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CASE 13.710

REPORT ON FRIENDLY SETTLEMENT

JULIAN ALBERTO TORO ORTIZ AND FAMILY
COLOMBIA

Approved electronically by the Commission on July 26, 2023

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REPORT No. 109/23
CASE 13.710
FRIENDLY SETTLEMENT
JULIAN ALBERTO TORO ORTIZ AND FAMILY
COLOMBIA¹
JULY 26, 2023

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On July 12, 2007, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition filed by Julián Alberto Toro Ortiz, on his own behalf and on behalf of his family, which was subsequently joined by Castillo Racines Consultores (hereinafter "the petitioners"), alleging the international responsibility of the Republic of Colombia (hereinafter "Colombia" or "the State"), for the violation of the human rights enshrined in Articles 3 (juridical personality), 4 (life), 5 (humane treatment), 6 (freedom from slavery), 7 (personal liberty), 8 (fair trial), 9 (legality and retroactivity), 10 (compensation), 11 (privacy), 12 (freedom of conscience and religion), 14 (right of reply), 18 (right to a name), 19 (rights of the child), 20 (nationality), 21 (property), 22 (movement and residence), 23 (right to participate in government), 24 (equality before the law), and 25 (judicial protection), of the American Convention on Human Rights, (hereinafter "Convention" or "American Convention"), in relation to Article 1.1 (obligation to respect rights) of the same instrument, to the detriment of Julián Alberto Toro Ortiz, and his family, derived from the violent deaths of Luis Gerardo Toro Jiménez, José Davison Toro Ortiz, Robinson de Jesús Agudelo Toro, and Luis Gonzaga Toro Arcila between 1982 and 2006, as well as the lack of due diligence in the investigations and the continuous threats and forced displacement of their families.

2. On December 9, 2018, the Commission issued Admissibility Report No. 165/18, in which it declared the petition admissible and its competence to hear the claim presented by the petitioners regarding the alleged violation of the rights enshrined in Articles 4 (life), 5 (humane treatment), 8 (fair trial), 21 (property), 22 (movement and residence), 25 (judicial protection), and 26 (economic, social and cultural rights) of the American Convention in conjunction with Article 1.1 (obligation to respect rights) of the same instrument, to the detriment of Julián Alberto Toro Ortiz and his family members.

3. On September 13, 2021, the Colombian State expressed its willingness to move forward in a friendly settlement process in the instant case. On October 6, 2021, the petitioners agreed to initiate a negotiation process. On November 18, 2021, the parties entered into a memorandum of understanding for the search for a friendly settlement in the present case, together with a work schedule to move forward in the negotiations. Therefore, on February 15, 2022, the Commission notified the parties of the formal beginning of the friendly settlement procedure.

4. In the following months, the parties held bilateral meetings in order to analyze the reparation measures to be included in the friendly settlement agreement (hereinafter FSA), which resulted in the signing of said instrument on September 29, 2022, in the city of Bogotá. Subsequently, on January 14, 2023, the parties submitted a joint report on the progress made towards implementing the FSA and asked the IACHR to approve it.

5. Pursuant to provisions of Article 49 of the American Convention and Article 40 (5) of the Rules of Procedure of the Commission, this friendly settlement report includes an overview of the facts alleged by the petitioners and the transcription of the friendly settlement agreement signed on September 29, 2022 by the petitioners and representatives of the Colombian State. Likewise, the agreement signed by the parties is approved and it is agreed that this report will be published in the Annual Report to the General Assembly of the Organization of American States.

¹ Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the discussion or decision on this case, in accordance with Article 17 (2)(a) of the Rules of Procedure of the IACHR.

II. THE FACTS ALLEGED

6. Mr. Julián Alberto Toro Ortiz alleged that between 1982 and 2006 his father, Luis Gerardo Toro Jiménez, his brother, José Davison Toro Ortiz, and his two cousins, Robinson de Jesús Agudelo Toro and Luis Gonzaga Toro Arcila, were violently killed. The petitioner added that he and his next of kin have been continuously threatened, that the State has failed to protect them and that they have had to move out of town several times accordingly. He stated that, as a result, they have lived in a constant situation of uncertainty and their economic and social development has been rendered impossible.

