

# Carvajal Carvajal et al. v. Colombia

## ABSTRACT<sup>1</sup>

*This case is about the assassination of a journalist who had been investigating cases of corruption in local politics and money laundering resulting from arms and drug trafficking. Eventually, the Court found Colombia in violation of several articles of the American Convention on Human Rights, including freedom of expression.*

## I. FACTS

### A. Chronology of Events

#### 1. Events pertaining to Mr. Nelson Carvajal Carvajal

**April 16, 1998:** Mr. Nelson Carvajal Carvajal is a Colombian journalist, news director, and educator. He reported stories on corruption in local politics and money laundering resulting from arms and drug trafficking in the area.<sup>2</sup> He used his reporting to critique the use of land, role of business developers, and mismanagement of public funds.<sup>3</sup>

While leaving the Los Pinos School, in the municipality of Pitalito, Huila Province, where he is the teacher and principal,<sup>4</sup> he is shot seven times by a man who then flees the scene on a motorcycle with another man who was waiting for him.<sup>5</sup>

Shortly after the murder, a deputy police officer reports to the scene to begin an investigation.<sup>6</sup> The Technical Investigations Unit (TIU) from the Prosecutor's Office sends the corpse removal team to conduct an initial examination of the victim's body.<sup>7</sup> During the examination, TIU

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1. Shannon Leap, Author; Adam Knighton, Editor; Pamela Huynh, Senior IACHR Editor; Elizabeth Russo, Chief IACHR Editor; Cesare Romano, Faculty Advisor

2. *Id.* ¶ 39.

3. *Id.*

4. Carvajal Carvajal et al. v. Colombia, Report on Merits, Report No. 21/15, Inter-Am. Comm'n. H.R., Case No. 12.462, ¶ 38-40 (Mar.26, 2015).

5. *Id.*

6. *Id.* ¶ 42.

7. *Id.*

experts take photographs of the crime scene and fingerprint the victim.<sup>8</sup> Following the initial investigation the TIU issues a corpse inspection certificate.<sup>9</sup>

**April 17, 1998:** Mr. Nelson Carvajal Carvajal is scheduled to testify before the Municipal Ombudsman regarding an investigative report he previously authored which addressed irregularities in the then-mayor's purchase of a particular tract of land.<sup>10</sup>

TIU drafts a report for the Public Prosecutor's Office of the Joint Secretary before the Pitalito Circuit Criminal Court in Huila, which indicates that an eye witness identified the alleged perpetrator as an individual who goes by the alias, "Bermúdez."<sup>11</sup> According to the report, the investigators determine that Mr. Carlos Correa goes by the alias "Bermúdez" and therefore is the murderer.<sup>12</sup>

The investigation is given to the Public Prosecutor's 22<sup>nd</sup> District Office assigned to the Pitalito Circuit's Criminal Court ("the Prosecutor's Office").<sup>13</sup> The Prosecutor's Office opens a formal criminal investigation against Mr. Correa, following the TIU report and corpse inspection certificate.<sup>14</sup>

**April 21, 1998:** Based on witness statements and suspect identifications from lineups, the Prosecutor's Office identifies Mr. Correa as the main suspect.<sup>15</sup> Furthermore, the Prosecutor's Office states that Mr. Nelson Carvajal Carvajal's murder was motivated due to his profession as a journalist.<sup>16</sup> In accordance with domestic law, the investigation is transferred to the regional court system.<sup>17</sup>

**May 10, 1998:** The Regional Office of the Public Prosecutor Special Terrorism Unit located in Bogotá ("Regional Prosecutor's Office") interviews new witnesses and gathers documentary evidence. the murder investigation.<sup>18</sup> Additionally, they implement procedures to ensure Mr.

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8. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 365, ¶ 41 (Mar.13, 2018).

9. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 42.

10. *Id.* ¶ 61.

11. *Id.* ¶ 44.

12. *Id.*

13. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 42.

14. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 45.

15. *Id.*

16. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 43.

17. *Id.* ¶ 46.

18. *Id.* ¶ 44.

Correa is present throughout the criminal investigation.<sup>19</sup>

**December 28, 1998:** The Regional Prosecutor's Office closes investigation against Mr. Correa, citing the discovery of new evidence that directly contradicts the circumstantial evidence previously linking Mr. Correa to the crime.<sup>20</sup>

**December 29, 1998:** Based on new evidence, the Regional Prosecutor's Office issues arrest warrants for four new individuals.<sup>21</sup> The arrest warrants name the former mayor of Pitalito, as well as a businessman who is a former council member as the masterminds of the crime.<sup>22</sup>

**January 18, 1999:** The Regional Prosecutor's Office issues an order detailing the facts of Mr. Nelson Carvajal Carvajal's murder, the defendant's identities, the evidence, respective legal proceedings, and the applicable statute defining criminal conduct.<sup>23</sup> The order states that because Mr. Nelson Carvajal Carvajal was a candidate for public office and employed as a journalist the murder charge is aggravated.<sup>24</sup> Due to the nature of the crime as aggravated homicide, the defendants are held in pretrial detention without bail while the investigation continues.<sup>25</sup>

According to the order, the defendants claim that both the 13<sup>th</sup> Front of the Revolutionary Armed Forces (Fuerzas Armadas Revolucionarias de Colombia; "FARC") operating in Southern Huila, and the armed criminal group, Gallina, operating in Pitalito's Porvenir district, planned and committed Mr. Nelson Carvajal Carvajal's murder.<sup>26</sup> Consequently, the Regional Office orders the Neiva Prosecutor's Office, which has jurisdiction in this area, to conduct intelligence investigation into the validity of the defendants' claims.<sup>27</sup>

**February 19, 1999:** A fifth suspect is arrested as an alleged direct perpetrator.<sup>28</sup> He remains in pretrial detention throughout the criminal investigation.<sup>29</sup>

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19. *Id.*

20. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 48.

21. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 45.

22. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 48.

23. *Id.* ¶ 49.

24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.*

28. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 50.

