adapting its procedures to guarantee the highest standards of transparency and judicial independence, including those related to conflicts of interest, incompatibilities and other practices that may hinder the investigation of those with constitutional or legal granted privileges.

Bogota - Paris, October 2021

Annex 1. Summary of the facts of the cases on which the communication is based

(131 cases, 180 victims)

A. Murders in the pattern of “false positives”.

(31 cases, 46 victims)

1. José Ángel Sarmiento Loperena and Adalberto Sarmiento Loperena

On 1 September 2002, José Ángel Sarmiento Loperena and Adalberto Sarmiento Loperena were killed in an operation carried out in the *Kogui-Malayo-Arhuaco* Reserve, in the *Wiwa* community of Marocazo, in the Ranchería river basin, in the jurisdiction of the municipality of San Juan del César (La Guajira), by troops of the Cartagena Battalion of the National Army. José Ángel Sarmiento was a 26-year-old *Wiwa* indigenous man. His relatives described him as a loving person and an active supporter of the processes developed in the community. He enjoyed working in the fields and in his free time he participated in the community's football tournaments. Adalberto Sarmiento was a 25-year-old *Wiwa* indigenous man. His relatives described him as a person committed to his family and his community. Both were killed with handguns, blunt force weapons and sharp weapons such as bullets and knives.

2. Raúl Nieves Maestre and Marcelo Nieves

On 14 July 2002, Raúl Nieves Maestre and Marcelo Nieves were murdered and presented as guerrilla group members who had been killed during an operation by the military forces that included indiscriminate bombing. Troops from the La Popa Battalion, attached to the Tenth Armoured Brigade of the National Army, looted foodstuffs from the school restaurant, provided by the Colombian Family Welfare Institute (*Instituto Colombiano de Bienestar Familiar – ICBF*) and then declared on the radio that the foodstuffs had been found in a guerrilla camp. This also led to the displacement of the community of Potrerito, which was entirely destroyed by bombing and fighting between the various armed actors.

3. Francisco Mendoza Radillo, Eliecer Mendoza Radillo and Albeiro Mendoza Radillo

On 14 July 2002, military forces carried out an operation that included indiscriminate bombings, which resulted in the death of Francisco, Eliecer and Albeiro Mendoza Radillo. The army looted foodstuffs from the school restaurant, provided by the ICBF, and later reported on the radio that the foodstuffs had been found in a guerrilla camp. This also led to displacement. The community of Potrerito was entirely destroyed by bombings and fighting between the various armed actors.

4. Armando Rafael Morales Pérez

Armando Rafael Morales Pérez was an indigenous *Wiwa* man, who resided in the city of Valledupar. At the time of the events, he was 22 years old and his family described him as a hard worker in various trades. On 27 October 2002 he was extrajudicially executed and presented as having been killed in combat in an alleged armed confrontation between National Army troops and a guerrilla group. According to the accounts presented by his relatives, he had never been a member of guerrilla groups.

5. Zunilda Villazón Montaña and José Pedro Pastor Alberto

On 18 January 2004, Zunilda Villazón Montaña, *saga* (wise woman) of the *Wiwa* indigenous community, and José Pedro Pastor Alberto, *mamo* (wise man) of the *Wiwa* indigenous community, were extrajudicially executed by National Army troops in the town centre of the municipality of San Juan del César, in the Betel neighbourhood. At the time of the events, the victims were at home. The murder took place in front of their three children.

6. Luis Eduardo Oñate and Carlos Mario Navarro Montaña (File No. 3933)

On 27 February 2004, Luis Eduardo Oñate and Carlos Mario Navarro were murdered by members of the "La Popa" Battalion (BAPOP), attached to the Tenth Armoured Brigade of the National Army, in the Badillo village (*corregimiento*), in the jurisdiction of San Juan del Cesar (La Guajira). Luis Eduardo Oñate was 18 years old. Having been displaced from his place of origin, he lived in the Curazao village (*corregimiento*), located in the municipality of San Juan del Cesar (La Guajira). Luis Oñate's sister stated that he was a student and fruit merchant and that he worked in the fields. Carlos Mario Navarro Montaña was a native of El Hatico de los Indios, a community located in the jurisdiction of San Juan del César. Both had left their homes and were on their way to La Sierrita, a village located near the *Kogui-Malayo-Arhuaco* Indigenous Reserve. On the way, in a place known as "La Ye", armed men ordered them to get out of the vehicle in which they were travelling. Hours later, these two members of the *Wiwa* community were found dead, wearing camouflage uniforms and carrying rifles. Sources from the La Popa Battalion reported a confrontation with the *Autodefensas Unidas de Colombia* (United Self-Defence Forces of Colombia - AUC) near "La Ye", where two paramilitaries had been killed.

On 8 May 2015, a complaint was filed regarding these events. This investigation is currently at the preliminary investigation stage and is being conducted by the 84th Specialised Attorney General's Office attached to the Specialised Director on combating human rights violations (*Directora Especializada contra las Violaciones a los Derechos Humanos - DECVDH*) with its headquarters in Barranquilla. The accused are Second Sergeant José de Jesús Rueda Quintero, First Corporal Diego Armando Ordoñez Aponte, and professional soldiers Oscar Enrique Vanegas Palmera, Toribio Segundo Coronado Navarro, Eduard Vicente Yépez Marcelo, Freddy Antonio Bula Ramos, Hermes Antonio Miranda Rada, Jhon Jairo Jiménez Buriticá, Carlos Andrés Hurtado Santana, Arley Aguirre Solano, Yeris Andrés Gómez Coronel and Carlos Ernesto Rodelo Cerpa.

7. Robinson Francisco Daza, Pedro Enrique Daza and Manuel Enrique Flores Daza (File No. 3913)

The victims were three *Wiwa* indigenous men from the same family, Pedro Enrique Daza Montero, 36 years old, Robinson Francisco Daza, 33 years old, and Manuel Enrique Flores Daza, 18 years old, from the community of Marokaso, *Kogui-Malayo-Arhuaco* Reserve, who lived in El Molino following their displacement.

The victims were working the land on the "Guadalajara" farm, in the jurisdiction of San Juan del Cesar, owned by Cristóbal Contreras, who had rented this land to them to farm. Their relatives stated that the victims were carrying two 16 and 20 calibre shotguns to hunt food to feed themselves, and that they were carrying the corresponding permits issued by the Police and the Army. They also stated that they had no links to any armed group. Residents of the area described the victims and their families as good, hard-working people without any kind of problem.

The victims went up the Sierra from 19 July 2004, where they were harvesting beans in plots of land located in "Copo de Nieve", in the Serranía del Perijá, jurisdiction of the municipality of El Molino, in La Guajira. That day, they were abducted by persons wearing military fatigues. The following day, three corpses were found corresponding to the indigenous men who were presented as "unknown persons killed in combat" in the rural area of Fonseca. The bodies were dressed in National Army clothes.

According to the military, the events occurred during the "*Jordán*" Tactical Mission No. 35, carried out by troops of the Rondón Group under the command of Second Lieutenant Jorge Picón Navas, in the Los Andes sector, in the jurisdiction of the municipality of El Molino (La Guajira), in which three members of the FARC-EP's 59th Front were killed. On 21 July 2004, the troops of the "Corcel 2" company began a

motorised movement as part of the "Jordán" Tactical Mission, approved by the Battalion commander, which went as far as the "Los Pozos" sector where they disembarked and began night-time infiltration, in a sector called "Región de Montecristo", in the jurisdiction of the municipality of El Molino. According to the Commander of Corcel 2 Platoon, Second Lieutenant Jorge Mario Picón Navas, this mission was ordered because they were aware of the presence of FARC's 59th Front in the area. On 25 July a movement towards the objective was reportedly initiated, reaching a point approximately 15 metres away where they had visual contact with the enemy, who, upon noticing the presence of the troops, according to this account, opened fire and attacked the personnel. The squads reacted by killing three male subversives, from whom the following military material was seized: fifteen (15) 81 mm mortar grenades, three (3) hand grenades, two (2) 20 calibre shotguns with four (4) cartridges, one (1) 38-calibre revolver with two (2) cartridge cases and four (4) cartridges, one (1) international FARC journal, two (2) military ponchos and subversive documentation and notebooks on extortion and economics.

The professional soldier Hernán Eliécer Pérez, who was present during the operation and was assigned the task of providing security, denies the existence of the alleged combat. He stated that the operation was carried out together with the informant Hemedina Nieves Loperena (reinserted), who served as a guide for the reconnaissance of the site, by order of the operations officer (grade S-3). Hernán Eliécer Pérez also revealed that Second Lieutenant Picón, while asking him to communicate the operational result to the base, fired shots to simulate the scene of a combat, and added that he saw the three victims alive carrying the seized material to where a helipad was set up, and although he was unable to observe who fired the shots, he indicated that he later saw the lifeless bodies. In sum, he denies the existence of an alleged combat. The deponent also indicated that these persons received awards and other types of incentives for having reported these results.

The preliminary actions were taken by the prosecutor on duty in the municipality of Fonseca in the department of La Guajira. The commander of the Mechanised Group Gmron sent an official document to the prosecutor in which he made the bodies of the victims available, describing them as members of the Milton Nevado terrorist commission of the 59th Front of the ONT FARC, and stating that they had been killed in combat by troops from Gmron.

On 29 July 2004, the Military Criminal Investigation Court No. 98 opened a preliminary investigation into these events under file number 037. On 5 August 2004, a statement was received from Jorge Mario Picón Navas in which he approved the contents of the report on the facts. On 15 February 2005, the Military Criminal Investigation Court No. 98 concluded that the soldiers in question were not responsible for the events under investigation, as they had acted in accordance with acts inherent to their service, within the framework of an operational order and, having been attacked, they responded in self-defence. Consequently, it decided to refrain from conducting a criminal investigation and, thus, to close the case definitively.

The investigation in the Attorney General's Office was assigned file number 1362. The district prosecutor referred the proceedings to the specialised judges in Riohacha on the basis that they had jurisdiction. In a decision of 29 August 2005, the 3rd Specialised Prosecutor, José Aníbal Zabaleta Celedón, referred the proceedings to the military criminal judges. It was not until 9 October 2007 that the 32nd Specialised Prosecutor of the National Human Rights and International Humanitarian Law Unit claimed jurisdiction over the military criminal court.

On 7 June 2018, the 32nd Specialised Attorney General's Office for serious human rights violations ordered the partial closure of the investigation into Eddy Andrade Galindez and Luis Fernando Devia Díaz. On 19 September 2018, based on Decision 0358 by which the 32nd Specialised Attorney General's Office of the National Human Rights and International Humanitarian Law Unit was abolished, the 84th Specialised Attorney General's Office for serious human rights violations was granted jurisdiction to hear the case. On 7 February 2019, the 32nd Specialised Attorney General's Office of the Human Rights Unit granted jurisdiction to the 84th Specialised Attorney General's Office for Serious Human Rights Violations to hear the case.

The Office of the Inspector General Disciplinary Representative for the Defence of Human Rights (*Procuraduría Delegada Disciplinaria para la Defensa de los Derechos Humanos*) reviewed disciplinary proceedings No. 008-128218-2005 for serious breach of international humanitarian law against the following military personnel: Second Lieutenant Jorge Mario Picón Navas; Captain Eddy Andrade Galindez; Third Corporal Jhon Gómez Aguilar and Third Corporal Luis Fernando Devia Díaz. On 19 September 2011, the Office of the Inspector General Disciplinary Representative for the Defence of Human Rights decided to bring charges against

Jorge Mario Picón Navas; Captain Eddy Andrade Galindez; Third Corporal Jhon Gómez Aguilar and Third Corporal Luis Fernando Devia Díaz, on the basis of sufficient evidence to objectively demonstrate conduct constituting serious violations of international humanitarian law.

8. Carlos Albeiro Vega Camacho (File No. 3927)

On 10 April 2005, Carlos Albeiro Vega Camacho and another non-indigenous man (Luis Joaquín Caro) were taken from their community by members of the National Army. Carlos Alberto Vega Camacho was a 35-year-old *Wiwa* indigenous man who lived on the "Villa Kelly" farm in Urumita, Guajira. His family described him as a hard-working man who worked in agriculture and was the manager of cattle farms. The men were later presented as members of a guerrilla group killed in combat. Carlos Albeiro Vega Camacho's relatives said that the previous day members of the security forces had arrived in the community asking for him. The corpse was found wearing camouflage trousers, a green shirt and military boots, with abundant military material: two grenades, two portable radios, a 12-calibre shotgun, a 32-calibre revolver.

The events occurred within the framework of the "*Arpia*" Tactical Mission "Operation Jaguar", under the command of Second Lieutenant Jairo Mateus Luna. According to Captain Alfredo Andrés Díaz Martínez, a grade S-2 officer in the Mechanised Cavalry Group "Juan José Rondón", a counter-guerrilla unit under the command of Second Lieutenant Jairo Mateus had an armed contact in the place known as Alto "La Rabona", in the rural division (*vereda*) of Manantialita, in the municipality of Urumita with "terrorists belonging to the ONT-FARC 59th Front. In the confrontation there were two casualties."

This investigation is currently at the preliminary investigation stage and is being conducted by the 84th Specialised Attorney General's Office attached to the DECVDH with its headquarters in Barranquilla. The accused are Second Lieutenant Jairo Alfonso Mateus Luna, First Corporal José Israel Suárez González, Third Corporal Andrés Novoa Rodríguez and professional soldiers Marcelo Javier Lizcano Castro and Sady Noel Galván Anaya.

9. Laudelino Mejía Montaña

Laudelino Mejía Montaña, was an indigenous *Wiwa* from the community of Ulaka (Ulago) located in the municipality of San Juan del Cesar, La Guajira. On 10 December 2005, he was detained at approximately 7 pm by members of the Rondón Battalion of the National Army in the community of Ulaka and at 7.30 pm he was taken to the outskirts of the community. The following day, at around 6 am gunshots were heard, at 9 am a helicopter flew over the area and military sources then publicly reported that an alleged insurgent had been killed in combat at a site located between the communities of Ulaka (Ulago) and Abo Joaquina (Sabana de Joaquina). The body was dressed in military clothing and a grenade was found nearby.

The victim's relatives claimed that the day before these events, troops from the National Army had arrived in the community looking for Mr. Montaña.

10. Ricardo Enrique Arias Solís and Celso Enrique Carrillo Perea (File No. 3928)

Ricardo Enrique Arias Solís, an active member (*Gunama*) of the community of Abo Guaquina (Sabana Joaquina), located in the jurisdiction of the municipality of San Juan del Cesar (La Guajira) and Celso Carrillo Perea, active member (*Gunama*) of the community of El Limón, located in the jurisdiction of the municipality of Riohacha (La Guajira), were displaced in the community of Abo Guaquina, in Sabana Joaquina.

On 3 January 2006, at around 8 am, while they were together in that community, they were approached by armed men, allegedly members of the Cartagena Battalion attached to the Tenth Armoured Brigade, who took the two victims away.

On 4 January 2006, in the morning, members of this community heard gunshots coming from a place near the Kággaba (*Kogui*) community of Mamarongo and *Wiwa* communities of Guamaka, located in the

jurisdiction of the municipality of Riohacha (Guajira). During the course of the same day, various local radio stations reported, based on official military sources, that a combat had taken place and that National Army troops had killed two FARC members identified by the aliases of "Agustín" and "César".

On 6 January 2006, the relatives found out that the bodies of the murdered alleged FARC members belonged to Ricardo Arias Solís and Celso Carrillo Perea. Relatives, members and authorities of the community claim that the group of men who took away the two *Wiwa* men included two deserters and reinserted FARC members who are currently linked to the National Army as informants and co-operators.

The armed men who took away Ricardo Arias Solís and Celso Carrillo Perea had previously been in the community of Seminke, located in the municipality of San Juan del Cesar (Guajira), looking for *mamo* (wise man) Ambrosio Chimusquero and *Comisario Mayor* (Chief Commissioner) Sebastián Mojica, who were not in their community at the time. Given these circumstances, Ambrosio Chimusquero and Sebastián Mojica are concerned for their safety and live in fear for their lives.

Through the testimony of the victims' relatives, it was later discovered that the day before they were presented by the army as having been killed in combat, Celso Enrique Carrillo Guerrero and Ricardo Enrique Arias Solís had been summoned to a meeting by a guerrilla group member going by the alias "Emiliano", along with several members of the community. In this case, demobilised guerrilla Jean Carlos Duque Cortés, a.k.a. "Emiliano", served as a guide to the military in the operation in which the two indigenous men were killed, as stated in his testimony.

Ballistic tests established that the two men were apparently shot dead when they were on the ground. The presentation of them as having been killed in a combat or confrontation between the military and members of the FARC's 59th Front also raises doubts, given that according to the victims' relatives and neighbours, days earlier they had been summoned by a guerrilla envoy to attend a meeting, and since they were not heard from for several days it is believed that they may have been held somewhere, given that such a meeting never existed. The patrol report presented by the then Captain Alberto Busto Cardona, stating that the victims died in a confrontation between his men and the FARC's 59th Front, raises doubts due to the civilian clothing of the deceased. The weapons taken by the counter-guerrilla group for the operation are not comparable to the weapons allegedly seized from the deceased, and relatives and neighbours testified under oath that they knew them as farm labourers.