7. The petitioner submitted that his father was killed on July 21, 1982 when he was working as a municipal guard in the city of Ansermanuevo, Valle del Cauca. He claimed that his father was murdered by two United Self-Defense Forces of Colombia (AUC, by the Spanish acronym) members and that his death certificate reads that he died of gunshot wounds. Several threats have led the family to move out of town; and on October 11, 2002 the petitioner's cousin, Robinson de Jesús Agudelo Toro, was killed in the context of a massacre attributed to the AUC in the village of Albán, municipality of El Cairo. Later, the AUC allegedly gave the order to kill the petitioner's brother, who was found dead on November 10, 2002 at the Club Náutico of Anacaro. On April 26, 2006 the dead body of his cousin, Luis Gonzaga Toro Arcila, was found in the area around the town of Marsella, in Risaralda. The petitioner argued that all these incidents were reported to the Public Prosecutor's Office, the Ministry of Interior, and the National Commission for Reparation and Reconciliation.

8. He stated. Especially with respect to his father's death, that the family has been unable to access justice due to the context of violence and the fact that the legal actions they pursued were unsuccessful; that some of the alleged perpetrators have been extradited and others have died. He added that on October 12, 2002 he reported the death of Robinson Agudelo Toro to the 17th Public Prosecutor's Office of Cartago (case file 68686) and that on November 10, 2002 he reported the murder of José Toro Ortiz to the 16th Prosecutor's Office of Cartago (case file 71680). He also indicated that despite continuous threats, he and his family members filed complaints before the Prosecutor's Office in charge of Justice and Peace Law cases and the Police, in addition to having resorted to several state bodies such as the Ombudsman's Office of Zarzal, the Ombudsman's Office of Ansermanuevo and the Ombudsman's Office of Cali. He alleged that, in spite of their having exposed themselves to higher risk, he and his family have not been given any answer or protection or reparation measures. He claimed that the State has failed to resolve his numerous requests for help with their social reintegration and prevention from displacement, and that it has only made them sign up the processing for state support, which they believe is not an actual form of reparation.

9. The petitioner asserted that although decades have passed since the incidents occurred, not all the persons responsible for the violations of the alleged victims' human rights have been identified, individualized, investigated and punished nor have the latter been granted full reparation.

III. FRIENDLY SETTLEMENT

10. On September 29, 2022, the parties signed a friendly settlement agreement, which states the following:

FRIENDLY SETTLEMENT AGREEMENT CASE No. 13.710, JULIÁN ALBERTO TORO ORTIZ AND FAMILY

On September twenty-ninth (29), 2022, in the city of Bogotá, Ana María Ordoñez Puentes, Director of the International Legal Defense Directorate of the National Agency for the Legal Defense of the State, acting with due authorization on behalf and in representation of the Colombian State and hereinafter referred to as the "State" or the "Colombian State," met with the firm Castillo Racines Consultores S.A.S., representing the victims and hereinafter referred to as "the petitioners," in order to sign this Friendly Settlement Agreement in connection with **Case No. 13.710, Julián Alberto Toro Ortiz and family**, pending before the Inter-American Commission on Human Rights.

PART ONE: CONCEPTS

For the purposes of this Agreement, the following definitions shall apply:

IACHR or Inter-American Commission: Inter-American Commission on Human Rights.

Moral damages: Injurious effects of the facts of the case that are not of an economic or financial nature, which manifested through the pain, affliction, sadness, distress, and anxiety of the victims.

Material damage: Involves the loss or detriment of the victim's income, expenses incurred as a result of the facts, and the consequences of a pecuniary nature that have a causal link to the facts of the case².

Non-material damage: Includes both the suffering and affliction caused to the victims, the impairment of values of great importance to the persons concerned, as well as alterations, of a non-pecuniary nature, in the living conditions of the victim or his family³.

State or Colombian State: In accordance with Public International Law, it shall be understood to be the signatory of the American Convention on Human Rights, hereinafter "American Convention" or "ACHR".

Satisfaction measures: Non-pecuniary measures whose purpose is to ensure the recovery of the victims from the harm that has been caused to them. Some examples of these measures include: public acknowledgement of the truth and acts to make amends.

Parties: Colombian State, petitioners, and relatives of the victims.

Acknowledgement of responsibility: Acceptance of the facts and human rights violations attributed to the State.

Comprehensive reparation: All those measures which objectively and symbolically restore the victim to the state prior to the infliction of the damage.

Petitioners: The law firm Castillo Racines Consultores S.A.S., acting as representatives of the victims within the international proceedings.

Friendly Settlement: Alternative dispute resolution mechanism used for the peaceful and consensual settlement before the Inter-American Commission.

Victims: The relatives of Mr. Luis Gerardo Toro Jiménez, José Davidson Toro Ortiz, Robinson de Jesús Agudelo Toro, and Luis Gonzaga Toro Arcila, included in this Agreement.

²I/A Court H.R. Case of the Serrano-Cruz Sisters v. El Salvador, (Merits, Reparations, and Costs). Judgment of March 1, 2005, Series C No. 120, par. 150.

