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REPORT No. 287/22
CASE 12.961 H
FRIENDLY SETTLEMENT REPORT

JUAN GONZALEZ AND OTHERS
HONDURAS

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NOVEMBER 8, 2022

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. Between 2003 and 2005, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission,” or “the IACHR”) received five (5) petitions: P 775-03: Juan González and others, submitted by José Marcelino Vargas, on September 23, 2003; P 1004-03: Julio César Villalobos and others, submitted by Julio César Villalobos Velásquez on November, 2003; P 22-04: Juan Bautista Vargas Díaz and others, submitted by Juan Bautista Vargas Díaz on January, 2004; P 217-05: César Augusto Somoza and others, submitted by Gladys Ondina Matamoros Arias on January 8, 2005; P 1092-05: Rosa Dilia Salinas Barahona and others, submitted by Rosa Dilia Salinas Barahona on December 15, 2005 (hereinafter the “presumed victims”). In these petitions, it was alleged the international responsibility of the Honduras State (hereinafter “Honduras”, “State” or “Honduran State”) for the presumed violations of the rights established on the American Convention on Human Rights (hereinafter the “American Convention” or “Convention”), derived from the massive dismissal of the National Police crew classified in different scales, within the framework of the depuration of the referred institution. On October 20, 2006 the Commission decided to accumulate the petitions 22-04; 217-05 and 1092- 05 to the initial 775-03.

2. It was alleged in all the petitions that the State committed the presumed violation of the articles 8 (judicial guaranties) and 25 (judicial protection) of the American Convention, because the presumed victims would have been dismissed in an unjustified way, in accordance with the decree 58-2001, published on the Official Diary Gazette No. 29,504 of June 15, 2001 (hereinafter “decree 58 – 2001”), and without following the legal procedure established by it. The petitioners also alleged that the Honduran State was responsible for the violation of the rights acclaimed in articles 5 (right to personal integrity), 10 (right to compensation), 11 (protection of the honor and the dignity), 17 (protection of the family), and 24 (equality in the face of law) of the American Convention, in accordance with the general obligation established in the articles 1.1 and 2 of that instrument.

3. On July 21, 2014, the IACHR issued the Admissibility Report No. 57/14 on Case 12.961 Juan Gonzalez and others, related to the aforementioned petitions that were accumulated in said case. In its report, the IACHR concluded that it was competent to examine the alleged violation of articles 8 (judicial guarantees) and 25 (judicial protection) of the American Convention on Human Rights in connection with articles 1.1 and 2 of said instrument. It also decided to declare inadmissible the allegations regarding the alleged violation of articles 5 (right to personal integrity), 10 (right to compensation), 11 (protection of honor and dignity), 17 (protection of the family), and 24 (equal protection of the law) of the American Convention, in accordance with the general obligation established in articles 1.1 and 2 of said instrument. Additionally, the IACHR declared the petition inadmissible in respect of 42 persons who filed an unconstitutionality action against Decree 85-2001 given that, according to the IACHR’s calculation, the sentence was notified more than six months before the presentation of the petition at the IACHR, thus failing to comply with the requirement set forth in article 46.1b) of the ACHR.

4. In the Admissibility Report No. 57/14, it was noted that on December 11, 2006, the petitioners informed the Commission that the Committee for the Defense of Human Rights in Honduras (hereinafter “CODEH”) would be appointed as co-petitioner and that on May 21, 2007, Gladis Matamoros, original Petitioner of petition P-217-05, indicated to the Commission that it would withdraw as Petitioner and leave in its place CODEH. Subsequently, Mrs. Gladis Matamoros decided to resume her participation as Petitioner in case 12,961 Juan Gonzalez and Others.

5. On April 29, 2018, the IACHR approved an amendment to paragraph 40 of Admissibility Report No. 57/14 and declared the petition admissible with respect to the 42 persons who had been declared inadmissible initially in report 57/14.