The facts described above were initially heard by Military Criminal Investigation Court No. 20 based in Riohacha under file No. 347 - 2006 and after a positive conflict of jurisdiction was established by the Disciplinary Judicial Panel of the Higher Council of the Judiciary, the then 33rd Attorney General's Office with its headquarters in Barranquilla was seized of the case on 16 October 2008. After conducting several proceedings and obtaining sufficient elements from the criminal police reports to establish a hypothesis as to the effective occurrence of the punishable conduct, the investigation was opened on 1 April 2015.

This investigation is currently at the investigation stage and is being conducted by the 85th Specialised Attorney General's Office attached to the DECVDH based in Barranquilla. To date most of the accused have been questioned. The accused are Jean Carlos Duque Cortes (a.k.a. Emiliano), Lieutenant Colonel Alberto Bustos Cardón, Janer Enrique Romero Villafañe, Aquileo Rivera Mendoza, Gilberto Eduardo Churio Bermúdez, José Nadin Marrugo Herrera, Nelson Enrique Manjarres Mendoza, Bernardo Efraín Aguirre Lucero, Rony Elías Molina Beltrán, Belarmino Machado Romero, Jesús Francisco Padilla Pérez, Yorvy Luis Ospino Oñate and Alirio Guerrero Quintana.

11. Ferides Nieves Nieves and José María Maestre Cuello (File No. 3925)

José María Cuello Maestre worked all his life at the Villa del Río farm, located in the jurisdiction of the municipality of San Juan. Enrique Alfredo Cuello Maestro, the victim's brother, stated that he was not accustomed to using firearms and that he did not commit extortion, contrary to what was stated by members of the National Army.

Ferides Neicer Nieves Nieves worked as a chainsaw assistant. Melba Nieves, Lucía Daza and Víctor Díaz (sister, mother and brother-in-law of the victim), stated that he was not an extortionist and did not carry firearms. They stated that the day before the events he had left at around 4 pm to take his nephew Jesús Alberto to the house of his sister Cielo Esther Nieves, and that he was then going to saw wood with Víctor Díaz, but he never showed up.

According to the account of members of the Gaula Cesar Group of the National Army, on 21 January 2006 in the early hours of the morning, they were carrying out Operation "Estocolmo" 2 on the road from San Juan del Cesar to Buenavista Guajira, as they had information that a gang was coming to the area to extort money, so they set up a checkpoint and surveillance post. They reported that at approximately 3.30 am they heard the sounds of a motorbike on which two people were travelling, to whom they called out, receiving gunshots in response, which led them to engage in combat. As a result of the confrontation, two persons were killed and were later identified as Farides Neicer Nieves Nieves and José María Maestre Cuello.

Participants in the operation included First Vice Sergeant Luis Alfonso Sosa Largo and professional soldiers Juan Manuel Bautista Mendoza, Fran Iván Castillo Villarreal, Majin Paya and Eduis Amín Pérez Caballero, who were under the command of Major Alejandro Robayo Rodríguez, Commander of the Gaula Cesar Group.

By order of 21 January 2006, Military Criminal Investigation Court No. 90 opened a preliminary investigation and ordered evidence to be gathered to determine the circumstances in which the events occurred, including the time, manner and place. Subsequently, by order of 22 June 2006, it declined to open an investigation, considering that the conduct was committed in compliance with a legitimate mandate.

Subsequently, Counsel appointed by the Office of the Inspector General of the Nation (*Procuraduría General de la Nación* – PGN) and the 33rd Specialised Attorney General's Office from the National Human Rights and International Humanitarian Law Unit conducted a judicial inspection of the court in question, the conclusions of which led to the submission of a conflict of jurisdiction, on the grounds that the link between the conduct perpetrated and the service was unclear. By decision of 4 August 2009, the Disciplinary Judicial Panel of the Higher Council of the Judiciary resolved the conflict of jurisdiction between the 32nd Specialised Attorney General's Office from the the National Human Rights and International Humanitarian Law Unit and the Fifteenth Instance Court of the Military Criminal Justice Brigade of Valledupar, assigning the case to the ordinary justice system for the following reasons:

- No credibility was given to the statements by victims' relatives.
- There were doubts about what really happened, as the soldiers did not agree on whether the darkness prevented them from physically seeing the two alleged extortionists, whether they were armed and what type of weapons they were carrying, and there were also elements about the conduct of the mission on which their statements were not unequivocal.
- The autopsy reports stated that the victims received several bullet impacts in the brain and in the face, from weapons fired at long range, which casts doubt on whether the persons had the opportunity to fire their weapons at the soldiers.
- No record was made of the scene of the events, nor of the specific time, which made it difficult to establish a correlation with the autopsy findings and which creates a level of doubt as to the occurrence of the alleged combat.

The alleged perpetrators are: Major Alejandro Robayo Rodríguez, First Vice Sergeant Luis Alfonso Sosa Largo and professional soldiers Juan Manuel Bautista Mendoza, Fran Iván Castillo Villarreal, Majin Paya and Eduis Amín Pérez Caballero.

12. Ever José Vega Vega and Jeiner Vega Radillo

Ever José Vega Vega, a *Wiwa* indigenous man, originally from "El Placer", worked in San Juan del Cesar, La Guajira, as a welder and made doors and windows. He had no political affinity and did not support any armed group operating in the area. The statements made by his relatives establish that Mr. Vega had no knowledge of the use of firearms, nor did he carry them. At the time of the events, Mr. Vega had moved to Riohacha to work for the gas company "digging ditches". On one occasion, he stated that he felt persecuted, which is why he decided to go to Riohacha.

Jeiner Vega Radillo, an indigenous *Wiwa* man, cousin of Ever José Vega Vega, worked for a company run by José Alberto Fuentes, who in turn worked as a contractor for the company Gases de la Guajira. Ever José Vega had worked as a bricklayer and in the construction of sewage pipes. According to statements made by his relatives, José Alberto Fuentes did not support any political group, nor did he have any knowledge of the use or handling of weapons.

On 25 March 2006, Ever José Vega Vega and Jeiner Vega Radillo were killed, along with three other non-indigenous persons, in the village (*corregimiento*) of Carretalito, in the jurisdiction of Barrancas, La Guajira. The official information provided by the Valledupar Gaula Militar group referred to a confrontation with an armed group that was preparing to carry out an extortion. The *Wiwa* victims' relatives categorically reject this version.

Members of the Gaula Cesar group, through intelligence actions, became aware that several individuals were carrying out criminal activities on the Fonseca Road, so they proceeded to carry out an operation that would enable their apprehension.

According to the account given by the military, on 24 March 2006, at 11.30 pm, the military personnel of the Gaula-Cesar Group, attached to the Tenth Armoured Brigade of the National Army, under the command of Lieutenant Tumul Guerrero Edgar Fernando, began to carry out Tactical Mission No. 15 "MACARTHUR" issued by Major Alejandro Robayo Rodríguez, who was the commander of the Gaula-Cesar Group. For this reason, on 25 March 2006, they left in a van with two people in the front and others in the back, and when they were going, they noticed that a vehicle was following them. According to them, this vehicle overtook them after Fonseca (in the rural division of San Pedro), and men got out of the vehicle and started shooting at them, so they reacted, resulting in the wounding of one soldier and the death of the five occupants of the vehicle. The combat took place in the course of the "*Soberanía*" operations order and the "Macarthur" Tactical Mission with the participation of Lieutenant Edgar Fernando Tumul Guerrero, First Vice Sergeant Germán Tovio Medrano, First Vice Sergeant Luis Alfonso Sosa Largo, and professional soldiers Luis Carlos Antequera Cortina, Jhon Jairo Barrios Hernández, Eduar Majín Paya and Juan Manuel Bautista Mendoza. The military personnel who participated in the events reported that the death of these persons had been caused by an armed confrontation and indicated that four weapons and a fragmentation grenade had been found in their possession.

On 25 March 2006, Military Criminal Investigation Court No. 90 ordered the opening of a preliminary investigation. On 25 February 2007, Military Criminal Investigation Court No. 21 opened a preliminary investigation into the murder of five persons. In this instance it was established that the death of the five victims had occurred in strange circumstances and that the accounts given by the military personnel did not coincide with the documentary and expert evidence in the case file.

In a decision of 27 March 2008, the Disciplinary Judicial Panel of the Higher Council of the Judiciary resolved the conflict of jurisdiction that had arisen and assigned jurisdiction over the case to the Ordinary Court.

On 28 March 2014, the 33rd Attorney General's Office for Human Rights decided to charge Edgar Fernando Tumul Guerrero, Germán Luis Alfonso Sosa Largo, Luis Carlos Antequera Cortina, Jhon Jairo Calderón Montes, Frank Iván Villareal Castillo, Adonai Medina Moncada, José Gregorio Barrios Hernández, Juan Manuel Bautista Mendoza and Eduis Majin Paya as alleged co-perpetrators of the crime of homicide of protected persons. Consequently, it imposed on these persons a preventive measure, consisting of pre-trial detention.

During the investigation carried out in the military criminal jurisdiction and in the ordinary justice system, several inconsistencies arose regarding the way in which the events took place. The first relates to the fact that the record of use of military material in the events of 25 March 2006, presented by the military personnel who carried out the mission, establishes use that does not coincide with that reported by the then defendants in the context of their testimonies: while some of them reported that they had fired between five to fifteen shots, in Record No. 157 of 26 March 2006, expended military material was certified as "5.56 mm calibre ammunition: Four hundred and ninety-five (495); 9 mm calibre ammunition: seventy-six (76); 7.65 mm calibre ammunition: Twelve (12); Total: 583".

Another inconsistency relates to the participation of Lieutenant Tumul Guerrero Edgar Fernando, professional soldier Augusto Rodríguez Castro, professional soldier Amín Pérez Caballero, and professional

soldier Sair Durán: while the statements say that these persons did not participate in the events, in Record No. 157 it is stated that Lieutenant Tumal Guerrero Edgar Fernando expended 35 rounds of 9 mm calibre ammunition. In addition to the above, the patrol report in which the expended ammunition is recorded does not coincide with Record No. 157. This shows the use of two M-26 hand grenades and a pineapple grenade, despite the fact that the military personnel had said in their statements that no grenade had been used during the operation. Another inconsistency lies in the fact that the NPR vehicle in which the military personnel were travelling must have been hit on the left side, since they were supposedly shot at from another MAZDA vehicle, which was the only one with bullet impacts, contradicting the military account that the attackers got out of the vehicle. Only one of the five victims tested positive for gunshot residue on his hand, which contradicts the military account.

There were people who said that a National Training Service (*Servicio Nacional de Aprendizaje – SENA*) guard near the site heard the victims screaming and begging not to be killed, but the troops still shot them. This person was expected to testify but he died in strange circumstances when a person came to his house and killed him.

Finally, one of the bodies, belonging to Ever José Vega Vega, had a tattoo and a ring in the region of the thorax on the right side at the level of the anterior axillary line, which leads to the conclusion that this orifice was caused by a firearm at close range.

13. Román Luis Vega Nieves

Román Luis Vega Nieves was a member of the Potrerito community, but since 2003 he had been living in Loma del Potrero. Both communities are located in the jurisdiction of San Juan del Cesar. For work reasons, he was living on a plot of land on the La Mina farm, owned by Leodegar Daza.

He and his brother were captured in October 2005, in Loma del Potrero by troops of the Rondón Battalion, and were held for approximately eight days in military facilities. Upon their release, the brothers were aggressively threatened by men from the Rondón Battalion who told them not to return to the community from which they had been taken “because they would not be responsible”.

From March 2006, troops from the Rondón Battalion systematically hounded, intimidated and harassed the inhabitants of the communities of Lomas del Potrero, La Peña de los Indios, El Caney, Ulago, and El Machín, stigmatising them as militia members or collaborators of the FARC- EP, leading to the displacement of entire families.

The *Organización Wiwa Yugumaiun Bunkuanarrua Tayrona* (OWYBT) warned of a pattern that had been occurring in the area, whereby *Wiwa* people who were captured and detained were later found dead, in most cases, and the Inter-American Commission on Human Rights (IACHR) granted precautionary measures in favour of the *Wiwa* people on 4 February 2005.

According to OWYBT, Román Luis Vega Nieves, a *Wiwa* indigenous man, was working on 2 August 2006 on a plot of land on the La Mina farm, which was located very close to where construction work on the Ranchería Dam was being carried out at the time, in the jurisdiction of San Juan del Cesar. Towards midday he did not return to his place of residence for lunch, as he usually did.

Worried about her husband's absence, Carmen Mojica Duque went to the place where her husband was supposed to be working and when she did not find him, she called other family members to help her locate him. Searching around the grounds of the La Mina farm, his wife and other family members found footprints and marks indicating that several men in military boots had recently passed through the area. They noticed that the footprints led towards the site where the Ranchería Dam was being built, where troops from the Rondón Battalion of the Tenth Brigade were permanently present.

The relatives received testimonies from different people in the region who stated that they had seen a civilian going with National Army troops. In view of the evidence and testimonies received and believing that Román Luis Vega Nieves had been captured by troops from the Rondón Battalion, the relatives decided, on the morning of 3 August 2006, to go to the military garrison located in the village (*corregimiento*) of Buenavista, in the jurisdiction of the municipality of Distracción (La Guajira), to inquire about his whereabouts.

At the Rondón Battalion, the family members were informed that no arrests had been made in the area where Román Luis Vega Nieves was located. This information was also given to the Municipal Ombudsperson (*Personero Municipal*) of San Juan del Cesar and the La Guajira Regional Ombudsman (*Defensor del Pueblo Regional*).

While the relatives were searching for Román Luis Vega Nieves, they learned through the local media of a military report that on 3 August 2006 there had been an armed confrontation between troops of the Rondón Battalion and guerrillas of the 59th Front of the FARC-EP in a rural area of the Serranía del Perijá in the jurisdiction of La Jagua del Pilar, which resulted in the death of an insurgent killed in combat.

On 4 August 2006, when they were leaving the Office of the Municipal Ombudsperson of San Juan del Cesar, where they had gone to file a complaint about the events, a person informed them that on 3 August 2006 he had witnessed the removal of a body, identified as "person unknown" in La Jagua del Pilar (La Guajira), which had very similar characteristics to those that the relatives had described in their search.

In response to this news, the relatives, accompanied by the Municipal Ombudsperson of San Juan del Cesar, decided to travel to La Jagua del Pilar. However, they found no one to provide them with information, so they went to Villanueva (La Guajira), where officials from the Technical Investigation Unit (*Cuerpo Técnico de Investigación - CTI*) of the Attorney General's Office, who had removed the body, showed them a photograph of the victim.

From this photograph, the relatives discovered that the body of the "person unknown" corresponded to that of Román Luis Vega Nieves. In the photograph that was shown to them, they observed that the body was wearing an olive-green T-shirt and next to the body there was a grenade and a revolver. In the morning, the victim had been wearing black trousers, a yellow undershirt and a long-sleeved brown shirt.

14. Noemí Ester Pacheco Zabatá and Hermes Enrique Carrillo

Noemí Pacheco Zabatá was a 14-year-old *Wiwa* indigenous minor. She was the daughter of Joselino Pacheco Malo, leader of OWYBT, who at the time of the events was the *comisario* (local authority representative) of the Rongoy Community in the *Kogui-Malayo-Arhuaco* Indigenous Reserve in the Sierra Nevada de Santa Marta. Once Noemí turned 13, she formed a long-term and stable relationship with Hermes Enrique Carrillo, a 23-year-old *Kankuamo* indigenous man. The couple settled on a farm in the rural division (*vereda*) of Pontón, Atánquez village (*corregimiento*), in the *Kankuamo* Indigenous Reserve, in the municipality of Valledupar (Cesar), where they were living at the time of the events.

On 9 February 2005, at approximately 2 am, troops from Artillery Battalion No. 2 "La Popa", attached to the X Armoured Brigade with headquarters in Valledupar, were present in the rural division (*vereda*) of El Pontón. The military action took place within the framework of the *Fortaleza* Tactical Mission, Operation *Espada*, which ordered the personnel of Artillery Battalion No. 2 "La Popa", with soldiers from *Dinamarca* 1 and 3, to carry out offensive patrols in the area of La Mina, Atánquez, Chemesquemena and Guatapurí from 5 January 2005. Once they arrived in the community, several soldiers went to the house on the farm where the minor Noemí Pacheco and her companion were living. While there, they violently entered the house where the inhabitants were resting and forced them to leave their ranch, accusing them of being collaborators of the FARC's 59th Front, which was operating in the region. When they were outside, they shot them several times, causing their instant death.

