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**REPORT No. 288/22**  
**CASE 12.961 I**  
FRIENDLY SETTLEMENT REPORT

TRÁNSITO EDGADO ARRIAGA LÓPEZ AND OTHERS  
HONDURAS

Approved electronically by the Commission on November 8, 2022.

**Cite as:** IACHR, Report No. 288/22, Case 12.961 I. Friendly Settlement. Tránsito Edgardo Arriaga López and Others. Honduras, November 8, 2022.

**REPORT No. 288/22**  
**CASE 12.961 I**  
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TRÁNSITO EDGADO ARRIAGA LÓPEZ AND OTHERS  
HONDURAS  
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 December 3rd, 2019.<sup>1</sup>

7. On September 21, 2020, the Commission communicated to the parties the disaggregation of Case 12.961 I, Tránsito Edgardo Arriaga López and others, to proceed to approve the agreement.

8. From November 23, 2020, to September 26, 2022, the State submitted to the Commission many briefs with means for verifying compliance with the terms agreed upon. That information was forwarded to the petitioner in due course.

9. On September 24, 2020, the parties signed an addendum to the friendly settlement agreement of December 3, 2019, including Carlos Edilberto Oliva Cruz and Sebastián Rivera<sup>2</sup> in it. In the same addendum the parties expressed their satisfaction with the friendly settlement of the case.

10. On November 16, 2020, the parties signed a memorandum of understanding regarding the friendly settlement agreement signed December 3, 2019, excluding Mr. Ricardo Adolfo Núñez Zavala from it, mindful of his desire to continue pursuing his claim through the contentious process.

11. On April 30, 2021, the parties signed a memorandum of understanding on the friendly settlement agreement of September 18, 2019 and the friendly settlement agreement of December 3, 2019, excluding José Arnaldo Soriano Fuentes from the friendly settlement agreement of December 3.

12. On April 27, 2022, the parties signed an addendum in which they excluded Santos Simeón Flores Reyes, Aníbal Montoya Romero, Jorge Alberto Lardy, and Alexis Yovany Chacón López from the December 3, 2019 friendly settlement agreement in light of the impossibility of disbursing the payment, as there is no contact with them. In the same addendum the parties expressed their satisfaction with the friendly settlement of the case.

13. On May 16, 2022, the parties signed a memorandum of understanding regarding the December 3, 2019 friendly settlement agreement, including Mr. Samuel Villatoro Ortiz mindful of his desire to join the friendly settlement agreement signed December 3, 2019.

14. On July 8, 2022, the parties asked the IACHR to proceed with the homologation of the agreement and its addenda and memoranda of understanding.

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<sup>1</sup> It is to indicate that this FSA is 1 of 8 agreements signed between December 1, 2018, and June 29, 2021 on a total universe of 357 presumed victims of case 12,961 Juan Gonzalez and Others. This agreement and the effects of this Report are limited only to the beneficiaries referred to in it.

<sup>2</sup> In this respect it should be noted that Carlos Edilberto Oliva Cruz, Sebastián Rivera, and Amílcar Calderón Barahona had originally been included as beneficiaries of the friendly settlement agreement signed December 20, 2018, yet they were subsequently excluded from that agreement by the addendum of July 19, 2019. See IACHR, Report No. 105/19, Case 12.961 A. Friendly Settlement. Bolívar Salgado Welban and others, Honduras. July 28, 2019. Available at: <https://www.oas.org/en/iachr/decisions/2019/HOSA12961AEN.pdf>

15. 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 December 3rd, 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

16. 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.

17. 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 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.

18. 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

19. On December 3rd, 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, Leonel Casco Gutiérrez and Gladys Ondina Matamoros. The friendly settlement agreement initially signed for the benefit of 37 people. The referred friendly settlement agreement establishes the following:

### **FRIENDLY SETTLEMENT AGREEMENT**

#### **IACHR CASE 12.961 Juan González and others v. Honduras and the cases into which it has been broken down**

**FRIENDLY SETTLEMENT AGREEMENT IN IACHR CASE 12.961 regarding Juan González and others**, entered into, for the first party, by the State of Honduras, duly represented by LIDIA ESTELA CARDONA PADILLA, Esq., in her capacity as Legal Representative of the Republic (Procuradora General de la República), appointed by Legislative Decree No. 70-2018, published on July 27, 2018, duly authorized to enter into this agreement by Executive Agreement No. 014-2018 of December 19, 2018, with the express authority to settle; and, for the second party, Hugo Ramón

Maldonado (CODEH), Leonel Casco Gutiérrez (APRODEH), and Gladys Ondina Matamoros, who appear in representation of the petitioners who are the beneficiaries of this agreement, which is entered into with the knowledge and consent of the INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR) in keeping with the terms of Articles 48(1)(f) and 49 of the American Convention on Human Rights in relation to the friendly settlement agreement in the instant case.