6. On November 2014, the parties began the process of negotiating a friendly settlement and held a working meeting with the facilitation of the Commission on September 5, 2017, within the framework of the 164th session of the IACHR. In addition, on December 5, 2018, the parties held another working meeting with the facilitation of the Commission on December 5, 2018, during the 170th session of the IACHR. Said negotiations materialized in the signing of a friendly settlement agreement (hereinafter “ASA” or “agreement”) on September 18, 2019.¹

7. On July 3, 2019, the Commission informed the parties of the disaggregation of case 12.961 H, Juan González et al., to proceed with the homologation of the agreement.

8. Between May 28, 2020, and May 20, 2022, the State sent the Commission multiple briefs with the means for verifying compliance with the agreement. That information was forwarded to the petitioner in due course.

9. On April 30, 2021, the parties signed a memorandum of understanding on the September 18, 2019 FSA and the December 3, 2019, FSA, excluding in such addendum Julio César Gutiérrez Herrera from the September 18, 2019, FSA.

10. On April 27, 2022, the parties signed an addendum to the September 18, 2019 FSA, excluding in that addendum Messrs. Selvin Rodríguez Arita, Wilfredo García Rosales, José Ulfrán García López, Marco Antonio Núñez Aguilar, Marbin Alexis Lagos Rodríguez, Raúl Enrique Chávez López, José Tomás Osorto Soriano, Luis César Benavides Murillo, and Carlos Alberto Manzanares Flores, given the inability to disburse payment due to a lack of contact. In the same addendum, the parties expressed their satisfaction with the friendly settlement of the case.

11. On May 20, 2022, the parties requested the IACHR to proceed with the homologation of the agreement and its addendum.

12. Pursuant to Article 49 of the Convention and Article 40.5 of the Commission’s Rules of Procedure, a brief statement of the facts alleged by the Petitioner and a verbatim transcription of the friendly settlement agreement entered into on September 18, 2019, between the Petitioner and the representatives of the Honduran State are reproduced hereunder in the instant report. The Commission also approves the agreement between the parties and the publication of this report in the IACHR’s Annual Report to the General Assembly of the Organization of American States.

II. THE ALLEGED FACTS

13. The petitioners alleged presumed violation by the State of the right to due process, contained in Articles 8 and 25 of the American Convention, since the presumed victims were unjustifiably dismissed based on Decree 58-2001. According to the petitioners, this decree authorized the Congress of the Republic to “dismiss the police personnel without considerations of any kind”. In this regard, the petitioners stated that although the permanent purge of the National Police was necessary for its better functioning, the legal procedure established for it must have been followed. In this regard, they indicated that a regular administrative process, which would have all the guarantees of any criminal process, should have preceded the dismissal.

14. The petitioners argued that Honduras had violated the right contained in Article 24 (equal protection of the law), because they had been subjected to a decree that was exclusive and detrimental to their

¹ Indicating that this FSA is 1 of 8 agreements signed between December 1, 2018, and June 29, 2021, for a total of 357 alleged victims in case 12,961 Juan Gonzalez et al. This agreement and the effects thereof are limited to the beneficiaries referred to herein alone.

interests and was never applied to different category of public officials. They also indicated that Honduras had violated Article 11 (protection of honor and dignity) of the American Convention. Since because of the dismissal based on a “decree to purge corrupt people,” the alleged victims would have been “targeted of popular derision”, which would have affected their prestige inside and outside the institution and would have prevented the majority from obtaining employment. Additionally, the petitioners alleged violations of articles 1, 2, 5, 10 and 17 of the ACHR.

15. On the other hand, the petitioners pointed out that by resolutions of March 13, 2003, the Supreme Court of Justice of Honduras declared the unconstitutionality and inapplicability of Decree 58-2001. In this regard, they stated that although Article 316 (2) of the Honduran Constitution stipulates that when declaring the unconstitutionality of the law, it will be of general effect and of immediate application, the Supreme Court established that its ruling had no retroactive effect and that therefore, the declaration of unconstitutionality in favor of the alleged victims would not be applied. According to the petitioners, since the aforementioned decree was declared unconstitutional, it should also have been applied to the benefit of all the persons affected by it.

