

INTER-AMERICAN COURT OF HUMAN RIGHTS*
CASE OF OMEARA CARRASCAL ET AL. V. COLOMBIA
JUDGMENT OF OCTOBER 14, 2019

(Interpretation of the Judgment on Merits, Reparations and Costs)

In the *Case of Omeara Carrascal et al. v. Colombia*,

the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court,”) composed of the following judges:

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

Also present,

Pablo Saavedra Alessandri, Registrar

pursuant to Article 67 of the American Convention of Human Rights (hereinafter “the Convention” or “the American Convention”) and Article 68 of the Court’s Rules of Procedure (hereinafter “the Rules of Procedure”), decides on the request for interpretation of the judgment on Merits, Reparations, and Costs issued by the Court on November 21, 2018 (hereinafter “the judgment”), interposed on March 18, 2019 by the victims’ representatives (hereinafter “the representatives”) and the Republic of Colombia (hereinafter “the State” or “Colombia”), respectively.

* Judge Humberto Antonio Sierra Porto, with Colombian nationality, did not participate in the deliberation of this judgment in accordance with the provisions of Articles 19(2) of the Statutes and 19(1) of the Court’s Rules of Procedure.

I
REQUESTS FOR INTERPRETATION
AND PROCEEDINGS BEFORE THE COURT

1. On November 21, 2018, the Inter-American Court issued the judgment in this case, which was notified to the parties and the Inter-American Commission on Human Rights (hereinafter "the Commission") on December 18 of the same year.
2. On March 18, 2019, the victims' representatives submitted a request for an interpretation related to clarifications of the scope of the provisions to determine the payment in equity for consequential damages.
3. On March 18, 2019, the State submitted a request for interpretation regarding the investigation of the alleged acts of torture regarding Manuel Guillermo Omeara Miraval.
4. On March 28, 2019, in accordance with Article 68(2) of the Rules of Procedure and following the instructions of the President of the Court, the Secretariat forwarded the aforementioned requests for interpretation to the parties and to the Commission and granted them a term no later than 12 April 2019 to present the written arguments they deem pertinent. On April 12, 2019, the representatives forwarded their arguments. That same day, the Commission requested an extension for the presentation of its arguments, which was granted. On April 29, 2019, on expiry of the extended term, the Commission requested a new extension to submit its brief, which was not granted. The State did not present written arguments.

II
JURISDICTION

5. Article 67 of the American Convention establishes that "[t]he judgment of the Court shall be final and not subject to appeal. In case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided that said request is made within ninety days from the date of notification of the judgment."
6. Pursuant to the aforementioned article, the Inter-American Court is competent to interpret its judgments. In order to examine the requests for interpretation and decide in this regard, this Court must have, if possible, the same composition that it had when issuing the respective judgment, in accordance with Article 68(3) of the Rules of Procedure. On this occasion, the Court is made up of the same judges who delivered the judgment whose interpretation has been requested.

III
ADMISSIBILITY

7. The Court is responsible for verifying whether the requests submitted by the representatives and by the State meet the requirements established in the rules applicable to a request for interpretation of judgment, namely, Article 67 of the aforementioned Convention, and Article 68 of the Rules of Procedure. Article 31(3) of the Rules of Procedure establishes that "[j]udgments and orders of the Court may not be contested in any way."
8. The Court notes that both the representatives and the State submitted their requests for interpretation within the ninety-day period established in Article 67 of the Convention, since they were submitted on March 18, 2019, respectively, and the parties were notified of the judgment on December 18, 2018. Therefore, the request is admissible with regards to the term of its presentation. As for the other requirements, the Inter-American Court will carry out the respective analysis of the merit of said requests in the following chapter.

IV ANALYSIS OF THE ADMISSIBILITY OF THE REQUEST FOR INTERPRETATION

9. This Court will analyze the requests from the representatives and the State to determine if, according to the regulations and the standards developed in its case law, it is appropriate to clarify the meaning or scope of any point of the judgment.

