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CASE 11.144

FRIENDLY SETTLEMENT REPORT

GERSON JAIRZINHO GONZÁLEZ ARROYO
COLOMBIA

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FRIENDLY SETTLEMENT
GERSON JAIRZINHO GONZÁLEZ ARROYO
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AUGUST 6, 2019¹

I. SUMMARY AND PROCEDURAL ASPECTS RELATED TO THE FRIENDLY SETTLEMENT PROCESS

1. On April 7, 1993, the Inter-American Commission on Human Rights (hereinafter "the Commission" or the "IACHR") received a petition filed by the *Corporación Colectivo de Abogados - José Alvear Restrepo* (hereinafter "the petitioners") alleging the international responsibility of the Republic of Colombia (hereinafter "the State" or "the Colombian State") for the forced disappearance of Gerson Jairzinho González Arroyo (hereinafter "the alleged victim") on November 20, 1992 in the city of Sincelejo, department of Sucre, as well as the lack of diligence on the part of the judicial authorities in the investigation and punishment of those responsible for the facts.

2. The petitioners alleged that the State is responsible for the violation of the rights to life, personal integrity, personal liberty, freedom of expression, judicial guarantees, and judicial protection, enshrined in Articles 4, 5, 7, 8, 13, and 25 of the American Convention on Human Rights (hereinafter "the American Convention"), all of which are in accordance with the general obligation to respect and to guarantee the rights provided for in Article 1(1) of the same instrument.

3. On October 23, 2010, the IACHR issued Admissibility Report No. 123/10. In its report, the Commission concluded that it was competent to examine the complaints filed by the petitioners regarding the alleged violation of Articles 3, 4, 5, 7, 8, and 25, in accordance with Article 1(1) of the American Convention and Article I of the Convention on Enforced Disappearances, and that were are admissible, in accordance with the requirements established in Articles 46 and 47 of the American Convention. It also concluded that the complaint regarding the alleged violation of Article 13 of the American Convention should be declared inadmissible.

4. On May 6, 2015, the parties celebrated the signing of a Memorandum of Understanding in order to begin the process of seeking a friendly solution within the framework of the visit of Commissioner José de Jesús Orozco, IACHR Rapporteur for Colombia. Subsequently, the parties signed a friendly settlement agreement (hereinafter "FSA" or "Agreement") signed on December 5, 2016 within the framework of the 159th session in Panama City.

5. On July 29, 2019, the parties jointly submitted a balance on the progress made in complying with the agreement and requested the IACHR to homologate it.

6. In this friendly settlement report, pursuant to Article 49 of the Convention and Article 40.5 of the Commission's Rules of Procedure, a review of the facts alleged by the petitioner is made and the friendly settlement agreement, signed on December 5, 2016, by the petitioner and representatives of the Colombian State is transcribed. It also approves the agreement signed by the parties and agrees to the publication of this report in the IACHR's Annual Report to the General Assembly of the Organization of American States.

II. ALLEGED FACTS

7. The petitioners alleged that on the morning of November 20, 1992, Gerson Jairzinho Gonzalez Arroyo, then 18, was in the San Antonio neighborhood of Sincelejo, Department of Sucre. They stated that around 9:30 a.m., he was intercepted by alleged agents of the Administrative Department of Security [*Departamento Administrativo de Seguridad* or "DAS") who drove him to a truck and left with an unknown

¹ Commissioner Luis Ernesto Vargas, of Colombian nationality, did not participate either in the discussion or decision of the present case, in accordance with Article 17.2.a of the IACHR's Rules of Procedure.

destination. The petitioners indicated that Luis Gonzalez Espinosa, Gerson Gonzalez's father, learned of what happened because the cousin of the alleged victim witnessed the events.

8. They stated that a few days before the disappearance of Gerson Gonzalez, specifically on November 16, 1992, the Fourth Prosecutor's Office of the Sincelejo Economic Heritage Unit had initiated an investigation into the crime of extortion against several people, including the alleged victim, which is why the petitioners consider that DAS agents were carrying out follow-up work on Gerson Gonzalez.