**FIRST: BACKGROUND**

The Inter-American Commission on Human Rights (IACHR), in Admissibility Report 57/14, of July 21, 2014, in its operative part provides: "*DECIDES: 1. To declare admissible the present 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 present petition inadmissible with respect to the alleged violations of Articles 5, 10, 11, 17 and 24 of the Convention.*"

By communication of May 24, 2018, the IACHR notified the State of Honduras of the rectified 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 that appears in the annexes, finding the petition admissible in relation to the 42 persons who were party to the constitutional motion filed by José Marcelino Vargas before the Supreme Court of Justice.

**SECOND: GENERAL CONSIDERATIONS**

As a consequence of the will expressed by the parties to reach a friendly settlement in the present case, the State undertakes to carry out this agreement mindful of the following parameters:

- a. Scope: This refers specifically to the legal consequences, for the petitioners, of the issuance of Decree 58-2001 published in the Official Gazette (Diario Oficial La Gaceta) No. 29,504 of July 15, 2001, which was subsequently found unconstitutional by the Supreme Court of Justice of the Honduran State by judgment of March 13, 2003, and published in Official Gazette No. 30,166, of August 19, 2003.
- b. Nature: To resolve the matter, through the friendly settlement process, in relation to the petitioners who adopt this agreement (37 former police officers), by paying compensation without that presupposing any recognition by the State of the facts or of the law invoked in the context of the proceeding going forward before the Inter-American Commission on Human Rights.
- c. Modality: Friendly settlement regulated 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	ID No.
1	Alexis Rufino Ruiz Reyes	[...]
2	Alexis Yovany Chacón López	[...]

3	Anibal Montoya Romero	[...]
4	Cesar Augusto Somoza Alvarenga	[...]
5	Dagoberto Ávila Flores	[...]
6	Daniel Humberto Barahona Flores	[...]
7	Edgar Oswaldo Flores Pineda	[...]
8	Fernando Chávez Gonzales	[...]
9	Francis Omar Espinal	[...]
10	Gustavo Ramón Portillo Garmendia	[...]
11	Hugo Rafael Alvarado Escobar	[...]
12	Indira Gaetana Ever Cantillano	[...]
13	Jorge Alberto Lardy	[...]
14	José Alfredo Girón Rodríguez	[...]
15	José Arnaldo Soriano Fuentes	[...]
16	José Rolando Casco Torres	[...]
17	Juan Antonio Casco Gómez	[...]
18	Juan Calixto Pérez Banegas	[...]
19	Juan Francisco González Ordóñez	[...]
20	Leonel Orlando Sandoval	[...]
21	Leonel Osmin Merlo Canales	[...]
22	Miguel Ángel Ramírez	[...]
23	Nelson Edgardo Osorio Muñoz	[...]
24	Noel Antonio Alvarenga	[...]
25	Nulman Edwin Rivera Ortez	[...]
26	Octavio Escobar Banegas	[...]
27	Ricardo Adolfo Núñez Zavala	[...]
28	Rodolfo Bueso Velásquez	[...]
29	Rony Martin Flores Díaz	[...]
30	Rosa Antonio Tercero Lanza	[...]
31	Rufino Ferrufino Cárcamo	[...]
32	Santos Simeón Flores Reyes	[...]
33	Tomasa Ondina Tejeda Romero	[...]
34	Tránsito Edgardo Arriaga López	[...]
35	Víctor Hugo Vivas Lozano	[...]
36	Miguel Ángel Gudiel	[...]
37	José Amilcar Calderón Barahona	[...]

- e. Economic reparation: The parties agreed to establish an amount of compensation to be paid, taking as the reference the position on the pay scale when Decree 58-2001 was issued.

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

Honduras has been a state party to the American Convention on Human Rights since

August 9, 1977. It 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 between the petitioners and the State of Honduras, with the involvement of the IACHR, the parties have succeeded in reaching an agreement that is satisfactory for resolving the instant case.

