**VENEZUELA**

**MONITORING SHEET ON REPORT ON FRIENDLY SETTLEMENT No. 110/06**

**CASE 12.555**

**SEBASTIÁN ECHANIZ ALCORTA AND JUAN VÍCTOR GALARZA MENDIOLA**

**(Venezuela)**

1. **Case summary**

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| **Victim(s):** Sebastián Echaniz Alcorta and Juan Víctor Galarza Mendiola  **Petitioner(s):** José Ramón Ortuondo, Marino Alvarado Betancourt, Joseba Agudo Manzisidor, Programa Venezolano de Educacion Accion en Derechos Humanos (PROVEA)  **State:** Venezuela  **Admissibility report No.:** [**37/06**](http://cidh.org/annualrep/2006eng/VENEZUELA.562.03eng.htm), published March 15, 2006.  **Friendly settlement agreement report:** [**110/06**](http://www.cidh.oas.org/annualrep/2006eng/VENEZUELA.12555eng.htm), published on October 21, 2006.  **Related rapporteurship:** Rights of Migrants  **Themes:** Humane treatment/ Personal liberty/ Fair trial/ Protection of honor and dignity / Protection of the family / Freedom of movement and residence / Equal protection/ Judicial protection  **Facts:** On November 26, 2002 the Inter-American Commission on Human Rights received a petition filed by Josefa Agudo Manzisidor, Marino Alvarado, and José Ramón Ortuondo against the Venezuelan State relating to the allegedly unlawful deportation of their client, Juan Víctor Galarza Mendiola, Basque in origin and of Spanish nationality, deported from the Bolivarian Republic of Venezuela to Spain on June 2, 2002. On June 9, 2003, the Commission received a petition filed by the same petitioners against the Venezuelan State in connection with the alleged unlawful deportation of Mr. Juan Víctor Galarza, Basque in origin and of Spanish nationality, deported from Venezuela to Spain on December 16, 2002, in which allegations were made relating to the liability of the Venezuelan State.  On March 17, 2004, the Commission informed the parties concerned of its decision to combine both petitions in accordance with the provisions of Article 40(2) of its Rules of Procedure and to pursue the processing of both petitions under case file No. P562/03.  **Rights declared admissible:** The Commission concluded it was competent to hear the case in question and that the petition was admissible regarding articles 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial), 11 (right to privacy), 17 (rights of the family), 22 (freedom of movement and residence), 24 (equal protection), and 25 (right to judicial protection) of the American Convention, in concordance with its Article 1(1), in compliance with the requirements set forth in its articles 46 and 47, and decided to notify the parties and published its report in its annual report. |

1. **Procedural activities**
2. The IACHR asked the parties for updated information on November 9, 2007; November 2008; November 13, 2009; November 19, 2010; October 25, 2011; November 16, 2012; October 4, 2013; November 25, 2014; October 5, 2015; October 12, 2016; August 23, 2017, and August 1, 2018.
3. The State has not submitted updated information since December 27, 2010.
4. For their part, the petitioners have not submitted information since December 8, 2007.
5. **Analysis of compliance with the clauses of the friendly settlement agreement**