³I/A Court H.R. Case of Caesar v. Trinidad and Tobago, (Merits, Reparations, and Costs). Judgment of March 11, 2005. Series C No. 123, par. 125.

PART TWO: BACKGROUND

BEFORE THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

1. On July 12, 2007, the Inter-American Commission received⁴ a petition filed by Mr. Julián Alberto Toro Ortiz on behalf of himself and his family,⁵ for the murders of his father, Luis Gerardo Toro Jiménez, his brother, José Davison Toro Ortiz, and his cousins, Robinson de Jesús Agudelo Toro and Luis Gonzaga Toro Arcila, which occurred between 1982 and 2006.

2. In the initial petition, Mr. Julián Alberto Toro Ortiz states that on July 21, 1982, his father, Mr. Luis Fernando Toro, who worked as a security guard for the Municipal Mayor's Office of Ansermanuevo in Valle del Cauca, was murdered by two hired killers part of the Valle Cartel.⁶ Subsequently, on October 10, 2002⁷, in the Municipality of El Cairo, Valle, his cousin Robinson de Jesús Agudelo Toro was murdered, in acts allegedly attributable to members of the Calima Bloc of the United Self-Defense Forces of Colombia under the sponsorship of the Valle Cartel.⁸

3. On the other hand, Mr. Toro Ortiz states that on November 11, 2002⁹ in Cartago, Valle, his brother, Mr. José Davison Toro Ortiz was murdered on orders from the same, aforementioned criminal groups.¹⁰

4. Likewise, Admissibility Report No. 165/18 indicates that on April 26, 2006, Mr. Luis Gonzaga Toro Arcila, cousin of Mr. Julián Alberto Toro Ortiz,¹¹ was found dead in the vicinity of the Municipality of Marsella, Department of Risaralda.

5. Mr. Julián Alberto Toro Ortiz affirms that, as a consequence of these events, the family members received various threats, which resulted in them being forced to move from their place of residence.¹²

6. According to the international case file, a criminal investigation was conducted into the facts related to the homicide of Mr. José Davison Toro Ortiz, under file No. 71680. This investigation ended with a decision to suspend investigation issued on August 21, 2012 by the Sixteenth (16) Sectional Prosecutor's Office before the Criminal Judges of the Circuit of Cartago, Valle. That decision is in effect given that no appeal was filed against it.¹³

7. Likewise, in the case of the murder of Mr. Robinson de Jesús Agudelo Toro, a criminal investigation was initiated under file No. 121783, which is being handled, in the investigation stage, by the Eighth (8th) Specialized Prosecutor's Office attached to the Valle del Cauca Sectional Office.¹⁴

⁴ Admissibility Report No. 165/18 of December 9, 2018, p. 1, numbered section II.

⁵ Identified in Admissibility Report No. 165/18 as Mariela Ortiz de Toro, Gerardo Toro Ortiz, Nelson Fernando Toro Ortiz, and Ana Judith Toro Jiménez.

⁶ Initial Petition received on July 11, 2008, pp. 4 and 5. According to the Admissibility Report, the murder of Mr. Luis Gerardo Toro was perpetrated by two members of the United Self-Defense Forces of Colombia (AUC). Admissibility Report, *op.cit.*, p. 2, par. 2.

⁷ According to the Admissibility Report, the murder of Robinson de Jesús Agudelo Toro occurred on October 11, 2002. Admissibility Report, *op.cit.*, p. 2, par. 2.

⁸ Initial Petition, *op.cit.*, pp. 4 and 5. According to the Admissibility Report, Mr. Robinson de Jesús Agudelo Toro "was murdered in connection with a massacre attributed to the AUC in the Corregimiento de Albán, Municipality of El Cairo." Admissibility Report, *op.cit.*, p. 2, par. 2.

⁹ According to the Admissibility Report, Mr. José Davison Toro Ortiz was murdered on November 10, 2002. Admissibility Report, *op.cit.*, p. 2, par. 2.

¹⁰ Initial Petition, *op.cit.*, pp. 4 and 5. According to the Admissibility Report, the murder of Mr. José Davison Toro Ortiz was perpetrated by the United Self-Defense Forces of Colombia (AUC). Admissibility Report, *op.cit.*, p. 2, par. 2.

¹¹ *Ibid.*

¹² Initial Petition, *op.cit.*, pp. 4 and 5.

¹³ Office of the Attorney General. Official Letter No. 20161700056231, dated August 17, 2016.

¹⁴ Office of the Attorney General. Official Letter No. 20191700063121, dated June 26, 2019.