III. FRIENDLY SETTLEMENT

16. On September 18, 2019, a friendly settlement agreement reached between the State, represented by the Attorney General of the Republic, Lidia Estela Cardona Padilla, and the petitioners, represented by attorneys Hugo Ramón Maldonado, Fredy Omar Madrid and Gladys Ondina Matamoros. The friendly settlement agreement was initially signed for the benefit of 37 people.² The referred friendly settlement agreement establishes the following:

FRIENDLY SETTLEMENT AGREEMENT

IACHR CASE 12.961 Juan González et al. v. Honduras and its respective disaggregated cases

FRIENDLY SETTLEMENT AGREEMENT IN IACHR CASE 12.961 referring to Juan González et al., entered into for the first party by the State of Honduras, duly represented by Dr. LIDIA ESTELA CARDONA PADILLA, in her capacity as Attorney General of the Republic, appointed by Legislative Decree No. 70-2018, published on July 27, 2018, duly authorized for the purpose by Executive Decree No. 014-2018 dated December 19, 2018, indicating that she is empowered to enter into this agreement with the express power to commit; and for the other party by Hugo Ramón Maldonado (CODEH), Fredy Omar Madrid, and Gladys Ondina Matamoros; who act to represent the beneficiary petitioners of this agreement; entered into with the knowledge and consent of the INTE-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR), in accordance with the provisions of Articles 48.1.f and 49 of the American Convention on Human Rights, regarding the friendly settlement of the referenced case.

FIRST: BACKGROUND

The Inter-American Commission on Human Rights (IACHR), in its admissibility report 57/14 dated July 21, 2014, in its operative part: "*DECIDES: 1.- To declare admissible the current case regarding the alleged violations of the rights enshrined in Articles 8 and 25 of the American Convention, in connection with Articles 1.1 and 2 of said instrument, to the detriment of the alleged victims listed in Annex A. 2.- To declare the current petition inadmissible with respect to the alleged violations of Articles 5, 10, 11, 17, and 24 of the Convention.*"

In a communication dated May 24, 2018, the IACHR informs the State of Honduras of the amended version of Admissibility Report 57/14 based on the amendment approved by the IACHR to paragraph 40 of the admissibility report, as well as the list appearing in the annexes,

² Subsequently, the universe of beneficiaries of the ASA of September 18, 2019, was limited to 27 individuals, according to the memorandum of understanding of April 30, 2021, and addendum of April 27, 2022 *infra*.

declaring the petition admissible with respect to the 42 individuals who were party to the constitutionality challenge submitted by José Marcelino Vargas to the Supreme Court of Justice.

SECOND: GENERALITIES

As a result of the express desire of the parties to reach a friendly settlement in the case that concerns us, the State agrees to comply with this agreement in accordance with the following parameters:

- a. **Scope:** Refers specifically to the legal consequences for the petitioners due to the issuance of Decree 58-2001 published in the Official Journal, La Gaceta No. 29,504 of July 15, 2001, which was subsequently declared unconstitutional by the Supreme Court of Justice of the Honduran State, in a judgment dated March 13, 2003 and published in the Official Journal La Gaceta 30,166 dated August 19, 2003.
- b. **Nature:** Resolve using the friendly procedure in that it corresponds to the petitioners covered in this agreement (37 former police officers), by means of compensation, although this does not imply any recognition on the part of the State with respect to the facts or the law invoked in the context of the proceeding before the Inter-American Commission on Human Rights.
- c. **Modality:** Friendly arrangement governed by Articles 48.1.f and 49 of the American Convention on Human Rights and Article 40 of its Rules of Procedure.
- d. **Determination of the beneficiaries:** By express agreement between the parties, the beneficiaries of this agreement are:

No.	NAME	IDENTITY NO.
01	(HEIR OF EDWIN ENOCK CASTELLON BARRIENTOS 0801-1991-23343) ANDREA MAGALY CASTELLON COLINDRES.	[...]
02	ANGEL MARIA RODRIGUEZ	[...]
03	PEDRO OJELANDES BAUTISTA CRUZ	[...]
04	CARLOS ALBERTO MANZANARES FLORES ³	[...]
05	FREDY OMAR MADRID	[...]
06	JORGE ALBERTO AVILA MENJIVAR	[...]
07	JOSE ANGEL MURILLO PANIAGA	[...]
08	JOSE TOMAS OSORTO SORIANO ⁴	[...]
09	JOSE VELASQUEZ MARTINEZ	[...]