29. *Id.*

**March 1, 1999:** Ms. Judith Carvajal Carvajal, Mr. Nelson Carvajal Carvajal's sister, sends a complaint to the Regional Office alleging that the defense counsel shared confidential copies of the pretrial proceedings to non-defendant individuals in Pitalito.<sup>30</sup> Ms. Judith Carvajal Carvajal argues that the shared information reveals the identity of witnesses which thereby threatens their safety and the investigation of her brother's murder.<sup>31</sup> Given the high-powered defendants under investigation, the documents released, and the seemingly political nature of her brother's murder, Ms. Judith Carvajal Carvajal argues that this circulation of these documents is designed to create general public panic and deter witnesses from cooperating with the investigation.<sup>32</sup>

**May 6, June 18, and August 12 1999:** The Regional Prosecutor's Office denies requests to withdraw pretrial detention conditions against three of the defendants, including the former mayor of Pitalito.<sup>33</sup>

**November 2, 1999:** The Criminal Court in Bogotá releases the former mayor of Pitalito from pretrial detention.<sup>34</sup> His release is granted based on information that members of FARC possibly committed the murder of Mr. Nelson Carvajal Carvajal.<sup>35</sup>

**December 10, 1999:** One of the alleged masterminds behind Mr. Nelson Carvajal Carvajal's murder is released from pretrial detention.<sup>36</sup>

**January 6, 2000:** The second alleged mastermind of Mr. Nelson Carvajal Carvajal's murder is released from pretrial detention.<sup>37</sup>

**January 17, 2000:** The Regional Prosecutor's Office closes the investigation of the former mayor of Pitalito and indicts three individuals: a businessman who is also a former member of the town council, and two additional individuals as perpetrators.<sup>38</sup>

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30. *Id.* ¶ 51.

31. *Id.*

32. *Id.*

33. *Id.* ¶ 53.

34. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 55.

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.* ¶ 56.

**November 29, 2000:** The Neiva Criminal Circuit Court begins the public trial for the murder of Mr. Nelson Carvajal Carvajal.<sup>39</sup>

**December 15, 2000:** The Neiva Criminal Court acquits the defendants, finding reasonable doubt and insufficient evidence for the defendants' guilt.<sup>40</sup> It reasons that because Mr. Nelson Carvajal Carvajal had acquired many rivals through his reporting and stance on issues, the government should have provided more than "theories and suppositions" of defendants' guilt.<sup>41</sup> Additionally, the court reasons that the government failed to investigate other theories of the case involving other possible perpetrators, particularly FARC.<sup>42</sup> The defendants are released and the investigation pursuing the murder perpetrators and accomplices continues.<sup>43</sup>

**April 6, 2001:** The Superior Court upholds the trial court's decision in favor of the defense and specifies that the government needs to provide evidence to support its assertion that FARC guerillas were involved in Mr. Nelson Carvajal Carvajal's murder.<sup>44</sup>

**February 17, 2003:** The Prosecutor's Office continues Mr. Nelson Carvajal Carvajal's murder investigation pursuant to the Superior Court's affirmation and request.<sup>45</sup>

**August 25, 2005:** Mr. Fernando Augusto Carvajal Carvajal, Mr. Nelson Carvajal Carvajal's brother states that in January 1998 he ran into the then-mayor of Pitalito and he was frustrated with Mr. Nelson Carvajal Carvajal's reporting on the land purchase.<sup>46</sup>

**November 1, 2005:** The Prosecutor's Office reassigned the case to the National Human Rights and International Humanitarian Law Unit.<sup>47</sup>

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39. *Id.* ¶ 81.

40. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 81.

41. *Id.* ¶¶ 81-82.

42. *Id.*

43. *Id.* ¶¶ 83,86.

44. *Id.* ¶ 86.

45. *Id.* ¶ 87.

46. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 62.

47. *Id.* ¶ 88.

**December 20, 2005:** The 18th Office of the Special Prosecutor assumes the case and examines the evidence.<sup>48</sup>

**March 29, and October 11 and 12, 2006:** Demilitarized FARC combatant, Mr. Pablo Emilio Bonilla Betancurt, provides statements to the Office of the Special Prosecutor accounting the events that implicated both the former mayor of Pitalito and the local businessman, who is also a former council member, as the orchestrators of Mr. Nelson Carvajal Carvajal's murder.<sup>49</sup>

**November 24, 2006:** Ms. Diana Calderon, a representative for the petitioner, files information with the Disciplinary Chamber of the Judicial Council alleging irregularities in the handling of Mr. Nelson Carvajal Carvajal's murder investigation.<sup>50</sup> She alleges that the defense attorneys breached confidentiality and that the responsible judicial and investigating authorities failed to investigate theories of motives and failed to interview parties with knowledge of the crime.<sup>51</sup>

**May 5, 2007:** Mr. Betancurt is murdered following his 2006 statements which re-implicated the former mayor of Pitalito and the local businessman, and caused the Criminal Court to file a motion for reconsideration of the case.<sup>52</sup> However, the State fails to provide any information regarding possible investigations of Mr. Betancurt's murder or its connection to his participation in the case.<sup>53</sup>

**December 7, 2007:** The Judicial Council dismisses Ms. Calderon's claims, as the five-year statute of limitations had elapsed since the trial court issued its final decision.<sup>54</sup>

**August 2008:** The Prosecutor General requests protection for Ms. Calderon because she is receiving death threats for pursuing the case.<sup>55</sup>

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48. *Id.*

49. *Id.*

50. *Id.* ¶ 95.

51. *Id.*

52. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 107.

53. *Id.*

54. *Id.* ¶ 96.

55. *Id.* ¶ 108.

**August 28, 2008:** The Special Prosecutor’s Office implicates Mr. Carlos Rojas for criminal conspiracy and murder.<sup>56</sup> At the time, Mr. Rojas is the President of the Departmental Legislature of Huila.<sup>57</sup> Mr. Rojas had previously served as a defense witness in the original trial.<sup>58</sup>

**September 4, 2008:** The Prosecutor’s Office orders pretrial detention of Mr. Rojas for the duration of the criminal investigation.<sup>59</sup> Additionally, the Prosecutor’s Office files a motion for reconsideration, based on Mr. Betancurt’s statements that provide new evidence implicating the original defendants.<sup>60</sup>

**April 1, 2009:** The Supreme Court declines to hear the motion for reconsideration due to lack of evidence.<sup>61</sup>

**September 25, 2009:** As a result of the Supreme Court’s decision, the Prosecutor’s Office closes its investigation against the then-president of the Departmental Legislature of Huila.<sup>62</sup>

**September 7, 2010 – July 23, 2013:** The Prosecutor’s Office issues arrest warrants for two more suspects, whose alias’ are: “Oswaldo Patiño” and “el Corcho.”<sup>63</sup> Colombia’s Prosecutor General assigns the case to the Human Rights Unit, which continues the investigation of these two individuals.<sup>64</sup>

2. Events pertaining to Ms. Judith Carvajal Carvajal, Mr. Jairo Carvajal, Ms. Ana Francisca Carvajal de Carvajal, Ms. Luz Stella Bolaños Rodríguez, Ms. Paola Andrea Carvajal Bolaños, Ms. María Alejandra Carvajal Bolaños, Ms. Yaneth Cristina Carvajal Ardila, Ms. Gloria Mercedes Carvajal Carvajal, Ms. Ruth Dary Carvajal Carvajal, Ms. Luz Eny Carvajal Carvajal, Ms. Miriam Carvajal Carvajal, Mr. Fernando Augusto Carvajal Carvajal, Mr. Saúl Carvajal Carvajal, Mr. Cristhian Camilo Motta Carvajal, and Mr. César Meneses Carvajal<sup>65</sup>:

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56. *Id.* ¶ 89.