To cover economic reparations the State of Honduras undertakes to verify the payment in the manner proposed by the petitioners during the stage of negotiations through the Secretariat of State for Security, which will begin to take the relevant steps as soon as this document is submitted duly signed. The procedures for the respective payment must have been completed in full no later than December 20, 2019, in the terms agreed upon in this friendly settlement agreement.

This agreement will be administered under the responsibility of the corresponding entities or State Secretariats; the Office of the Legal Representative of the Republic shall coordinate and follow up on the actions required to carry out this agreement.

For their part, the petitioners' representatives undertake to accompany the stages of implementation of this agreement and to provide their cooperation so that it can be put into practice.

#### **FIFTH: LEGAL BASIS OF THIS FRIENDLY SETTLEMENT AGREEMENT**

Throughout the process the parties maintained a forum for dialogue aimed at exploring the possibility of reaching a friendly settlement agreement. Antecedents to that forum include the working meeting held in the context of the 164<sup>th</sup> special period of sessions of the IACHR held in Mexico City, and the working meeting held in the context of the 170<sup>th</sup> regular period of sessions of the IACHR in Washington D.C.

#### **SIXTH: SATISFACTION OF THE PETITIONERS**

The petitioner considers that compliance with the economic commitments assumed through this friendly settlement agreement entails the total satisfaction of all claims in the case of **Juan González and others** (IACHR Case No. 12.961).

The State of Honduras and the petitioners, through their legal representatives, taking as reference the pay of the dismissed personnel when Decree 58-2001 was issued, recognize and accept as the amount to be compensated the individual sum detailed below, for each of the petitioners:

Police and administrative personnel: L. 320,000.00  
Classes: L. 400,000.00  
Officers: L. 700,000.00

The amount, as described, shall be paid in a lump sum to each of the petitioners who have decided to avail themselves of this agreement.

In terms of the percentage that will go to professional fees, these will be assumed by the petitioners based on the agreement they have made with their attorney.

**SEVENTH: FORM OF PAYMENT OF ECONOMIC REPARATION**

In keeping with the request made by the petitioners that the amount offered be paid in a lump sum, the State undertakes to pay the values noted above through the Secretariat of State for Security in a single lump sum no later than December 20, 2019 and the total includes all of the economic compensation agreed upon and therefore once the payment is made the State of Honduras is completely released in relation to any reparation for the facts alleged and any subsequent claim.

For these purposes the beneficiaries must make a showing of their identity to the Secretariat of State for Security by means of the respective document.

Family members of petitioners who as of the date of the signing of this agreement have died should file the legally required documentation confirming the corresponding Declaration of Heirs for the Secretariat of State for Security to proceed subsequently to make the corresponding payment.

The amounts provided for include in their entirety any damages alleged to have been caused the petitioners and their family members and therefore with the payment of the reparation contained in this Agreement the State of Honduras is released from any reparation for the facts as well as any present or future claim that may derive from this agreement; and it is also agreed that any judicial or international responsibility of the State of Honduras for any reparation is extinguished. If any other person should come forward claiming a right to compensation for these same facts in relation to those beneficiaries who as of the date of the signing of this agreement had died, this will be recognized and paid directly by the beneficiaries.

**EIGHTH: SUPERVISION OF IMPLEMENTATION**

With respect to the petitioners not included in the payment of compensation agreed upon, the mechanism of verification of compliance of the friendly settlement agreement will be up to the IACHR; the Office of the Legal Representative of the Republic shall submit the information requested of it by the illustrious Inter-American Commission.

The State of Honduras will also communicate to the IACHR its full willingness to continue with the dialogue forum aimed at exploring the possibility of reaching a friendly settlement agreement with the petitioners not included in this document.

**NINTH: CONFIDENTIALITY**

The parties undertake to keep strictly confidential the amounts corresponding to the economic compensation and the petitioners' personal information.

**TENTH: ACCEPTANCE BY THE PARTIES**

The parties express their full acceptance and satisfaction, irrevocably and immediately, with the agreements reached and set forth in this document. Accordingly, the petitioners waive any action that may derive from the labor relationship by which they worked with the Secretariat of State for Security as former members of the National Police.

In light of the points of consensus reached, they undertake to present a joint or separate request to the IACHR for it to proceed to break down the case for the beneficiaries of this friendly settlement agreement so as to give separate treatment



for its approval and conclusion, by the IACHR, and that it finally adopt the report provided for in Article 49 of the American Convention on Human Rights, at which time it will have full legal force.