The official operation reports presented by the Tenth Armoured Brigade of the National Army indicate that Noemí Pacheco Zabata and her companion were members of the 59th Front of the FARC, killed in combat in the rural division (*vereda*) of El Pontón. According to the official reports, the victims were wearing green trousers used by the police and "although the soldiers said that [...] they were wearing boots, these were not mentioned in the record of the removal of the bodies nor can they be seen in the photographs taken during the inspection of the bodies, which shows that the bodies were tampered with by the members of the National Army involved". Initially, the investigation was taken over by the 21st Military Criminal Court. The victims were found with the following ammunition and military material: "(i) a 7.65 mm Astra Falcon pistol, in good working order and condition; (ii) a .38-calibre short-barrelled Colt revolver, in good working order and condition; (iii) a long-barrelled, rusty pistol compatible with .38-calibre, in good working order; (iv) a supplier in poor condition, nine (9) 7.65 mm calibre cartridges; (v) three (3) 7.65 mm calibre cartridges; (vi) a cartridge case from a .38 long-barrelled weapon; (vii) five (5) .25 mm cartridges."

According to the judgment of the High Court of the Judicial District of Bogotá: i) the accounts given by the defendants "on the subjects of how the deceased was dressed, how the fighting took place, who gave the order to return fire and the presence of a civilian guide among the troops, are so mutually exclusive that the events to which they refer could not have happened both ways" and are therefore false; (ii) "the analysis of the gunshot residue evidence by mass spectrometry techniques carried out on the victims, concluded [...] that no gunshot residue was found on their hands. The clothing also showed no traces of gunpowder"; iii) "The diagrams of the autopsy reports show, with respect to Noemí Pacheco, that she suffered a single shot, the trajectory of which went from back to front, from left to right and from bottom to top. This analysis shows that the bullet entered when she had her back to the person who shot her".

It was also possible to demonstrate the use of false witnesses to legitimise the killings. This is the case of Juan Luján who acknowledged "that Analdo was the one who served as a guide", who told him what he had to say in his statement, and of José Trinidad Pacheco Montero, who was later murdered, who stated that "I am telling the truth because I am in front of you, Lieutenant Vaquiro offered me a toilet so that I could tell the prosecution when they called me that they were carrying a rifle, but I can't because I didn't see them with a rifle and that's what I should do before my God, so that the dead would be condemned and I can't go do that and for that reason he didn't give me the toilet because I didn't accept that..."

Initially, the investigation was taken over by Military Criminal Court No. 21, which linked soldiers Larry Benjumea and Deimer Cárdenas to the investigation. On 7 June 2005, the proceedings were closed, a decision that was revoked on 27 October 2005 by the High Military Court.

On 14 October 2005, the 11th Specialised Attorney General's Office of the National Human Rights and International Humanitarian Law Unit of Bogotá, requested that the 21st Military Criminal Court assemble the elements of proceedings in the investigation, in order to take cognisance the case. A conflict of jurisdiction arose between the two courts.

On 25 January 2006, the Higher Council of the Judiciary resolved the conflict of jurisdiction and ordered that the investigation be conducted by the Attorney General's Office, and that the 11th Specialised Attorney General's Office for Human Rights and International Humanitarian Law take cognisance of the case under file number 2282. Between 3 October 2006 and 26 February 2007, soldiers Deimer Cárdenas Martínez, Larry Efraín Benjumea Mindiola, Omar Vaquiro Benítez, Boris Serna, Alejandro Angulo Ascencio, Ronal Enrique Acuña Díaz, Bernardo Alberto Aguilar Sandoval, Jorge Luis Carrillo Cantillo and paramilitary Analdo Enrique Fuentes Estrada were linked to the investigation.

On 3 April 2007, the Attorney General's Office ordered the partial closure of the investigation into the military officers Serna Mosquera, Vaquiro Benitez, Cárdenas Martinez, Benjumea Mindiola and the individual Analdo Enrique Fuentes Estrada, and with a resolution of 22 June 2007, proceeded to establish the merits of the case, in relation to the offences of aggravated murder, conspiracy to commit a crime, procedural fraud and false testimony.

On 19 November 2007, the Attorney General's Office ordered the investigation to be sent to the specialised courts of Valledupar and ruled to separate proceedings in order to continue with the investigation of other possible perpetrators and those responsible for the events. On 22 May 2008, the Supreme Court of Justice ordered a change of location of proceedings from Valledupar to Bogotá, and they were transferred to Criminal Court No. 2 of the Specialised Circuit of Bogotá, which continued proceedings from 1 July 2008, holding public hearings in several sessions. On 3 September 2009, the proceedings were terminated due to the death of the defendant Larry Benjumea Mindiola.

On 30 June 2011, Criminal Court No. 2 of the Specialised Circuit of Bogotá convicted the defendants. This judgment was appealed by the defence and confirmed on 20 May 2013 by the Criminal Chamber of the High Court of Bogotá. Among the reparation measures ordered by the Court were: i) Order the publication of [the] judgment for a period of one year on the websites of the National Army and the Ministry of Defence as an example of what the State security forces should not do; ii) Order that the Commander of the National Army and the Commander of Artillery Battalion No. 2 "La Popa" hold a public ceremony for the *Kankuama* and *Wiwa* indigenous communities for the acts carried out by members of the State security forces; iii) Prohibit any military unit, command, detachment, patrol or company in the future from being called DINAMARCA or bearing the names of the military personnel convicted of these acts; iv) Urge the National Government to ensure that the execution of the sentence imposed in this case is carried out in a way that does not offend the pain of the victims or the community to which they belonged. In the same judgment, the Court ordered copies to be made to investigate: i) failures to exercise control in which the

superiors of the defendants may have been involved, taking into account the provisions of article 25 of the Criminal Code, and ii) ideological falsification of public documents and fraudulent means to mislead superiors in the military.

On 16 November 2011, the legal status of the soldiers Alejandro Angulo Ascencio, Ronal Enrique Acuña Díaz, Bernardo Alberto Aguilar Sandoval and Jorge Luis Carrillo Cantillo was determined, and they were placed in pre-trial detention.

On 2 December 2013, the Attorney General's Office decided to charge Bernardo Alberto Aguilar Sandoval, Alejandro Angulo Ascencio Ronal Enrique, Acuña Díaz and José Luis Carrillo Cantillo as co-perpetrators of the murder of a protected person, combined with the concomitant crime of conspiracy to commit a crime, maintaining the preventive measure. In the same decision, the Attorney General's Office ruled to separate proceedings, in order to continue the investigation into the other concerned parties and maintained the arrest warrants in force against Fredi Alberto Díaz Romero, Richard Alberto Campo Tonso, Miguel Angel Molina Díaz and Luis Manuel Brito Camarillo. This decision was confirmed by the Decision of 4 June 2014.

The file was referred to the Sixth Criminal Court of the Specialised Circuit of Bogotá, which on 3 October 2014 declared that it lacked jurisdiction, so the file was returned to the Judicial District of Valledupar. The Criminal Court of the Specialised Circuit of Valledupar took cognisance of the case against Alejandro Angulo Ascencio, Ronald Enrique Acuña Díaz, Bernardo Alberto Aguilar Sandoval and Jorge Luis Carrillo Cantillo for the crimes of murder of a protected person and aggravated conspiracy to commit a crime, under file number 00568-15. Meanwhile, the Third Criminal Court of the Mixed Circuit of the Judicial District of Valledupar, took cognisance of the facts of the investigation against Emel Emiro Almanza Meza for the crime of murder of a protected person, under file number 2014-00051.

Currently, several proceedings are underway due to separation of proceedings during the investigation. On one side, public hearings are being held at the trial stage against Alejandro Angulo Ascencio, Ronald Enrique Acuña Díaz, Bernardo Alberto Aguilar Sandoval, Jorge Luis Carrillo Cantillo and Emel Emiro Almaza Meza, and on the other, the investigation is continuing in the Attorney General's Office against other alleged perpetrators, some of them subject to arrest warrants, while the legal status of others has yet to be defined, as further investigation is required, according to the evidentiary material in the case file.

Administrative proceedings: In file no. 20-001.33-31-000-2007-00087-00 the First Administrative Court of Valledupar recognised the responsibility of the Nation for these facts, and ordered in the sentence passed at first instance "that a symbolic act be carried out through the commander of the Artillery Battalion No. 2 "La Popa", of Valledupar, so that in a symbolic act and having given prior notice to the governmental bodies and the public prosecution service (who will represent the plaintiffs), he may make a public apology on behalf of the National Army for the extrajudicial execution of which the young Noemí Esther Pacheco Zabata was a victim, of which a record will be drawn up and sent to the victim's relatives in a customary document". The judgement was appealed by the respondent entities; however, the decision was confirmed in the second instance by the Administrative Court of Cesar on 12 May 2011.

Recognition before the Special Jurisdiction for Peace (JEP): On 22 August 2018, the deponent appearing before the JEP, Boris Alejandro Serna Mosquera, who was convicted by the ordinary courts, gave a voluntary statement to the SRVR and read out a document which gives an account of his participation in the events, according to which on 20 January 2005 he was appointed as commander of the *Dinamarca* 1 unit of the Artillery Battalion No. 2 "La Popa" (BAPOP) and in the following weeks he made contact with the civilians Analdo Fuentes Estrada, from the Army Cooperants Network and Juan Ricardo Luján Maestre, who pointed out alleged FARC guerrilla militiamen, and that given that the militiamen did not use weapons, members of the platoon bought one to plant it at the scene of the attack. The deponent said that since the alleged militiamen were not found on the day of the operation, on the instructions of the guide Fuentes Estrada, they went to the indigenous couple's house, which was a sort of tent. The young man Hermes Carrillo was interrogated about the location of the guerrillas and forced to wear police trousers, and the young woman was dressed in her clothes. Both were forced to walk and at some point, at around 4.30 am they were told to leave and were shot in the back. The young man tried to run away wounded and an hour later they found him and shot him again. He stated that his immediate superior Lieutenant Vaquiro Benítez was aware of and participated in the operation, including in obtaining the weapons to plant at the scene.

The deponent appearing before the JEP referred to a national "policy" to apply pressure to obtain results: "When General Montoya's policy was in place, demanding operational results from the battalions for each unit, at that time all the units had to contribute, to present a number of casualties" (...) "when you didn't

present casualties, you were sanctioned, the battalion sanctioned you on your personal record, they put poor performance on your record".

On 31 October 2018, Omar Eduardo Váquiro Benítez gave a voluntary account in which he reiterated in general terms what Mr. Serna Mosquera had said and acknowledged having given the order to shoot at the indigenous couple "we were wearing military clothing that we [...] ordered [the people to wear] [...] and we instructed them to accompany us towards the road and the point on the road that goes through Pontón. While on the road I gave the order to shoot at these two people and reported a combat to the Guatapurí base and they in turn reported it to the 'La Popa' battalion": "I gave the order to Corporal Serna, I told Corporal Serna because he knows the people in his platoon [...] I told him: you tell the people, organise them, make a line of shooters and shoot".

Former Lieutenant Váquiro underlined the pressure for results and alluded without further detail to a meeting of officers in the "La Popa" battalion at which an army General insisted on the need to "report casualties": "at the meeting, the General told us that he needs casualties, that he has no use for captured people, that he needs casualties and that if an officer arrives with a captured person he will be dismissed, expressions like that". "I left for my base in Guatapurí and I remember that on the radio programmes they were counting casualties of operational results, if there was a drop in the statistics - Colonel, what's happening? I need casualties now, I need casualties, I need at least 10 for this month, situations like that."

Disciplinary proceedings: By order of 17 July 2017, the Human Rights Ombudsperson's Office ordered the opening of a disciplinary investigation against Second Lieutenant Omar Eduardo Vaquiro Benitez, First Corporal Boris Serna Mosquera and regular soldiers Deimer Cárdenas Martínez and Larry Efrain Benjumea Mendiola.

On 26 December 2012, the Disciplinary Ombudsperson's Office for the Defence of Human Rights sanctioned the offenders, Second Lieutenant Omar Eduardo Vaquiro Benitez and First Corporal Boris Alejandro Serna Mosquera, with dismissal from office and general disqualification for a term of twenty (20) years and the regular soldier Deimer Cárdenas Martínez, with dismissal from office and general disqualification for a term of ten years, for a very serious disciplinary offence under article 48(7) of Law 734 of 2002, committed with wilful intent, in connection with the death of Hermes Enrique Carrillo Arias and Noemí Pacheco Zabata. The decision was confirmed in its entirety on 7 May 2015 by the Disciplinary Panel headed by the First Delegate of the Inspector General, President of the Disciplinary Panel Juan Carlos Novoa Buendía and María Eugenia Carreño Gómez, Second Delegate of the Inspector General.

15. Yajaira Cristina Nieves Oñate (File No. 4007)

Yajaira Cristina Nieves Oñate was a 25-year-old *Wiwa* indigenous woman. At the time of the events she was living with three of her four children and was (6 months) pregnant and mother of three other minors.

On 7 March 2006, Nieves Oñate was murdered in Villanueva, Serranía del Perijá. Family members were informed that Nieves Oñate had been killed in a confrontation between troops of the Rondón Battalion and members of the FARC-EP. In the same incident, her two-year-old daughter Betsy Cristina Nieves suffered physical injuries, as she was shot in the right foot. Her other three children were handed over by the National Army to the ICBF in Fonseca (La Guajira).

According to the military report, it was on 28 February 2006, in the jurisdiction of the municipality of El Molino, department of La Guajira, that members of the Mechanised Infantry Battalion No. 4 "General Antonio Nariño" (BINAR), attached to the Second Brigade, under the command of Second Lieutenant Nixon Pabón Sandoval in accordance with the "*Frenesi*" Tactical Mission in Operation "*Flamante*", ordered by the Battalion Command, murdered Yajaira Cristina Nieves Oñate, who was identified as a member of the 41st and 59th Fronts of the FARC-EP and who was allegedly carrying a shotgun, gunpowder, ammunition and propaganda relating to illegal guerrilla activities. At the time of the alleged combat, the victim was pregnant and was accompanied by her three children under the age of five. One of the children was wounded.

The Delegated 2nd Attorney General's Office before the Municipal Criminal Judges of Villanueva (Guajira), by Decision of 8 March 2006 ordered the opening of a preliminary investigation, however, on the following 23 March, it referred the case to the jurisdiction of the Military Criminal Investigation Court of Buenavista. On 22 August 2007, the 33rd Attorney General's Office of Barranquilla took cognisance of these facts

under case number 4007. On 14 September 2007, it claimed jurisdiction over the case, considering that the way in which the events occurred did not correspond to a combat (the woman was pregnant, and when she was killed, she was in the company of her children).

The Military Criminal Court rejected this request, since it found that the facts corresponded to the conduct of a legitimate military operation, and that “even in the scenario of abuse or exceeding functions, jurisdiction should lie with the military court”. Against this background, the case was sent to the Higher Council of the Judiciary on 19 September 2007 so that the Disciplinary Panel could resolve the conflict of jurisdiction between the 33rd Specialised Attorney General’s Office in Barranquilla (National Human Rights and International Humanitarian Law Unit) and the 15th Court of the Military Criminal Brigade of Valledupar. This decision was issued on 27 February 2008, determining that jurisdiction to hear the case lay with the ordinary courts. The decision focused essentially on the observation that it was out of the ordinary and implausible that the woman had taken part in combat accompanied by her three minor children - it could not be overlooked that one of them was wounded in the ankle. This fact generates sufficient doubt that the woman died in combat, or that she was in any way involved in combat and, therefore, is of sufficient magnitude to assign jurisdiction over the case to the ordinary courts. The decision includes a dissenting opinion by Judge Rubén Darío Henao Orozco, who states that: (i) the fact that those under investigation were linked to the National Army; and (ii) that they were complying with an order issued by a superior officer, are sufficient factors for the case to be heard by the Military Criminal Court. The case is being heard by the 33rd Attorney General’s Office of the National Human Rights and International Humanitarian Law Unit located in Barranquilla.

Disciplinary investigation: Meanwhile, the Office of the Inspector General of the Nation (*Procuraduría General de la Nación* – PGN) issued a statement of charges against Second Lieutenant Nixon Pabón Sandoval, Second Sergeant Samir Enrique Bravo Oviedo, and professional soldiers Andis Miguel Pacheco Lozano, Nando Miguel Padilla Quintero and Felipe Barriosnuevos Gutiérrez, all members of the Mechanised Infantry Battalion No. 4 General Antonio Nariño (BINAR), for alleged violation of international humanitarian law, especially with regard to the principle of distinction, as they failed to respect the non-combatant status of Yajaira Nieves Oñate. Among the evidence highlighted by the PGN are: (i) statements by Diana Patricia Daza Pabón, who says that she had known the victim for a long time, that she was a person of slim build and short stature who had been fitted with size 40 boots that were not hers; (ii) evidence showing that the victim was in the sixth month of pregnancy, which raises doubts about her participation in combat and about her determination to confront men who outnumbered her, in addition to being with her children, who were no more than five years old. Recently, on 30 April 2019, a first instance decision was issued in these proceedings, by which the Office of the Inspector General sanctioned the offenders with dismissal and disqualification for 20 years, as they were found responsible for serious violations of international humanitarian law.