³ Excluded from the FSA of September 18, 2019, under addendum of April 27, 2022 *infra*.

⁴ Excluded from the FSA of September 18, 2019 under addendum of April 27, 2022 *infra*.

10	JUAN RAMON HIDALGO GARCIA	[...]
11	JULIO CESAR GUTIERREZ HERRERA ⁵	[...]
12	LUIS CESAR BENAVIDES MURILLO ⁶	[...]
13	LUIS FERNANDO SIERRA	[...]
14	MANUEL NAPOLEON SANCHEZ HERNANDEZ	[...]
15	MARCO ANTONIO DISCUA MENDEZ	[...]
16	MARCO ANTONIO NUÑEZ AGUILAR ⁷	[...]
17	MARBIN ALEXIS LAGOS RODRIGUEZ ⁸	[...]
18	MARVIN JAVIER GALO ESPINAL	[...]
19	MELIN OMAR MACIAS BONILLA	[...]
20	MIGUEL LAZO CASTILLO	[...]
21	MILTON ORLANDO MEDINA VALLECILLO	[...]
22	NEPTALY GARCIA	[...]
23	OSCAR ALEXANDER MOLINA VARGAS	[...]
24	OSCAR ALFREDO LOBO CRUZ	[...]
25	OSCAR SAMUEL HERRERA LARA	[...]
26	RAFAEL ANTONIO LOPEZ RODRIGUEZ	[...]
27	RAFAEL EMILIO MARTINEZ PINEDA	[...]
28	RAUL ANIBAL BONILLA ESPINOZA	[...]
29	RAUL ENRIQUE CHAVEZ LOPEZ ⁹	[...]
30	SANTOS SAUL VALLE GUTIERREZ	[...]
31	SANTOS VICENTE LAINEZ OSEGUERA	[...]
32	SELVIN RODRIGUEZ ARITA ¹⁰	[...]
33	VALENTIN COLINDRES LOPEZ	[...]
34	WILFREDO GARCIA ROSALES ¹¹	[...]

⁵ Excluded from the FSA of September 18, 2018, under addendum dated April 30, 2021, *infra*.

⁶ Excluded from the FSA of September 18, 2019 under addendum of April 27, 2022 *infra*.

⁷ Excluded from the FSA of September 18, 2019 under addendum of April 27, 2022 *infra*.

⁸ Excluded from the FSA of September 18, 2019 under addendum of April 27, 2022 *infra*.

⁹ Excluded from the FSA of September 18, 2019 under addendum of April 27, 2022 *infra*.

¹⁰ Excluded from the FSA of September 18, 2019 under addendum of April 27, 2022 *infra*.

¹¹ Excluded from the FSA of September 18, 2019 under addendum of April 27, 2022 *infra*.

35	JULIO CESAR FUNEZ AGUILAR	[...]
36	OSCAR ARMANDO MEDINA MARTINEZ	[...]
37	JOSE ULFRAN GARCIA LOPEZ ¹²	[...]

e. **Economic reparation:** The parties agreed to establish a compensation amount, using as a reference the scale to which the personnel belonged at the time Decree 58-2001 was issued.

THIRD: JURISDICTION OF THE INTER-AMERICAN SYSTEM OF HUMAN RIGHTS

Honduras has been a State party to the American Convention on Human Rights since August 9, 1977 and recognized the contentious jurisdiction of the Inter-American Court of Human Rights on September 9, 1981.

FOURTH: AGREEMENT BETWEEN THE PARTIES

In the context of the friendly settlement process carried out between the petitioners and the State of Honduras, with the intervention of the IACHR, the parties have reached a satisfactory agreement for the resolution of this case.