57. *Id.*

58. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 89.

59. *Id.* ¶ 90.

60. *Id.* ¶ 91.

61. *Id.* ¶ 92.

62. *Id.* ¶ 93.

63. *Id.* ¶ 94.

64. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 94.

65. Mr. Nelson Carvajal Carvajal’s relatives listed as alleged victims: 1) Ms. Judith Carvajal Carvajal (sister), 2) Mr. Jairo Carvajal (father), 3) Ms. Ana Francisca Carvajal de Carvajal (mother),

***Week of April 16, 1998:*** Ms. Judith Carvajal Carvajal receives multiple death-threat phone calls at her home in Pitalito.<sup>66</sup> She believes the phone calls came from defendant and then-mayor of Pitalito, because she recognizes his voice from previous phone calls with him.<sup>67</sup>

According to Ms. Judith Carvajal Carvajal, the implicated individuals intimidate members of the public throughout the murder investigation including witnesses, intelligence investigators from the TIU, and even attorneys.<sup>68</sup> Mr. Carvajal Cabrera, Mr. Nelson Carvajal Carvajal's father, remembers that several local attorneys refused to take his son's murder case out of fear for their lives.<sup>69</sup> Furthermore, Ms. Bolaños Rodríguez, Mr. Nelson Carvajal Carvajal's wife, also receives death threats during the investigation.<sup>70</sup>

***April 18, 1998:*** Mr. Nelson Carvajal Carvajal is buried and Ms. Judith Carvajal Carvajal gives a speech, during which she states that, "we don't want the Fallas construction company for Pitalito."<sup>71</sup>

***April 23, 1998:*** Mr. Ramiro Fallas, head of the Fallas company, files a criminal complaint for defamation against Ms. Judith Carvajal Carvajal.<sup>72</sup>

***January 5, 1999:*** The General Prosecutor's Office arrests the alleged direct perpetrators and masterminds of Mr. Nelson Carvajal Carvajal's murder.<sup>73</sup> Ms. Judith Carvajal Carvajal states that threats are intensifying and she receives threatening phone calls at both her home and place of business.<sup>74</sup>

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4) Ms. Luz Stella Bolaños Rodríguez (wife), 5) Ms. Paola Andrea Carvajal Bolaños (daughter), 6) Ms. María Alejandra Carvajal Bolaños (daughter), 7) Ms. Yaneth Cristina Carvajal Ardila (daughter), 8) Ms. Gloria Mercedes Carvajal Carvajal (sister), 9) Ms. Ruth Dary Carvajal Carvajal (sister), 10) Ms. Luz Eny Carvajal Carvajal (sister), 11) Ms. Miriam Carvajal Carvajal (sister), 12) Mr. Fernando Augusto Carvajal Carvajal (brother), 13) Mr. Saúl Carvajal Carvajal (brother), 14) Mr. Crísthian Camilo Motta Carvajal (nephew), and 15) Mr. César Meneses Carvajal (nephew).

66. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 98.

67. *Id.*

68. *Id.* ¶ 99.

69. *Id.* ¶ 100.

70. *Id.*

71. *Id.* ¶ 98.

72. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 98.

73. *Id.* ¶ 101.

74. *Id.* 005

**March 1999:** A man aggressively confronts Ms. Judith Carvajal Carvajal, calls her “a pain in the ass”, and points her out to other individuals in the vicinity.<sup>75</sup>

**March 1, 1999:** Ms. Judith Carvajal Carvajal submits a complaint with the Public Prosecutor’s Regional Office alleging that the defense attorneys breached confidentiality by sharing copies of investigative materials, including names and statements of witnesses, to sew panic among individuals who had information relating to the murder and the general public.<sup>76</sup>

**April 3, 1999:** Mr. Luis Ortiz informs Ms. Judith Carvajal Carvajal that he was ordered to kill her by the same men who murdered her brother, Mr. Nelson Carvajal Carvajal.<sup>77</sup>

**April 14, 1999:** Ms. Judith Carvajal Carvajal’s son warns her not to leave her home after he spots an armed man watching the home.<sup>78</sup> Mr. Falla’s defamation case is dismissed for “nonexistence of the crime.”<sup>79</sup>

**October 15, 1999:** Ms. Judith Carvajal Carvajal notifies the General Prosecutor’s Office Human Rights Unit of the recent threats she received from individuals under investigation for her brothers murder, and as a result informs them she plans to immediately leave the country.<sup>80</sup> Furthermore, Ms. Judith Carvajal Carvajal requests protection for her immediate and extended family, some of whom remain in the country and are also receiving consistent threats.<sup>81</sup>

**Between 2006-2010:** Persistent threats aimed at Mr. Nelson Carvajal Carvajal’s relatives force nine of them to leave the country.<sup>82</sup>

### *B. Other Relevant Facts*

In a 2005 report, the Commission’s Office of the Special Rapporteur for Freedom and Expression stated that armed conflict in Colombia has

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75. *Id.*

76. *Id.* ¶¶ 101-104.

77. *Id.* ¶ 101.

78. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 102.

79. *Id.* ¶ 98.

80. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 81.

81. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 105.