8. Regarding Mr. Luis Gerardo Toro Jiménez and Mr. Luis Gonzaga Toro Arcila, no records were found in the Attorney General's Office regarding the investigations conducted into these homicides.¹⁵

9. Finally, the Attorney General's Office indicated that regarding the crime of threats against Mr. Julián Alberto Toro Ortiz there had been an investigation that was archived in 2011 due to the impossibility of finding or establishing the perpetrator (*sujeto activo*) of the threats.¹⁶

10. In Report No. 165/18 of December 9, 2018, the Inter-American Commission declared the admissibility of the petition regarding the alleged violation of the rights recognized in Articles 4 (life), 5 (humane treatment), 8 (fair trial), 21 (right to private property), 22 (right to movement and residence), 25 (judicial protection), and 26 (progressive development), of the American Convention on Human Rights in conjunction with Article 1.1 (obligation to respect rights) of the same instrument.

11. The State informed the Inter-American Commission on Human Rights of its intention to initiate a friendly settlement process on September 13, 2021. On October 8, in a letter sent by e-mail, the petitioners expressed their willingness to initiate this process.

12. On November 18, 2021, the Colombian State and the petitioners signed a Memorandum of Understanding for the Search for a Friendly Settlement, which was brought to the attention of the Inter-American Commission on November 19, 2021.

13. In the following months, joint meetings were held between the parties to analyze the comprehensive reparation measures to be included in the Friendly Settlement Agreement that is now being signed.

PART THREE: BENEFICIARIES

The Colombian State recognizes the following persons, all Colombian citizens, as the victims referred to in this agreement:

Victim	Family member	Relationship	Identification
Luis Gerardo Toro Jiménez	Mariela Ortiz de Toro	Wife	[...]
	Julián Alberto Toro Ortiz	Son	[...]
	Nelson Fernando Toro Ortiz	Son	[...]
	Luis Gerardo Toro Ortiz	Son	[...]
	Ana Judith Toro de Agudelo	Sister	[...]
José Davidson Toro Ortiz	Mariela Ortiz de Toro	Mother	[...]
	Estefania Toro Morales	Daughter	[...]
	Julián Alberto Toro Ortiz	Brother	[...]
	Nelson Fernando Toro Ortiz	Brother	[...]
	Luis Gerardo Toro Ortiz	Brother	[...]
Robinson de Jesús Agudelo Toro	Ana Judith Toro de Agudelo	Mother	[...]
	Robinson Londoño Salamanca	Son	[...]

¹⁵ Office of the Attorney General. Official Letters with file numbers Nos. 20211700036721 dated May 28, 2021, 20211700038351 dated June 3, 2021, and 20211700056521 dated August 19, 2021.

¹⁶ Office of the Attorney General. Document No. 20218001232772 dated July 9, 2021.

	Agueda Uniris Agudelo Toro	Sister	[...]
	Luz Mariena Agudelo Toro	Sister	[...]
	Ruby Inés Agudelo Toro	Sister	[...]
	Diana Maria Agudelo Toro	Sister	[...]
Luis Gonzaga Toro Arcila	Mariela Arcila de Toro	Mother	[...]
	Jeisson Andrey Toro Santibañez	Son	[...]
	María Rosalba Toro Arcila	Sister	[...]
	Roberto Toro Arcila	Brother	[...]
	Ruby Elena Toro Arcila	Sister	[...]

The victims recognized in this Friendly Settlement Agreement shall benefit provided that they prove the following in respect of the direct victims-- Luis Gerardo Toro Jiménez, José Davidson Toro Ortiz, Robinson de Jesús Agudelo Toro, and Luis Gonzaga Toro Arcila--: (i) relationship by affinity, i.e., spouse or common law partner (*compañero o compañera permanente*), or (ii) blood relationship (consanguinity).

Additionally, the victims who will benefit from this Friendly Settlement Agreement will be those who were alive at the time of the victimizing event¹⁷ and remain alive as of the signing of the Agreement.

PART FOUR: ACKNOWLEDGMENT OF RESPONSIBILITY

The Colombian State acknowledges its international responsibility by omission, for violation of the right to personal integrity (Article 5.1) in relation to the rights to judicial guarantees (Article 8.1) and to judicial protection (Article 25.1) established in the American Convention on Human Rights, in conjunction with the general obligation to respect rights (Article 1.1. of the same instrument), to the detriment of the family members of Luis Gerardo Toro Jiménez, José Davidson Toro Ortiz, Robinson de Jesús Agudelo Toro, and Luis Gonzaga Toro Arcila, due to the lack of diligence in the investigation of the events that occurred, which has prevented their clarification and the punishment of those responsible, and has caused them suffering and anguish.