To cover matters relating to the economic reparation, the State of Honduras agrees to verify the payment in the manner proposed by the petitioners during the negotiation phase through the State Secretariat's Security Office, which will initiate the relevant procedures as soon as this duly signed document is submitted, and the corresponding payment procedures should be completed no later than October 15, 2019, according to the terms agreed upon in this friendly settlement agreement.

This agreement will be managed under the responsibility of the corresponding entities or State Secretariats, and the Office of the Attorney General of the Republic will coordinate and follow up the actions necessary for the performance of this agreement.

For their part, the petitioners' representatives agrees to monitor the implementation phases of this agreement and to provide their collaboration so that it can take effect.

FIFTH: PROCEEDANCE OF THIS FRIENDLY SETTLEMENT AGREEMENT

Throughout the process the parties left room for discussion to explore the possibility of arriving at a potential friendly settlement agreement. These efforts included the working meeting held in the context of the 164th Extraordinary Period of Sessions of the IACHR in Mexico City and the working meeting held in the context of the 170th Regular Period of Sessions of the IACHR in Washington, D.C.

SIXTH: SATISFACTION OF THE PETITIONERS

The petitioning party considers that compliance with the economic commitments assumed by means of this friendly settlement agreement entails the full satisfaction of its claims in the **Juan González et al.** case (IACHR case No. 12.961) and its respective disaggregated cases.

The State of Honduras and the petitioners through their legal representative, using as a

¹² Excluded from the FSA of September 18, 2019 under addendum of April 27, 2022 *infra*.

reference the scale to which the dismissed personnel belonged at the time Decree 58-2001 was issued, recognize and accept as the amount to be paid in compensation the individual sums detailed below in favor of each of the petitioners:

Police officers and administrators: L. 320,000.00
Classes: L. 400,000.00
Officials: L. 700,000.00

The amount as stated will be paid in a single payment to each of the petitioners who have decided to adhere to this agreement.

The percentage for professional fees will be assumed by the petitioners based on the agreement they have made with their representative.

SEVENTH: METHOD FOR PAYMENT OF ECONOMIC REPARATION

In accordance with the request made by the petitioners that the amount offered be paid in a single payment, the State agrees to make the above-indicated amounts effective through the intermediary of the State Secretariat's Security Office, in a single payment no later than October 15, 2019, fully covering the economic compensation agreed upon and thus payment thereof, and the State of Honduras is completely released from any restitution due to the alleged events and any subsequent claim.

For such purposes, the beneficiaries shall certify their identification before the State Secretariat's Security Office by means of the respective document.

In the case of relatives of petitioners who are deceased as of the execution date of this agreement, said relatives shall submit the legally required documentation, certifying the corresponding Declaration of Heirs, so that the State Secretariat will later proceed to make the corresponding payment.

The amounts set forth herein comprise in full any damage alleged to have been caused to the petitioners and their next of kin and therefore, with the payment of the reparation contained in this Agreement, the State of Honduras is released from any indemnification for the facts as well as from any present or future claim that may derive from this agreement; it is also agreed that judicially or internationally the responsibility of the State of Honduras for any compensation is extinguished; if any other person should eventually appear claiming the right to compensation for these same facts in relation to the beneficiaries who at the date of the execution of this agreement have died, this shall be recognized and paid directly by the beneficiaries.

EIGHTH: SUPERVISION OF COMPLIANCE

Regarding the petitioners not included in the agreed compensatory payment, the IACHR shall be responsible for the mechanism for verifying compliance with the friendly settlement agreements; the Office of the Attorney General of the Republic will send the information required by the Inter-American Commission.

The State of Honduras shall also inform the IACHR that it is entirely willing to continue to provide an opportunity to discuss and explore the possibility of arriving at a potential friendly settlement agreement with petitioners not included in this document.

NINTH: CONFIDENTIALITY

The parties agree to keep strictly confidential the amounts corresponding to the economic

reparations and the personal information of the petitioners.