82. *Id.* ¶ 147.

severely impacted individual's right to freedom of expression.<sup>83</sup> This was especially true during the time period in which Mr. Nelson Carvajal Carvajal was murdered and his case investigated: 1998 – 2005.<sup>84</sup> In fact, between 1977 to 2015 a reported 152 journalists were murdered in Colombia.<sup>85</sup> Of those 152 cases, 99% remained unsolved.<sup>86</sup> Threats, violence, and crimes against journalists has a multifaceted impact that restricts freedom of expression in Colombia.<sup>87</sup> First, they attempt to eliminate the individuals who are investigating and seeking truth.<sup>88</sup> Second, this violence is used as a “tool of intimidation,” to warn other truth-seekers to be wary.<sup>89</sup> Many of these cases are unresolved and many defendants go unpunished, which has amplified the sense of intimidation.<sup>90</sup>

## II. PROCEDURAL HISTORY

### *A. Before the Commission*

**June 21, 2002:** The Inter American Press Association (“the IAPA”) files a petition with the Commission against Colombia regarding Mr. Nelson Carvajal Carvajal’s murder.<sup>91</sup> The IAPA alleges Colombia violated Articles 4 (Right to Life), 8 (Right to a Fair Trial), 13 (Freedom of Thought and Expression), and 25 (Right to Judicial Protection) to the detriment of Mr. Nelson Carvajal Carvajal.<sup>92</sup>

**October 13, 2004:** The Commission issues a Report on Admissibility and declares the petition admissible with respect to Articles 4 (Right to Life), 8 (Right to a Fair Trial), 13 (Freedom of Thought and Expression), and 25 (Right to Judicial Protection) of the Convention, all in relation to Article 1(1) (Obligation of Non-Discrimination).<sup>93</sup>

Colombia claims the petition is time barred because the petitioners filed the petition more than six months after the last judicial proceeding

83. *Id.* ¶ 109.

84. *Id.*

85. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 168.

86. *Id.*

87. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 109.

88. *Id.*

89. *Id.*

90. *Id.*

91. Carvajal Carvajal et al. v. Colombia, Admissibility Report, Report No. 54/04, Inter-Am. Comm’n H.R., Pet.No. 559/02, ¶ 1 (Oct. 13, 2004).

92. *Id.* ¶ 18.

93. *Id.* ¶ 5.

in violation of Article 46(1)(b) of the Convention.<sup>94</sup> Furthermore, Colombia argues they exhausted domestic remedies and access to justice was not hindered.<sup>95</sup>

The Commission rebuts Colombia's argument and holds that in cases where suspects are acquitted by the State courts, the State must perform a thorough investigation which clarifies the facts.<sup>96</sup> Here, the Commission argues that Colombia failed to exhaust domestic remedies because they did not provide an explanation of the investigation following the acquittals.<sup>97</sup> In addition, the Commission invokes the exception to the exhaustion of domestic remedies and states that over six years have elapsed since Mr. Nelson Carvajal Carvajal's murder with no results.<sup>98</sup> Thus, exhaustion of domestic remedies is inapplicable due to the unwarranted delay in rendering a final judgment.<sup>99</sup>

With respect to Colombia's argument that the petition was time barred, the Commission rejects Colombia's argument and holds that the six month rule does not apply in cases where a state fails to exhaust domestic remedies.<sup>100</sup>

**March 26, 2015:** The Commission issues the Merits Report.

Colombia asks the Commission to find the petitioners claims meritless because there is not substantial evidence linking the State to Mr. Nelson Carvajal Carvajal's murder.<sup>101</sup> Furthermore, Colombia argues the proceedings failed to prove his death was the result of his profession as a journalist, thus is not a violation of his freedom of expression.<sup>102</sup>

The Commission rebuts Colombia's argument and states that in addition to ample evidence which ties Mr. Nelson Carvajal Carvajal's profession as an investigative journalist to his murder, Colombia fails to bring forth the existence of another motive.<sup>103</sup>

The Commission finds the State is responsible for violating the rights provided in: Articles 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the Convention, in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 13 (Freedom of

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94. *Id.* ¶ 4.

95. *Id.* ¶ 23.

96. *Id.* ¶ 30.

97. Carvajal Carvajal et al. v. Colombia, Admissibility Report, ¶ 31.

98. *Id.* ¶ 32.

99. *Id.*

100. *Id.* ¶ 36.

101. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 3.

102. *Id.* ¶ 3.

103. *Id.* ¶ 127.

Expression), to the detriment of Mr. Nelson Carvajal's next of kin; Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), and 13 (Freedom of Expression) in relation to Article 1(1) (Obligation of Non-Discrimination) to the detriment of Mr. Nelson Carvajal; and Articles 5(1) (Right to Physical, Mental and Moral Integrity), and 22(1) (Right to Move Freely Within a State) in relation to Article 1(1) (Obligation of Non-Discrimination) to the detriment of Mr. Nelson Carvajal Carvajal's next of kin.<sup>104</sup>

In light of the foregoing violations, the Commission recommends the State: (1) develop and carry out an impartial, complete, timely and effective investigation into Mr. Nelson Carvajal Carvajal's death to identify the perpetrators. This may include reopening closed investigations; (2) take proper steps to protect all witnesses involved in the investigations and proceedings; (3) strengthen the implementation of effective protective measures which guarantee journalists safety; and (4) provide adequate reparations for the violation of Mr. Nelson Carvajal Carvajal's human rights.<sup>105</sup>

### *B. Before the Court*

**October 22, 2015:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>106</sup>

#### 1. Violations Alleged by Commission<sup>107</sup>

To the detriment of Mr. Nelson Carvajal Carvajal:  
Article 4(1) (Prohibition of Arbitrary Deprivation of Life)  
Article 13 (Freedom of Thought and Expression)

*all in relation to:*

Article 1(1) (Obligation of Non-Discrimination) of the American Convention.

To the detriment of Mr. Nelson Carvajal Carvajal's family members:

Article 8 (Right to a Fair Trial)  
Article 25 (Right to Judicial Protection)

*all in relation to:*

Article 1(1) (Obligation of Non-Discrimination)

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104. *Id.* ¶ 204.

105. *Id.* "Recommendations" ¶¶ 1-4.

106. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶1.

107. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 204.

Article 13 (Freedom of Thought and Expression) of the American Convention.

Article 5(1) (Right to Humane Treatment)

Article 22(1) (Freedom of Movement and Residence)

*all in relation to:*

Article 1(1) (Obligation of Non-Discrimination)

Violations Alleged by Representatives of the Victims<sup>108</sup>

To the detriment of Mr. Nelson Carvajal Carvajal:

Same Violations Alleged by Commission.

To the detriment of Mr. Carvajal Carvajal's family members:

Same Violations Alleged by Commission.

