

INTER-AMERICAN COURT OF HUMAN RIGHTS
Case of the afro-descendant communities displaced from the Cacarica River Basin
(Operation Genesis) v. Colombia
Judgment of November 20, 2013
(Preliminary Objections, Merits, Reparations and Costs)

SUMMARY*

On November 20, 2013 the Inter-American Court of Human Rights issued a judgment by which the State of Colombia was declared internationally responsible for human rights violations committed by failing to comply with its obligation to guarantee the rights to personal integrity and not be forcibly displaced to the detriment of the members of the afro-descendant communities from the Cacarica River Basin in Riosucio, Department of Chocó. The facts of the case also refer to the illegal dispossession of ancestral lands belonging to the afro-descendant communities from the Cacarica River Basin. Similarly, the Court declared that the cruel, inhuman and degrading treatment to which Mr. Marino López was subjected in the town of Bijao, as well as the deprivation of his life committed by members of paramilitary groups, are attributable to the State by the acquiescence or collaboration of the security forces for operations of these groups, which facilitated their incursions in the Cacarica communities and caused or permitted the commission of such acts. The Court thus concluded that the State is responsible for the violation of the rights contained in Articles 4, 5, 8.1, 19, 21, 22 and 25 of the ACHR.

FACTS

The facts of the case occurred during the second half of the 90s in the Urabá Chocoano and are framed in a context in which the presence of illegal armed groups and violence in the region caused by paramilitary groups and "blocks" of guerrillas had been spreading and deepening. The Afro-Colombian population in the region had to endure in its territory the presence of various illegal armed groups, accompanied by threats, killings and disappearances, which led to their forced large-scale displacement.

The facts took place within the framework of a military operation called *Genesis* executed between February 24 to 27, 1997 in the general area of rivers Salaquí and Truandó to capture and/or kill members of the FARC guerrilla. Simultaneously with the *Operation Genesis*, paramilitary groups of the Autodefensas Unidas de Córdoba y Urabá (AUCC) in the execution of an operation called *Cacarica*, undertook an advance from north to south from the National Park Los Katíos along the river Cacarica, passing through Bijao and other communities located on the river banks, to finally reach the

* See I/A Court H.R. *Case of the afro-descendant communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia*. Judgment of November 20, 2013. Series C No.270. Available at: <http://www.corteidh.or.cr/docs/casos/articulos/seriec_270_ing.pdf>.

banks of the rivers Truandó and Salaquí, where they executed joint operations with the army. As a part of the *Operation Cacarica*, AUCC killed Mr. Marino López in Bijao and dismembered his body.

Following these events, several hundred residents of the Cacarica River Basin were forced to move to Turbo, Bocas de Atrato and Panama, where they stayed in different settlements for several periods during the subsequent four years. In Turbo, the living conditions of the displaced people were characterized by the lack of attention by the government, overcrowding, poor conditions and lack of privacy. Subsequently, many of the displaced people returned to other peace communities in territories of Cacarica. After the events of February 1997, displaced people continued to face harassment, threats and violence by paramilitary groups.

As a result of the forced displacement, damages were caused to individual property and collective property of the Cacarica communities because of the destruction and pillage that occurred during the *Operation Cacarica*, as well as for damages occurred from the disuse of their lands, in particular their community territories. Similarly, those communities were dispossessed of their ancestral lands, which were illegally exploited by timber companies with the permission or tolerance of the State.

PARTIAL ACKNOWLEDGMENT OF RESPONSIBILITY BY THE STATE

Given a partial acknowledgment of responsibility by the State, the Court found that it had ceased the dispute concerning the violation of Articles 8 and 25 in relation to 1.1 of the ACHR, to the detriment of the relatives of Mr. Marino Lopez because of the unjustified delay in the proceedings to identify and punish the perpetrators of his murder, as well as for the infringement of the principle of reasonable time to the detriment of the victims of forced displacement. The Court also found that the controversy over the alleged lack of due diligence in the investigations remained.

