

Press Release 76/2024 English

**COLOMBIA IS RESPONSIBLE FOR THE VIOLATION OF THE RIGHT TO
APPEAL A CONVICTION AND JUDICIAL PROTECTION IN A JUDGMENT
ISSUED TO A PERSON GRANTED CONSTITUTIONAL IMMUNITY**

San José, Costa Rica, November 22, 2024.- In the judgment notified today in the *Case of Arboleda Gómez v. Colombia*, the Inter-American Court of Human Rights declared the State of Colombia responsible for the violation of the rights to appeal a judgment and to judicial protection to the detriment of Saulo Arboleda Gómez. This violation occurred in the year 2000 due to the issue of a conviction by the Criminal Division of the Supreme Court of Justice, in a sole instance, for the crime of unlawful interest in public contracts.

The official summary and the full text of the judgment can be accessed [here](#).

Saulo Arboleda Gómez was the Minister of Communications in Colombia when several media channels published the transcript of a recording of a conversation on the granting process for a radio broadcast station, which stirred public interest since it discussed matters that could be punishable offences. The Attorney General of Colombia filed an accusation before the Criminal Division of the Supreme Court of Justice for the crime of unlawful interest in public contracts against Saulo Arboleda Gómez, and since he was a Minister, the Constitution required prosecution through a special jurisdiction. On October 25, 2000, the Criminal Division of the Supreme Court of Colombia convicted, in a sole instance, Saulo Arboleda Gómez for the crime of unlawful interest. A writ for protection of constitutional rights (*tutela*) and five remedies were filed against the decision. The writ and all remedies (except for one that was abandoned) were not admitted or were rejected.

The Court determined that Article 8(2)(h) of the American Convention does not establish any type of exception in its application, since the text indicates the existence of “the right to appeal the judgment to a higher court” and does not make any distinction regarding the type of court that issued the decision to be appealed, nor does it exclude any person from that guarantee; consequently, this obligation applies to all proceedings, even those for “individuals granted constitutional immunity,” which was violated in the instant case. Moreover, the Court found a clear violation of the right to appeal the conviction, given that since there was no instance, it was not possible for any remedy to provide adequate judicial protection; therefore, Article 25(1) of the Convention was also violated.

In its judgment the Court noted the efforts made by the State after the facts of this case; however, it found that at the time when these facts took place, Colombia had not adopted the measures necessary for the adequate implementation of its conventional obligations in its domestic body of law. Firstly, the law of Colombia did not establish the right to appeal the decision of “individuals granted constitutional immunity”; secondly, the judicial authorities did not guarantee this right through existing remedies. Consequently, the Court considered that at the time when the facts of this case occurred, Colombia did not comply with its duty to adopt domestic legal effects, and it is responsible for the violation of Article 2 of the Convention.



Due to these violations, the Court ordered several reparation measures to the State, including to take the necessary measures to guarantee Mr. Arboleda Gómez the right to appeal the conviction.

Judge Rodrigo Mudrovitsch and Judge Eduardo Ferrer Mac-Gregor Poisot disclosed their joint concurring opinion.

The Court's composition for the issuing of this judgment was as follows: Judge Nancy Hernández López, President (Costa Rica); Judge Rodrigo Mudrovitsch, Vice-President (Brazil); Judge Eduardo Ferrer Mac-Gregor Poisot (Mexico); Judge Ricardo C. Pérez Manrique (Uruguay) and Judge Verónica Gómez (Argentina). Judge Humberto Antonio Sierra Porto, of Colombian nationality, did not participate in the processing of this case or deliberation and signing of this judgment. Judge Patricia Pérez Goldberg, due to reasons of force majeure, accepted by the full Court, did not participate in the deliberation or signing of this judgment.

This press release was drafted by the Registrar's Office of the Inter-American Court of Human Rights; it is solely responsible for this document.

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