10. To analyze the admissibility of the requests from the representatives and the State, the Court takes into account its consistent case law, clearly supported by the applicable legal system, insofar as a request for interpretation of the judgment cannot be used as a means of challenging the decision requiring an interpretation. The purpose of said request is exclusively to determine the meaning of a ruling when any of the parties maintains that the text of its operative paragraphs or its considerations lacks clarity or precision, as long as those considerations affect said operative part. Therefore, it is not possible to request the modification or annulment of the respective judgment through a request for interpretation.¹

11. Adicionalmente, la Corte ha sostenido la improcedencia de utilizar una solicitud de interpretación para someter cuestiones de hecho y de derecho que ya fueron planteadas en su oportunidad procesal y sobre las cuales la Corte ya adoptó una

Additionally, the Court has upheld the inadmissibility of using a request for interpretation to submit questions of fact and law that were already raised at the procedural opportunity and on which the Court has already adopted a decision,² as well as to claim that the Court reassess issues that it has already resolved in its judgment.³ In the same way, there cannot be a request for the broadening of the reach of a measure for reparation.⁴

12. The Inter-American Court will examine below the issues raised by the representatives and the State, in the following order: A. Method of payment and distribution of the amounts in equity, and B. Investigation of the alleged acts of torture with respect to Manuel Guillermo Omeara Miraval.

A. Method of payment and distribution of the amounts in equity

13. The **representatives** requested clarification on the scope of the payment in equity for consequential damages. They considered that it is necessary for the Court to clarify what is meant by family groups, that is, to whom the ordered payments should be made and based on what criteria the payments should be made, because they do not seem to be established in paragraph 328 of the judgment.

14. Regarding this request, the Court notes that there was a material typographical error when indicating the paragraph that elaborates the scope and criteria of the corresponding payment. Therefore, it clarifies the following: the paragraph intended to elaborate said point

¹ Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the Judgment on the Merits. Order of the Court of March 8, 1998. Series C No. 47, paras. 12 and 16, and Case of López Soto et al. v. Venezuela. Interpretation of the Judgment on the Merits, Reparations and Costs. Judgment of May 14, 2019. Series C No. 379, para. 11.*

² Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the Judgment on Reparations and Costs. Judgment of June 3, 1999. Series C No. 53, para. 15, and Case of López Soto et al. v. Venezuela. Interpretation of the Judgment on the Merits, Reparations and Costs, supra, para. 12.*

³ Cf. *Case of Salvador Chiriboga v. Ecuador. Interpretation of the Judgment on Reparations and Costs. Judgment of August 29, 2011. Series C No. 230, para. 30, and Case of López Soto et al. v. Venezuela. Interpretation of the Judgment on the Merits, Reparations and Costs, supra, para. 12.*

⁴ Cf. *Case of Salvador Chiriboga v. Ecuador. Interpretation of the Judgment on Reparations and Costs. Judgment of August 29, 2011. Series C No. 230, para. 30, and Case of López Soto et al. v. Venezuela. Interpretation of the Judgment on the Merits, Reparations and Costs, supra, para. 12.*

is paragraph 327 of the judgment and not paragraph 328 as established in the judgment due to the indicated error. The corresponding paragraph is below:

327. The amounts must be delivered according to the following criteria:

(a) Fifty percent (50%) of the compensation corresponding to each victim will be distributed, in equal parts, among the children of the victim. If one or more of the children have already died, the part that corresponds to him or them will increase that of the other children of the same victim;

(b) the other fifty percent (50%) of the compensation must be delivered to the person who was the spouse, partner or permanent partner of the victim, at the beginning of the disappearance or at the time of the victim's death, as appropriate;

(c) in the event that the victim does not have children or a spouse, partner or permanent partner, what would have corresponded to the next of kin located in that category will be added to the part that corresponds to the other category;

(d) in the event that the victim does not have children or a spouse or permanent partner, compensation for material damage will be delivered to his parents or, failing that, to his siblings in equal parts, and

(e) in the event that the victim had no children, no spouse or partner, no parents, no siblings, the compensation must be paid to the heirs in accordance with domestic inheritance law.

15. Regarding the request for clarification regarding the family groups included in the payment in equity for consequential damages mentioned in paragraph 318, the Court considers that said paragraph is sufficiently clear and precise, since the judgment establishes that "The family groups correspond to Noel Emiro Omeara Carrascal, Manuel Guillermo Omeara Miraval and Héctor Álvarez Sánchez and that they must be distributed to each group proportionally."