TENTH: AGREEMENT OF THE PARTIES

The parties irrevocably and immediately indicate their full agreement and satisfaction with the agreements reached and embodied in this document; consequently, the petitioners renounce any action that could arise from the labor relationship that joined them to the State Secretariat as former members of the National Police.

In view of the areas of consensus reached, the parties agree to submit a joint or separate request to the IACHR asking it to disaggregate the case for the beneficiaries of this friendly settlement agreement, allowing for separate treatment for homologation and closure of the case by the IACHR and final adoption of the report considered under Article 49 of the American Convention on Human Rights, at which time it will acquire full legal effect.

ELEVENTH: VALIDITY

This agreement takes effect as of the date it is signed and shall conclude when the agreed compensation payment is made.

For the purposes of law, this agreement is signed in the city of Tegucigalpa, Honduras, on the eighteenth (18) day of the month of September in the year two thousand nineteen (2019).

Memorandum of Understanding Friendly Settlement Agreements of September 19 and December 3, 2019 Cases “Juan González et al. 12.961-H Honduras” Sic and “Tránsito Edgardo Arriaga López et al. 12.961-I-Honduras” before the IACHR

In the city of Tegucigalpa, municipality of the Central District, Honduras, on the thirtieth (30) day of April in the year 2021, the State of Honduras represented by Dr. **LIDIA ESTELA CARDONA PADILLA**, in her capacity as Attorney General of the Republic, appointed under Legislative Decree No. 70-2018, published on July 27, 2018, duly authorized for this action under Executive Agreement No. 014-2018 dated December 19, 2018, in which she is empowered to enter into this agreement, with express power to commit; and for the other party: **Leonel Casco Gutiérrez** representing the petitioners’ organization (APRODEH) in the context of cases: “**Juan González et al.- 12.961-H-Honduras**” and “**Tránsito Edgardo Arriaga López et al. 12.961-I-Honduras,**” hereby sign the following memorandum of understanding of the friendly settlement agreements signed on September 18, 2019 and December 3, 2019 before the IACHR:

First: The parties recognize that Mr. **Julio César Gutiérrez Herrera** had initially been included as a beneficiary in the friendly settlement agreement of September 18, 2019, signed in the context of the case: “**Juan González et al. 12.961-H-Honduras.**”

Second: The parties recognize that Mr. **José Arnoldo Soriano Fuentes** had initially been included as a beneficiary in the friendly settlement agreement of December 3, 2019, signed in the context of the case: “**Tránsito Edgardo Arriaga López et al. 12.961-I-Honduras.**”

Third: The parties recognize that said persons have not yet proceeded to withdraw the compensation agreed upon with the State, and thus request that Mr. **Julio César Gutiérrez Herrera** be excluded from the FSA signed on September 18, 2018, and that Mr. **José Arnoldo Soriano Fuentes** be excluded from the FSA signed on December 3, 2019; and at the request of the petitioners that they be transferred to contentious case 12.961-G.

Fourth: Based on the above, the parties sign this memorandum of understanding to request that the IACHR consider **Mr. Julio César Gutiérrez Herrera** excluded from the FSA signed on September 18, 2019, and **Mr. José Arnoldo Soriano Fuentes** excluded from the FSA signed on December 3, 2019, and that it proceeds as requested.

ADDENDUM TO THE FRIENDLY SETTLEMENT AGREEMENT
IACHR CASE 12.961 Juan González et al.-12.961-H-Honduras

ADDENDUM TO THE FRIENDLY SETTLEMENT AGREEMENT IN IACHR CASE 12.961 referring to Juan González et al.-12.961-H-Honduras, entered into, for the first party, by the State of Honduras, duly represented by attorney **MANUEL ANTONIO DIAZ GALEAS**, in his capacity as Attorney General of the Republic, appointed by means of Legislative Decree No. 5-2022 of February 2, 2022, published on February 8, 2022, duly authorized for this action by means of Executive Decree No. 014-2018 dated December 19, 2018, indicating that the General Attorney of the Republic is empowered to enter into this act, with the express power to commit; and for the other party by the **Attorneys Gladys Ondina Matamoros and Hugo Maldonado (CODEH)** who act to represent the petitioners and beneficiaries of this agreement, which is entered into with the knowledge and consent of the **INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR)** in accordance with the provisions of Articles 48.1.f and 49 of the American Convention on Human Rights with regard to the friendly settlement of the referenced case.