PART FIVE: MEASURES OF SATISFACTION

The parties agree that, within the framework of this Agreement, the following measures of satisfaction shall be undertaken:

i. Act of Acknowledgment of Responsibility:

The Colombian State will hold an Act of Acknowledgment of Responsibility, which will be carried out virtually with the participation of the petitioners and the victims' relatives. The act shall be performed in accordance with the acknowledgment of responsibility set forth in this Agreement.

The National Agency for the Legal Defense of the State shall be responsible for the implementation of this measure of satisfaction.

¹⁷ The foregoing, in accordance with the jurisprudence of the Inter-American Court of Human Rights. See, I/A Court H.R. Case of the Afro-descendant communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia. (Preliminary Objections, Merits, Reparations, and Costs). Judgment of November 20, 2013. Series C No. 270, par. 425.

ii. Publication of the Article 49 Report:

The Colombian State shall publish the pertinent sections of the friendly settlement report, once it has been approved by the Inter-American Commission, on the websites of the National Agency for the Legal Defense of the State, for a period of six (6) months.

iii. Educational Financial Aid:

The Colombian State, through the Ministry of National Education and the Colombian Institute of Educational Credit and Technical Studies Abroad, ICETEX, will provide five (5) educational grants to five family members of the victims included as beneficiaries of this Friendly Settlement Agreement.¹⁸

To enact the measure in Colombia, each grant will cover the cost of the tuition fees for the semesters of an academic program at a professional, technical, technological, university, or graduate-level technical program in a Higher Education Institution in Colombia recognized by the Ministry of National Education, in a on site or virtual format, up to an amount equivalent to eleven (11) legal minimum wages per semester and a support grant in the amount of two (2) legal minimum wages per semester if the Higher Education Institution is located in the municipality of residence of the beneficiary or four (4) legal minimum wages if the Higher Education Institution is outside the municipality in which the beneficiary resides.

Those who study abroad must prove that they have legal residence in the country where they wish to study¹⁹ and that they have been admitted to a Higher Education Institution recognized by the country of residence, in a professional, university, or postgraduate-level education program. The ceiling for each of these overseas allowances will be as follows:

Tuition in Higher Education Institutions in professional, university, or postgraduate programs will be up to one hundred and twenty-eight (128) legal minimum wages per person in total, and an additional support grant of one (1) legal minimum wage of the country of residence. In all cases, the support will be provided on a semester basis.

Within the framework of university autonomy, the Ministry of National Education shall refrain from managing or requesting Higher Education Institutions, whether in Colombia or abroad, the admission or allocation of students in academic programs. The beneficiaries must carry out the pertinent procedures to be admitted, ensuring that they meet the requirements needed to study the respective program and guaranteeing that they will stay long enough in the Higher Education Institution to ensure adequate academic performance.

It is the sole responsibility of the beneficiaries of the measure to maintain their student status in the Higher Education Institution of their choice. If the beneficiary loses his/her status as a student due to poor academic performance, disciplinary misconduct, or any other circumstance attributable to him/her, the State shall be deemed to have fulfilled the measure in question.

The grants must begin to be used within a term not exceeding seven (7) years from the signature of this agreement, otherwise the State's efforts to obtain them shall be deemed to have been fulfilled.

This measure will be implemented by the Ministry of Education and the Colombian Institute of Credit and Technical Studies (ICETEX).²⁰

¹⁸ They shall be chosen directly by the relatives of Mr. Luis Gerardo Toro Jiménez, Mr. José Davidson Toro Ortiz, Mr. Robinson de Jesús Agudelo Toro, and Mr. Luis Gonzaga Toro Arcila.

¹⁹ Otherwise, the measure must be executed in Colombia.

²⁰ Ministry of Education. Document No. 2022-EE-138742 of June 23, 2022.

iv. Working Groups with the Ministry of Housing, City, and Territory:

The Colombian State, through the Ministry of Housing, City, and Territory, will hold three (3) round tables with the beneficiaries of the Friendly Settlement Agreement, if so desired, with the purpose of explaining the institutional offer established by the Colombian state in terms of access to housing programs, including the requirements and ways to apply for these benefits.

The implementation of this measure will not imply granting the beneficiaries with family or housing subsidies in kind or housing improvements, since the above will depend on the beneficiaries' willingness to access any of the programs included in the institutional offer, as well as fulfillment of the corresponding requirements within the deadlines established in each program.