9. They alleged that on November 21, 1992, Gerson Gonzalez's father, Luis Gonzalez, filed a complaint with the Preliminary and Permanent Unit of the Sectional Directorate of the Prosecutor's Offices of Sincelejo and that on December 21, 1992, the Prosecutor's Office issued a decision to open a preliminary investigation.

10. The petitioners indicated that on December 31st, 1992, Luis González filed a habeas corpus appeal before the Third Municipal Criminal Court of Sincelejo for the arrest and disappearance of his son by DAS agents. They also alleged that on January 3, 1993, the Third Court declared the appeal inadmissible, concluding that Gerson González was not being held at the DAS facilities.

11. According to the petition, on 8 June 1993, the Public Prosecutor's Office ordered the suspension of the preliminary investigation on the grounds that there was no merit in issuing a decision to open the investigation, despite the fact that the investigation carried out by the General Attorney's Office [*Procuraduría General de la Nación*, hereinafter "PGN"] concluded that there were indications that DAS agents had participated in the disappearance of Gerson González and that witnesses to the events had identified those agents. The petitioners stated that after more than 18 months, on December 24, 1994, the suspension measure was lifted. Subsequently, on February 24, 1995, the file was sent to the Fourteenth Anti-extortion and Kidnapping Prosecutor's Office, which in turn forwarded it to the Regional Prosecutor's Office of Barranquilla.

12. The petitioners maintained that they filed a lawsuit for the constitution of a civil party on August 28, 1995 before the Regional Prosecutor's Office of Barranquilla, with the purpose of claiming the material damages caused by the illicit act. They pointed out that they were not allowed to become a civil party until 9 February 1996, despite the fact that article 47 of the Code of Criminal Procedure established a period of three days for the admission or rejection of the complaint to be decided. They stated that on April 11, 1997, the Barranquilla Regional Prosecutor's Office ordered the closing of the investigation and charged three DAS agents with the crime of kidnapping for ransom.

13. The petitioners alleged that the file was forwarded to the Regional Judge of Barranquilla, who sentenced the three agents on December 28, 1999, and that they were each sentenced to eleven years' imprisonment. They pointed out that this sentence was appealed and that on January 11, 2000, the Superior Court of Bogotá declared the nullity of everything that had been done in view of the fact that the merit of the summary had to be qualified for the crime of simple kidnapping and not for that of kidnapping for ransom.

14. The petitioners asserted that the investigation was returned to the Sixteen Section Prosecutor's Office in Sincelejo to be known as simple kidnapping and was subsequently reassigned to the National Human Rights Unit [*Unidad Nacional de Derechos Humanos*, hereinafter "UNDH"]. They maintained that on March 14, 2003, the UNDH issued an indictment against only one of the agents and that the investigation was referred to the Criminal Court of the Specialized Circuit of Sincelejo. They claimed that this agent was acquitted on July 1, 2005 as there was no certainty about his involvement in the facts. They affirmed that there is currently an investigation pending at the preliminary stage before the Seventeenth Prosecutor's Office of the UNDH.

15. On the other hand, the petitioners stated that on March 3, 1993, Luis González filed a complaint with the PGN Office of Special Investigations, in which he held DAS agents responsible for the disappearance of Gerson González. They affirmed that on May 3, 1993, this office deferred the investigation to the Office of the Human Rights Ombudsman.

16. The petitioners contended that on June 22, 1994, PGN ordered the opening of a disciplinary investigation in order to clarify the conduct of four DAS agents for irregularities in the investigation against Gerson Gonzalez for the crime of extortion. They pointed out that on March 8, 1999, the PGN dismissed one of the DAS officials and acquitted two other agents. They indicated that this decision was appealed by the defense and that consequently, on March 17, 2000, all the defendants were acquitted. The petitioners argued that there were numerous shortcomings in the process, such as the fact that the DAS director or eyewitnesses were not summoned to surrender an inquiry.