**June 2016:** The Court receives 3 separate amicus curiae briefs which address a multitude of issues.<sup>109</sup>

The first brief, submitted by the Colombian Association of Information Media (la Asociación Colombiana de Editores de Diarios y Medios Informativos; “Andiarios”) and others,<sup>110</sup> addresses the State’s obligations to prevent, investigate, and prosecute violent acts against journalists.<sup>111</sup>

The second brief, submitted by the Mexican National Human Rights Commission (la Comisión Nacional de los Derechos Humanos de

108. *Id.* ¶ 22. Mr. Ricardo Trotti from the Inter American Press Association, and Ms. Angelita Baeyns from the Robert F. Kennedy Human Rights nonprofit served as representatives for the victims.

109. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 8.

110. Other organizations include: the Argentinian Association of Journalistic Entities (la Asociación de Entidades Periodísticas Argentinas; “Adepa”), the International Association of Radio (la Asociación Internacional de Radiodifusión; “AIR”), Bolivia’s National Press Association (la Asociación Nacional de la Prensa; “ANP”), Chile’s National Press Association (la Asociación Nacional de la Prensa; “ANP”), Brazil’s Association for Investigative Journalism (la Associação Brasileira de Jornalismo Investigativo; “Abraji”), the Peruvian Press Council (el Consejo de la Prensa Peruana; “CPP”), Argentina’s Journalism Forum (el Foro de Periodismo Argentino; “Fopea”), Panama’s Journalist Forum for Freedom of Expression and Information (el Fórum de Periodistas por las Libertades de Expresión e Información), the Foundation for the Observation and Study of Media (la Fundación Andina para la Observación y Estudio de Medios; “Fundamedios”), the Gabriel García Márquez Foundation for New Latin American Journalism (la Fundación Gabriel García Márquez para el Nuevo Periodismo Iberoamericano; “FNPI”), the Foundation for Freedom of Expression and Democracy (la Fundación Libertad de Expresión y Democracia; “Fundación LED”), and the Press and Society Institute (el Instituto Prensa y Sociedad; “IPYS”).

111. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 8.

México) discusses the context surrounding violence against journalist in the region and the due diligence required in these cases.<sup>112</sup>

The third brief, submitted by the International Freedom of Expression Exchange (el Intercambio Internacional por la Libertad de Expresión; “IFEX”) and the Foundation for Freedom of Press (la Fundación para la Libertad de Prensa; “FLIP”) explains the nature of violence against journalist within Colombia and the State’s obligations in addressing said violence.<sup>113</sup>

**July 6, 2017:** During a public hearing held during the Court’s 119<sup>th</sup> Regular Session, the Court hears victim testimony.<sup>114</sup>

### III. MERITS

#### *A. Composition of the Court*<sup>115</sup>

Eduardo Ferrer Mac-Gregor Poisot, President  
 Eduardo Vio Grossi, Vice-President  
 Elizabeth Benito, Judge  
 Eugenio Raúl Zaffaroni, Judge  
 L. Patricio Pazmiño Freire, Judge

Pablo Saavedra Alessandri, Secretary  
 Emilia Segares Rodríguez, Deputy Secretary

#### *B. Decision on the Merits*

**March 13, 2018:** The Court issues its judgement on the Merits, Reparations, and Costs.<sup>116</sup>

The Court found unanimously that Colombia had violated:

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) in relation to Article (1)(1)

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112. *Id.*

113. *Id.*

114. *Id.* ¶ 9.

115. Judge Humberto Antonio Sierra Porto did not participate in the judgement because he is of Colombian nationality, in accordance with Articles 19.2 of the Statute and 19.1 of the Regulations of the Duty. Judge Roberto F. Caldas also did not participate due to force majeure.

116. *Id.* ¶ 236.

(Obligation of Non-Discrimination) of the Convention, to the detriment of the next of kin of Mr. Nelson Carvajal Carvajal,<sup>117</sup> because:

*The Court has consistently held Article 8(1) of the Convention protects an individual's right to be heard by an impartial and independent tribunal.<sup>118</sup> This right requires a state act with due diligence to investigate, prosecute and punish those responsible for criminal acts.<sup>119</sup> Here, the State lacked due diligence in the investigation into Mr. Nelson Carvajal Carvajal's murder.<sup>120</sup>*

*First, the State failed to ensure both the criminal proceedings and investigation into Mr. Nelson Carvajal Carvajal's murder were conducted within a reasonable time.<sup>121</sup> Instead, the investigation extended over 16 years with long periods of inactivity and limited results.<sup>122</sup> Second, Article 8(1) requires a state take special measures to protect the lives and safety of a victim's relatives.<sup>123</sup> This requirement is meant to ensure relatives can fully participate in the criminal investigation.<sup>124</sup> Here, the Court held that the State failed to thoroughly investigate threats aimed at Mr. Nelson Carvajal Carvajal's relatives.<sup>125</sup> As a result, Mr. Nelson Carvajal Carvajal's relatives limited their participation in the investigation.<sup>126</sup> Thus, the State failed to fulfill the obligations contained in Article 8(1) to the detriment of Mr. Nelson Carvajal Carvajal's relatives.<sup>127</sup>*

Article 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Articles 1(1) (Obligation of Non-Discrimination), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the Convention, to the detriment of Mr. Nelson Carvajal,<sup>128</sup> because:

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117. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 236.

118. *Id.* ¶ 101.

119. *Id.* ¶ 102.

120. *Id.*

121. *Id.* ¶ 104.

122. *Id.*

123. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 126.

124. *Id.*

125. *Id.* ¶ 153.

126. *Id.*

127. *Id.*

128. *Id.* ¶ 236.

*The Court acknowledged the State's historic failure to diligently investigate crimes against journalists.<sup>129</sup> In fact, the Court noted that between 1977 to 2015 a reported 152 journalists were murdered in Colombia.<sup>130</sup> Of those 152 cases, 99% remained unsolved.<sup>131</sup> Here, the Court held that the States lack of due diligence in both the investigation and prosecution of perpetrators in Mr. Nelson Carvajal Carvajal's case was related to his profession as an investigative journalist.<sup>132</sup> Furthermore, the Court stated that Mr. Nelson Carvajal Carvajal's murder occurred during a time in which the State consistently failed to properly investigate and prosecute violent acts against journalists.<sup>133</sup> In fact, the Court held that in the nearly 20 years since Mr. Nelson Carvajal Carvajal's murder, no one was charged with the crime and the internal investigation remained ongoing.<sup>134</sup> Thus, the State's lack of due diligence in implementing successful and thorough investigatory techniques into Mr. Nelson Carvajal Carvajal's murder not only fit the pattern during that time, but constituted, in itself, a violation of Mr. Nelson Carvajal Carvajal's right to life.<sup>135</sup>*

Article 13(1) (Right to Seek, Receive, and Impart Information and Ideas), in relation to Articles 1(1) (Obligation of Non-Discrimination), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the Convention, to the detriment of Mr. Nelson Carvajal Carvajal,<sup>136</sup> because:

*The Court explained that in cases involving violence against journalists, a State's failure to diligently investigate these acts may also violate the right of freedom of expression.<sup>137</sup> Freedom of expression encompasses both the right of the individual as well as the rights of society as a whole.<sup>138</sup> As such, freedom of expression is violated if an individual is prohibited from disseminating their opinions, ideas and information to the public.<sup>139</sup> Furthermore, freedom of expression is violated when citizens are prohibited from receiving the opinions and ideas of others.<sup>140</sup>*

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129. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 168.