This measure will be implemented upon signature of the Friendly Settlement Agreement.²¹

PART SIX: JUSTICE SYSTEM MEASURES

The Attorney General's Office, within the framework of its sphere of competence, will continue to carry out with due diligence the judicial actions needed to advance investigation number 76111600024720220000001, to achieve the full establishment of the facts and, the possible identification and individualization of the perpetrators and participants involved.

In furtherance of the foregoing, the Attorney General's Office and the petitioners will hold a meeting every six months to report on the progress made in the justice system.

The semi-annual meeting to be held will be convened directly by the Attorney General's Office.²²

PART SEVEN: COMPENSATION MEASURES

The State undertakes to initiate the process of Law 288 of 1996 "Whereby instruments are established for the compensation of damages to victims of human rights violations in accordance with the provisions of certain international human rights bodies," once the present friendly settlement agreement is approved through the issuance of the Article 49 Report of the American Convention on Human Rights, with the purpose of repairing the damages caused to the victims' relatives as a result of this case.

The National Agency for the Legal Defense of the State will be the entity in charge of the processing of Law 288 of 1996.

For the purposes of compensation, the criteria and amounts recognized by the current jurisprudence of the Council of State shall apply.

PART EIGHT: APPROVAL AND FOLLOW-UP

The parties request the Inter-American Commission to approve and follow up on this agreement.

This Agreement having been read and the parties being aware of its scope and legal content, it is hereby signed on the twenty-ninth (29th) day of the month of September, 2022.

²¹ Ministry of Housing, City, and Territory. Document No. 2022EE0032287 of April 4, 2022.

²² Office of the Attorney General. Document No. 20221700051221 of July 12, 2022.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

11. The IACHR reiterates that in accordance with Articles 48(1)(f) and 49 of the American Convention, the purpose of this procedure is to “reach a friendly settlement of the matter based on respect for the human rights recognized in the Convention.” The acceptance to pursue this process expresses the good faith of the State to comply with the purposes and objectives of the Convention pursuant to the principle of *pacta sunt servanda*, by which States must comply with the obligations assumed in the treaties in good faith.²³ It also wishes to reiterate that the friendly settlement procedure set forth in the Convention allows for conclusion of individual cases in a non-contentious manner, and has proven, in cases involving a variety of countries, to provide an important vehicle for resolution that can be used by both parties.

12. The Inter-American Commission has closely monitored the progress of the friendly settlement reached in the instant case and appreciates the efforts made by both parties during negotiations to reach this friendly settlement, which is compatible with the object and purpose of the Convention.

13. In accordance with the agreement signed between the parties by which they requested the Commission to approve the friendly settlement agreement contemplated in Article 49 of the American Convention, and taking into consideration the parties' request of January 14, 2023 to move forward by this means, it is appropriate at this time to assess compliance with the commitments established in this instrument.

14. The Inter-American Commission considers that the first (Concepts), second (Background in the Inter-American Human Rights System), third (Beneficiaries), and fourth (Acknowledgment of Responsibility) clauses of the agreement are of a declarative nature, and therefore it is not appropriate to supervise their compliance. In this regard, the Commission values the fourth declaratory clause, in which the Colombian State acknowledges its international responsibility by omission, for violation of the right to humane treatment (Article 5.1) in relation to the rights to judicial guarantees (Article 8.1) and to judicial protection (Article 25.1) established in the American Convention on Human Rights, in conjunction with the general obligation to guarantee (Article 1.1. of the same instrument), to the detriment of the family members of Luis Gerardo Toro Jiménez, José Davidson Toro Ortiz, Robinson de Jesús Agudelo Toro, and Luis Gonzaga Toro Arcila, due to lack of diligence in the investigation of the facts that occurred, which has prevented their clarification and the punishment of those responsible, and has caused them suffering and anguish.

15. Regarding paragraph (i) *act of acknowledgment of responsibility* of the fifth clause (satisfaction measures) of the friendly settlement agreement, as jointly informed by the parties in their report dated January 14, 2023, after the signing of the FSA, the parties agreed that the said act would be of a private nature and it was held on November 30, 2022, by means of a virtual platform. The parties reported the existence of regular and smooth communication between the State and the petitioners, with whom they agreed on each of the details for the fulfillment of the measure, such as the date, time, agenda and required logistics. In this regard, the parties provided a copy of the invitations circulated for said event, in which the victim's relatives and their representative, the National Agency for the Legal Defense of the State, as well as the Commissioner and rapporteur for Colombia of the IACHR, participated.