16. Ildomar José Montero Romero

Ildomar José Montero Romero was a 24-year-old *Kankuamo* indigenous man who was a member of the Board of Directors of the Guatapurí Social Promotion Institute and supported the Guatapurí Council of Elders.

On 22 April 2003, at around 3 pm, around ten men in civilian clothes belonging to the Mártires del Cesar Front of the Northern Block of the AUC, set up a roadblock in a place known as “La Ye” in La Vega, where they stopped three cars on the road and made their occupants get out, asked them for their identification documents, returned their identity cards and asked whose was missing, to which Ildomar José Montero replied that his was missing. The armed men bound him and detained him. His corpse was found in the morgue in the municipality of San Juan del Cesar, La Guajira. His body was dressed in a camouflage suit and was presented as a guerrilla group member killed in combat.

According to an interview with paramilitary Geiber José Fuentes, a.k.a “El Ruso”, which is part of the criminal file, he stated that Ildomar’s detention was carried out by order of the man going by the alias “El Paisa”, because they needed a positive result required by members of the National Army. According to the interviewee, both the victim and one of his sisters were part of a list of military objectives considered to be FARC militia members. He also reported that after Ildomar’s detention, he was given a camouflage mask, a rifle without firing pin and was handed over to the commander of the AUC in San Juan del Cesar in La Guajira, going by the alias “Kevin”, who in turn handed him over to the military.

Another paramilitary, Hugues Romero, also a member of the same Front, indicated "that there was an agreement with some members of the National Army and the objective was to set up illegal roadblocks [to] detain people who were guerrillas or who were collaborating in some way with the guerrillas and then hand them over to the Army, because they needed positive results in the Badillo area, that Mario Fuentes had a list on which Ildomar was mentioned, [he] was taken out of a car at a roadblock and later appeared dead on the Badillo side but in the La Guajira area, as a paramilitary [...]".

Ildomar's death was presented as a combat casualty by members of the Mechanised Group No. 2 Rondón Gmron, by means of official document No.0134 BR2/GMRON-S2-INT-252 of 9 March 2004. In this document, Third Corporal Gaitán Triana Marco, Non-commissioned officer of the second section of the Rondón Group of the National Army, made available to the duty prosecutor the body of a terrorist killed by armed contact between troops of the *Espuela* 2 Platoon of peasant soldiers and a bastion of the *Libertadores del Sur de la Guajira* Front of the AUC, which occurred on 8 March 2004 at 8:45 pm at the site of La Y that leads from San Juan to Las Juntas, also reporting that homemade M-79 grenade launcher material and two 40 mm grenades were seized. In addition to members of paramilitary groups, the Gaula of the National Police of San Juan del Cesar also allegedly participated in these events. According to the information contained in the preliminary judgments against demobilised members of the Mártires del Cesar Front, the head of the Gaula's advance group, Jorge Eliecer Bravo López, received information from Second Sergeant Lara Martínez about an alleged kidnapping of the peasant soldiers of the San Juan base, and based on this information "coordinated an operation with the peasant soldiers in the place indicated by the human source, known as "la Y" via Los Haticos. A vehicle appeared at night and on seeing the roadblock, evaded it by shooting which led to a response, resulting in the death of an individual in the unknown vehicle, who was later identified as Ildomar José Montero Romero, who was found in military uniform, with an AUC armband and carrying an M79 grenade launcher and two 40 mm grenades".

17. Enrique Laines Arias Martínez

Enrique Laines Arias Martínez, 45 years old, was an indigenous man of the *Kankuama* ethnic group who lived in the community of Atánquez, a village (*corregimiento*) in the municipality of Valledupar, *Kankuamo* Indigenous Reserve in Sierra Nevada de Santa Marta. He had six children with his partner Gloria Corzo. The victim worked as a farmer and managed the farm "La Montaña", land that he had inherited from his parents which was located in the area where he was killed by soldiers attached to Artillery Battalion No. 2 "La Popa".

On 22 June 2004, members of the counter-guerrilla platoon Dinamarca 4 attached to Artillery Battalion No. 2 "La Popa", in the conduct of operation ESPARTACO, Tactical Mission MANGLAR No. 86, allegedly engaged in armed contact in the area of "Guigueca", Atanquez village (*corregimiento*) with members of the FARC's 59th Front, resulting in the death of Enrique Laines Arias Martínez, who was found with a 38 calibre long-barrelled revolver, a black bag, a hammock and provisions. According to the autopsy report, the body presented a gunshot wound on the victim's head and the cause of death was established as "severe cerebral and cerebellar lacerations, injuries capable of causing death by themselves and therefore classified as essentially lethal in nature".

Operations order MANGLAR No. 86 was issued to search and control the area in order to neutralise the unlawful actions of illegal groups belonging to the FARC's 59th Front. Subsequently, soldiers paraded the lifeless body of Enrique Laines Arias Martínez around the village of Atánquez, informing the community that he had been "killed in combat".

The Military Criminal Investigation Court No. 90 decided to open a preliminary investigation by order of 22 June 2004, and on 4 January 2005 waived prosecution, on the grounds of the alleged absence of the constitutive elements of the punishable act: "according to the body of evidence, the actions of the army troops fell within the grounds justifying the act, as established in the military criminal statute, in article 1(3) and 4, namely: i) The troops acted in strict compliance with a legal duty; ii) They acted in the legitimate exercise of a right, of a lawful activity and of a public position; iii) They acted out of the need to defend their own or another's right against unjust, current and imminent aggression, the defence being proportional to the aggression received."

On 17 December 2012, the 17th district Attorney General's Office of the Life and Others Unit of Valledupar, in an official letter addressed to the 21st Judge of Military Criminal Investigation, attached to the Executive Directorate of Military Criminal Justice of the Ministry of National Defence, considered that the death of

Enrique Laines Arias Martínez was in fact homicide of a protected person and a crime against humanity, and on this basis requested that the proceedings be referred to the ordinary criminal justice system. The argument of the Attorney General's Office's justifying the request that the proceedings be sent to the ordinary jurisdiction indicated that "the facts were wrongfully perpetrated by units of the Colombian National Army in the performance of their duties, but unfortunately at that time the guidelines of the Office of the Inspector General of the Nation, for cases such as these, were disregarded. The guidelines are reiterated in memorandum DNF - 00041, of 16-03-2012, which develops articles 228 and 230 of the National Constitution, Article 5 of Law 270 of 1996, and Judgment C-591 of 2005, in relation to investigations of criminal conduct constituting aggravated homicide or homicide of protected persons, in order to establish rules for determining the jurisdiction and procedure to be used to hear, prosecute and investigate in each specific case".

18. Víctor Hugo Maestre Rodríguez

Víctor Hugo Maestre Rodríguez, aged 26, was a young indigenous man of the *Kankuamo* ethnic group who lived in the San Isidro/La Lomita neighbourhood of the community of Atánquez, a village (*corregimiento*) of the municipality of Valledupar, *Kankuamo* Indigenous Reserve. Several people identified as militia members of the guerrilla groups *Ejército de Liberación Nacional* (ELN) and FARC-EP. Once this situation became known, meetings were held, under the mediation of the Presidential Council for Human Rights (*Consejería Presidencial de Derechos Humanos*), with members of the "La Popa" Battalion in the framework of follow-up to the precautionary measures ordered by the IACHR in favour of the *Kankuamo* people, in order to stop the stigmatisation of young people in the area.

On 8 February 2004 and 7 September 2004, the victim and four other indigenous people were detained by the army in the police lock-up and forced to do cleaning work in the village. Lieutenant Elkin Leonardo Burgos of the "La Popa" Battalion warned them that he would not be responsible for them if he found them outside the house after 5 pm, as he knew that they were members of the ELN.

On Sunday, 3 October 2004, around midnight, the young indigenous men Rafael Enrique Maestre Fuentes, Eliécer Enrique Maestre Cáceres and Víctor Hugo Maestre were returning home after a party in Atánquez. When Rafael Enrique was on his way home, he was intercepted by armed individuals wearing military clothing, balaclavas and one of them an armband with the initials ELN, who demanded his wallet and covered his mouth, which the young man resisted and managed to flee. Eliécer experienced a similar incident. He was taken from his house by the same men, who asked him for a guerrilla leader "Valenciano" and requested that he accompany them because they were lost. Eliécer refused to follow them, and his parents called the neighbours, so the group fled. Víctor Hugo Maestre, on the other hand, was detained by the same group on the road between his mother's house and his sister's house where he used to sleep. After one o'clock in the morning, when he had not arrived at his destination, the family began to search for him without success. Lieutenant Rayón was informed of these events and suggested to the family that they should say that the victim had been kidnapped by the guerrillas and that they should not continue searching because they risked being wounded in a confrontation.

On Monday 4 October at around 11 pm shots were heard near the "El Peligro" hill. The following day, the "Dinamarca 2" unit of the "La Popa" Battalion presented the victim as "unknown person" killed in combat with the ELN guerrilla group in the place known as Guingueca, as part of the "*Espartaco*" operation.

On Tuesday 5 October 2004, the Military Criminal Investigation Court No. 90, with the support of the Technical Investigation Unit (*Cuerpo Técnico de Investigación* - CTI) of the Office of the Inspector General of the Nation, carried out the removal of the body at the facilities of Artillery Battalion No. 2 "La Popa", where it was established that the events took place in the municipality of La Paz. In the judicial proceedings that took place, it was established that those who had detained young Víctor Hugo Maestre were not members of the ELN, but members of the Dinamarca 2 unit of Artillery Battalion No. 2 "La Popa", with the support of informants Aníbal José Torres Daza and Giovannys José Montero Montero, who acknowledged having received eighty thousand pesos (\$80,000) for their collaboration and payments for each "casualty". The young Víctor Hugo was hooded, dressed in police clothing, and an ELN armband and three weapons were found on him. In Agenda No. 245 of 21 October 2004, the commando who killed Víctor Maestre was congratulated.

According to the Specialised Court of Valledupar, which convicted the members of the "Dinamarca 2" unit, the existence of combat is not proven for the following reasons: (i) the cartridge cases presented in evidence do not correspond to the alleged weapons carried by the deceased; (ii) in the inspection of the scene of the events, no cartridges from enemy shots were found; (iii) only cartridge cases from the M-60 machine guns carried by the Army were found; (iv) the coordinates in the virtual file do not correspond to those provided by soldier Pacheco Bolaños during the judicial inspection; (v) according to the ballistic expert analysis, the soldiers' account of their position is inconsistent with the wounds on the victim's body. In turn, the High Court of Valledupar in the second instance reiterated this analysis and added: i) that the handmade shotgun found with the victim was not suitable for shooting; ii) the victim was inexplicably carrying three firearms and the supplier did not correspond to any of them; iii) the uniform worn by the deceased did not fit his size. It should also be noted that in the first phase of the investigation, some irregularities were committed, such as: (i) the removal of the body was not carried out at the scene; (ii) the Military Criminal Investigation Court No. 90 carried out the preliminary proceedings; (iii) the chain of custody of garments and elements was not respected; (iv) the Forensics Institute discarded the victim's garments; (v) the Judge of the Military Criminal Investigation Court No. 90 attempted to make a correction to the record of the removal of the body delivered to the Forensics Institute; (vi) the atomic absorption test was not carried out on the victim's hands despite it being requested by the judicial technician.

Furthermore, Colonel Néstor Raúl Espitia Ribero, commander of the Tenth Armoured Brigade gave statements to the media, covering up the murder of the indigenous man, stating that the State security forces had confronted the group of "kidnappers" from the ELN, who had allegedly taken Víctor Hugo "so that he would continue to be detained or would be tried for his actions".

On 4 October 2004, the First Specialised Attorney General's Office of the Gaula Unit opened an investigation into the kidnapping of Víctor Hugo Maestre under file number 1459, based on a complaint lodged by indigenous authorities of the Kankuama Indigenous Organisation (*Organización Indígena Kankuama* – OIK). Simultaneously, an investigation was opened by the Military Criminal Investigation Court No. 90 under file number 194. By Decision 5116 of 2004, the Inspector General of the Nation assigned the investigation to the National Human Rights and International Humanitarian Law Unit. On 8 August 2005, the opening of the investigation was ordered, and eleven members of the army and two civilians were charged as possible co-perpetrators of the offence of aggravated homicide. On 5 May 2006, the Second Specialised Attorney General's Office of the National Human Rights and International Humanitarian Law Unit charged the accused with the offence of kidnapping, together with attempted kidnapping and aggravated homicide. On 12 October 2006, the 34th delegated Attorney General's Office of the Unit before the High Courts of the Bogotá Judicial Districts, in a second instance decision, dropped the charge of attempted kidnapping.

On 26 December 2006, the Criminal Court of the Specialised Circuit of Valledupar took cognisance of the proceedings. On 20 May 2009, the Court sentenced Elkin Leonardo Burgos Suárez, Pedro Andrés Cubillos Bolívar, Elkin Rojas, Luis Carlos Pacheco Bolaño, Luis Carlos Maestre Montero, Fernando José Rodríguez, González, Juan Manuel Mejía Rodríguez, Heber De Jesús Peralta, Albert David Pertuz, Willintong Vera and Leuder Jarnan Castillo Sánchez to the principal sentence of 38 years in prison and an accessory sentence of 20 years of disqualification from the exercise of public functions. On 24 May 2010, the Criminal Chamber of the High Court of the Judicial District of Valledupar partially confirmed the sentence imposed, revoked the conviction for kidnapping and ordered copies to be made so that the Inspector General's Office could investigate other members of the Dinamarca 2 unit who had not been investigated.

Disciplinary proceedings: In relation to these events, the Office of the Inspector General Disciplinary Representative for the Defence of Human Rights initiated an investigation under file number 155-113446-04. On 14 March 2005, a disciplinary investigation was opened against Elkin Leonardo Burgos Suárez, Pedro Andrés Cubillos Bolívar, Elkin Rojas, Luis Carlos Maestre Montero, Fernando Rodríguez González, Juan Manuel Mejía Rodríguez, Luis Carlos Pacheco Bolaños, Ever De Jesús Peralta González, Albert David Pertuz Plata and Willintong Vera. The Office of the Inspector General established the responsibility of those disciplined and imposed the sanction of disqualification from the exercise of public functions for 20 and 15 years. In doing so, it took into account the following elements: i) the prior stigmatisation by the army of the victim and other young people from the San Isidro neighbourhood; ii) the complaint filed by these young people with the Ombudsperson's Office on 25 September 2004; iii) statements by family members, young people and the representative for indigenous affairs of the Ombudsperson's Office corroborating these facts; iv) inconsistencies between the results of the technical tests carried out by the CTI and the accounts of the soldiers, among others.

According to the Inspector General's Office, "[It] can be concluded that there was no combat, but that the

army took Víctor Hugo by force and then executed him. The guides Torres and Montero say that they pointed out to Lieutenant Burgos and his men the place where Víctor Hugo Maestre Rodríguez was, and the army apprehended him and took him to the mountain, where, as Torres says, on El Peligro hill ‘they filled him with lead’.

Administrative proceedings: On 17 October 2013, the Administrative Court of Cesar declared the Ministry of Defence accountable to the Nation for the extrajudicial execution of Víctor Hugo Maestre and ordered reparations to the victims' relatives, including an order to the “La Popa” Battalion to make a public apology to the victim's relatives.

19. Juancarlos Arias Montero

On 2 September 2008, Juancarlos Arias Montero, 30 years old, from Guatapurí, was killed by the Mechanised Cavalry Group No. 2 “Juan José Rondón” Gmron, in the rural division (*vereda*) of Los Piñones, Municipality of La Jagua del Pilar, La Guajira. He was buried as “unknown person” in La Jagua del Pilar. The National Army, Tenth Armoured Brigade said that he was a delinquent member of emerging criminal gangs and that he was killed in combat. Family members said that Juan Carlos went out to look for work and that he travelled to Villanueva on that date. He was there on the night of 2 September 2008. The next day he could no longer be reached on his mobile phone. They also said that he had a disability and had never fired a weapon.

20. Uriel Evangelista Arias Martínez and Carlos Arturo Cáceres

On 16 July 2003, in the village (*corregimiento*) of Guatapurí in the rural area of Valledupar, members of the Trueno (*Albardón 1*) and Zarpazo (*Contera 4*) counter-guerrilla groups, under the command of a platoon attached to Artillery Battalion No. 2 “La Popa” (BAPOP), reported having been involved in an alleged combat in the course of Operation “*Judas*”, during which Uriel Evangelista Arias Martínez and Carlos Arturo Cáceres, accused of being members of the FARC guerrilla group, were killed.

21. Ever De Jesús Montero Mindiola

Ever De Jesús Montero Mindiola, a 22-year-old *Kankuamo* farmer, was murdered on 29 August 2003.¹ The vehicle in which Ever de Jesús Montero was travelling was stopped in the place known as the “Y” of Patillal, and three armed men forced him to get out. That same day, his corpse was found with his face disfigured, dressed in camouflage clothes. He was presented by the National Army to the media as a member of the 6 December squad of the *Ejército de Liberación Nacional* (ELN) guerrilla group, who had been killed in combat.