130. *Id.*

131. *Id.*

132. *Id.* ¶ 169.

133. *Id.* ¶ 168.

134. *Id.* ¶ 165.

135. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 170.

136. *Id.* ¶ 236.

137. *Id.* ¶ 175.

138. *Id.* ¶ 171.

139. *Id.* ¶ 172.

140. *Id.*

*Therefore, violations of the freedom of expression range from excessive restriction the right, to a complete deletion of the right.*

*Here, the Court held that Mr. Nelson Carvajal Carvajal's murder completely erased his right to seek and impart information and ideas to the public.<sup>141</sup> In addition, the Court concluded that the State's failure to conduct an exhaustive investigation into both Mr. Nelson Carvajal Carvajal's murder and other violent acts against journalist in the region, created a chilling effect which resulted in journalists self-censorship.<sup>142</sup> Consequently, the State prevented Mr. Nelson Carvajal Carvajal from exercising his right to seek, receive, and disseminate ideas and information in violation of Article 13(1) of the Convention.<sup>143</sup>*

Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the relatives of Mr. Nelson Carvajal Carvajal,<sup>144</sup> because:

*The Court has repeatedly held that the emotional welfare of victim's relatives can be negatively impacted when they witness human rights violations perpetrated against loved ones.<sup>145</sup> This suffering and distress is further violated when the domestic authorities fail to implement effective remedies in light of the events.<sup>146</sup>*

*Here, the Court evaluated Mr. Nelson Carvajal Carvajal's family members' rights to personal integrity in relation to the impact Mr. Nelson Carvajal Carvajal's death had on his relatives, the lack of judicial determination twenty years after the murder, and their own recurring threats and harassment.<sup>147</sup> The Court received multiple statements from Mr. Nelson Carvajal Carvajal's relatives which described how his homicide destroyed and transformed the family.<sup>148</sup> Specifically, Ms. Judith Carvajal Carvajal, Mr. Nelson Carvajal Carvajal's sister, stated that the impact had been terrible and painful for the entire family.<sup>149</sup> Furthermore, the Court held that the State failed to investigate threats*

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141. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 176.

142. *Id.* ¶ 175.

143. *Id.* ¶ 178.

144. *Id.*

145. Carvajal Carvajal et al. v. Colombia, Report on Merits, ¶ 192.

146. *Id.*

147. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 187.

148. *Id.* ¶ 186.

149. *Id.*

*and harassment levied against Mr. Nelson Carvajal Carvajal's relatives following his murder.*<sup>150</sup> Thus, the Court held that the State's violation of Mr. Nelson Carvajal Carvajal's right to life and judicial guarantees, led to a violation of his relative's right to personal integrity.<sup>151</sup>

Article 22 (Right of Movement and Residence) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the relatives of Mr. Nelson Carvajal Carvajal; Ms. Paola Carvajal Bolaños, Ms. María Carvajal Bolaños; Ms. Bolaños Rodríguez, Ms. Judith Carvajal Carvajal, Ms. Gloria Carvajal Carvajal, Ms. Ruth Carvajal Carvajal, Mr. Fernando Carvajal Carvajal, Mr. Motta Carvajal, and Mr. Meneses Carvajal, and in relation to Article 19 (Rights of a Child) of the Convention, to the detriment of Ms. Paola Carvajal Bolaños, Ms. María Carvajal Bolaños, Mr. Motta Carvajal, and Mr. Meneses Carvajal,<sup>152</sup> because:

*The right to freedom of movement protects individuals from being forcibly displaced from areas they are legally residing.*<sup>153</sup> A state's failure to investigate threats, harassment, and acts of violence may encourage or prolong exile or forced displacement.<sup>154</sup>

*Here, the Court found that the State failed to investigate several threats made against Mr. Nelson Carvajal Carvajal's family members, resulting in nine of them emigrating out of Colombia.*<sup>155</sup> Additionally, the Court found that the State did not provide conditions for a safe, voluntary, and dignified return to their places of residence after they were forced to leave Colombia.<sup>156</sup> As a result, the Court held the State violated the right of movement and residence to the detriment of Mr. Nelson Carvajal Carvajal's nine relatives.<sup>157</sup> Furthermore, Ms. Paola Carvajal Bolaños, Ms. María Carvajal Bolaños, Mr. Motta Carvajal, and Mr. Meneses Carvajal were minors at the time of displacement, thus the violation was considered in relation to Article 19 (Rights of the Child).<sup>158</sup>

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150. *Id.* ¶ 187.

151. *Id.*

152. *Id.* ¶ 236.

153. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 189.

154. *Id.*

155. *Id.* ¶ 194.

156. *Id.* ¶ 196.

157. *Id.*

158. *Id.*

Article 17 (Rights of the Family) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment to the relatives of Mr. Nelson Carvajal Carvajal, and in relation to Article 19 (Rights of a Child) of the Convention, to the detriment of Ms. Paola Carvajal Bolaños, Ms. María Carvajal Bolaños, Mr. Motta Carvajal, and Mr. Meneses Carvajal,<sup>159</sup> because:

*The Court held that in certain situations, the separation of children from their family constitutes a violation of the right of the family.<sup>160</sup> Furthermore, the state is responsible for strengthening the family nucleus by protecting families against arbitrary or illegal interference.<sup>161</sup> Thus, the Court found the State failed to provide necessary security conditions for Mr. Nelson Carvajal Carvajal's emigrating family members, thereby depriving them of their right to protection of their family.<sup>162</sup> Additionally, Ms. Paola Carvajal Bolaños, Ms. María Carvajal Bolaños, Mr. Motta Carvajal, and Mr. Meneses Carvajal were minors at the time of displacement, thus the violation was considered in relation to Article 19 (Rights of the Child).<sup>163</sup>*

The State is not responsible for the violation of Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity) of the Convention, to the detriment of Mr. Nelson Carvajal Carvajal's relatives,<sup>164</sup> because:

*The Court found that the violation of Article 17 (Rights of the Family) encompasses the present violation of Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity), and therefore does not find the State independently violated of Article 11.<sup>165</sup>*

#### IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

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159. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 236.