16. Likewise, the parties reported on the content of the agenda agreed upon for the private act of acknowledgment of responsibility, which included opening remarks, the Colombian national anthem, the projection of a video prepared by the relatives, words by Mr. Julián Alberto Toro Ortiz, son, brother and cousin of the victims, as well as by their representative, Mr. Christian Camilo Castillo Ulcue. The State's address was given by the ANDJE's Director of International Legal Defense, who asked the victims and their families for forgiveness for what happened, and acknowledged the State's responsibility under the terms established in the friendly settlement agreement signed between the parties, stating the following:

[...].

²³ 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.*

On behalf of the State of Colombia, and as Director of International Legal Defense of the National Agency of Legal Defense of the State, I express to you and the other relatives of Mr. Luis Gerardo Toro Jiménez, José Davidson Toro Ortiz, Robinson de Jesús Agudelo Toro, and Luis Gonzaga Toro Arcila, our deepest feelings of solidarity.

The State had the obligation to investigate, prosecute, and punish those responsible for violating the fundamental rights of Luis Gerardo Toro Jiménez, José Davidson Toro Ortiz, Robinson de Jesús Agudelo Toro, and Luis Gonzaga Toro Arcila. And, we have been witnesses of the painful search for truth and justice that the Toro family has undertaken over the years.

The Colombian State recognizes that the right of access to the administration of justice is an indispensable prerequisite for the realization of fundamental rights, and stands as one of the pillars supporting the Social and Democratic Rule of Law. This right entails the concrete opportunity that all persons, without distinction, must have to obtain restoration of their rights through the means provided, which must be, inter alia, timely and effective. Likewise, the State recognizes the obligation to ensure vindication of the rights of the victims and the restoration of their rights within a reasonable period of time.

In light of the above, and, in particular, recognizing the obligations we have as a State, in my capacity as Director of International Legal Defense of the National Agency for the Legal Defense of the State, I recognize the international responsibility by omission, for the violation of the right to personal integrity (Article 5.1) in relation to the rights to judicial guarantees (Article 8.1) and to judicial protection (25.1) established in the American Convention on Human Rights, in conjunction with the general obligation to guarantee (Article 1.1. of the same instrument), to the detriment of the family members of Luis Gerardo Toro Jiménez, José Davidson Toro Ortiz, Robinson de Jesús Agudelo Toro, and Luis Gonzaga Toro Arcila, for the lack of due diligence in the investigation of the events that occurred, which has prevented their clarification and punishment of those responsible, and has caused them suffering and anguish. [...].

17. For his part, Commissioner Joel Hernández, IACHR Rapporteur for Colombia, stated the following:

[...]

I was very moved by the video in which the Toro family shows us the different stages of suffering they endured after losing four (4) family members, in a period of time that went from 1982 to 2006 and in which we can see how painful it was to lose, one after the other, a family member and leaving sons and daughters in helplessness and orphanhood. I was also very moved by the statement made by the petitioner Julian Alberto Toro, who referred so eloquently to: "the lack of a father he has felt throughout his life." I believe this reflects the human pain of losing a loved one, and also in complex circumstances at a time marked by violence perpetrated by illegal armed groups against the innocent, hardworking population, who only wanted the wellbeing of their family and who were rooted to their land.

There are many cases that we have observed at the Commission and we are glad when, as today, they begin a process of integral reparation. I believe that we should all feel satisfied that the States have given themselves an Inter-American Human Rights System since 1959. In this way, when it is not possible to carry out reparations for the violations at the national level, the victims have access to the inter-American system so that it can assess the human rights violations and formulate pertinent recommendations to the State. It is particularly gratifying to work on cases such as the one before us today, because once the Commission finds that there is merit for the admissibility of a petition, as in this case, the State and the petitioners immediately reach an agreement to initiate a friendly settlement process. Not only is it an

efficient and effective process, since it allows us to carry out reparation in a more reasonable time. It is also a very valuable process because here the victims themselves make the process their own and they are the ones who are shaping, through their representation, but hand in hand with the State, the measures that will allow them to fulfill an integral reparation. Unfortunately, we cannot bring back to life the people who lost their lives over the years, but at least each of the components of the friendly settlement agreement that has been signed will allow us to make progress in reconciliation within the petitioners, but also with the State, for the omissions incurred. In this way, we will be reclaiming the memory of our loved ones, of those who lost their lives, and at the same time, measures will be taken to advance towards justice.

18. In light of the above and of the information provided jointly by the parties, the Commission considers, and hereby declares, that paragraph (i) of clause five of the friendly settlement agreement, related to the act of acknowledgment of responsibility, has been fully complied with.