Some soldiers driving a car with tinted windows called Ever's sister and told her that if she needed someone to take her to the Attorney General's office, they could do it. Their identity and purpose are unknown.

On 22 September 2006, preventive measures were ordered against one officer and four soldiers attached to Artillery Battalion No. 2 “La Popa” (BAPOP), for their alleged responsibility in the murder of a protected member of the *Kankuama* community, Ever De Jesús Montero Mindiola. A prosecutor from the National Human Rights and International Humanitarian Law Unit (*Unidad Nacional de Derechos Humanos y Derecho Internacional Humanitario*) requested the competent military authority to suspend the soldiers. Preventive measures were issued against José Emiliano Moreno Trigos, Second Lieutenant, Carmelo Antonio Pacheco Ramírez, Corporal, Hugo Alberto Martínez Delgado, Juan Carlos Soto Sepúlveda and Jeiber Yesith de

¹ According to the report *Tejiendo Caminos para Volver al Origen*, the events occurred on 9 February 2003. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, pp. 53, 136, 145 and 150.

Ávila in relation to these acts. Geiber Fuentes Montaña, a former member of the Self-Defence Forces, was also linked to the investigation.

22. Juan Enemías Daza Carrillo

On the morning of 6 February 2004, Juan Enemías Daza Carrillo, a 36-year-old *Kankuamo* indigenous man, travelled to Biringito farm to get food with two of his minor sons Víctor and Abelardo, and on his way home he was illegally detained by members of Artillery Battalion No. 2 "La Popa" (BAPOP). One of the uniformed persons responsible had covered his face with a balaclava and was later revealed to be a paramilitary.

On 7 February 2004, during the high-level visit conducted in the framework of the precautionary measures issued by the IACHR, the family of Juan Enemías Daza Carrillo publicly denounced his illegal detention by the National Army and his subsequent disappearance. On the same day, half an hour after the formal start of the meeting, Mr. Daza Carrillo's relatives informed the authorities that a radio station had broadcast that an individual alleged to be a guerrilla group member, with the alias "chon" had been killed by the National Army during a combat against the ELN guerrilla group, that the corpse was in the Valledupar Morgue, and that they were apparently referring to Juan.

23. Néstor Rafael Oñate Arias

On 16 April 2004, Néstor Oñate Arias was illegally detained by members of Operational Command No. 7 of the Colombian Army. His lifeless body was found the following day in the village (*corregimiento*) of Ataquez.

24. Claudino Manuel Olmedo Arlante and Frank Enrique Martínez

Troops from "La Popa" battalion (BAPOP) claimed that they had been engaged in armed combat against members of the 41st Front of the FARC in the early hours of 14 May 2005, in the sector known as "Filo Machete" in the village (*corregimiento*) of San José de Oriente, jurisdiction of the municipality of La Paz (Cesar), resulting in the killing of two unidentified individuals, one dressed in military clothing and the other a civilian. A 12 mm calibre repeating shotgun, a 22 mm calibre automatic shotgun and small quantities of ammunition for the same guns were seized from them. The above events were allegedly carried out during Operation "Esplendor", Tactical Mission "Mohicano". The individuals were later identified as Frank Enrique Martínez Caviedes and Claudino Manuel Olmedo Arlante.

25. Alcides Enrique Carrillo Maestre

A 40-year-old *Kankuamo* indigenous man residing in Codazzi was taken from his home and later found dead. The events were attributed to the AUC, but relatives maintain that the Army was responsible.

26. Daiber José Mendoza Montero

On 3 July 2005, Daiber José Mendoza Montero, a *Kankuamo* indigenous native of the community of "La Mina", was taken by members of Artillery Battalion No. 2 "La Popa" (BAPOP) from his sister's farm in the region of Kunchurúa, a *Kankuamo* Indigenous Reserve. According to reports from *Organización Indígena Kankuama* (OIK), members of the Army requested his documents and accused him of belonging to a guerrilla group. Daiber José was found dead, wearing camouflage clothes, with signs of torture and was presented as a "member of a guerrilla group killed in combat".

27. Yair Tobías Mendoza Montero

Yair Tobías Mendoza Montero, a *Kankuamo* indigenous man, was on the farm when the Army entered. He ran away. Members of the Army fired a grenade that shattered his legs. He was then executed with a rifle. He was presented as having been killed in combat. One month earlier, BAPOP units had executed his brother.

28. Nixa Marbelis Marínez Cáceres and Giovanny Zapata Jiménez

On 14 June 2008, on the site known as "Las Señoras" hill, belonging to the the *Arhuaca* indigenous community's El Porvenir farm in the municipality of Pueblo Bello, Nixa Marbelis Martínez Cáceres and Giovanny Zapata Jiménez were extrajudicially executed by members of Artillery Battalion No. 2 "La Popa" (BAPOP), carrying out Operation *Masada* order, Tactical Mission No. 025 "Jota", approved by Lieutenant Colonel Adolfo León Hernández Martínez. The minor had been forcibly disappeared 19 days earlier.

29. Héctor Manuel Pacheco Carrillo

On 5 November 2004, Héctor Manuel Pacheco Carrillo left his home in Chemesquemena to carry out his routine work and never returned. His corpse was found in a pasture near the community of Chemesquemena, El Magueyal, with several bullet wounds. The National Army, which was controlling the area, said that he had been killed in combat.

30. Tomas Rafael Villazón Rodríguez

On 23 January 2006, Tomas Rafael Villazón Rodríguez, a 59-year-old native of Atánquez with three grown-up children, was murdered. He lived in the Medialuna Region, fifteen minutes from La Bodega. He had a plot cultivating avocado, maize and beans. He lived alone. An armed group came at night and took him away. They shot him with a rifle. The National Army presented him as having been killed in combat. He had been living there for twenty years. They took his mobile phone. They placed two grenades and a 9 mm handgun on him. This is how the event appeared in the Army's graphic reports.

B. Murders committed by paramilitary groups

(100 cases – 134 victims)

1. El Limón Massacre: Rosa María Loperena, Jaime Elías Mendoza Loperena, Jaminson Javier Radillo Redondo, Edgar Rafael Radillo Redondo, Juan Manuel Cataño Guerra, Julio Montaña Loperena, Juan Manuel Loperena, José Ángel Sarmiento, José Manuel Abuchaibe, Adalberto Loperena, Héctor Miguel de Armas Martínez and *mamo* (wise man) José María Cancamuca

Between 29 August and 6 September 2002, "[a]n armed group operating outside the law, wearing military fatigues and carrying rifles and handguns, made incursions" "at the site known as 'El Limón' rural division (*vereda*), in the palm sector of the Tomarrazón village (*corregimiento*) (Treinta)". The community of "El Limón" is one of the 27 communities of the *Wiwa* people. The community had been threatened by these groups for seven months. According to testimonies and other evidence in the investigation, on the day of the events, between 200 and 400 men belonging to the United Self-Defence Forces of Colombia (*Autodefensas Unidas de Colombia* - AUC), wearing armed forces uniforms and carrying rifles and handguns, as well as blunt force weapons and sharp weapons, entered the community of El Limón, terrorising and intimidating an unarmed population.

According to the testimony of Jesualdo Enrique Loperena: "They entered the area through "La Planada", Agustín Armenta Joño's cattle ranch, which they passed by, then they went towards the 'CONTADERO' rural division (*vereda*), at approximately 7.30 pm they reached the 'Cielo Roto' farm, where they settled on the hills and in the open. They slept there, they took the drinking water from the tanks, because we had left them full and then found them empty and scattered over the hills. When they left, they took six hens and three roosters. At 5.30 am the next day they passed through the courtyard of Jesualdo's father's house, a 96-year-old man named Alejandro Nieves, but they didn't go inside with him (...) then they took the road to the bridge in the direction of Caracolí and we lost sight of them and returned to the plots of land".

Subsequently, the armed group murdered Rosa María Loperena, a 76-year-old native woman of the Wiwa indigenous community of El Limón, a Kogui-Malayo-Arhuaco Reserve in the Sierra Nevada de Santa Marta municipality of Riohacha-La Guajira. She was the mother of Jaime Elías Mendoza Loperena and wife of Luis Antonio Mendoza. She spent her life working in the house and raising small animals. Ms. Lorepena was murdered in the kitchen of the "La Esperanza" farm, where part of the house was burnt and cows, chickens and other animals were killed. According to the testimony of Professor Luis Enrique Nieves Montaña: "From the edge we could see when they suddenly set the houses on fire, twenty-two houses were burnt, we saw when the people came back down, so we went down to see the houses and we could hear some donkeys braying in Rosalía's house. One of her grandchildren immediately thought that his grandmother was dead, I encouraged him that this was not so, that she was alive (...). When we arrived at his grandmother's house, we found her dead with her head missing and two donkeys tied up next to her, the grandson told me "(...) you realise, Professor, that my mother is dead, let's go tell my father (...)". During these events, goods and belongings of the population were stolen or destroyed: several animals were killed with bullets and at least 15 houses were set on fire.

The second victim who was brutally murdered, was reportedly Jaime Elías Mendoza Loperena, native of the Wiwa indigenous community of El Limón, Kogui-Malayo-Arhuaco Reserve in the Sierra Nevada de Santa Marta municipality of Riohacha-La Guajira. At the time of the events, he was a 49-year-old small-scale cattle rancher and farmer. He left his farm on Friday, 30 August, to buy red bean seed for sowing, and was intercepted by the armed group in the Carrizal sector at the crossroads of the road leading up from "La Planada" to "El Limón". On Saturday, 31 August, the saddled mule on which Jaime Elías Mendoza had been riding reached the house, and on Sunday, 1 September, his father Luis Antonio Mendoza Montaña, seeing that he had not returned, went out to look for him with Jaime Luis Calvo Joño, his grandson. According to the young man's statement, "he went out with me on Sunday, it was about five in the morning, my grandfather [Luis Antonio Mendoza] did not know that my father [Jaime Elías Mendoza] had been killed" (...) "and he threw me in front of him as if I had a feeling and I did not want to go on and he told me let's go look for your father" (...) "and when we saw more boot prints we started to see the people" (...) "when we were closer I stayed behind him and I stayed behind a wide pole and I saw that they came to him and threw him forward". On 3 September, the mutilated corpse of Jaime Elías Mendoza Loperena was found in a ravine in Carriza, while the whereabouts of Luis Antonio Mendoza remain unknown.

On 1 September, Jamilson Javier Radillo Redondo, Edgar Rafael Radillo Redondo and Juan Manuel Cataño Guerra were murdered. 18-year-old Jaminson Javier Radillo Redondo, son of Carlos Radillo and Sidia Redondo, earned his living as a labourer and milking assistant. 15-year-old Edgar Rafael Radillo Redondo, son of Carlos Radillo and Sidia Redondo, studied and helped to milk the cattle. 14-year-old Juan Manuel Cataño Guerra, son of Juan Herrera Martínez and Edith Cataño Guerra, worked peeling onions, selling avocados and other fruits in the local market. He lived with Sidia Mercedes Redondo Peralta, who had taken him to the farm to help her plant trees. The three of them were present at the "Los Comejenes 197" farm, when they were mutilated "with machetes" by the paramilitary group and their bodies abandoned on the banks of a stream where their relatives found them on 5 September.

On 3 September, the same group reportedly entered "La Soledad" farm, in the jurisdiction of the village (*corregimiento*) of Caracolí (San Juan del Cesar) and detained José Ángel Sarmiento Loperena, José Manuel Abuchaibe and Adalberto Loperena Sarmiento, who were reportedly killed near the Marokazo bridge. The three of them were natives of Marocazo/Guachirímake – Laguna Kogui-Malayo-Arhuaco Reserve, Sierra Nevada de Santa Marta, Municipality of Riohacha (Guajira).

On 3 September 2002, the mamo (wise man) of the Wiwa people, José María Cancamuca, was brutally beaten by an illegal armed group, presumably a Self-Defence group, resulting in his death after the incident.

On 3 September 2002, Héctor Miguel de Armas Martínez was murdered on a farm in the jurisdiction of the village (*corregimiento*) of Caracolí, in the municipality of San Juan del Cesar. He was a native of Marocazo/Guachirímake – Laguna Kogui-Malayo-Arhuaco Reserve, Sierra Nevada de Santa Marta, Municipality of Riohacha (Guajira).

On 19 July 2018, the State asked for forgiveness for this massacre and the displacement of the Wiwa community, as part of the sentence issued on 19 July 2017, when the Administrative Court of La Guajira handed down a second instance judgement in relation to a collective action brought by members of the Wiwa indigenous community. According to testimonies of members of the community and statements made in the investigation carried out by the Attorney General's Office, during the bloody massacre the paramilitaries murdered Wiwa indigenous children, teenagers and adults, burned their homes, tortured and disappeared people and displaced the survivors.

2. Ever José Millán Mendoza

Ever José Millán Mendoza was a 32-year-old *Wiwa* indigenous man. He worked as a transportation service provider, transporting people from San Juan del Cesar to the communities. On 12 January 2002, he was murdered and later buried in a mass grave by members of the AUC.

3. Norbert Montero Calvo and Elberto Alberto Montero Calvo

Norbert Montero Calvo and Elberto Alberto Montero Calvo were two *Wiwa* brothers from the El Limón community. On 3 September 2002, members of the AUC's Tayrona Resistance Bloc (*Bloque Resistencia Tayrona*) set up an illegal checkpoint in the village (*corregimiento*) of Tomas Razón or Riohacha (La Guajira), where they approached the two young men, tortured them and then murdered them.

4. José del Carmen Torres Villazón, José Fernando Torres Torres and Eliécer Torres Torres

José del Carmen Torres Villazón, José Fernando Torres Torres Torres and Eliécer Torres Torres were members of the *Wiwa* indigenous people. On 9 January 2004, at 1 pm, a group of people who identified themselves as members of the AUC entered the community and murdered the three victims.

5. Rafael Enrique Malo Oñate

Rafael Enrique Malo Oñate was a native man of the *Wiwa* Indigenous Community of Potrerito *Kogui-Malayo-Arhuaco* Reserve, Sierra Nevada de Santa Marta, Municipality of San Juan del Cesar, La Guajira. On 10 January 2004, members of the *Mártires del Cesar* Front of the United Self-Defence Forces of Colombia (*Autodefensas Unidas de Colombia* - AUC) entered Curazao and took Rafael Enrique Malo Oñate. A week later, in a meeting organised by the paramilitaries, one of the leaders known as "El Paisa" admitted having killed Mr. Malo Oñate, believing him to be an informant, and revealed the location of the body. Rafael Enrique Malo Oñate's brother found his corpse in parts.

6. Ángel Melquiades Loperena Montero and Darío Loperena Montero

Ángel Melquiades Loperena Montero and Darío Loperena Montero were brothers from the *Wiwa* Indigenous Community of Piñoncito, an extension zone of the *Kogui-Malayo-Arhuaco* Reserve in the municipality of San Juan del Cesar, La Guajira. Ángel Melquiades Loperana Montero was the director of the *Organización Wiwa Yugumaín Bunuankurrúa Tayrona* (OWYBT). Those close to him described him as a fighter, respectful and willing to solve the problems of his community. One of his main objectives was the construction of the Indigenous House in San Juan del Cesar. Darío Loperena Montero was a teacher in the community of Siminke.

On 15 January 2005, in the municipality of San Juan del Cesar, Guajira, members of the AUC murdered the two brothers. These events were denounced to the competent authorities and international human rights protection bodies.

7. Bernardo Francisco Montaña Armenta

Bernardo Francisco Montaña Armenta was a native of the town of San Juan del Cesar (La Guajira). On 9 January 2006, at approximately midday, members of paramilitary groups approached him, while he was on a family visit in the town centre of San Juan del Cesar (Guajira), and shot at him, resulting in his death.

8. Juan Rafael Alberto Gil

Mr. Juan Rafael Alberto Gil, a *mamo* (wise man) from the community of Cherúa, located in the jurisdiction of Valledupar (Cesar), had been living outside the community for several years. On 6 April 2006, he was at his residence in Riohacha (Guajira), when men on a motorbike belonging to paramilitary structures murdered him.

9. Rosa Armenta Nieves

On 28 September 2005, Rosa María Armenta Nieves, a native of Las Colonias, a village (*corregimiento*) in Cascajalito, Riohacha (La Guajira), *Kogui-Malayo-Arhuaco* Reserve, an ancestral territory, was murdered by armed men belonging to the AUC.

10. Víctor Rafael Montero Montero

On 2 February 2002, Víctor Rafael Montero Montero, a *Kankuamo* man from Pontón, was murdered by suspected members of the AUC who had set up a roadblock at the Yé de Los Corazones. Víctor had been working in the region of Villa Germanía and was detained and then murdered. His corpse was found in the same location and showed signs of torture. His head was crushed as if a truck had run over it. Víctor was living with his wife and was his family's breadwinner.