WHEREAS (1): On the eighteenth (18) of September in the year two thousand nineteen (2019) a Friendly Settlement Agreement was signed providing a list of thirty-seven (37) beneficiaries in its SECOND section GENERALITIES; Subparagraph d. Determination of the beneficiaries, wherein the following names are recorded:

01	Selvin Rodríguez Arita	[...]
02	Wilfredo García Rosales	[...]
03	José Ulfrán García López	[...]
04	Marco Antonio Núñez Aguilar	[...]
05	Marbin Alexis Lagos Rodríguez	[...]
06	Raúl Enrique Chávez López	[...]
07	José Tomás Osorto Soriano	[...]
08	Luis César Benavides Murillo	[...]
09	Carlos Alberto Manzanares Flores	[...]

WHEREAS (2): On April 18, 2022 the State Secretariat’s Security Office, with reference to payments pending in the Friendly Settlement Agreement signed on September 18, 2019, informed the Office of the Attorney General of the Republic that the beneficiaries described in the preceding whereas clause have yet to collect, for which reason it is necessary to confirm their availability to continue with the Friendly Settlement process or whether they have opted to continue the process through litigation.

WHEREAS (3): The representative of the petitioners described in whereas clause (1) has indicated by means of a communication dated January 25, 2022 that he has made efforts to locate his clients, which has proven to be impossible, and it is thus necessary to exclude them from the Friendly Settlement Agreement signed on September 18, 2019 in which they were included as beneficiaries, as said action will ultimately impact the timely approval of the Friendly Settlement Agreement by the IACHR, and to add them to the contentious case.

**THEY THEREFORE
AGREE:**

FIRST: To remove from and consequently consider not included in the list of beneficiaries of the Friendly Settlement Agreement signed in this case on September 18, 2019 Messrs. **Selvin Rodríguez Arita, Wilfredo García Rosales, José Ulfrán García López, Marco Antonio Núñez Aguilar, Marbin Alexis Lagos Rodríguez, Raúl Enrique Chávez López, José Tomás Osorto Soriano, Luis César Benavides Murillo, and Carlos Alberto Manzanares Flores;** which action does not impede continuation of the petitioners' proceeding on the merits before the IACHR.

SECOND: The parties irrevocably and immediately indicate their full agreement and satisfaction with the agreements reached and embodied in this amendment to the Friendly Settlement Agreement signed on September 18, 2019.

THIRD: This Addendum enters into effect as from the day it is signed, leaving without value or effect any expectation of a right derived from the Friendly Settlement Agreement signed on September 18, 2019, in favor of the persons listed in the First statement in this Addendum.

For the purposes of law, this agreement is signed in the city of Tegucigalpa, Honduras, on the twenty-seventh (27) day of the month of April in the year two thousand twenty-two (2022).

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

17. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, this procedure has the aim "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.¹³ 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.

18. 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.

19. As established in clause ten of the FSA and pursuant to the joint request from the parties on July 8, 2022, it is appropriate at this time to assess compliance with the commitments established in this instrument.

20. The Commission notes that on April 30, 2021, the parties signed a memorandum of understanding to the FSA of December 18, 2019, excluding in that addendum Julio César Gutiérrez Herrera. Thus, the Commission declares, based on the will of the parties, that the memorandum of understanding of April 30, 2021 is an integral part of the friendly settlement agreement signed between the parties and that, consequently, Mr. Julio César Gutiérrez Herrera is not considered a beneficiary of the FSA of December 3, 2019. Based on the foregoing, this Homologation Report does not produce legal effects with respect to him.

