

**INTER-AMERICAN COURT OF HUMAN RIGHTS<sup>1</sup>**  
**CASE OF CARVAJAL CARVAJAL AND OTHERS VS. COLOMBIA**  
**JUDGMENT OF MARCH 13, 2018**  
**(Merits, Reparations and Costs)**

**OFFICIAL SUMMARY ISSUED BY THE INTER-AMERICAN COURT**

On March 13, 2018, the Inter-American Court of Human Rights issued a Judgment declaring the State of Colombia internationally responsible for the death of journalist Nelson Carvajal Carvajal and for the failure to guarantee his right to freedom of expression. Nelson Carvajal was murdered in Pitalito, in the department of Huila, on April 16, 1998. His murder took place amid a general context of impunity for the murders of journalists that existed at that time in Colombia. The Court held the State responsible for the violation of the right to judicial guarantees for investigation into the murder, for the violation of the right to personal integrity and to the victim's relatives' right to protection of the family, as well as the rights to freedom of movement and residence of some of Nelson Carvajal's relatives who were forced to leave their permanent residence and move because of the risk they were facing, and the fear they felt.

**I. Facts**

The facts of the case took place in Pitalito in the department of Huila, on April 16, 1998. The Court referred to the context of violence against journalists in Colombia during this time, and highlighted in particular that in 1998, Colombia was first in the world for murdered journalists, being labeled as the "deadliest place in the world for the press," and that between 1977 and 2015 a total of 152 Colombian journalists were executed because of their profession, and more than a third of these murders occurred between 1996 and 2005. In addition, during the 1990s, the armed conflict and a wave of criminal violence led to a climate of increasing fear and intimidation for the press. During this period, various actors involved in the conflict targeted journalists because of their criticisms, complaints, and their reporting on sensitive issues, especially violence linked to drug trafficking. Moreover, as mentioned in the Judgment, journalists working at the regional level in Colombia and locals have been those closest to the warlike confrontations, to violent actors, and those in the midst of zones where the ownership of territory was disputed among illegal groups and the State or which serve as corridors for drug trafficking and organized crime. In this sense, due to their proximity to intense political and armed violence, local and regional media were more vulnerable to aggressions, pressures, or persecution by the actors involved in the conflict and the war.

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<sup>1</sup> Comprised of the following judges: Eduardo Ferrer Mac-Gregor Poisot, President; Eduardo Vio Grossi, Vice President; Elizabeth Odio Benito, Judge, Eugenio Raúl Zaffaroni, Judge y L. Patricio Pazmiño Freire, Judge. Also present is the Secretary Pablo Saavedra Alessandri and Adjunct Secretary Emilia Segares Rodríguez. Judge Humberto Sierra Porto, a Colombian national, did not participate in the process of the present case or in the deliberation and signing of this Judgment in conformity with Article 19.1 of the Rules of Procedure of the Inter-American Court. In addition, Judge Roberto F. Caldas, for reasons of force majeure accepted by the Plenary, did not participate in the deliberation and signing of this opinion.

Similarly, as the Court noted, the Colombian justice system has experienced difficulties in investigating those responsible for the attacks against journalists, and the length of time the difficulties have persisted aggravates the effect of impunity for these violent incidents. The Court also made reference to the fact that of the 152 cases of journalists murdered between 1977 and 2015, 99% remain in impunity because those responsible for these incidents have not been convicted.

Regarding the facts of the case, on April 16, 1988, Nelson Carvajal Carvajal was deprived of his life when he left the Los Pinos Education Center and a man shot him seven times with a firearm. Nelson Carvajal was a journalist, director of the radio programs "Mirador de la Semana [View of the Week], "Amanecer en el Campo [Dawn in the Field]" and "Tribuna Médica [Medical Tribune]" broadcast by the radio station Radio Sur in the municipality of Pitalito, in the department of Huila, and he was also a teacher and director of the Los Pinos Education Center. Through his work as a journalist, he reported on matters of local interest, particularly on irregularities in the administration of public funds, acts of corruption and money laundering from drug trafficking in the area and in the department of Huila generally.

Based on these facts, the Colombian authorities launched an investigation into these facts and sought prosecution of the alleged perpetrators. The Prosecutor's Office followed different hypotheses in the investigation of potential involvement of individuals and the motive for Nelson Carvajal Carvajal's murder. One such hypothesis resulted in the trial of a local businessman, an ex-Councilman, and another individual, which culminated in a judgment of acquittal from the Criminal Court of the Specialized Circuit of Neiva on December 15, 2000, which was upheld by the Superior Court of the Judicial District of Neiva on April 6, 2001. During that process, various evidentiary proceedings and procedural actions were carried out. The Human Rights Unit of the Attorney General's Office is currently following new lines of investigation to determine responsibilities to that effect.

On the other hand, the Court found that in the instant case several relatives of Nelson Carvajal and participants in the proceedings were victims of threats and attempts to intimidate them during the course of the investigation and the main proceedings. As a result, nine of Nelson Carvajal's relatives had to leave the country for security reasons.