11. José Enrique Mindiola Cáceres

On 3 February 2002, José Enrique Mindiola Cáceres, a 49-year-old farmer from Guatapurí, was travelling with his children to Valledupar. At the Yé de Patillal, an armed group from the Self-Defence Forces stopped the car in which the family was travelling and requested their identity cards. They then pulled José Enrique aside, and the others were told to continue. He was immediately killed with three gunshots. His corpse was left on the side of the road.

12. Jaime Enrique Rodríguez Arias

On 19 February 2002, while on his way from Valledupar to La Mesa, Jaime Enrique Rodríguez Arias, a member of the *Kankuamo* people from Los Haticos, was murdered by an armed group, presumed to be from paramilitary groups operating in the area. Jaime was pulled out of a vehicle and shot several times on the football pitch in the village (*corregimiento*) of La Mesa, near Valledupar.

13. Deiver Baison Villazón Arias

On 26 February 2002, at 4 am, Deiver Baison Villazón Arias, a 23-year-old native of Chemesquemena, left Chemesquemena on his way to Valledupar. When he came to one of the usual checkpoints set up by the Self-Defence Forces, he was taken out of the car and killed with several gunshots. He was found dead at the entrance to the village (*corregimiento*) of Los Corazones, in the jurisdiction of Valledupar. Deiver was a student at the Upar School in Valledupar, where he was taking evening courses for the eleventh grade.

14. Fare Patricio Arias Pacheco

On 28 April 2002, Fare Patricio Arias Pacheco, a 28-year-old father of three children and a teacher in the community, was murdered after being taken aside by several armed men belonging to the Self-Defence Forces at one of their usual roadblocks on the Atánquez-Valledupar Road. The incident took place in the area known as La Yé de Patillal. After one of the hooded men pointed at Fare, they took him out of the car. Hours later he was shot in the head and his corpse was left lying on the side of the road.

15. Edar Miguel Gutiérrez Arias

On 29 April 2002, Edar Miguel Gutiérrez Arias, a 34-year-old member of the community from Atánquez, working as a taxi driver in the city of Valledupar, was murdered by hired killers (presumed members of paramilitary groups operating in the city) in an area belonging to the San Martín neighbourhood of Valledupar. His lifeless body was left inside the vehicle, with two gunshot wounds, one in the left shoulder and the other in the area above the left ear with an exit wound. The death of Edar Miguel took place in the street 36 No. 18 E 95, in the San Martín neighbourhood.

16. Fidel Enrique Díaz Cáceres

On 14 May 2002, Fidel Enrique Díaz Cáceres, a native of Atánquez, was taken from the Paja Larga farm by an armed group, apparently belonging to the paramilitary fronts operating in the Badillo Region. Fidel, who was taking care of his family's farm located a few kilometres from La Mina, on the old road, was tortured (burned with acid, fingernails removed, one of his eyes gouged out) and then shot dead. His corpse was found two days later in an advanced state of decomposition.

17. María Mercedes Oñatearias

On 16 May 2002, María Mercedes Oñatearias, a 21-year-old native of Atánquez, was detained by an illegal armed group of the Self-Defence Forces of the Badillo region, commanded by "El Paisa" near Río Seco, while she was on her way to the city of Valledupar. At the checkpoint, all the passengers were taken off the bus, their identity documents were requested, and they were presented to a masked man holding a "blacklist". The armed group then started to hand over the documents to each of the passengers and if they did not, they told them that they would remain there with them. María Mercedes asked why her, saying that she had not done anything. They told her that nothing would happen to her. A sister who was travelling with María Mercedes said that she would stay with her, but the paramilitaries insisted that nothing would happen to her and that she should leave, that they would send her in another car later. They ordered the vehicle to continue. María Mercedes had been visiting her parents in Atánquez and was returning to Valledupar where she was a domestic worker. The group detained her, took her away and killed her. Her corpse was found the next day in an area known as La Tabacalera, two kilometres from Valledupar on the Valledupar-Río Seco Road. She had been shot twice with a 9 mm handgun at the level of the left eyebrow with an exit wound. Her body also showed signs of rape.

18. Ángel Modesto Villazón Vega

On 4 June 2002, several members of the AUC armed group entered the *Kankuama* Community of Río Seco and asked for the *Cabildo Menor* (local authority representative), Ángel Modesto Villazón Vega. After a brief conversation, they forced him to accompany them and put him in a vehicle. They took the road leading to Valledupar. They murdered him two kilometres away from the exit, at the entrance to the El Cairo farm. An hour later, his relatives picked up his corpse, which had been shot several times with a handgun.

19. Wilson Enrique Polo Arias

On 13 June 2002, Wilson Enrique Polo Arias, a 32-year-old *Kankuamo* farmer, born in the community of Rancho de la Gaya, was murdered by hooded men belonging to the Self-Defence groups operating in the area, after they entered the farm where he was working, in the Cairo region, on the road to Pueblo Bello. At 10 pm, the hooded men came and called him. They forced him to come with them and told his wife Aidé that they were not going to do anything to him. Later, corpse was found with the throat slit, at the San Quintín stream, some twenty metres away. That same night the groups visited two other farms where they searched for other members of the *Kankuamo* people.

20. Ulgenio F. Maestre Rodríguez

On 12 June 2002, Ulgenio F. Maestre Rodríguez, a member of the *Kankuama* community, was found dead in a plot in the Las Flores neighbourhood of Valledupar. His corpse showed signs of torture, bruises and contusions, and nine bullet wounds in different parts of his body. It appears that this crime was committed by members of the paramilitary groups controlling and committing homicides in the city of Valledupar.

21. Oswaldo Luis Arias Rodríguez

On 14 July 2003, Oswaldo Luis Arias Rodríguez, a 30-year-old *Kankuamo* native of Ramalito living in Atánquez, was working on a farm in the Cominos de Tabacal region, when an armed group, presumed to be from the Self-Defence Forces operating in the area, entered the farm and took him away by force. At two kilometres from the farm they murdered him, slitting his throat and stabbing him several times.

22. Rolando Arias Arias and Adinael Martin Arias Pacheco

On 28 July 2002, a group of the Self-Defence Forces of the La Mesa region raided Sabana de Crespo and the Villa Ramírez station and murdered two members of the *Kankuama* indigenous community. They killed Rolando Arias Arias, a 48-year-old native of Chemesquemena, who was apprehended and tied up by the paramilitaries. He was then shot three times to the head with a rifle. Adinael Martin Arias Pacheco, a 25-year-old native of Chemesquemena, Rolando's nephew, was interrogated and when he said that he was Rolando's nephew he was shot three times to the head. Adinael was living with his parents and had gone down to the station to sell agricultural products.

23. Joaquín Guillermo Torres Mieles and Lucas Daniel Villazón Bolaños

On 29 August 2002, an armed group belonging to the Peasant Self-Defence Forces (*Autodefensas Campesinas*) operating in the Badillo region raided the *Kankuama* Community of Río Seco at night and murdered two members of this indigenous community. On entering the village, they went to the residence of Joaquín Guillermo Torres Mieles, 38 years old, tied him up and shot him several times with a rifle. Lucas Daniel Villazón Bolaños, a 25-year-old *Kankuamo* native of Murillo was tied up by the men from the illegal armed group, taken away and murdered on the outskirts of Río Seco, with three rifle shots to the head.

24. Carlos Arturo Rodríguez Maestre and Finés David Arias Martínez

On 30 September 2002, on the Río Seco-Valledupar Road, at one of the usual checkpoints set up by illegal armed groups, two people living in the village (*corregimiento*) of Atánquez and belonging to the *Kankuamo* indigenous people were murdered. The armed group from the Self-Defence Forces operating in the area, set up a checkpoint at La Socola, 12 kilometres from Valledupar, and made Carlos Arturo Rodríguez Maestre, a 22-year-old trader born in Atánquez, get out of a vehicle and shot him several times with a rifle. His lifeless body was left lying on the road. Finés David Arias Martínez, a 39-year-old native of Atánquez, teacher at the San Isidro Labrador Agricultural Institute in Atánquez and father of three children, was also shot several times with a rifle.

25. Jairo Camilo Montero Carrillo

On 1 October 2002, Jairo Camilo Montero Carrillo, a 42-year-old member of the *Kankuama* community of Chemesquemena, and a resident of Valledupar, was at his home in Barrio La Nevada. At around lunchtime hired killers, alleged to be members of the AUC Self-Defence groups, arrived on a motorbike, after lying in wait. Jairo Camilo, who had five children and ran a fruit kiosk, was shot dead.

26. Víctor de Jesús Vega Mendoza

On 5 October 2002, Víctor de Jesús Vega Mendoza, a native of Río Seco, was murdered by alleged members of the Self-Defence groups who had entered the farm where he was working, next to the municipality of Bosconia. His death was the result of several gunshots fired at the Fortuna farm. After his death the family was forced to move.

27. Eduardo Manuel Corzo Arias and Carlos Alberto Arias Cáceres

On 12 October 2002, on the way out of the community of La Mina, two members of the *Kankuamo* people were killed by members of the Self-Defence groups operating in the Badillo region. Eduardo Manuel Corzo Arias, a 25-year-old native of Pontón, with three children, who worked as an assistant in his brother's car was one of them. On that date he was detained by an armed group with AUC armbands, who killed him despite pleas and supplications by other passengers. On a previous occasion, Manuel had been kidnapped and released by members of a guerrilla group. The killers shot him eleven times with different weapons and left his corpse on the football pitch in La Mina. That day, they stole \$800,000 pesos in cash. As a result of his death, the family lost their livelihood and abandoned their small plot of land. Carlos Alberto Arias Cáceres, a 22-year-old native of Atánquez, was told to get out of his car and was murdered on the football field of La Mina with stab and gunshot wounds.

28. Luis Martín Díaz Alvarado

On 2 November 2002, Luis Martín Díaz Alvarado, a 50-year-old native of La Mina, was on his way to his farm when he was intercepted by alleged members of the Self-Defence Forces, who murdered him with several gunshots, without any explanation.

29. Consuelo Judith Carrillo Bolaños

On 4 November 2002,² a large group of men from the paramilitaries controlling the area, raided the community of Río Seco and visited several houses in search of specific individuals from the village. As they could not find any of them, they came to the house of Consuelo Judith Carrillo Bolaños, a 23-year-old member of the *Kankuama* community, mother of one child, and took her away. It was later reported that she had been murdered.

2 According to the report *Tejiendo Caminos para Volver al Origen*, the events occurred in 2004. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 152.

30. Dámaso Enrique Gutiérrez Pacheco

On 14 November 2002, Dámaso Enrique Gutiérrez Pacheco, a 28-year-old native of Atánquez, was murdered by members of the Self-Defence groups of the Badillo region. He was shot four times in the chest, once in the head and once in the face. Dámaso's corpse was found in the Yé de Los Corazones, on the Valledupar-Río Seco Road, a few kilometres from Valledupar.

31. Elvis Enrique Alvarado Maestre

On 17 November 2002, Elvis Enrique Alvarado Maestre, a 36-year-old farmer born in Atánquez, who was travelling to the city of Valledupar, was stopped by a group of armed men who had set up an illegal roadblock near the community of Río Seco. The armed men, belonging to paramilitary groups operating in the area, ordered Elvis to get out. It was 7 am when Elvis got out of the car. At that very moment a man shot him several times. Elvis left behind a son.

32. Eider Fabián Montero Gutiérrez

On 22 November 2002, Eider Fabián Montero Gutiérrez, a 22-year-old native of Los Haticos, was pulled out of the car in which he was travelling and then murdered by members of the Self-Defence Forces who had set up a roadblock on the Río Seco-Valledupar Road. Eider was travelling to Valledupar, on his way to Pueblo Bello, where he was to attend a vocational meeting of the Small Communities of the Church. His corpse was dumped on the side of the road at the Río Seco exit. He was shot several times.

33. Rafael Elías Oñate Alberto

On 26 November 2002, Rafael Elías Oñate Alberto, a native of Atánquez, was driving in his own car from Atánquez to Valledupar for a medical appointment. On his way through Patillal he came across a military checkpoint. When he arrived in Río Seco, a group of armed men, apparently from the AUC, detained him, took the money he was carrying and shot him two times, once in the neck and once in the heart.

34. Franklin Manuel Arias Arias, Alfredo Antonio Borrego Arias, José Manuel Cáceres Rodríguez and *mamo* (wise man) Abel Francisco Alvarado Maestre

On 8 December 2002, in the early morning, a large group of members of the Self-Defence Forces, including several hooded men, burst into the community of Atánquez, cordoned off the village and controlled the roads leading to the plots of land.

During this raid, four members of the *Kankuama* community were massacred. Franklin Manuel Arias Arias, a 34-year-old native of Atánquez, who was living with his wife and two daughters, was killed on the side of the road, in an area known as El Paraíso, a few metres from the entrance to Pontón. He was shot several times with a rifle. Franklin was the brother of Uriel Arias, suspected of being a member of subversive groups. Alfredo Antonio Borrego Arias, 32 years old, owned a farm where he was growing coffee and sugar cane, went to the market with his daughter to buy meat. The paramilitaries came to the market and murdered him. José Manuel Cáceres Rodríguez, a 33-year-old farmer, woke up as usual to go to the farm in the Chingaka region. When he was walking along the street leading to Ganazúmake, he was intercepted by the group of armed men controlling that part of the village. They chased him away. When they reached Los Algarrobillas, they ordered him to sit down and a masked man shot him dead. After he had been killed, he was shot several times in the abdomen. Abel Francisco Alvarado Maestre, *mamo* (wise man) of the *Kankuama* people, known as *mamo* Abelancho, aged 44, born in Atánquez, had gone to the market early in the morning to buy meat. There he was approached by armed men, who forced him to follow them. They took him out of town and murdered him on the Vieja Road, near La Dientúa. His corpse was found bearing signs of torture, with his hands and feet bound together. The group of about sixty men who committed this massacre was commanded by "El Paisa". The raid lasted until around 8 am.

35. Danilo José Arias Arias

On 11 December 2002, Danilo José Arias Arias, a 50-year-old *Kankuamo* native of Chemesquemena, was murdered by several armed men, apparently from the Self-Defence groups operating in the La Mesa region. At 3 pm several armed men entered the farm he owned known as California, in the region of Los Cominos de Valerio, and took him away by force. His wife was told that nothing would happen to him. Three days later his corpse was found bearing signs of torture, with his genitals cut off and several gunshot wounds on the body. After his death, the family had to move and abandon the farm where ten hectares of coffee and subsistence crops were cultivated.

36. Roberto de Jesús Arias Pacheco and Mitor José Pacheco Montero

On 27 January 2003, several heavily armed men, members of the Self-Defence Forces operating in the Badillo region, with list in hand, set up a roadblock on the Atánquez-Valledupar Road. As is customary, they forced all passenger to get out and chose their victims. On this occasion they murdered two members of the *Kankuama* community. Roberto de Jesús Arias Pacheco, a 38-year-old native of Atánquez, father of three children, who had held official positions in the community (*Corregidor* (local authority representative) of Atánquez, Secretary of the village council (*Corregiduría*) of Guatapurí) and was involved in agricultural work, was murdered in the area known as La Yé. Mitor José Pacheco Montero, a 29-year-old native of Guatapurí and father of five children, was forced to get out at the same checkpoint and was shot three times. His corpse was found a few metres from that of Roberto.

37. Dalgis Dolores Herrera Arias and Rubén de Jesús Pacheco Arias

On 2 February 2003, a group of armed men belonging to the paramilitaries operating in the eastern foothills of the Sierra Nevada de Santa Marta, wearing military clothing, set up a roadblock at the Yé de Patillal. There they stopped vehicles coming down from the *Kankuamo* territory. Then, with list in hand, they requested and collected the travellers' ID cards. The ID cards were then returned, except for those of two members of the *Kankuama* community: Dalgis Dolores Herrera Arias,³ a 22-year-old born in Atánquez, who was travelling with her daughter in her arms, and Rubén de Jesús Pacheco Arias, a 36-year-old farmer from Guatapurí. These two members of the *Kankuamo* community were left behind and then murdered at this same location. Dalgis' corpse was found with rifle shots to the head. Rubén's corpse was found bearing signs of torture (one of his arms was broken) and three gunshot wounds.

38. José del Carmen Pacheco Loperena

On 23 February 2003⁴, José del Carmen Pacheco Loperena, a 37-year-old native of Atánquez, with six children, residing in the city of Valledupar, was at home when two individuals, presumed to be from paramilitary groups, approached him and shot him six times without saying a word. He was shot twice in the right occipital region of his skull, twice in the neck and twice in the thorax, resulting in his immediate death. Pacheco Loperena lived in the Divino Niño neighbourhood of Valledupar and sold vegetables in the streets and neighbourhoods of Valledupar.

3 According to the report *Tejiendo Caminos para Volver al Origen*, Dalgis Dolores Herrera Arias Dalgis Dolores Herrera Arias was murdered on 1 February 2003. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

4 According to the report *Tejiendo Caminos para Volver al Origen*, the events occurred on 22 February 2003. Also, according to the report, the victim's second surname is Maestre. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 140.