B. Investigation of the alleged acts of torture regarding Manuel Guillermo Omeara Miraval

16. The **State** requested clarification within the framework of operative paragraph number 16 regarding the investigation into the alleged torture that Manuel Guillermo Omeara Miraval suffered, in accordance with the content of paragraphs 293 and 294 of the judgment, which declare the State responsible for the violation of Articles 8(1) and 25(1) of the American Convention, for the State's failure to comply with its obligation to investigate the events that occurred to the detriment of Manuel Guillermo Omeara Miraval. In this regard, the State indicated that this order to initiate an investigation into the alleged torture suffered by Manuel Guillermo Omeara Miraval is not consistent with paragraphs 199 and 200 of the judgment, since in these paragraphs the Court recognized that the evidence submitted was not sufficient to prove that Mr. Omeara Miraval suffered mistreatment that could be considered torture.

17. The **representatives** pointed out that the State "intends to modify the provisions ordered by the Court in [the...] judgment" and considered that "it disagrees with the decision by the [...] Court in relation to the State's obligation to investigate the torture suffered by Manuel Guillermo Omeara Miraval." Therefore, this is not a request for interpretation of the sentence, but rather an appeal, and the state request must be rejected.

18. In this regard, the Court established in paragraph 200 of the judgment that "the evidence submitted to this Court is not sufficient to prove that Mr. Omeara Miraval, while he was detained before his execution, suffered mistreatment that can be classified as acts of torture ... notes... [...]however,...] that this conclusion is independent of the one the State may

reach in the corresponding investigation." Furthermore, that paragraph clearly refers to the questioned paragraph 294. Similarly, where relevant, paragraphs 31 and 33 of the judgment established that the State recognized, by omission, the failure to investigate the alleged torture suffered by Mr. Omeara Miraval while he was disappeared before his death.

19. In accordance with the foregoing, this Court notes that the text of paragraph 294 of the judgment is clear and precise, since it establishes that "in accordance with the provisions of domestic law, the Court considers that the State must initiate, within a reasonable time and with due diligence, the aforementioned investigation to clarify the alleged facts, and enable the participation of the victims involved in the events or through their representatives and enable access to the proceedings that are carried out."

20. Based on the foregoing, the Court considers that the request made by the State (*supra* para. 16) does not correspond to the assumptions of interpretation established in Article 67 of the Convention, since it does not deal with the meaning or scope of the judgment, because the contested decision is precise and explicit in pointing out the obligation of the State to investigate the alleged acts of torture in the domestic jurisdiction.

V OPERATIVE PARAGRAPHS

21. Therefore,

THE COURT

in accordance with Article 67 of the American Convention on Human Rights and Articles 31(3) and 68 of the Court's Rules of Procedure,

DECIDES:

unanimously,

1. To declare admissible the requests for interpretation of the judgment on the merits, reparations and costs, issued in the *Case of Omeara Carrascal et al. v. Colombia*, presented by the victims' representatives and by the Republic of Colombia.

2. To dismiss as inadmissible the request for interpretation of the judgment on the merits, reparations and costs, issued in the *Case of Omeara Carrascal et al. v. Colombia* presented by the representatives of the victims, in the terms of paragraphs 14 and 15 of this judgment.

3. Dismiss as inadmissible the request for interpretation of the judgment on the merits, reparations and costs issued in the *Case of Omeara Carrascal et al. v. Colombia*, presented by the State, in the terms of paragraphs 18 to 20 of this judgment.

4. Order that the Secretariat of the Court notify this judgment of interpretation to the Republic of Colombia, the victims' representatives and the Inter-American Commission on Human Rights.

I/A Court H.R. Case of *Omeara Carrascal et al. v. Colombia. Interpretation of the Judgment on Merits, Reparations and Costs.* Judgment of October 14, 2019.

Eduardo Ferrer Mac-Gregor Poisot
President

Eduardo Vio Grossi

Elizabeth Odio Benito

Eugenio Raúl Zaffaroni

L. Patricio Pazmiño Freire

Pablo Saavedra Alessandri
Registrar

So ordered,

Eduardo Ferrer Mac-Gregor Poisot
President

Pablo Saavedra Alessandri
Registrar