

Press Release

Inter-American Court of Human Rights

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I/A Court H.R.

Protecting Rights

BRAZIL IS RESPONSIBLE FOR VIOLATING THE RIGHTS TO TRUTH, TO PROTECTION, AND TO A FAIR TRIAL AND HUMANE TREATMENT OF THE FAMILY OF A HUMAN RIGHTS DEFENDER

San José, Costa Rica, October 4, 2022. In the Judgment notified today in the *Case of Sales Pimenta v. Brazil*, the Inter-American Court of Human Rights found the State of Brazil internationally responsible for the violation of rights to a fair trial, judicial protection, the right to truth and humane treatment to the detriment of the family of human rights defender Gabriel Sales Pimenta, as a result of the State's serious shortcomings in the investigation into his violent death and the situation of absolute impunity in which the homicide remains to date. This led the Court to conclude, *inter alia*, that Brazil did not comply with its obligation to act with enhanced due diligence in the investigation of the murder of Mr. Sales Pimenta, in violation of Articles 8(1), 25 and 1(1) of the American Convention.

Consult the official summary of the Judgment [here](#) and the complete text of the Judgment [here](#).

Gabriel Sales Pimenta was just 27 years old at the time of his death. In 1980 he joined the Marabá Rural Workers Union ("STR" according to its acronym in Spanish) as a lawyer. He was a representative of the Pastoral Land Commission, through which he provided legal advice to rural workers, founder of the National Association of Lawyers for Workers in Agriculture, and actively participated in social movements in the region and other spheres. In his work as a lawyer for the STR, he acted in defense of the rights of rural workers.

On July 18, 1982, as a result of his work as a human rights defender, Gabriel Sales Pimenta was shot three times as he was leaving a bar with friends in the city of Marabá, in southern Pará, and died instantly.¹

The investigation began the following day. On July 22, the Commissioner in charge of the investigation identified M.C.N and J.P.N as the alleged perpetrators of the homicide. C.O.S was later added as an alleged defendant. In August 1983, the Public Prosecutor filed a criminal complaint against the persons mentioned above as perpetrators of the crime of aggravated homicide.

In November 1999, the Public Prosecutor requested the extinction of the criminal responsibility of the accused J.P.N. by virtue of his death, which was decreed by the judge in office, in August 2000, together with the inadmissibility of the complaint against C.O.S., due to lack of evidence. Thus, Mr. M.C.N. was declared as the sole defendant. The trial was scheduled for May 23, 2002, before the Jury Court, which could not be held since M.C.N could not be located. On March 6, 2006, M.C.N. communicated his address in Brumado, Bahia. On April 3, 2006, the Federal Police

¹ Although the date of his death is prior to the recognition of the contentious jurisdiction of the Court by Brazil (December 10, 1998), the Court has jurisdiction to hear autonomous events that occurred in the criminal proceedings or other judicial proceedings that occurred after that date.

managed to comply with the preventive detention order. Thus, the trial date was set as April 27, 2006. On April 10, 2006, the defendant's lawyers filed a writ of habeas corpus before the Court of Justice of Pará, in order to request that house arrest or the extinction of criminal responsibility be ordered based on the statute of limitations. The Public Prosecutor also declared itself in favor of decreeing the statute of limitations. On May 2, 2006, the request for a decree of extinction of criminal responsibility was denied by the judge of the first instance of the Marabá Criminal Court. On May 8, 2006, the Assembled Criminal Chambers of the Court of Justice of Pará issued a decision to the contrary and declared the punishability of the crime extinct.

In June 2007, Rafael Sales Pimenta, brother of Gabriel Sales Pimenta, filed a claim for the excessive time delay in the criminal proceedings before the National Council of Justice, alleging the delay in processing it. In September 2008, the claim was archived because it was considered that it had lost its purpose since the criminal process had expired due to the statute of limitations. Furthermore, in November 2007 the mother of Gabriel Sales Pimenta, Maria da Glória Sales Pimenta, filed a claim for compensation against the state of Pará for moral damages resulting from the delay in processing the criminal proceedings and the resulting impunity of the homicide of her son. This appeal was unsuccessful.

In its Judgment, the Court indicated that, in cases of attacks against human rights defenders, such as the one that occurred in the case of Mr. Sales Pimenta, the States have a reinforced duty of due diligence regarding the investigation of the events.

The Inter-American Court, when analyzing the events that occurred, established that there are serious shortcomings that reflect an absolute lack of due diligence on the part of Brazil in prosecuting and punishing those responsible for the murder of Gabriel Sales Pimenta and clarifying the circumstances of the murder, despite the identification of three suspects and the existence of two eyewitnesses and other means of evidence that were available to the state authorities from the beginning. The Court also concluded that the present case exists in a context of structural impunity related to the threats, homicides, and other human rights violations against rural workers and their defenders in the state of Pará. Additionally, it concluded that the serious negligence of the judicial officers in the processing of the criminal proceedings allowed the statute of limitations to come into force and this was the determining factor creating a situation of ongoing and absolute impunity in the case.

The Court highlighted that the work of human rights defenders is essential for strengthening democracy and the rule of law. It also indicated that the need to eradicate impunity for acts of violence against human rights defenders is essential to guarantee that they can freely carry out their work in a safe environment.

In particular, it underscored that violence against human rights defenders has a chilling effect, especially when crimes go unpunished. In this regard, it reiterated that the threats and attacks on the integrity and life of human rights defenders and the impunity of those responsible for these acts are particularly serious because they have an effect not only individually, but also collectively, to the extent that society is prevented from knowing the truth about the situation of respect or violation of the rights of persons under the jurisdiction of a given State.

Due to these violations, the Court ordered various measures of reparation, among others: (i) create a working group in order to identify the causes and circumstances that generated impunity and develop lines of action to correct them; (ii) publish the official summary of the judgment in the national Official Gazette, in the Official Gazette of the state of Pará and in a newspaper with wide national circulation, as well as the judgment, in its entirety, on the website of the Federal Government, the Public Prosecutor and the Judiciary of the state of Pará; (iii) carry out a public act of acknowledgment of international responsibility in relation to the facts of this case; (iv) create a public memory space in the city of Belo Horizonte, in which the activism of human rights defenders in Brazil, including that of Gabriel Sales Pimenta, is valued, protected, and safeguarded; (v) create and implement a protocol for the investigation of crimes committed against human rights defenders; (vi) review and adapt its existing mechanisms, in particular the

Program for the Protection of Human Rights Defenders, Communicators and Environmentalists, at the federal and state levels, so that it is provided for and regulated by an ordinary law and takes into account the risks inherent to the activity of defending human rights; and (vii) pay the amounts established in the judgment for pecuniary and non-pecuniary damages, costs and expenses.

The composition of the Court for the delivery of this judgment was as follows: Judge Ricardo C. Pérez Manrique, President (Uruguay), Judge Humberto Antonio Sierra Porto, Vice President (Colombia), Judge Eduardo Ferrer Mac-Gregor Poisot (Mexico), Judge Nancy López (Costa Rica), Judge Verónica Gomez (Argentina) and Judge Patricia Pérez Goldberg (Chile). Judge Rodrigo Mudrovitsch, a Brazilian national, did not participate in the deliberation and signing of this judgment, in accordance with the provisions of Articles 19(1) and 19(2) of the Court's Rules of Procedure.

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