17. They also alleged that on June 20, 1994, the relatives of the alleged victim filed before the Sucre Contentious Court a claim for direct reparation against the Nation - Administrative Department of Security (DAS), which was denied on September 11, 1996. They indicated that on September 24, 1996, the relatives appealed this decision and that on November 28, 2002 the State Council revoked the sentence of the Contentious Court and declared the Nation - Administrative Department of Security (DAS) administratively responsible for the disappearance of Gerson González.

18. The petitioners pointed out that, to date, there is a criminal process at the investigation stage, in the framework of which no perpetrator has yet been punished. The petitioners maintained that agents of the State disappeared Gerson Gonzalez and that he has been missing for more than seventeen years without the State having efficiently investigated the facts described. They indicated that the whereabouts of Gerson González or his mortal remains are still unknown, and that those responsible have not been identified, tried or punished, and the truth of the facts is not known. Consequently, they alleged that the Colombian State violated the rights to guarantees and judicial protection of the members of the family of Gerson González.

III. FRIENDLY SETTLEMENT

19. On December 5, 2016 in Panama City, the parties represented by Juanita María López Patrón, Director of Legal Defense of the National Agency of Legal Defense of the State (hereinafter ANDJE) and by Jomary Ortégón Osorio on behalf of the *Corporación Colectivo de Abogados "José Alvear Restrepo"*, which acted as petitioner in this case, signed an amicable settlement agreement, the text of which reads as follows:

FRIENDLY SETTLEMENT AGREEMENT CASE IACHR 11.144 GERSON JAIRZINHO GONZÁLEZ²

FIRST: ACKNOWLEDGMENT OF LIABILITY

The Colombian State recognizes its international responsibility for the violation of the rights enshrined in articles 3 (right to recognition of legal personality), 4 (right to life), 5 (right to personal integrity) and 7 (right to personal liberty) of the American Convention on Human Rights to the detriment of Gerson Jairzinho González, as well as articles 5 (right to personal integrity), 8 (right to judicial guarantees) and 25 (right to judicial protection) in relation to article 1.1 of the same international instrument to the detriment of his relatives, for the events that occurred on November 20, 1992 in which the young Gerson Jairzinho González disappeared in the city of Sincelejo, department of Sucre, as well as the lack of diligence of the judicial authorities in the investigation, sanction of those responsible for the events and determination of the victim's whereabouts.

SECOND: JUSTICE MEASURES

Regarding justice, the following commitments arise:

1. The Office of the Attorney General of the Nation, within the framework of the informal impulse that corresponds to it in the matter of investigation, undertakes to cover different

² Numbering from the IACHR to facilitate monitoring of implementation of the FSA.

lines of investigation that lead to the clarification of the facts, as well as to advance all necessary actions for the identification of the responsible for the forced disappearance of Gerson Jairzinho González. Likewise, the prosecutor in charge of the case, in a concerted manner with the civil party, will build and carry out the plan to search for the victim's mortal remains. In order to evaluate the progress made in the field of justice, a meeting will be held every six months between the representatives of the case and the Directorate of the National Prosecutor for Human Rights and International Humanitarian Law, to analyze the progress made in the criminal investigation.

2. The National Agency for Legal Defense of the State undertakes, once the friendly settlement agreement is approved, to request before the Office of the Attorney General that, within the framework of its powers, establishes the feasibility of filing a review action of: (i) the Resolution dated June 13, 2003 issued by the Delegated Prosecutor's Office before the Specialized Criminal Judges of the Circuit, attached to the National Human Rights and International Humanitarian Law Unit in process No. 261, whereby he precluded the investigation in favor of Isnardo Alfonso Castellanos Peña, Jorge Muñoz Paez and German Antonio Gómez Díaz, and (ii) the judgment dated July 1, 2005, issued by the Criminal Court of the Special Circuit of Sincelejo Sucre, by which he was acquitted Mr. Alcides Medina.

THIRD: SATISFACTION AND REHABILITATION MEASURES

The State of Colombia undertakes to carry out the following measures:

1. Carrying out an act of acknowledgment of responsibility and public apology headed by a high ranked State official, with the participation of public authorities, the families of the victims and their representatives, which will be disseminated through mass media. On the day of the act, a commemorative plaque will be installed in memory of the victim, in the city of Sincelejo, Sucre. The execution of this measure will be in charge of the Unit for the Comprehensive Care and Reparation of Victims.

