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#### Nestle Face Swiss Trial Over Colombian Murder

Top managers at Nestle could be investigated for the role they played in the murder of a former employee in Colombia, Switzerland's highest court has to decide.

The widow of murdered Colombian trade union activist Luciano Romero launched an appeal this month to the Federal Supreme Court of Switzerland after previous Swiss courts ruled against an investigation into the company, contradicting recommendations from a Colombian judge.

Romero, who was employed by Nestle subsidiary company Cicolac for twenty years until he was dismissed in 2002, was tortured and killed by paramilitaries in 2005 just before he was due to go to Europe and testify as a witness to the policies of Nestle-Cicolac at the Permanent People's Tribunal.

His death was one of the countless acts of violence against trade unionists by right wing paramilitary groups in Colombia who, often encouraged by public officials, are quick to attack people involved in campaigns for labour rights.

However, Romero's case attracted international attention when a Colombian court sentenced his killers to jail - a rare occurrence in a country where impunity reigns - and the judge stated that there should be further investigation into the role of Nestle at a local and international level.

Judge Sanchez was forced into exile following the ruling but later, speaking in the United States, he said that it was the 'intellectual' players rather than the paramilitaries who are the most important to bring down as they are the ones who order the executions and put up the money, whilst remaining in impunity.

"Thus, these crimes will not stop, since the true perpetrators are not prosecuted," he told the US House Committee on Education and Labour in 2009.

Following his ruling, the legal team for Romero's widow in Switzerland and his Colombian trade union Sinaltrainal submitted a request to Swiss public prosecutors to investigate Nestle's role in the death.

The legal representatives argue that executives at the Swiss company are complicit in Romero's death because they did not do enough to prevent the killing, despite being informed about death threats sent to him. Legal organisation the European Centre for Constitutional and Human Rights (ECCHR), who are working on the case, says that Nestle managers were aware of the actions of local Nestle representatives in Colombia, who had close links to paramilitary circles and branded Romero as a guerilla fighter – defamation that in Colombia is tantamount to a death sentence. ECCHR argue that, despite knowing that this risk-taking behaviour could lead to Romero's death, Nestle did not act to stop managers at the subsidiary company.

Fourteen months after the request was submitted however, the Swiss prosecutors announced in May 2013 that they would not investigate the responsibility of Nestle in the killing, arguing that the case was statute-barred because too much time had passed since the murder.

This position was further underscored in December when the Cantonal Court of Vaud rejected a complaint from lawyers

against the decision not to investigate.

Now, representing Romero's widow, the ECCHR and lawyers in Switzerland are taking the case to the Supreme Court where they hope the decision not to investigate will be overturned.

The ECCHR have also accused the Swiss Prosecutors office of using formalities to deliberately delay proceedings until they could announce it had become time-barred, protecting one of the country's biggest companies. "That would be the conclusion to make," says Annelen Micus, legal advisor at the ECCHR. "It's not common to deal with cases that way. If it's looking like they will not move forward with an investigation the announcement tends to come in a couple of months."

This is not the first time Swiss prosecutors have refused to investigate accusations against Nestle. They previously dropped a case against the company when they were accused of hiring a security firm to infiltrate and spy on an Swiss NGO who were writing a book about Nestle's policies. The case eventually had to be heard in a civil court – where Nestle was found guilty in January 2013.

However, the current case against the food company is the first of its kind as it tests out a new law about corporate responsibility inSwitzerland. "In Switzerland they have the possibility of holding companies criminally responsible for things that have happened to employees abroad, although it's never been used for a human rights case in the ten years it has been available," explains Micus.

"It's a chance to establish a standard of human rights due diligence," she said, explaining that a ruling in the favour of the investigation could set a precedent for further cases.

Announcing the decision to appeal follows the murder in December last year of another Colombian employed by Nestle. Oscar Lopez Trivino was a member of the same Sinaltrainal trade union as Romero and is thought by some human rights group to be the fifteenth Nestle employee killed in Colombia. Nestle have acknowledged that seven of their unionised employees and several white-collar employees have been killed but have defended themselves against accusations from Sinaltrainal, arguing that they are not responsible and provide security measures to employees who are union leaders.

However, with impunity at around 90% in Colombia, justice for families of men like Romero or Trivino is a rare occurrence. Holding international companies to account in their home countries may be one of the few ways to secure protection for people who risk their lives standing up for employee rights.

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