39. Julio Enrique Arias Montero and Reinaldo Arias Ballesteros

On 22 February 2003, two members of the *Kankuama* community were murdered by alleged AUC paramilitaries in isolated incidents. Julio Enrique Arias Montero left home to work on the La Florida farm, owned by his family, on Wednesday 19 February 2003 and his whereabouts were subsequently unknown. On Friday 21 February, his relatives found him dead in one of the trails in the rural division (*vereda*) of El Reposo, on the road that connects Valledupar with the region of Sabana Creso. The victim was 31 years old and was living off the produce of the small farm owned by his mother Isabel Montero, from which he earned enough to support his five children. The corpse of Reinaldo Arias Ballesteros, in a highly decomposed state, was on one of the tables in the morgue of the New Cemetery in Valledupar. Arias Ballesteros was a member of the *Kankuama* community. His corpse was found in the vicinity of the rural division (*vereda*) of Los Cominos de Valerio, by people passing through the area in the evening hours of Friday, 21 February..

40. Rufino de Jesús Maestre Gutiérrez

On 25 February 2003, Rufino de Jesús Maestre Gutiérrez, a 34-year-old teacher at the Nuevo Amanecer Valledupar School, *Kankuamo* native of Atánquez, was murdered by two hired killers, presumed to belong to the paramilitary groups of the La Mesa region, who were travelling in a taxi. Rufino de Jesús had a degree in Social Sciences from the University of Magdalena and had gone out at the end of the day to wait for the bus. Two men approached him on foot and shot him five times with a 9 mm handgun.

41. Rafael Tobías Gutiérrez Martínez and Juan Bautista Arias

On 8 February 2002, two members of the community were murdered during an armed raid on the community of Río Seco, carried out at night by more than thirty men from paramilitary groups operating in the Badillo region. Among the victims was Rafael Tobías Gutiérrez Martínez, 47 years old. They came to his house, forced him out and shot him several times with rifles. He asked the criminals, if they were going to kill him to kill him right there. They threw him in the courtyard of the house. They killed Juan Bautista Arias⁵, a 32-year-old father of three children in the same way. They took Juan out of his house through the courtyard and put him in a car. His corpse was dumped near the Aguas Blancas stream, next to the Río Seco-Valledupar Road.

42. Sergio Rafael Montero Mendoza

On 10 April 2003, Sergio Rafael Montero Mendoza, a 38-year-old native and resident of La Mina, was taken from his home and then murdered by armed men belonging to paramilitary groups operating in the area. His corpse was abandoned on the road to Patillal. He had been beaten and shot in different parts of his body. The corpse was claimed the following day at the Valledupar Morgue.

43. Miguel Ángel Lúquez

On 15 April 2003, Miguel Angel Lúquez, a 59-year-old native of Río Seco, was visited by two armed men at his home in Río Seco. It was 9 am, when alleged members of the Self-Defence Forces came to carry out the murder of a member of the *Kankuama* community. They entered the house and conducted their

5 According to the report *Tejiendo Caminos para Volver al Origen*, Juan Bautista Arias was murdered on 9 March 2003. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 138.

task inside the building. They fired three shots at him with a handgun, two in the abdomen and one in the head. His relatives picked him up and took him to the Forensics unit in Valledupar.

44. Hugo Enrique Montero Arias and Nafer Enrique Munive Rodríguez

On 16 April 2003, two members of the *Kankuama* community died following a raid carried out by paramilitary groups in the community of La Mina. Early in the morning, the illegal armed groups set up a roadblock and forced Hugo Enrique Montero Arias, a 50-year-old native of Guatapurí, with five children, out of a vehicle. Hugo was detained and tied up. They took him away. His corpse was found the next day, with signs of torture and two gunshot wounds. He was left lying in the Yé de los Corazones. The victim served as *Cabildo Menor* (local authority representative) of Guatapurí in 1996 and 1999, a position he resigned to assume that of *Corregidor* (local authority representative), which he occupied for three years. That same day, the armed group came to the pasture La Batalla, near La Mina. They entered and asked for the person in charge and Nafer Enrique Munive Rodríguez, the owner's son, came out. Then, without any warning, they shot him with a handgun. The victim was married and had two children with whom he lived in the community.

45. Paulino Segundo Martínez Alberto

On 24 April 2003,⁶ Paulino Segundo Martínez Alberto, a 30-year-old farmer from Atánquez, was travelling to the city of Valledupar when his vehicle was stopped at one of the regular checkpoints of the Self-Defence Forces operating in the Badillo region. A large group of armed men, wearing military uniforms, was stopping cars in the village (*corregimiento*) of La Vega, while a hooded man was watching the travellers. When it was thought that no one would be killed that day, the hooded man pointed at Paulino and told him to get out. Hours later he was murdered, by several gunshots.

46. Rafael Alfredo Pumarejo

On 26 April 2003, Rafael Alfredo Pumarejo, a member of the *Kankuama* community, who had property in the Cominos de Valerio region, went to the Villa Ramírez station. On that day, a group of armed men belonging to the Self-Defence Forces who were raiding the area, detained and murdered him.

47. Erley Rafael Montero Maestre

On 10 June 2003, Erley Rafael Montero Maestre,⁷ a 34-year-old native of Los Haticos, was travelling to Valledupar, as he normally did, to buy supplies for his small shop. The vehicle was stopped by a paramilitary roadblock at the Río Badillo bridge in La Mina. There, Erley was forced to get out of his vehicle. Later, he was murdered after being shot twice with a rifle, once in the chest and once in the head. That day, Erley was carrying one million pesos for shopping.

6 According to the report *Tejiendo Caminos para Volver al Origen*, the events took place on 28 April 2003. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

7 According to the report *Tejiendo Caminos para Volver al Origen*, the name of the victim is Arley Montero Maestre. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

48. José de los Ángeles Arias Nieves

On 20 June 2003⁸, at 6 am, an armed group of paramilitaries from the Badillo region raided the Sabana del Evangelio farm owned by José de los Ángeles Arias Nieves, a 43-year-old father of seven children from Río Seco. José de los Ángeles was still in the house, waiting for breakfast before heading to work, when armed men came in and, without any warning, killed him in front of three of his children. They ordered him to lie face down and shot him in the back of the head. Then they ransacked the house and burnt it. Two animals were taken. When his companion returned at 3 pm from Atánquez, she found that the children had taken their father's corpse inside the house, covered it with a sheet and were crying. As there was no one in the nearby farms, the wife made a box out of rough boards and they buried him the next day in the courtyard of the house. Five days later she made a new dwelling on the hillside. She then left for Atánquez. On 28 November 2005, the Technical Investigation Unit (*Cuerpo Técnico de Investigación – CTI*) and the Attorney General's Office removed the remains of José de los Angeles and to date they have not been given any explanation for what happened.

49. Wilman Antonio Zuleta Salcedo

On 25 June 2003⁹, Wilman Antonio Zuleta Salcedo, a native of Los Haticos with two children, was pulled out of a car at a checkpoint set up by presumed paramilitaries in Río Seco. He was then killed with three gunshots to the head. His corpse was taken by the authorities to the Valledupar Morgue. His relatives identified him there.

50. José del Carmen Paso Ortiz

José del Carmen Paso Ortiz, a 74-year-old medicinal plant trader, had been living in Atánquez for more than 55 years. He settled there and had children with a *Kankuama* woman. On 1 July 2003, José del Carmen took a car travelling on the Atánquez-Valledupar Road and, a few kilometres after Río Seco, they came across a roadblock set by the paramilitary groups that controlled the region. Two passengers were pulled out of the car, Mr. Paso was one of them. Hours later, his corpse was found in the vicinity of the Valledupar landfill, on the outskirts of Valledupar, with three gunshot wounds.

51. Rigail Antonio Martínez Arias

On 5 June 2003¹⁰, Rigail Antonio Martínez Arias, a 52-year-old father of eight children from Atánquez, a farmer and shopkeeper, displaced in the city of Valledupar, was murdered by two hired killers who approached his shop in the La Popa neighbourhood of Valledupar, Street 20 No. 15 02. He was at that time in his shop with his youngest son, and the hired killers came at 8.30 pm and asked him for a soda. When he bent down to take it out, they shot at him five times in different parts of the body. This murder is attributed to alleged members of the Self-Defence groups that controlled the city.

8 According to the report *Tejiendo Caminos para Volver al Origen*, the events took place on 20 August. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 139.

9 According to the report *Tejiendo Caminos para Volver al Origen*, the events took place on 26 June 2003. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 138.

10 According to the report *Tejiendo Caminos para Volver al Origen*, the events took place on 19 July 2003. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 140.

52. Álvaro José Alvarado Rodríguez and Orlando Miguel Pacheco Pacheco

On 28 July 2003, an illegal armed group from the Badillo Self-Defence Forces, under the command "El Paisa", raided the *Kankuama* community of Atánquez in the early hours of the morning, where they murdered two members and committed several abuses against the population. Álvaro José Alvarado Rodríguez was on his way to his plot of land in the Chingáka region when he was detained by armed men at the exit of La Lomita. His corpse was found later near La Lomita de Cata, bearing signs of torture and three gunshot wounds. Álvaro José was a 24-year-old living in civil union and left behind three children. Orlando Miguel Pacheco Pacheco, a 54-year-old born in La Mina, lived in a house in Barrio La Lomita or San Isidro. At 5.30 am, when members of the Self-Defence Forces appeared, Orlando ran naked through the courtyard. They followed him and riddled him with rifle shots. His corpse was left mutilated and unrecognisable one hundred and fifty metres from his house.

53. Alcides Alejandro Arias Maestre and Wilson Enrique Villazón Martínez

On 18 August 2003, two members of the *Kankuama* community of Los Haticos were murdered by an armed group belonging to the AUC who were raiding the community. This group dragged Alcides Alejandro Arias Maestre, 55 years old, from his home. They took him away and then stabbed him to death. His corpse was found a few metres from the house bearing fourteen stab wounds. On the day of his death, he was wearing grey trousers with thin black stripes, a beige belt, no shirt and was barefoot. Wilson Enrique Villazón Martínez, 40 years old, was tied up and killed with seventeen stab wounds by paramilitaries who came to his little shop. His corpse was left in front of the Los Haticos hut.

54. Jhon Jairo Montero Maestre and Santander José Arias Arias

On 25 August 2003, a group of approximately 60 men from the Self-Defence Forces raided the *Kankuama* community of La Mina at 3 am. During this raid, they murdered two young members of the community and committed innumerable abuses against the population. Jhon Jairo Montero Maestre, a 16-year-old native of Atánquez, was dragged out of his house, tied up and taken to El Charquito, where he was shot seven times in front of several witnesses from the community. Santander José Arias Arias, an 18-year-old native of Atánquez, was forced out of his house, tied up, taken to El Charquito and shot in the head.

55. Andrés Francisco Ariza Mindiola

Andrés Francisco Ariza Mindiola, a 43-year-old native of Guatapurí, resident of Atánquez, a zootechnician expert with the National Training Service (*Servicio Nacional de Aprendizaje – SENA*), father of two children, was looking after the El Limonar farm in the La Mina region, owned by the family. On 11 September 2003, after waking up at 5 am to milk the family's cows, several members of the Self-Defence groups from the Badillo region came to the farm and murdered him with firearms. Then, they ransacked the house and took about 50 head of cattle and a horse, the property of the Ariza Mindiola family.

56. Adolfo Enrique Pacheco Martínez

On 14 September 2003, Adolfo Enrique Pacheco Martínez, a 32-year-old member of the *Kankuama* community from Guatapurí, father of three children, was detained at one of the usual checkpoints of the Self-Defence groups operating in the Badillo region, as he was travelling to Valledupar. Members of this illegal armed group had stopped several cars on the road in the Yé de Patillal. Then a masked man pointed at Adolfo. They tied him up and took him away. Hours later, his corpse was found in the same area with eight bullet wounds.

57. Jhony Miguel Arias Maestre

On 19 September 2003, Jhony Miguel Arias Maestre,¹¹ a member of the *Kankuama* indigenous community, a native of Atánquez residing in the city of Valledupar, disappeared. His relatives searched hard for him, because it was unusual for him to be absent and neglect the family. On 21 September 2003 he was found dead near the village (*corregimiento*) of Badillo. His corpse was found on the side of the road, with several gunshot wounds, at the entrance to the village (*corregimiento*) of Badillo, municipality of Valledupar. Jhony had been displaced to Valledupar for five years and was living with his wife, who was pregnant, and their two young children. This crime is attributed to paramilitary groups in the Badillo region.

58. Guillermo del Carmen Montero Maestre

On 27 September 2003, Guillermo del Carmen Montero Maestre, a 38-year-old father of four children, was working in the fields on his partner's plot of land in the Murillo region when an illegal armed group identified as the AUC entered the farm and forced him to accompany them. They then murdered him. Three days later his corpse was found near the house in an advanced state of decomposition. His relatives were unable to transport him to Río Seco and buried him where they had found him. On 28 November, CTI agents exhumed the corpse and conducted DNA tests. The authorities have never provided any response. Nor have they returned his remains.

59. Isabel Dolores Mendiola Rodríguez

On 6 October 2003, Isabel Dolores Mendiola Rodríguez, a member of the *Kankuama* community, born in Atánquez, 27-year-old mother of three children, was travelling in an inter-municipal bus belonging to the Brasilia company. At the level of the village (*corregimiento*) of Valencia de Jesús, four armed men in the same vehicle ordered the driver to stop the vehicle and one of them told Isabel to get out. She refused, so they pushed her to her feet, but when she resisted, they shot at her and killed her inside the bus. Witnesses on the bus said that the killers shouted at her that she was a member of a guerrilla group and that was why they were going to kill her. This crime is attributed to hired killers from paramilitary groups operating in the region of Valledupar.

60. Dixon Alfredo Arias Arias

On 15 October 2003, Dixon Alfredo Arias Arias Arias, a 32-year-old native of Chemesquemena, was home in the Nueva Esperanza neighbourhood of Valledupar with his two young children. A hired killer, apparently belonging to the paramilitary groups operating in the city, came to the house and shot at him several times with a 9 mm handgun, leaving him seriously wounded. He was immediately taken to the emergency room of the Rosario Pumarejo de López Hospital. The seriousness of his wounds led to his death one hour later.

61. Francisco Escobar Montero Arias, Pedro Nicanor Arias, Ernesto Feliciano Maestre Arias, Alcides Arias and Wilson Arias¹²

On 16 October 2003, in isolated incidents during the same raid, members of the Self-Defence groups

¹¹ According to the report *Tejiendo Caminos para Volver al Origen*, the events took place on 20 September 2003. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 138.

¹² According to the report *Tejiendo Caminos para Volver al Origen*, Alcides Arias and Wilson Arias are also involved in the events of that case. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 159.

murdered five members of the *Kankuama* community who were on their plots of land in the La Hoyada region. Francisco Escobar Montero Arias, a 46-year-old native of Los Haticos, was picking coffee on his farm located in Potrero de La Leona, Juan Tomás hill. At midday an armed group came and forced him to accompany them to the Hoyada hill. Two days later his corpse was found with stab wounds and several gunshots. The day Francisco was taken from his farm he was wearing a blue sports shirt with white sleeves, brown trousers and rubber boots. Pedro Nicanor Arias, a native of Los Haticos, was at his farm called Perijá. At midday, the armed group raided the farm and killed him with handgun shots. The illegal armed group took some of his belongings such as sheep and cattle. Ernesto Feliciano Maestre Arias, a 68-year-old native of Mojao, was at his El Perijá farm that day when the group of paramilitaries came and murdered him with gunshots. His daughter was present with him that day. The paramilitaries asked the old man a few questions and then shot at him. They took his daughter and left her about two hours' walk away. His corpse was found by chance the next day, when his son went up to the farm. Alcides Arias, a native of Los Haticos, was viciously murdered, stabbed and left in front of his son's house until he bled to death. Wilson Arias was also stabbed to death by the AUC.

62. Carlos Roberto Arias Martínez

On 29 October 2003¹³, an armed group belonging to the paramilitary groups operating in the area, took Carlos Roberto Arias Martínez, 45 years old, who was working on his farm in the Cominos de Tamacal region, in the foothills of the Sierra Nevada and brought him to an unknown location. It was 4 pm when the group came. His wife heard them when they told Carlos to come with them. She ran and embraced him. The men violently snatched him and took him away. They told him that he would be returned the next day. The next day, Carlos Roberto's wife and several family members went to look for him. They saw in the distance when the same men who had taken him were bringing him down the road. They waited. But when they went to the side of the stream, they heard several shots. When they went to the stream they found the corpse of Carlos Roberto, with five gunshot wounds on different parts of the body.