160. *Id.* ¶ 191.

161. *Id.*

162. *Id.* ¶ 197.

163. *Id.* ¶ 196.

164. *Id.* ¶ 236.

165. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 197.

*A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)*

1. Judgement as a Form of Reparation

The Court held that the Judgment itself is a form of reparation.<sup>166</sup>

2. Continue Investigation and Judicial Proceedings

The Court required the State to continue investigating and proceed with judicial actions to determine and, if appropriate, punish the entities responsible for Mr. Nelson Carvajal Carvajal's murder.<sup>167</sup> The Court noted that the State must fulfill this obligation within a reasonable amount of time, considering the 20-year that lapsed since Mr. Nelson Carvajal Carvajal's murder.<sup>168</sup>

3. Provide Psychological or Psychiatric Treatment for Victims

The Court orders the State to provide psychological and psychiatric treatment to the victims in this case for as long as necessary.<sup>169</sup> These services must meet the victims' individual psychological and geographic needs and must be provided regardless of any domestic bureaucracy or legislative obstacles.<sup>170</sup> The victims must notify the State of their interest in such treatment within six months of this judgment.<sup>171</sup>

4. Publish and Disseminate the Judgment

The Court ordered the State to publish the following: (1) the Official Judgment Summary in the State's Official Gazette and an additional national newspaper; and (2) the entire Judgment on an official State website for one year.<sup>172</sup> The web-based Judgment must be accessible to the public through the website's homepage.<sup>173</sup>

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166. *Id.* ¶ 236.

167. *Id.* ¶¶ 204, 236.

168. *Id.*

169. *Id.* ¶¶ 206-207.

170. *Id.* ¶ 206.

171. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 207.

172. *Id.* ¶ 210.

173. *Id.*

### 5. Public Act Acknowledging International Responsibility

The Court required the State to carry out a public act acknowledging international responsibility.<sup>174</sup> The act must be a public ceremony, with victims or their representatives present, State senior officials present, and reference the violations declared in this Judgment.<sup>175</sup>

### 6. Guarantee Adequate Security Conditions for Mr. Nelson Carvajal Carvajal's Relatives

The Court ordered the State to guarantee adequate security measures for the victims in this case to return to their residences, if they so desire.<sup>176</sup> The State should cover all transportation and customs costs the victims may incur in their return to their countries of origin.<sup>177</sup>

### 7. Send Periodic Reports to the United Nations on Protection for Journalists

The Court ordered the State to provide the Court with the periodic reports on the preventative and protection of journalists in Colombia in order for the Court to assess the State's compliance with reparation measures in this Judgment.<sup>178</sup>

## *B. Compensation*

The Court awarded the following amounts:

### 1. Pecuniary Damages

The Court awarded \$15,000 each to Mr. Nelson Carvajal Carvajal's daughters, Ms. Paola Carvajal Bolaños, and Ms. María Carvajal Bolaños; wife, Ms. Bolaños Rodríguez; siblings, Ms. Judith Carvajal Carvajal, Ms. Gloria Carvajal Carvajal, Ms. Ruth Carvajal Carvajal, and Mr. Fernando Carvajal Carvajal; and nephews, Mr. Motta Carvajal, and Mr. Meneses Carvajal, all for the various expenses related to their forced displacement.<sup>179</sup>

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174. *Id.*

175. *Id.*

176. *Id.* ¶ 215.

177. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 215.

178. *Id.* ¶ 217.

179. *Id.* ¶ 228.

## 2. Non-Pecuniary Damages

The Court awarded \$250,000 to Mr. Nelson Carvajal Carvajal.<sup>180</sup> The Court ordered Mr. Nelson Carvajal Carvajal's award be split, granting \$125,000 to be evenly split among his three daughters, Ms. Paola Carvajal Bolaños, Ms. Carvajal Ardila, and Ms. María Carvajal Bolaños, and \$125,000 to his wife, Ms. Bolaños Rodríguez.<sup>181</sup>

The Court awarded \$30,000 each for the pain and psychological suffering caused by Mr. Nelson Carvajal Carvajal's death to his parents, Ms. Ana Carvajal de Carvajal, and Mr. Jairo Carvajal, his wife, Ms. Bolaños Rodríguez, and his daughters, Ms. Paola Carvajal Bolaños, Ms. Carvajal Ardila, and Ms. María Carvajal Bolaños.<sup>182</sup>

The Court awarded \$20,000 each for the pain and psychological suffering caused by Mr. Nelson Carvajal Carvajal's death to his siblings; Ms. Judith Carvajal Carvajal, Ms. Gloria Carvajal Carvajal, Ms. Ruth Carvajal Carvajal, Ms. Luz Carvajal Carvajal, Ms. Miriam Carvajal Carvajal, Mr. Fernando Carvajal Carvajal, and Mr. Saúl Carvajal Carvajal.<sup>183</sup>

The Court awarded \$15,000 each for the pain and psychological suffering caused by Mr. Nelson Carvajal Carvajal's death to his nephews, Mr. Motta Carvajal, and Mr. Meneses Carvajal.<sup>184</sup>

## 3. Costs and Expenses

The Court awarded \$33,000 to the victims and their representatives for costs and expenses incurred in the domestic and international proceedings.<sup>185</sup> This reimbursement is to be awarded accordingly: SIP is to receive \$10,000; the Robert F. Kennedy Human Rights Center is to receive \$8,000; and \$15,000 to be divided equally between Mr. Nelson Carvajal Carvajal's five relatives who attended the domestic hearings associated with his case.<sup>186</sup>

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180. *Id.*

181. *Id.*

182. *Id.*

183. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 228.

184. *Id.*

185. *Id.* ¶ 231.

186. *Id.* ¶ 228.

4. Total Compensation (including Costs and Expenses ordered):

\$768,000.