2. Advance the necessary actions so that in the Cultural Center of the municipality of Sincelejo a memory space is allocated with the photography and history of Gerson Jairzinho González Arroyo, which allows residents and visitors to write messages in their memory. The execution of this measure will be in charge of the Unit for the Comprehensive Care and Reparation of Victims.

3. The parties will arrange for the realization and implementation of a pedagogical measure that contributes to the non-repetition of the facts and to the recovery of the victim's memory. The expenses for the implementation of the concerted measure will be borne by the Colombian State.

4. Grant an aid for \$ 50,000,000 (FIFTY MILLION COLOMBIAN PESOS MC/TE) for Yasmin Bernarda González Arroyo and another of equal value to Edú González Arroyo, brothers of the victim, with the objective of financing technical or technological or professional education that they choose and/or pay the expenses of their maintenance. The beneficiaries of the measure must complete the relevant procedures to be admitted to the respective study center.

5. In any case, the aid must begin to be used within a term not exceeding five (5) years of the signing of this agreement, or else the management of the State will be declared fulfilled in its achievement. The execution of this measure will be carried out by the Ministry of Education and the Colombian Institute of Credit and Technical Studies Abroad (ICETEX). In addition to the amount of the aid, the financial resources generated by the administration and management of the fund will be guaranteed to guarantee compliance with this commitment.

6. The Ministry of Health and Social Protection will implement the health rehabilitation measures that constitute medical, psychological and psychosocial care through the General System of Social Security in Health and the Program of Psychosocial and Integral Health Care for Victims [*Programa de Atención Psicosocial y Salud Integral para las Víctimas* or “PAPSIVI”]. An adequate, timely and priority treatment will be guaranteed to the people who require it, prior manifestation of their will, and for as long as necessary. In providing psychological treatment and psychosocial care, the particular circumstances and needs of each person should be considered, so that they are given family and individual treatments, as agreed with each of them and after an individual evaluation. For access to comprehensive health care, the granting of any type of medication will be guaranteed, as well as the treatments that are required (including physical and mental health) to the beneficiaries of the measures, while having priority attention and differential by virtue of their condition as victims. These measures will be implemented upon the signing of the friendly settlement agreement.

FOURTH: PECUNIARY REPAIR

The State undertakes to initiate the process of Law 288 of 1996 once this friendly settlement agreement is approved through the issuance of Article 49 of the ACHR, with the purpose of repairing the damages caused to the relatives of the victims as a result of the affectations generated by the lack of investigation of the facts that have prevented the clarification of them and knowing the whereabouts of Mr. Gerson Jairzinho González. The National Agency of Legal Defense of the State will be the entity in charge of assuming the procedure of the law 288 of 1996.

FIFTH: APPROVAL AND FOLLOW-UP

The parties request the Inter-American Commission on Human Rights to follow up on this Agreement and will request approval by common agreement.

Subscribed in three copies on December 5th, 2016.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

20. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, this procedure has the aim of “reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.” Agreeing to pursue this procedure expresses the good faith of the State as regards carrying out the purposes and objectives of the Convention in keeping with the principle of *pacta sunt servanda*, by which states should carry out their treaty obligations in good faith.³ It also reiterates that the friendly settlement procedure provided for in the Convention makes it possible to conclude individual cases in a non-contentious manner, and in cases relating to several countries, has proven to offer an important vehicle for settlement that can be used by both parties.

21. The Inter-American Commission has closely followed the development of the friendly settlement achieved in the instant case and highly values the efforts made by both parties during the negotiation of the agreement to achieve this friendly settlement, which is compatible with the object and purpose of the Convention.

22. In accordance with the provisions of the fifth clause of the friendly settlement agreement and as a result of the working meeting facilitated at the 171 Period of Sessions by Commissioner Francisco José Eguiguren, Rapporteur of the IACHR for Colombia, the parties have jointly requested to the Commission to adopt the report contemplated in Article 49 of the American Convention.