63. William de Jesús Pacheco

On 26 November 2003, an illegal armed group detained William de Jesús Pacheco, a *Kankuamo* man, native of Chemesquemena, residing in Valledupar, as he was travelling to the Las Flores farm, Cominos de Tamacal. According to reports, an unknown man who identified himself as a paramilitary came to his house in Valledupar and told him bring three million pesos, because the boss was going to hand over the farm, which was apparently under the control of a guerrilla group. The family decided that William should go to the farm. Two days later his corpse was found bearing signs of torture, his eyes were gouged out, his skin was burned with acid, he was stabbed with a knife and shot three times in the head with a 9 mm pistol. William had been taken out of the car at a paramilitary checkpoint before arriving at the farm.

64. Oscar Enrique Montero Arias

On 15 April 2004, in the morning hours, the leader of the *Kankuama* community, Oscar Enrique Montero Arias, a 41-year-old native of Chemesquemena, was murdered, while he was riding his bike to work. Oscar Montero worked as a teacher in the Callao region. This murder is attributed to members of the Self-Defence groups operating and controlling the region. The corpse of the teacher was found face down, near the Callao bridge, with gunshot wounds in the occipital region.

¹³ According to the report *Tejiendo Caminos para Volver al Origen*, the events took place on 20 October 2003. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 140.

65. Merilo del Carmen Maestre Rodríguez

On 15 August 2004, Merilo del Carmen Maestre Rodríguez, a 38-year-old native of Río Seco, was approached at the farm he was managing next to the Valledupar Country Club by several members of an armed group, presumably from the Self-Defence groups of the region, who took him away by force. His corpse was found in a nearby pasture, with several gunshot wounds on the body.

66. Pervis de Jesús Pacheco Díaz

On 8 November 2004, Pervis de Jesús Pacheco Díaz, a native of Atánquez, resident of Urumita, La Guajira, was travelling to farms in the Serranía de Perijá to harvest coffee. On that date, an armed group, presumably from the Self-Defence Forces of the Badillo region, pulled him out of the car in which he was travelling and took him away towards an unknown direction. His corpse was found lying on the side of the La Paz Urumita Road, at the entrance to the Trocha de Badillo. He was murdered by three gunshots.

67. Arnoldo Enrique Fuentes Daza

On 31 December 2004¹⁴, a few kilometres from Valledupar, on the road leading from Valledupar to La Mesa, Azúcarbuena region, Arnoldo Enrique Fuentes Daza, a native of Atánquez, was murdered by members of an illegal armed group. The criminal attack took place at 10.20 am, at the level of the bridge over the La Playa River, located on the Azúcar Buena Road, in the village (*corregimiento*) of La Mesa, municipal jurisdiction of Valledupar. Mr. Arnoldo was 68 years old and was coming down from his farm in his own vehicle, bringing food and provisions from the fields for his family. This crime is attributed to alleged members of the Self-Defence groups of the La Mesa region.

68. Diógenes Enrique Galvisarias

In 2004, Diógenes Enrique Galvisarias, a 31-year-old member of the *Kankuama* community, left his home in a residential neighbourhood of Valledupar in the early hours of the morning to go to the market where he was working as a butcher. While waiting for a taxi on an avenue, he was approached by hired killers who shot at him five times with a 9 mm handgun. According to media analysis, this crime was committed by hired killers from paramilitary groups operating in the city.

69. Audelino Maestre Maestre

In 2004, Audelino Maestre Maestre, an 18-year-old member of the *Kankuama* community, farmer and resident of the rural division (*vereda*) of Santa Ana, Pueblo Bello region, was pulled out of a car by four men in civilian clothing on the road from Pueblo Bello to Minas de Iracal. They shot him dead and left him on the side of the road. According to press reports, the perpetrators belonged to paramilitary groups operating in the area.

¹⁴ According to the report *Tejiendo Caminos para Volver al Origen*, the events took place on 30 December 2004. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 162.

70. José Dolores Cáceres Montero

On 23 October 2005, José Dolores Cáceres Montero, a member of the *Kankuamo* people from Atánquez, was murdered on a farm in the Mariangola region, owned by Enrique Ariño. Presumed members of the paramilitary groups operating in the area came to the farm, took him away and killed him.

71. Andrés Talco Arias

On 3 November 2005, Andrés Talco Arias, a member of the *Kankuama* community, took the direction of the Tierras Nuevas area to pick coffee. On the way, an armed group pulled him out of the vehicle, asked his identity card and left him. Two days later he was found murdered with several bullet wounds. He had been tortured and put in a bag in an advanced state of decomposition. This murder was carried out by presumed members of paramilitary groups from the La Mesa region.

72. Genaro Marciano Arias Pacheco

On 30 January 2003¹⁵, in the region of Las Minas de Iracal, on the foothills of the Sierra Nevada de Santa Marta, the elderly *Kankuamo* traditional musician Genaro Marciano Arias Pacheco, a 73-year-old native of Atánquez, was approached on his farm by a group of armed men, allegedly members of the guerrilla groups of the 59th Front of the FARC, operating in the region, who asked him to borrow a mule to ride. When the old man refused, they took him away by force. Three days later he was found dead. Mr. Genaro was devoted to the care of his farm, where he had been working for several years to support his family. His corpse was found by his relatives with wounds on several parts of his body.

73. Oswaldo Luis Arias Pacheco

On 14 July 2003, Oswaldo Luis Arias Pacheco, a native of Atánquez, was taken from his plot of land by several armed men and two days later he was found with his throat slit in the area of Los Cominos de Tarnacal, located on the road to La Mesa, an area controlled by Self-Defence groups.

74. Pedro Francisco Montero Arias

On 11 February 2003, an armed group detained and murdered *Kankuama* community member Pedro Francisco Montero Arias, a 43-year-old, native of Atánquez, as he was travelling to Valledupar. Pedro was on his way to buy his children's school supplies when four men in military fatigues stopped the vehicle at the El Rodeo farm, at the entrance to Río Seco. One of the criminals pointed at him and made him get out, pointing a rifle at him. As soon as the car started moving again, gunshots rang out. Pedro's corpse was left lying on the side of the road, shot several times in the head. His relatives picked him up and took him to the village.

¹⁵ According to the report *Tejiendo Caminos para Volver al Origen*, the events took place on 27 January 2003. OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

75. Ohelis Camilo Mendoza Villazón¹⁶

On 19 November 2002, Ohelis Camilo Mendoza Villazón was murdered by the AUC. The victim, *corregidor* (local authority representative) of the community of Río Seco, was killed by the member of the paramilitary going by the alias "El Rey" who, according to investigations by the 44th Specialised Attorney General's Office of the National Human Rights and International Humanitarian Law Unit (*Unidad Nacional de Derechos Humanos y Derecho Internacional Humanitario*), was in charge of informing the United Self-Defence Forces of Colombia - AUC, about the identities of presumed collaborators in guerrilla warfare.

76. Hugues Francisco Maestre Arias¹⁷

On 16 October 2003, Hugues Francisco Maestre Arias, a native of Los Haticos, was murdered by the AUC in the Hoyada region.

77. Edinso de Jesús Cáceres Cáceres¹⁸

On 23 October 2003, Edinso de Jesús Cáceres Cáceres, a native of Atánquez, was murdered by the AUC in Mariangola.

78. Dalmer Enrique Corzo Rodríguez¹⁹

On 26 July 2003, Dalmer Enrique Corzo Rodríguez, a native of Atánquez, was murdered by the AUC in Villa Germania.

79. Alfonso Nicanor Arias Montero²⁰

In 2003, Alfonso Nicanor Arias Montero, a native of La Mina, was murdered by the AUC in Pueblo Bello.

80. Ricardo Francisco Arias Montero²¹

In 2003, Ricardo Francisco Arias Montero, a native of La Mina, was murdered by the AUC in La Mesa.

81. Néstor Montero²²

On 20 October 2003, Néstor Montero, a native of Los Haticos, was murdered by the AUC in Mojao.

16 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 134.

17 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 167

18 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 139.

19 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 139.

20 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 139.

21 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 139.

22 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 140.

82. Cristóbal Montero²³

On 20 October 2003, Cristóbal Montero, a native of Los Haticos, was murdered by the AUC in Mojao.

83. William de Jesús Pacheco Arias²⁴

On 26 November 2003, William de Jesús Pacheco Arias, a native of Chemesquemena, was murdered by the AUC in the Las Flores farm.

84. Job Elibith Martínez Borbón²⁵

On 15 October 2003, Job Elibith Martínez Borbón, a native of Atánquez, was murdered by the AUC in the Agua Dulce region.

85. Carlos Hugues Carrillo Maestre²⁶

On 19 July 2003, Carlos Hugues Carrillo Maestre, a native of Atánquez, was murdered by the AUC in Valledupar.

86. Apolinar del Carmen Rodríguez Vega²⁷

On 27 May 2003, Apolinar del Carmen Rodríguez Vega, a native of Atánquez, was murdered by the AUC in Atánquez.

87. Farid Patricio Arias Maestre²⁸

On 28 April 2003, Farid Patricio Arias Maestre, a native of Atánquez, was murdered by the AUC in La Vega, Badillo.

88. Jesús Solís Sarmiento²⁹

On 12 February 2003, Jesús Solís Sarmiento, a native of Guatapurí, was murdered by the AUC in Guatapurí.

23 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 140.

24 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

25 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 140.

26 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 140.

27 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 140.

28 OIK, *Tejiendo Caminos para Volver al Origen* March 2021, p. 141.

29 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

89. Rubén Eduardo Montero Pacheco³⁰

On 23 February 2003, Rubén Eduardo Montero Pacheco, a native of Atánquez, was murdered by the AUC in Valledupar.

90. Luis Beltrán Pacheco³¹

On 27 January 2003, Luis Beltrán Pacheco, a native of Guatapurí, was murdered by the AUC in Río Seco.

91. Guzmán Durán Montero³²

On 11 February 2003, Guzmán Durán Montero, a native of Atánquez, was murdered by the AUC in Valledupar.

92. Rafael Manuel Martínez³³

On 9 March 2003, Rafael Manuel Martínez, a native of Río Seco, was murdered by the AUC.

93. Romelio Antonio Pacheco³⁴

On 25 June 2004, Romelio Antonio Pacheco, a native of Chemesquemena, was murdered by the AUC in Badillo. The victim was transporting avocados in the community of Chemesquemena, a job he had been doing for the last 15 years. At around 1 pm he left in a red van towards the city of Valledupar and, at the level of the community of Río Seco, he was intercepted by an armed group that forced the driver to take the road to the village (*corregimiento*) of Badillo, in the jurisdiction of the Municipality of Valledupar. According to the van driver, the group stopped them on the way and told him to go back, that he did not know anything and had not seen anything, and that he was not going to say that he had seen them, and that Mr. Romelio was staying with them. They then put Romelio in another van and took him to the community of Badillo. On 26 June 2004, in the morning, his relatives found out that he was still alive in the vicinity of the community of Badillo. At approximately 3 pm, a message came over the Guatapurí radio station announcing that Mr. Romelio was dead, and that he was in the Urumita Morgue ready to be buried. The corpse had five bullet wounds, three in the head and two on the body. He was found in Ramal de Badillo, together with another deceased person.

94. Edilber Miguel Maestre Villazón³⁵

On 26 May 2004, Edilber Miguel Maestre Villazón, a native of Mojao, was murdered by the AUC in Valledupar.

30 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

31 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

32 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

33 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 141.

34 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 157.

35 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 152.

95. Javier Montero Arias³⁶

In 2004, Javier Montero Arias, a teacher from Atánquez, who had been displaced in Valledupar, was murdered by the AUC in front of his house.

96. Fredy Antonio Arias Arias³⁷

On 3 August 2004, Fredy Antonio Arias Arias, leader of the *Kankuamo* indigenous people and human rights coordinator of *Organización Indígena Kankuama* (OIK), was murdered by hired killers who shot at him from a motorbike with a 9 mm handgun, after attending an interview with members of the CIPOL to assess risks, in the framework of the provisional measures adopted by the IACHR. The incident occurred at 12.30 pm at the corner of Street 19 and Street 7C, two blocks from his home, as Arias was riding a bicycle. He was intercepted by two motorcyclists who shot at him repeatedly until he was dead. He was a brother of the *Kankuamo* Council Governor (*Cabildo Gobernador*). Freddy was a 38-year-old father of two children, a native of Chemesquemena, a business administrator, and a graduate of the Universidad Popular del Cesar-UPC.

97. Yendis Yenth Rodríguez Arias³⁸

In 2005, Yendis Yenth Rodríguez Arias, a native of Atánquez, was murdered by the AUC in the Venados region.

98. Pedro Laudelino Bolaño³⁹

On 23 October 2005, Pedro Laudelino Bolaño, a native of Atánquez, was murdered by the AUC in the Mariangola region.

99. Milciades Rafael Mestre Gutiérrez⁴⁰

On 5 January 2006, Milciades Rafael Mestre Gutiérrez, a native of Mojao, was murdered in his community (Mojao).

100. Luis Eduardo Guerra⁴¹

On 14 July 2008, Luis Eduardo Guerra, a native of La Mina, was disappeared by unknown actors and found in a mass grave.

36 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 153.

37 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 158.

38 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 163.

39 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 163.

40 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 176.

41 OIK, *Tejiendo Caminos para Volver al Origen*, March 2021, p. 179.



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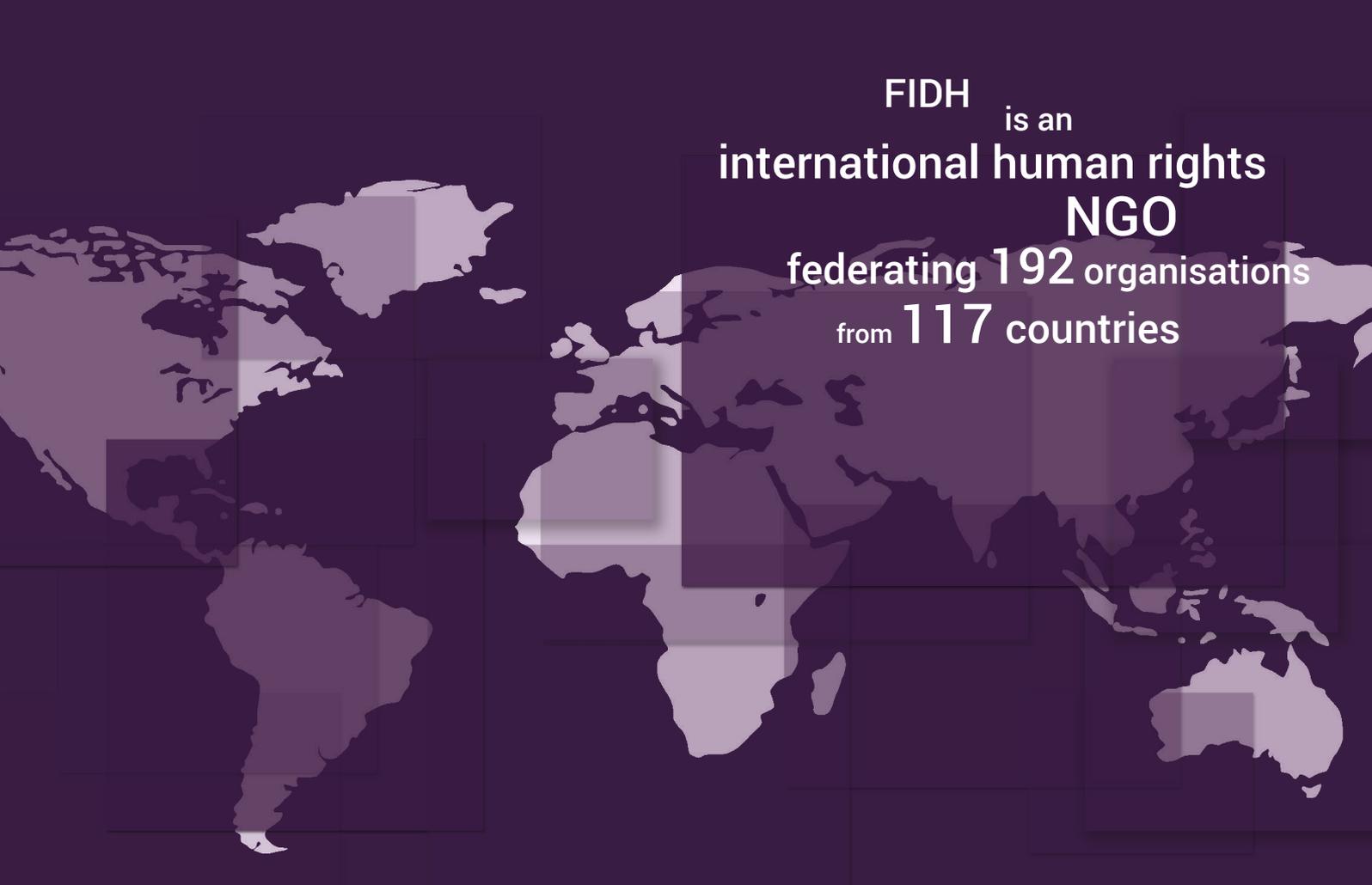
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