19. In relation to clause six (justice measures), on March 21, 2023, the parties jointly reported the existence of regular communication between the State and the petitioners and confirmed that on February 28, 2023, a meeting was held to report on the progress made in the judicial process, in connection with investigation number 76111600024720220000001, with the aim of clarifying the facts and possibly identifying and individualizing the perpetrators and participants. In this regard, the parties indicated that the measure has been gradually complied with and several meetings have been held, led by the Prosecutor in the case and attended by the parties. Both the victims and their representatives stated that they greatly appreciate the efforts made by the officials of the Attorney General's Office to advance the investigation and comply with the measure.

20. However, at the request of the Toro Ortiz family and their representatives, by means of a communication dated March 8, 2023, they indicated that they did not wish to continue with the follow-up of the investigation being conducted by the Prosecutor's Office. The parties clarified that, although the Attorney General's Office will continue with its investigative work in the present case outside the follow-up framework mechanism on implementation of the FSA of the Annual Report of the IACHR, at the same time they asked the Commission to assess the progress made in the compliance with the measure and to cease supervision of said end of the agreement. In this regard, taking into consideration what was indicated by the parties, the Commission considers that with regard to this aspect of the agreement a level of partial compliance has been reached and, by virtue of the withdrawal of the victims' family, it decides to cease its supervision, reminding the State of its duty to continue with the investigations and punishment of those responsible, even though this measure is no longer an aspect of the FSA.

21. In relation to paragraphs (ii) publication of the Article 49 Report, (iii) educational grants, and (iv) Working Groups with the Ministry of Housing, City and Territory, of the fifth clause (satisfaction measures), as well as the seventh clause (compensation measures) of the friendly settlement agreement, and by virtue of the joint request of the parties to advance with the approval of the agreement prior to its execution, the Commission observes that said measures shall be fulfilled after the publication of this report. It therefore considers, and hereby declares, that compliance with them is still pending. In light of the above, the Commission will await updated information from the parties on their execution subsequent to the approval of this report.

22. In view of the foregoing, the Commission concludes, and hereby declares, that paragraph (i) of the act of acknowledgment of responsibility of the fifth clause has been fully complied with. At the same time, the Commission considers, and hereby declares, that the sixth clause (justice-related measures) has been partially complied with. In addition, the Commission considers that compliance with paragraphs (ii) publication of the Article 49 Report, (iii) educational grants, and (iv) Working Groups with the Ministry of Housing, City and Territory, of the fifth clause (satisfaction measures), as well as the seventh clause (compensation measures), is still pending. Accordingly, the Commission considers, and hereby declares, that the friendly settlement agreement has been partially implemented. Finally, the Commission reiterates that the rest of the content of the agreement is of a declarative nature and therefore it is not the IACHR's responsibility to supervise its compliance.

V. CONCLUSIONS

1. Based on the foregoing and in keeping with the procedure provided for in Articles 48(1)(f) and 49 of the American Convention, the Commission would like to reiterate its profound appreciation of the efforts made by the parties and its satisfaction that a friendly settlement has been arrived at in the present case on the basis of respect for human rights and consistent with the object and purpose of the American Convention.

2. Based on the considerations and conclusions contained in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the friendly settlement agreement that the parties signed on September 29, 2022.

2. To declare full compliance with item (i) (*act of acknowledgment of responsibility*) of the fifth clause of the friendly settlement agreement, based on the analysis contained in this report.

3. To declare partial compliance with the sixth clause (justice-related measures) and cease its supervision due to the withdrawal of the parties, according to the analysis contained in this report.

4. To declare that compliance with the following items is still pending: (ii) *publication of the Article 49 Report* (iii) *educational grants*, and (iv) *Working Groups with the Ministry of Housing, City and Territory*, of the fifth clause (satisfaction measures), as well as the seventh clause (compensation measures) of the friendly settlement agreement, based on the analysis contained in this report.

5. To declare that the friendly settlement agreement has been partially complied with according to the analysis contained in this report.

6. To continue monitoring the commitments assumed in paragraphs (i) and (ii) above (ii) *publication of the Article 49 Report* (iii) *educational grants*, and (iv) *Working Groups with the Ministry of Housing, City and Territory*, of the fifth clause (satisfaction measures) and the seventh clause (compensation measures) of the friendly settlement agreement, according to the analysis contained in this report. To that end, to remind the parties of their commitment to keep the IACHR regularly informed regarding compliance with those aspects of the agreement.

7. To publish the present report and include it in its Annual Report to the General Assembly of the OAS.

Approved by the Inter-American Commission on Human Rights on the 26th day of the month of July, 2023. (Signed:) Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, Vice President; Roberta Clarke, Second Vice President; Joel Hernández García, Julissa Mantilla Falcón and Stuardo Ralón Orellana, Commissioners.