**ELEVENTH: DURATION**

This agreement comes into force as of the day it is signed and shall conclude when payment of the compensation agreed upon has been made.

For purposes of the law, signed in the city of Tegucigalpa, M.D.C., December 3, 2019.

**ADDENDUM TO THE FRIENDLY SETTLEMENT AGREEMENT**  
**CASE 12.961 Juan González and others v. Honduras**

**ADDENDUM TO THE FRIENDLY SETTLEMENT AGREEMENT IN CASE 12.961 regarding Juan González and others**, entered into, for the first party, the State of Honduras, duly represented by Ms. LIDIA ESTELA CARDONA PADILLA, in her capacity as Legal Representative of the Republic, appointed by Legislative Decree No. 70-2018, published on July 27, 2018, duly authorized to perform this act by Executive Agreement No. 014-2018 of December 19, 2018, which certifies that she is authorized to perform this act with the express power to settle; and for the second party, Mr. Leonel Casco, who is appearing in representation of the petitioners beneficiaries of this agreement; which is entered into with the knowledge and consent of the INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR), as provided for in Articles 48(1)(f) and 49 of the American Convention on Human Rights in relation to the friendly settlement in the instant case.

**CONSIDERING (1):** That on December 20, 2018, a friendly settlement agreement was signed that included a list of 11 beneficiaries in its second section, GENERAL CONSIDERATIONS; sub-section d. Determination of beneficiaries, after which the following names are set forth:

01	Carlos Edilberto Oliva Cruz	
02	Sebastián Rivera	

**CONSIDERING (2):** That on July 19, 2019, an addendum was signed to exclude Messrs. Carlos Edilberto Oliva Cruz and Sebastián Rivera, as they had not withdrawn the corresponding compensation, thus it was necessary for them to be removed from the friendly settlement agreement signed December 18, 2018.

**CONSIDERING (3):** That the Secretariat of State for Security has reported that Messrs. Carlos Edilberto Oliva Cruz and Sebastián Rivera went to that Secretariat to withdraw their agreed-upon compensation, showing that this was the case by producing copies of the checks received.

**CONSIDERING (4):** That it is necessary to include Messrs. Carlos Edilberto Oliva Cruz and Sebastián Rivera in a friendly settlement agreement and exclude them from the universe of persons who will continue to pursue their case in the contentious process.

**THREFORE  
THEY AGREE:**

**FIRST:** To consider Messrs. Carlos Edilberto Oliva Cruz and Sebastián Rivera excluded from the friendly settlement signed December 18, 2018, in keeping with the addendum signed July 19, 2019.

**SECOND:** To include Messrs. Carlos Edilberto Oliva Cruz and Sebastián Rivera in the friendly settlement agreement signed December 3, 2019, and to remove them from the universe of persons who will continue to pursue the contentious case.

**THIRD:** The parties state their full acceptance and satisfaction, irrevocably and with immediate effect, with the agreements reached and set forth in this addendum to the friendly settlement agreement signed December 3, 2019.

**FOURTH:** This Addendum comes into force as of its signing.

For purposes of the law, signed in the city of Tegucigalpa, M.D.C., September 24, 2020.

**Memorandum of Understanding regarding the Friendly Settlement Agreement  
signed December 3, 2019, in relation to the case Tránsito Edgardo Arriaga  
López and others 12.961-I-Honduras before the IACHR**

In the city of Tegucigalpa, municipality of the Central District, Honduras, November 16, 2020, the State of Honduras, represented by Ms. **LIDIA ESTELA CARDONA PADILLA**, in her capacity as Legal Representative of the Republic, appointed by Legislative Decree No. 70-2018, published July 27, 2018, duly authorized for this act by Executive Agreement No. 014-2018 of December 19, 2018, in which it appears that she is authorized to sign this document, with the express authority to settle; and the for other party: **Gladys Ondina Matamoros Arias**, in her capacity as representative of Mr. **Ricardo Adolfo Núñez Zavala**, in the context of the case of **Tránsito Edgardo Arriaga López and others 12.961-I-Honduras**, sign the following memorandum of understanding in relation to the friendly settlement agreement signed December 3, 2019, before the IACHR:

**First:** The parties recognize that Mr. **Ricardo Adolfo Núñez Zavala** was included as a beneficiary in the December 3, 2019, friendly settlement agreement.