³ Vienna Convention on the Law of Treaties, U.N. Doc A/CONF.39/27 (1969), Article 26: **Pacta sunt servanda**. “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”

23. The IACHR observes that given the information provided by the parties up to this point and the request for approval of the FSA submitted by the parties to the Commission, it is appropriate to assess the fulfillment of the commitments established in the friendly settlement agreement.

24. The Inter-American Commission values the first declarative clause, in which the Colombian State recognizes its international responsibility for the violation of the rights enshrined in articles 3 (right to recognition of legal personality), 4 (right to life), 5th (right to personal integrity) and 7th (right to personal freedom) of the American Convention on Human Rights to the detriment of Gerson Jairzinho González, as well as Articles 5 (right to personal integrity), 8 (right to judicial guarantees) and 25 (right to judicial protection) in relation to article 1.1 of the same international instrument to the detriment of their relatives, for the events that occurred on November 20, 1992, in which the young Gerson Jairzinho González was disappeared in the city of Sincelejo, department of Sucre; as well as the lack of diligence of the judicial authorities in the investigation, sanction of those responsible for the facts and determination of the victim's whereabouts.

25. Regarding the second clause on justice, the parties jointly reported that two meetings have been held between the Attorney General's Office and the representatives of the victims, in which the progress made in the criminal investigation has been analyzed and a relationship has been made among different tests performed.

26. Regarding numeral 1 on the search for mortal remains, on July 29, 2019, the parties jointly informed that on August 21, 2018, the investigation was assigned to office 25 of the Specialized Directorate Against Humans Rights Violations which was responsible for issuing the necessary orders to perform DNA identification studies and other analyzes related to the search for the mortal remains of Gerson González Arroyo and that unfortunately, on two occasions the results of collation between the genetic profiles studied and the genetic profile of the victim have given a negative result. Additionally, they indicated that currently the Prosecutor of the case has issued the corresponding judicial orders, so that the checks of new found remains are carried out and the State has undertaken to give the results of the new proceedings in a timely manner. It was also ordered to detail the way in which the judicial inspection of a found body that could be related to the case was carried out, as well as a visit of judicial inspection in the CTI genetics laboratory to obtain additional information on the bone remains, among other judicial activities. Therefore, the Commission considers that this end of the agreement is partially complied with and so it declares it. The Commission would be waiting for the parties to report on the progress of the new studies for the identification of the remains found and the results of these assessments.

27. With respect to numeral 2 regarding the justice review action, the parties jointly reported that the National Agency for Legal Defense of the State has informed the Office of the Attorney General of the Nation, the resources advanced internally on the facts of the present case and has sent copies of the main procedural pieces issued in the criminal process so that this entity studies the feasibility of filing the review action of: i.) the Resolution of June 13, 2003 that archived the investigation in favor of Isnardo Alfonso Castellanos Peña, Jorge Muñoz Paéz and German Antonio Gómez Dias and ii.) the Judgment of July 1, 2005 issued by the Criminal Court of the Specialized Circuit of Sincelejo Sucre, through which Alcides Medina was acquitted. Likewise, it was indicated that once this FSA has been approved and published, the ANDJE will send the Homologation Report to the PGN so that within the framework of its competences, it establishes the viability of filing the review action. Taking into account the information provided jointly by the parties, the Commission observes that said measure must be complied with once this homologation report has been issued, and therefore considers that the measure is pending compliance and declares it. The Commission is waiting for the parties' updated information on its execution after the publication of this report.

28. Regarding numerals 1 and 2 of the third clause of the agreement, on satisfaction and rehabilitation measures, the parties jointly informed that the necessary steps were taken to ensure the act of acknowledgment of responsibility and the installation of the two commemorative plaques be held on July 9, 2019, date on which the birth of Gerson González is commemorated. In that sense, the parties jointly informed that the act of recognition and disclosure of the plates was chaired by the Minister of Justice and Law, Margarita Cabello Blanco and was held in the Santander Park located in the city of Sincelejo, Sucre. Likewise, they informed that within the process of consultation of the different aspects related to the content and development

of the ceremony, the requests that were presented by the victims and their representatives in written communications, consultation meetings, telephone communications and emails were taken into consideration. Likewise, the parties agreed on the content of the agenda and the act that included, among other elements, a religious reflection, the exhibition of two banners with the image of Gerson González and the delivery of a candle lit by the Minister of Justice to Adolfo González, a family member of Gerson, symbolizing the commitment of the Colombian state to continue in the search for truth, justice and reparation in the case. Also, a cultural event was presented by the Foundation for people with cognitive disabilities and Down syndrome "*Fundisdown*", and refreshments were shared among the attendees.