21. The IACHR notes that the parties signed an addendum to the friendly settlement agreement on April 27, 2022, which excludes from the FSA Selvin Rodríguez Arita, Wilfredo García Rosales, José Ulfrán García López, Marco Antonio Núñez Aguilar, Marbin Alexis Lagos Rodríguez, Raúl Enrique Chávez López, José Tomás Osorto Soriano, Luis César Benavides Murillo, and Carlos Alberto Manzanares Flores. Thus, the IACHR declares, based on the will of the parties, that said addendum is an integral part of the friendly settlement

¹³ 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."

agreement signed between the parties and that these nine persons are not parties thereto. Based on the foregoing, this Homologation Report does not produce legal effects with respect to them.

22. In accordance to what was established in clause tenth of the friendly settlement agreement, the parties agreed to request the Commission to issue the report contemplated in Article 49 of the American Convention, once the friendly settlement agreement was signed. Given that the State provided detailed information on the actions taken to comply with, the obligations derived from this friendly settlement agreement, and extensive documentation that verifies the payment of the obligations derived from it, at this moment it is necessary to assess the fulfillment of the commitments established in this FSA.

23. Regarding clauses 6 (Satisfaction of the petitioners), and 7 (Form of payment of economic reparation) of the agreement, the State reported that all the compensations in favor of the 27 beneficiaries of the friendly settlement agreement were paid. This information was corroborated with copies of the checks delivered in accordance with the amounts agreed for each beneficiary and proof of delivery signed by them, from which the Commission was able to corroborate the payment of a total amount of 11,686,666 L (eleven million, six hundred eighty-six thousand, six hundred sixty-six lempira) or approximately \$474,869.21 (four hundred seventy-four thousand, eight hundred sixty-nine dollars and twenty-one cents).¹⁴ Taking into consideration the elements of information described above, the Commission considers that clauses 6 and 7 of the friendly settlement agreement are fully complied with, and so it declares it so.

24. The Commission notes with satisfaction that through full compliance with the friendly settlement agreements related to this Homologation Report and with Reports No. 105/19 (Case 12.961 A, Bolívar Salgado Welban, et al.); No. 101/19 (Case 12.961 C, Marcial Coello Medina, et al.); No. 104/19 (Case 12.961 D, Jorge Enrique Valladares Argueñal et al.); No. 42/21 (Case 12.961 E, Ecar Fernando Zavala Valladares y Otros); No. 20/20 (Case 12.961 F, Miguel Ángel Chinchilla Erazo et al.); and No. 205/21 (Caso 12.961 J, Faustino García Cárdenas y otro), the State has complied with repairing a total of 257 alleged victims of the original case 12,961 (Juan González et al.). Consequently, the IACHR highly values the efforts made by both parties during the negotiations related to these matters to reach the friendly settlements that are compatible with the object and purpose of the Convention.

25. Lastly, the Commission considers that the rest of the content of the agreement is declarative in nature, so that the IACHR would not be responsible for monitoring compliance.

26. For the foregoing reasons, the IACHR declares that the friendly settlement agreement has been fully complied with. Consequently, the Commission decides to terminate the follow-up and close this matter.

V. CONCLUSIONS

1. Based on the foregoing considerations, and pursuant to the procedure set out in Articles 48.1.f and 49 of the American Convention. The Commission wishes to reiterate its profound appreciation for the efforts made by the parties and its satisfaction that a friendly settlement was reached in the instant 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

DECIDES:

1. To approve the terms of the friendly settlement agreement signed by the parties on September 18, 2019, as well as the addendum to the friendly settlement agreement signed by the parties on April 27, 2022.

¹⁴ Conversions to American dollars are derived from the free *Google converter* search available on the market dated August 17, 2022.

2. To declare clauses 6 (Satisfaction of the petitioners) and 7 (Form of payment of the economic reparation) fulfilled, according to the analysis contained in this report.
3. To declare the full compliance with the friendly settlement agreement according to this report's analysis.
4. To publish this report and include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on November 8, 2022.
(Signed): Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice President; Margarete May Macaulay, Second Vice President; Esmeralda E. Arosemena de Troitiño; Joel Hernández García; Carlos Bernal Pulido and Roberta Clarke, members of the Commission.