**Second:** The parties recognize that Mr. **Ricardo Adolfo Núñez Zavala** wishes to be excluded from the agreement signed December 3, 2019, and to continue to pursue his claim in the contentious process.

**Third:** The parties sign this memorandum of understanding to confirm that the effects of the December 3, 2019, friendly settlement agreement do not apply to Mr. **Ricardo Adolfo Núñez Zavala**.

**Fourth:** The parties ask that the IACHR take the corrective measures necessary to record the victims who correspond to the case Tránsito Edgardo Arriaga López and others 12.961-I-Honduras and to exclude Mr. **Ricardo Adolfo Núñez Zavala** from the same.

**Memorandum of Understanding  
Friendly Settlement Agreements of September 18 and December 3, 2019  
Cases of Juan González and others 12.961-H Honduras and Tránsito Edgardo  
Arriaga López and others 12.961-I Honduras before the IACHR**

In the city of Tegucigalpa, municipality of the Central District, Honduras, on April 30, 2021, the State of Honduras, represented by Ms. **LIDIA ESTELA CARDONA PADILLA**, in her capacity as Legal Representative of the Republic, appointed by Legislative Decree No. 70-2018, published July 27, 2018, duly authorized for this act by Executive Agreement No. 014-2018 of December 19, 2018, in which it appears that she is authorized to sign this document, with the express authority to settle; and for the other party: **Leonel Casco Gutiérrez** in representation of the organization APRODEH, petitioners' representatives in the cases of **Juan González and others - 12.961-H Honduras** and **Tránsito Edgardo Arriaga López and others 12.961-I Honduras**, sign the following memorandum of understanding with regard to the friendly settlement agreements signed 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 case of **Juan González and others 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 case **Tránsito Edgardo Arriaga López and others 12.961-I-Honduras**.

**Third:** The parties also recognize that those persons have not yet withdrawn the compensation agreed upon with the State, thus they ask that Mr. **Julio César Gutiérrez Herrera** to be excluded from the friendly settlement agreement signed September 18, 2018, and that **Mr. José Arnoldo Soriano Fuentes** be excluded from the friendly settlement agreement signed December 3, 2019; and, at the petitioners' request, that they be transferred to contentious case 12.961-G.

**Fourth:** Accordingly, the parties sign this memorandum of understanding to ask the IACHR to consider **Mr. Julio César Gutiérrez Herrera** excluded from the friendly settlement agreement signed September 18, 2019, and to consider **Mr. José Arnoldo Soriano Fuentes** excluded from the friendly settlement agreement signed on December 3, 2019, and to proceed in keeping with this request.

**ADDENDUM TO THE FRIENDLY SETTLEMENT AGREEMENT  
CASE 12.961 Juan González and others and the cases into which it has been  
broken down:  
Tránsito Edgardo Arriaga and others - 12.961-I-Honduras**

**ADDENDUM TO THE FRIENDLY SETTLEMENT AGREEMENT IN CASE 12.961 regarding Juan González and others - 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 Legal Representative of the Republic, appointed by Legislative Decree No. 5-2022, of February 2, 2022, published on February 8, 2022, duly authorized for this act by Executive Agreement No. 014-2018 of December 19, 2018, in which it appears that the Office of the Legal Representative of the Republic is authorized to sign this document, with the express authority to settle; and for the second party attorney **Hugo Maldonado (CODEH)**, who appears

in representation of the petitioners who are the beneficiaries of this agreement; which is entered into with the knowledge and consent of the **INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR)**, in keeping with Articles 48(1)(f) and 49 of the American Convention on Human Rights in relation to the friendly settlement in the case in question.

**CONSIDERING (1):** That on December 3, 2019, a friendly settlement agreement was signed that sets out a list of 37 beneficiaries in its second section, GENERAL CONSIDERTIONS, subsection d. Determination of the beneficiaries, which includes the following names:

01	Santos Simeón Flores Reyes	[...]
02	Anibal Montoya Romero	[...]
03	Jorge Alberto Lardy	[...]
04	Alexis Yovany Chacón López	[...]

**CONSIDERING (2):** That on April 18, 2022, the Secretariat of State for Security, regarding the payments pending provide for in the December 3, 2019 friendly settlement agreement, communicated to the Office of the Legal Representative of the Republic that the beneficiaries described in the previous considering paragraph have failed to collect, thus it is necessary to confirm whether they are disposed to continue with the friendly settlement process, or whether they have opted to continue the proceed with the case in the contentious procedure.