## **II. Merits**

In its judgment, the Court concluded that the State is, to a large extent, responsible for the extraordinary delay in the investigation and the trial for the murder of Nelson Carvajal, almost 20 years after the murder occurred, and 17 years since the judgment of acquittal handed down in 2001, the State still had not been able to hold those responsible for the facts of the case legally responsible, meaning that these events remain in impunity to date. Therefore, the Court found support to conclude that there is a breach of the judicial guarantee of a hearing within a reasonable time contained in Article 8.1 of the Convention to the detriment of the relatives of Nelson Carvajal for the excessive duration of the investigation and the proceedings related to

his death. The Court also found that the State was also responsible for not having carried out the investigations related to some of the threats made against several of Nelson Carvajal's relatives, as well as for the violation of the preliminary investigation in the course of the proceedings undertaken in relation to the murder of Nelson Carvajal.

Regarding Mr. Carvajal's right to life, the Court observed that there was no doubt that his death is linked to his work as a journalist, and that this fact is part of a generalized context of impunity for murders of journalists that existed in Colombia at the time of the facts that gave rise to the present case. The Court concluded that in this sense, and particularly in that context, the inadequate investigation of the murder of Nelson Carvajal by the Colombian authorities constitutes, in itself, a violation of the obligation to guarantee the right to life of the Nelson Carvajal. Therefore, the Court concluded that the Colombian State was responsible for the failure to guarantee the right to life contained in Article 4.1 of the American Convention in relation to Articles 1.1, 8 and 25 of the same instrument with respect to Nelson Carvajal Carvajal.

With respect to the right to freedom of expression of Nelson Carvajal, the Court indicated that in the first place respect and guarantee of the right to life and freedom of expression of journalists and other media personalities are closely related, and that in the present case, the considerations that give rise to the responsibility of the State for a violation of Mr. Carvajal's freedom of expression are not distinguished from those that give rise to a violation of his right to life. In effect, his freedom of expression was affected precisely by the fact that he could not continue exercising it due to his death and the lack of investigation of into it. Thus, in the particular circumstances of the case, the determination of the responsibility of the State for an alleged violation of this right, must be necessarily derived, among other considerations, from the State's responsibility for the violation of Nelson Carvajal's right to life.

The Court found that in the instant case, it could be proven that Nelson Carvajal's murder was due to his work as a journalist, which remains unpunished 20 years later, and which is part of a culture of murder of journalists that is characterized by high levels of impunity. Consequently, given the intimate relationship that is presented in this case, between, on the one hand, judicial guarantees and legal protection, and on the other, the rights to life and to freedom of expression, the Court found that the State is also responsible for the violation of the duty to guarantee the freedom of expression contained in Article 13.1 of the Convention, in relation to Articles 1.1, 8 and 25 of the same instrument, with respect to Nelson Carvajal.

With respect to his relatives, the Court established that as a result of the suffering that his death caused them and the ongoing impunity in his murder, the Court affirmed that the State is equally responsible for a violation of Mr. Carvajal's relatives' personal integrity contained in Article 5.1 of the Convention.

Similarly, given that some of Mr. Carvajal's relatives were forced to leave their permanent residence and move because of the risk they were facing, and the fear they felt; because the State failed to comply with its obligation to investigate the threats of which several of them were subject; and because the State failed to provide the necessary conditions to facilitate a

voluntary, decent and safe return to their places of permanent residence or a voluntary resettlement in another part of the country, the Court declared the violation of Article 22.1 of the American Convention, in relation to Article 1.1 thereof, with respect to Nelson Carvajal's relatives who had to migrate and take refuge outside the country. In addition, given that within the displacement victims it has been established that Paola Andrea Carvajal Bolaños, Maria Alejandra Carvajal Bolaños, Cristhian Camilo Motta Carvajal, and Cesar Augusto Meneses Carvajal, were children at the time of these events, so these violations must be considered in relation to Article 19 of the Convention.

Finally, the Court referred to the effect that these events have had on the integrity of the entire Carvajal family, as well as in the life of each individual member, including the fact that several family members had to migrate and disperse outside Colombian territory and concluded that the State was also responsible for the violation of the right to protection of the family, contained in Article 17.1 of the Convention, in relation to Article 1.1 thereof, with respect to Nelson Carvajal's relatives, as well as for having violated the right to the special protection of children, contained in Article 19 of the American Convention, with respect to Paola Andrea Carvajal Bolaños, Maria Alejandra Carvajal Bolaños, Cristhian Camilo Motta Carvajal, and Cesar Augusto Meneses Carvajal.

### **III. Reparations**

With respect to reparations, the Court established that its Judgment constitutes per se a form of reparation and, additionally, ordered the State to: i) publish the Judgment of the Inter-American Court and its summary; ii) continue the investigations and corresponding legal proceedings; iii) carry out an act of public recognition of international responsibility; iv) provide psychological or psychiatric treatment to victims who so request; v) remit periodic reports that it sends to the specialized organizations of the OAS and the United Nations, related to the measures implemented for the prevention and protection of journalists in Colombia; vi) guarantee the adequate security conditions so that the relatives of Nelson Carvajal may return to their country of origin, if applicable and if they wish, and vii) pay the amount set in the Judgment for pecuniary and non-pecuniary damages and for reimbursement of costs and expenses, as well as for compensation for psychological or psychiatric treatment of the relatives of Nelson Carvajal who are living outside of Colombia and who request it.

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The Inter-American Court of Human Rights will supervise the full compliance of the Judgment, in the exercise of its powers and in compliance with its duties under the American Convention on Human Rights, and will close the case once the State has fully complied with the provisions of the Judgment.

The full text of the Judgment can be found at the following link:

<http://www.corteidh.or.cr/casos.cfm>