29. The Minister of Justice and Law indicated in said event:

[...] This solemn act has a transcendental significance on the point of claiming the human dignity of Gerson, his family and his friends, to which they are entitled, since said constitutional value constitutes one of the fundamental pillars of the Social State of Law; hence my presence here on behalf of the Colombian State is to publicly lament the unfortunate fate of Young Gerson.

The forgiveness that I come to offer is a sincere act, and above all respectful for the immense suffering of the Family and the friends of Gerson; But the most important thing in this message is to make clear the commitment we have along with all Colombian society to change the resentful and harmful discourse of war for convictions and actions that seek national reconciliation. I am convinced that the national conciliation has to be approached from the institutional framework with the support of society in order to obtain the peace that we aspire so much.

An intolerant society in the face of diversity, in the face of dissent and in the face of controversy is a highly damaging blow to democracy and an approach to the disfiguration of what is fair, legal and convenient, since the foundation of our democratic State is conciliation, respect for others and protection of human rights.

A true national reconciliation stands in the acceptance of responsibility of all the actors in the war; only in this way will the reinsertion of the armed be obtained and the State will strengthen its legitimacy, as the greatest guarantee of peace; then, the call to contribute to this peaceful coexistence so longed for is also for all the inhabitants of this country, it is important that the relations of the co-associates be improved, and that each one cultivates the conviction for the respect of others.

As a mother and grandmother, I highlight the persistence of Mr. Adolfo González, Gerson's father, to investigate the disappearance of his son. In the same proportion I regret that to date those responsible for these events have not been prosecuted and that we still have no answers about what happened with their son.

I also want to give special recognition to Gerson's mother, Mrs. Yadira Esther, who unfortunately died without knowing what had happened to her son, was unable to give it a holy burial and died without having received sincere apologies from the Colombian State. As a mother and grandmother, I reiterate, it also hurts to know that many women in Colombia have had to go through this deep pain, for them also a supportive, emotional and sincere hug.

We are hurt as a State that today the relatives of Gerson have not had access to their remains to give them a dignified burial. Today we reiterate the absolute commitment to the work of searching and finding these mortal remains.

We are outraged as a State that today those guilty of such atrocious acts have not been convicted and for this reason, we commit ourselves to make all the necessary efforts so that these facts do not remain in impunity.

The State acts under the conviction that its actions and decisions will only be legitimate insofar as they are based on absolute respect for human rights and fundamental freedoms. Therefore, today in front of you, family and friends of the victim, we declare that no effort will be spared, to avoid the repetition of events such as what happened to Gerson, because this is one of the most fundamental commitments in favor of the victims. [...]

30. Regarding the unveiling of the commemorative plaques of the life of Gerson González, it was carried out within the framework of the act of acknowledgment of responsibility, by the Presidential Adviser for Human Rights and International Affairs, after an intervention by part of Luis Adolfo González, Edu Gonzalez and Yasmin Bernarda González Arroyo, father, brother and sister of the victim, respectively. As reported jointly by the parties, the text of the plaques states the following:

[Plaque 1]
In memory of
Gerson Jairzinho González Arroyo
July 9, 1974 - November 20, 1992

The Colombian State recognizes its responsibility for the human rights violations enshrined in the American Convention on Human Rights for the forced disappearance of the young Gerson Jairzinho González Arroyo, which occurred on November 20, 1992.

Gerson was a young worker, delivered to his family and collaborator of his community in the San Antonio de Sincelejo neighborhood. His disappearance constitutes a serious crime that should not be repeated in our country and for which the Colombian State asks sincere forgiveness for the facts.