**CONSIDERING (3):** That the representative of the petitioners described in considering paragraph (1) has indicated by communication of January 25, 2022, that he has made efforts to locate his clients, which has been impossible, accordingly they must be excluded from the friendly settlement agreement signed December 3, 2019, in which they were included as beneficiaries, for doing so will finally contribute to the timely approval of the friendly settlement agreement by the IACHR, and to their being added to the contentious case.

**THEREFORE  
THEY AGREE:**

**FIRST:** Remove, and accordingly consider as not included in the list of beneficiaries of the friendly settlement agreement signed in the instant case on December 3, 2019, Messrs. **Santos Simeón Flores Reyes, Aníbal Montoya Romero, Jorge Alberto Lardy, and Alexis Yovany Chacón López;** which does not stand in the way of the petitioners pursuing the merits phase of the case before the IACHR.

**SECOND:** The parties state their full acceptance and satisfaction, irrevocably and immediately, with the agreements reached and set forth in this amendment to the friendly settlement agreement signed December 3, 2019.

**THIRD:** This Addendum comes into force as of the day it is signed, leaving without any value or effect any expectation of right stemming from the friendly settlement agreement signed December 3, 2019 in favor of the persons indicated in the first paragraph of this Addendum.

For legal effects, signed in the city of Tegucigalpa, M.D.C., April 27, 2022.

**Memorandum of Understanding  
Friendly Settlement Agreement of December 3, 2019  
Case: Juan González and others 12.961-Honduras” and, stemming from it, the  
matter of Tránsito Edgardo Arriaga López et al. 12.961-I-Honduras**

In the city of Tegucigalpa, municipality of the Central District, Honduras, May 16, 2022, the State of Honduras, represented by attorney **ANTONIO DIAZ GALEAS**, in his capacity as Legal Representative of the Republic, appointed by Legislative Decree No. 5-2022, published in the Official Gazette on February 8, 2022, duly authorized for this act by Executive Agreement No. 014-2018 of December 19, 2018, published in the Official Gazette on December 19, 2018, in which it appears that the Office of the Legal Representative of the Republic is authorized to sign this document, with the express authority to settle; and for the other party: **Hugo Maldonado**, in representation of the Comité para la Defensa de los Derechos Humanos (CODEH), in his capacity as representative of petitioner Samuel Villatoro Ortiz, in case **Tránsito Edgardo Arriaga López and others 12.961-I-Honduras**, sign the following memorandum of understanding regarding the friendly settlement agreement signed December 3, 2019 before the IACHR:

**First:** The parties recognize that Mr. SAMUEL VILLATORO ORTIZ has decided to join the friendly settlement agreement signed December 3, 2019, in the case: Tránsito Edgardo Arriaga López and others 12.961-I Honduras.

**Second:** Accordingly, the parties sign this memorandum of understanding to request that the IACHR consider Mr. SAMUEL VILLATORO ORTIZ included as a beneficiary in the terms of the December 3, 2019 friendly settlement agreement and to exclude him from the universe of petitioners who will continue to pursue the case in the contentious procedure.

#### 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 “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.<sup>3</sup> 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 light of what is established at clause ten of the friendly settlement agreement, and in keeping with the joint request of the parties of July 8, 2022, at this point the implementation of the commitments established in this instrument must be evaluated.

<sup>3</sup> 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 Commission observes that the parties signed an addendum on September 24, 2020, including Carlos Edilberto Oliva Cruz and Sebastián Rivera in the friendly settlement agreement signed December 3, 2019. It should be indicated that these two persons had been included originally in the friendly settlement agreement signed December 20, 2018, but they were subsequently excluded from that agreement by the addendum of July 19, 2019. In view of the foregoing, the friendly settlement agreement signed December 20, 2018 was approved by the Commission without including these persons.<sup>4</sup> Along the same lines, while Mr. Amílcar Calderon Barahona had been included in the December 20, 2018 friendly settlement agreement, he was excluded by the same addendum of July 19, 2019, and incorporated subsequently and directly in the friendly settlement agreement signed December 3, 2019. In view of the foregoing, the homologation related to the friendly settlement agreement signed in *Case 12.961 A, Bolívar Salgado Welban* did not have legal effect with respect to this person either.