*C. Deadlines*

The State must provide the Court with a report on the measures taken to comply with the judgement within one year.<sup>187</sup>

The State must pursue investigations and judicial proceedings for this case, arriving at a conclusion within a reasonable amount of time.<sup>188</sup>

The State must provide the victims with psychological and psychiatric treatment for as long as the victims deem necessary.<sup>189</sup> The victims have six months from notification of this judgement to request such treatment.<sup>190</sup>

Within six months of this judgement, the State must publish the Official Judgment Summary in the Official Gazette and another national newspaper, the entire Judgement on the State's official website for at least one year.<sup>191</sup> Upon publication, the State must immediately notify the Court.<sup>192</sup>

The State has one year to carry out its Public Act Acknowledging International Responsibility.<sup>193</sup>

The victims have one year following this Judgement to notify the State of their intention to return to their country of origin.<sup>194</sup> The State has two years following this notification to provide the adequate security conditions for the victims to return home.<sup>195</sup>

The State must compensate all designated entities within one year of this ruling.<sup>196</sup>

V. INTERPRETATION AND REVISION OF JUDGMENT

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187. *Id.* ¶ 236.

188. *Id.* ¶ 204.

189. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 204.

190. *Id.* ¶ 207.

191. *Id.* ¶ 210.

192. *Id.*

193. *Id.* ¶ 212.

194. *Id.* ¶ 215.

195. Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, ¶ 215.

196. *Id.* ¶ 232.

**September 3, 2018:** The State submitted a request for interpretation of the Judgement to clarify the following points: a) the beneficiaries, scope, and expenses for the reparation to guarantee security conditions for victims displaced as a result of Mr. Nelson Carvajal Carvajal's murder investigation; b) the organizations to and the duration for which the State is required to send periodic reports on its preventative and protectionary measures for journalists in Colombia; c) the reasonable expenses the State bears to comply with the Judgment; and d) method of payment for compensation to the victims.<sup>197</sup>

*A. Composition of the Court*<sup>198</sup>

Eduardo Ferrer Mac-Gregor Poisot, President

Eduardo Vio Grossi, Vice President

Elizabeth Benito, Judge

Eugenio Raúl Zaffaroni, Judge

L. Patricio Pazmiño Freire, Judge

Pablo Saavedra Alessandri, Secretary

And Emilia Segares Rodríguez, Deputy Secretary

*B. Merits*

**November 21, 2018:** The Court unanimously decided to:

Declare the request for interpretation of judgment admissible,<sup>199</sup> because:

*The State sought only clarification of the judgment, not a challenge to the decision.*<sup>200</sup>

Clarify the beneficiaries, scope, and cost of the reparation to provide security conditions to those displaced during the domestic investigation,<sup>201</sup> because:

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197. Carvajal Carvajal et al. v. Colombia, Interpretation of the Judgement on Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 365, ¶ 2 (Nov. 21, 2018).

198. *Id.* Judge Humberto Antonio Sierra Porto did not participate in this Judgement because he is of Colombian Nationality.

199. *Id.* ¶ 10.

200. *Id.*

201. *Id.* ¶ 14.

*The Court intended for Mr. Nelson Carvajal Carvajal's nine relatives to be the beneficiaries of the reparation that provides security conditions should they choose to return to their country of origin.*<sup>202</sup> *The Court also clarified that these conditions mandate the State pay for transportation and customs expenses, but not for further relocation or resettlement costs.*<sup>203</sup>

Clarify the entities to which the State must provide periodic compliance reports and the duration for which the State must provide them,<sup>204</sup> because:

*The Court intended the State to provide the reports to all United Nations Organizations related to the protection of journalists.*<sup>205</sup> *These include: the Human Rights Council; the Universal Periodic Review Board; the Human Rights Committee; the Committee on Economic, Social, and Cultural Rights; the Committee on the Elimination of Racial Discrimination; the Committee on the Elimination of Discrimination Against Women; the Committee Against Torture; the Subcommittee on the Prevention of Torture; The Committee on the Rights of the Child; the Committee for the protection of Rights of Migrant Workers and Their Family Members; the Committee on the Rights of Persons with Disabilities; and the Committee Against Forced Disappearances.*<sup>206</sup> *The State must provide these reports for as long as the Court supervises the State's compliance with the Judgment.*<sup>207</sup>

Clarify the reasonable expenses that the State must reimburse for to comply with the judgement,<sup>208</sup> because:

*The Court intended for the State to reimburse the victims and their representatives for reasonable expenses they incur during compliance monitoring procedures for as long as this procedural phase lasts.*<sup>209</sup>

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202. *Id.* ¶ 15.

203. Carvajal Carvajal et al. v. Colombia, Interpretation on the Judgement, Merits, Reparations, and Costs, ¶ 19.

204. *Id.* ¶ 20.

205. *Id.* ¶ 22.

206. *Id.*

207. *Id.* ¶ 23.

208. *Id.* ¶ 24.

209. Carvajal Carvajal et al. v. Colombia, Interpretation on the Judgement, Merits, Reparations, and Costs, ¶ 26.

Clarify the method of payment for reimbursement,<sup>210</sup> because:

*The Court intended the State may pay these reimbursements directly to the victims, or to their representatives, should the victims request it.*<sup>211</sup>

## VI. COMPLIANCE AND FOLLOW-UP

[None]

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[None]

#### 2. Decisions on Merits, Reparations and Costs

[Carvajal Carvajal et al. v. Colombia, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 365 \(Mar.13, 2018\).](#)

#### 3. Provisional Measures

[Carvajal Carvajal et al. v. Colombia, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(Ser. E\) \(July 6, 2017\).](#)

#### 4. Compliance Monitoring

[Carvajal Carvajal et al. v. Colombia, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Court. H.R. \(Oct. 7, 2019\).](#)

#### 5. Review and Interpretation of Judgment

[Carvajal Carvajal et al. v. Colombia, Interpretation of the Judgement on Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(Ser. C\) No. 365 \(Nov. 21, 2018\).](#)

### B. *Inter-American Commission*

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210. *Id.* ¶ 27.

211. *Id.* ¶¶ 27-28.

1. Petition to the Commission

[None]

2. Report on Admissibility

[Carvajal Carvajal et al. v. Colombia, Admissibility Report, Report No. 54/04, Inter-Am. Comm'n H.R., Pet.No. 559/02 \(Oct. 13, 2004\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Carvajal Carvajal et al. v. Colombia, Report on Merits, Report No. 21/15, Inter-Am. Comm'n. H.R., Case No. 12.462 \(Mar.26, 2015\).](#)

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

[None]