With this recognition we capture the memory of what happened and we seek that future generations know, recognize and remember the magnitude of such atrocious events so that they never happen again.

Friendly Settlement Agreement signed on December 5, 2016 before the Inter-American Commission on Human Rights.

[Plaque 2]
In memory of
Gerson Jairzinho González Arroyo
July 9, 1974 - November 20, 1992

[Photograph of Gerson González]

The Colombian State deeply regrets the forced disappearance of young Gerson Jairzinho González and apologizes to his relatives for their responsibility in these events and trusts that these events will never happen again.

Gerson will always be present in the lives of his relatives: Luis Adolfo González, Yadira Arroyo, Judith González, Luzmila, María, Emilia, Yasmin, Raúl, Adolfo and Edú González Arroyo.

31. As reported by the parties, the following officials attended this act of recognition and revelation of the plaques: the Minister of Justice and Law; the Presidential Counselor for Human Rights and International Affairs; the Secretary of the Interior and Citizen Coexistence of the Mayor's Office of Sincelejo; the Director of Human Rights and IHL (Responsible) of the Ministry of Foreign Affairs; the Director of International Legal Defense of the National Agency of Legal Defense of the State; the Director of Transitional Justice of the Ministry of Justice and Law; the Territorial Director of Sucre of the Integral Attention and Reparation Unit for Victims; the Regional Sucre Ombudsman and the Prosecutor of the Human Rights Directorate of the Office of

the Attorney General. After the unveiling of the plaques, they were installed at the headquarters of the Attorney General's Office (former headquarters of the Administrative Department of Security DAS), with the presence of family members and their representatives, as well as national and local authorities. It should be noted that the parties provided ample photographic and documentary record on the execution of these measures. Taking into account the information provided by the parties, the Commission considers that points 1 and 2 of the third clause of the agreement, on satisfaction and rehabilitation measures, are fully complied with and so it declares it.

32. Regarding point number 3 of the third clause of the agreement, related to the implementation of a pedagogical measure to contribute to the non-repetition of the facts and the recovery of the victim's memory, the parties jointly informed that, in response to the request made by the representatives of the victims, the National Agency of Legal Defense of the State proceeded to hold a meeting with members of the *Fundalectura* Foundation in order to explore whether it was feasible for it to support the completion of the pedagogical measure and kindly requested a job proposal. In this regard, the parties reported that *Fundalectura* continues to explore the viability of participating in the implementation of the measures, so once the proposal to be carried out by *Fundalectura* is received, it will be socialized with the victims and their representatives and if feasible, the necessary administrative procedures will be carried out to allow the measure to be implemented through the referred foundation. Therefore, taking into account the information elements described above, the Commission considers that this end of the agreement is pending compliance and so it declares it.

33. In relation to numeral 4 of the third clause of the agreement, related to the granting of fifty million Colombian pesos (COP 50,000,000 COP) for the victims' siblings in order to finance their education, the State informed that taking into account the information provided by the representatives of the victims, in relation to the university programs to which the beneficiaries of the measure had registered, on July 19, 2017 the National Agency for Legal Defense of the State requested the Ministry of Treasury and Public Credit [*Ministerio de Hacienda y Crédito Público* or "MHCP"], the allocation of one hundred million pesos (\$ 100,000,000 COP) to the Ministry of National Education in order to fulfill the commitment regarding the granting of educational aid. Said amount was allocated through Resolution No. 3189 of October 3, 2017 of the MHCP. Subsequently, through the Administrative Agreement No. 1280 of 2017, signed between the Ministry of National Education and the Colombian Institute of Educational Credit and Technical Studies Abroad - Icetex - the Fund was established that will guarantee the availability of financial resources to grant aid economic provisions set forth in judgments or Friendly Settlement Agreements signed in the framework of the Inter-American Human Rights System in favor of certain victims. On October 9, 2019, the operational guidelines, guidelines and policies governing the administration of said fund were dictated. Finally, through Amendment No. 1 to Agreement 1280 of 2017, the equivalent of one hundred million pesos (\$ 100,000,000 COP) was added to the budget to comply with the measure with respect to the two beneficiaries Edu González Arroyo and Yasmin González Arroyo.