24. Mindful of the foregoing, the Commission declared, based on the will of the parties, that the addendum of September 24, 2020 is an integral part of the friendly settlement agreement signed by the parties and that, as a result, Carlos Edilberto Oliva Cruz and Sebastián Rivera are beneficiaries of it, and this report approving the friendly settlement has legal effect with respect to them.

25. In addition, the Commission observes that on November 16, 2020, the parties signed a memorandum of understanding on the friendly settlement agreement signed December 3, 2019, excluding Mr. Ricardo Adolfo Núñez Zavala from it in light of his desire to continue pursuing his claim via the contentious process. Accordingly, the Commission declares, based on the will of the parties, that the memorandum of understanding of November 16, 2020 is an integral part of the friendly settlement agreement signed by the parties and that, accordingly, Mr. Núñez Zavala does not consider himself a beneficiary of the December 3, 2019 friendly settlement agreement. Therefore, this report approving it does not have any legal effect in relation to him.

26. The Commission also observes that on April 30, 2021, the parties signed a memorandum of understanding pertaining to the December 3, 2019 friendly settlement agreement; in that addendum they excluded José Arnoldo Soriano Fuentes. In view of the foregoing, the Commission finds, on the basis of the will of the parties, that the memorandum of understanding of April 30, 2021 is an integral part of the friendly settlement agreement signed by the parties and that, consequently, Mr. Soriano Fuentes is not considered a beneficiary of the December 3, 2019 friendly settlement agreement. Accordingly, this report approving the friendly settlement agreement has no legal effect with respect to him.

27. In addition, the Commission observes that on April 27, 2022, the parties signed an addendum to the December 3, 2019 friendly settlement agreement excluding Santos Simeón Flores Reyes, Aníbal Montoya Romero, Jorge Alberto Lardy, and Alexis Yovany Chacón López, in light of the impossibility of disbursing the payment due to lack of contact with them. In that same addendum the parties expressed their satisfaction with the friendly settlement of the case. Accordingly, the Commission declares, based on the will of the parties, that the April 27, 2022 addendum is an integral part of the friendly settlement agreement signed by the parties and that these four persons are not a party to it. Accordingly, this report approving the friendly settlement agreement has no legal effect with respect to them.

28. Finally, the Commission observes that on May 16, 2022 the parties signed a memorandum of understanding concerning the December 3, 2019 friendly settlement agreement including Mr. Samuel Villatoro Ortiz, in light of his desire to join that friendly settlement agreement. Accordingly, the Commission declares, based on the will of the parties, that this memorandum of

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<sup>4</sup> See IACHR, Report No. 105/19, Case 12.961 A. Friendly Settlement. Bolívar Salgado Welban and others. Honduras. July 28, 2019. Available at: <https://www.oas.org/en/iachr/decisions/2019/HOSA12961AEN.pdf>

understanding is an integral part of the friendly settlement agreement signed by the parties, and that Mr. Villatoro Ortiz is considered a beneficiary of the December 3, 2019 friendly settlement agreement. Accordingly, this report approving the friendly settlement agreement has legal effect with respect to him.

29. 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.

30. 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 34 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 16,600,000L (sixteen million six hundred thousand lempiras) or approximately \$673.759,97 (six hundred seventy-three thousand seven hundred and fifty-nine dollars and ninety-seven cents).<sup>5</sup> 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.

31. 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 and others); No. 20/20 (Case 12.961 F, Miguel Ángel Chinchilla Erazo et al.); No. 205/21 (Caso 12.961 J, Faustino García Cárdenas and one other); and No. 287/22 (Case 12.961 H, Juan González and others), the State has complied with repairing with a disbursement of economic compensation that comes to approximately USD \$4.758.730 ( four million seven hundred and fifty-eight thousand seven hundred and thirty dollars) to a total of 290 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.

32. 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.

33. 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.

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<sup>5</sup> Conversions to American dollars are derived from the free Google converter search available on the market dated September 1st, 2022.

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 signed by the parties on December 3, 2019, as well as the addendum to the friendly settlement agreement signed by the parties on September 24, 2020, and April 27, 2022, and the memoranda of understanding signed by the parties on November 16, 2020, April 30, 2021, and May 16, 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; Margarette May Macaulay, Second Vice President; Esmeralda E. Arosemena de Troitiño; Joel Hernández García; Carlos Bernal Pulido and Roberta Clarke, members of the Commission.