MERITS

The Court declared that the State was responsible for failing to fulfill its obligation to guarantee the rights to personal integrity and not be forcibly displaced (contained in the right of movement and residence), recognized in Articles 5.1 and 22.1 of the ACHR in conjunction with Article 1.1, with respect to two situations: first, regarding the forced displacement that occurred by the action of paramilitary groups in the framework of the *Operation Cacarica*, to the detriment of the displaced communities who were present at the time of the paramilitary incursions. On the other hand, the Court found that the State had infringed its obligations to ensure humanitarian assistance and safe return to the detriment of Cacarica communities who were in forced displacement for a period from three to four years.

The Court concluded that the State is responsible for the violation of the rights to life and humane treatment contained in Articles 4.1, 5.1 and 5.2 of the ACHR in relation with Article 1.1 to the detriment Mr. Marino Lopez Mena for the infringement of its obligations of prevention, protection and investigation, as well as the violation of the right to personal integrity to the detriment of his relatives. The Court concluded that in the context of actions executed in the Cacarica area, there was collaboration between members of the security forces who carried out *Operation Genesis* and paramilitary groups that carried out *Operation Cacarica*.

The Court found that the State is responsible for the violation of the rights of children when not developing enough positive actions in their favor in a context of greater vulnerability, particularly while they were away from their ancestral lands during the period during which they were affected by overcrowding and lack of access to education, health and adequate food. Therefore, the Court declared that the State is responsible for the violation of the right to humane treatment recognized in Article 5 of the ACHR in relation to Articles 1.1 and 19 to the detriment of the displaced children, as well as those born in situation of displacement.

Regarding the illegal dispossession of the territory of black communities of the Cacarica River Basin, the Court indicated that the State is responsible for violation of the right to collective property protected through Article 21 of the ACHR in relation to Article 1.1 to the detriment of the members of those communities.

In respect with the violation of judicial guarantees and effective protection, the Court found that the State had partially acknowledged its responsibility for the violation of the principle of reasonable time in internal investigations and found that, indeed, the duration thereof did not satisfied such principle contained in Article 8.1 of the ACHR. At the same time, the Court distinguished the periods in which the State itself did conduct diligent investigations to determine responsibility for the facts of the case to other periods when it was clear the omission of not having accomplished its duty. On the other hand, the Court concluded that despite the conviction of an army officer of high rank and the progress noted, the State is responsible for failing to comply with the due diligence in investigations involving most members of the security forces and related to paramilitary structures.

The Court also found that the State had failed to guarantee an effective remedy to resolve the illegal logging operations in the collective territories of black communities of the Cacarica River Basin, and guarantee that the decisions of domestic courts protecting collective rights of communities on their collective property were fully enforced, infringing Article 25 of the ACHR in relation to Article 1.1 to the detriment of Afro-descendant communities of the Cacarica River Basin.

REMEDIES

The Court established that the judgment constitutes *per se* a form of reparation and additionally ordered the State, as reparation measures: i) to hold a public act of acknowledgment of international responsibility for the facts of this case; ii) to continue effectively and with due diligence the investigations, and to initiate those that are necessary in order to identify, prosecute, and punish all those responsible for the facts of this case; iii) to publish and disseminate the judgment of the Court; iv) to provide adequate treatment to the victims in this case in the context of reparations programs under domestic regulations; v) to restore effective use, enjoyment and possession of the territories recognized to black communities grouped in the Cacarica River Basin; vi) to ensure that the conditions of the territories returned to the victims, as well as the place currently inhabited by them are appropriate for the safety and dignified life for those who have returned and those who yet have not; vii) to ensure that all persons who have been recognized as victims in this judgment receive the compensation established by the internal regulations, and viii) to pay to the family of Mr. Marino Lopez a compensation for material and immaterial damages.