34. The parties jointly confirmed that since the second semester 2017 the beneficiaries receive the amount of the scholarships agreed upon and are currently in the fifth semester of their studies. Based on the foregoing, the parties requested the IACHR to consider this end of the ASA fulfilled. Taking into account the information provided by the parties, the Commission considers that this end of the agreement is fully complied with and declares it.

35. Regarding numerals 5 and 6 of the third clause of the agreement, on health rehabilitation measures, constituting medical, psychological and psychosocial care through the General Social Security System in Health and the Psychosocial Care Program and Comprehensive Health for Victims (PAPSIVI), the State informed that eight beneficiaries are covered by the General System of Social Security in Health and have been guaranteed the integral health service, which includes: i) access to the service without discrimination; ii) with establishments and services available to the geographic reach of the beneficiaries; iii) with availability of access to information about health services; and iv) with affordable economic conditions that do not impose barriers of any kind or unjustified charges to access health services. The parties also jointly reported that family psychosocial care and access to medical care and medication supply were provided to Luis Alfonso González Espinosa, Maria Bernarda González Arroyo; Luzmila Bernarda González Arroyo, Edu Delacerna González

Arroyo and Yasmin Bernarda González Arroyo, and provided the details of each of the treatments received by them. Taking into account the information provided jointly by the parties, the Commission considers that this end of the agreement is fully complied with and declares it.

36. On the other hand, in relation to the fourth clause on pecuniary reparation, the Commission observes that, according to the mechanism established in Law 288 of 1996, said measure must be complied with once this homologation report has been issued, for which it considers that the measure is pending compliance and so declares it. The Commission is awaiting updated information from the parties on its execution after the publication of this report.

37. For the above reasons, the IACHR considers that the first clause of the friendly settlement agreement has a declarative nature therefore it is not to the Commission to supervise its implementation.

38. On the other hand, the Commission considers that numerals 1, 2, 4, 5 and 6 of the third clause have been fully complied with and so it declares it. In relation to numeral 1 of the second clause on justice measures, the commission considers that it is partially complied with and so it declares it. Finally, the Commission considers that numeral 2 of the second clause, as well as numeral 3 of the third clause and the fourth clause are pending compliance and so it declares it.

39. Based on the foregoing, the Commission declares that the friendly settlement agreement has a substantial level of partial execution, and will therefore continue monitoring the implementation of the pending ends of the agreement until its full implementation.

V. CONCLUSIONS

1. Based on the foregoing considerations and by virtue of the procedure provided for in Articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts made by the parties and their satisfaction with the achievement of a friendly settlement in the present case, based on respect for human rights, and compatible with the object and purpose of the American Convention.

2. In light of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDE:

1. To approve the terms of the agreement signed by the parties on December 5, 2016.
2. Declare full compliance with numerals 1, 2, 4, 5 and 6 of the third clause of the friendly settlement agreement on satisfaction and rehabilitation measures, according to the analysis contained in this report.
3. Declare partial compliance with numeral 1 of the second clause on justice measures of the friendly settlement agreement, according to the analysis contained in this report.
4. Declare pending compliance with numeral 2 of the second clause on justice measures, as well as numeral 3 of the third clause on satisfaction and rehabilitation, and the fourth clause on economic compensation of the friendly settlement agreement, according to the content analysis in this report.
5. Continue to supervise the commitments established in numerals 1 and 2 of the second clause; numeral 3 of the third clause and the fourth clause of the agreement according to the analysis contained in this report. To that end, remind the parties of their commitment to periodically inform the IACHR about compliance with said measures.

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4. Make this report public and include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on the 6th day of August 2019. (Signed): Esmeralda E. Arosemena Bernal de Troitiño, President; Joel Hernández, First Vice-President; Antonia Urrejola; Second Vice-President; Margarete May Macaulay, Francisco José Eguiguren, and Flavia Piovesan, Members of the Commission.