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| **Agreement clause** | **State of compliance in 2018** | **Relevant information provided by the parties** |
| The Venezuelan State accepts its international liability for the violation of the human rights of citizens Juan Víctor Galarza Mendiola and Sebastián Echaniz Alcorta, by virtue of having proceeded to deport them illegally and deliver them unlawfully to the Spanish State. | **Declarative clause** | |
| The State of Venezuela recognizes that in the event of an extradition request for a foreigner sought by the justice system of another country, the extradition procedure must be used. In this connection, an unequivocal commitment is given not to employ or have recourse to any method contrary to national or international law that bypasses legal mechanisms or procedures in an effort to secure the return of any foreigner. Based on the foregoing considerations, the State of Venezuela accepts that the procedures for expulsion will not be used in cases of those who have legal cases pending in their countries of origin and that it will try, with due respect for legal guarantees, the extradition requests that are filed in accordance with national laws and international regulations. In this connection, the government will refuse to return individuals to States where they might run the risk of torture, abusive treatment, due process violations, or where they might be persecuted on account of their ideology, race, religious beliefs, or sexual orientation. | **Declarative clause** | |
| The compensation awarded for pain and suffering to Juan Víctor Galarza Mandiola will be in the amount of 50,000 (fifty thousand) euros, to be paid within no more than 90 days from the signing of this friendly settlement, with one 30-day extension. The sum of 35,000 (thirty-five thousand) euros should be paid to his wife María José Ugalde and the amount of 7,000 (seven thousand) euros should be paid to his daughter, Haizea Galarza. Failure to make payment within this time-frame will mean that the State has to pay interest on arrears. | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |
| The amount of compensation for material damage as a result of foregone earnings as well as the indirect damage to Juan Víctor Galarza Mendiola and his family shall be  40,000 (forty thousand) euros, payable within no more  than 90 days from the date on which this friendly settlement agreement is signed, with one 30-day extension. Failure to make payment within this time-frame will mean that the State has to pay interest on arrears. | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |
| In the case of Sebastián Echaniz Alcorta and his companion, compensation for pain and suffering will reflect the suffering caused to himself and to members of his family on account of the years of deprivation of freedom which he has already endured, and those that he will endure in the future, the torture to which he was subjected, illegal expulsion, the economic upheaval caused as well as the resulting family instability. At the same time, he should receive compensation for foregone earnings caused by the fact that he was deprived of the monthly income he was earning at the time of his arrest and would have earned during the time of his subsequent illegal deportation, as well as compensation for the indirect damages incurred by his companion’s involuntary travel to Spain and the visits that she had to make to a number of Spanish prisons in the almost four years that he has spent in prison, in addition to the time that he still has to serve. | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |
| The compensation for pain and suffering to be awarded to Sebastián Echaniz Alcorta will be 75,000 (seventy-five thousand) euros, to be paid within a maximum of 90 days from the signing of this friendly settlement agreement, with one 30-day extension. Compensation for pain and suffering for his companion, María Aranzazu Plazaola Echaniz, will be in the amount of 25,000 (twenty-five thousand) euros. Nonpayment within this time-frame will mean that the State will have to pay moratory interest. | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |
| The compensation for property damage reflecting the stoppage of business activity for the years spent in prison and for the years of his sentence that remain, as well as the indirect damage to Sebastián Echaniz Alcorta and his companion, will be in the amount of 93,000 (ninety-three thousand) euros, to be paid by no more than 90 days after the signing of the current friendly settlement agreement with one 30-day extension. Nonpayment within this time-frame will mean that the State will be liable for the payment of moratory interest. | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |
| At the same time, the Venezuelan State, in recognizing that María Aranzazu Plazaola Echaniz, is largely dependent on her partner's income, undertakes to guarantee a monthly pension of 750 (seven hundred and fifty euros ), adjusted each year by the CPI (Consumer Price Index) of her place of origin, for as long as her companion is deprived of his freedom. This amount shall be transferred on a monthly basis to a bank account that will be opened for the beneficiary in Spain. | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |
| * Comply, to the best of its ability, with the appropriate formalities required by relevant Spanish authorities in order to ensure that Sebastián Echaniz Alcorta can serve out the remainder of his prison term in a correctional facility near to his place of origin, as is established by international regulations. | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |
| * Visit Sebastián Echaniz Alcorta at least twice a year in the prison where he is kept, in order to ascertain the conditions in which he is imprisoned, determine the state of his physical and psychological health and follow up on any complaint that he makes with regard to the behavior of prison officers. The appropriate State organization should give the petitioners and families a report about every visit, within thirty days of the visit. | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |
| - It shall defray all expenses for medical attention that the Spanish State does not cover for the entire period that he is deprived of his freedom. | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |
| * The State of Venezuela undertakes to publish this friendly settlement agreement in the Official Gazette of the Bolivarian Republic of Venezuela and in a national circulation newspaper | **Non-Compliance** | **Non-Compliance:** those recommendations/or clauses of agreements, that due to the conduct of the State, were impossible to comply with or in which the State explicitly indicated that it would not comply with the decision. |

1. **Analysis of the information provided**
2. The Commission observes that the parties have not submitted information this year on compliance with the friendly settlement agreement.
3. Therefore, the IACHR concludes there is no information for conducting an analysis of compliance with the friendly settlement agreement for the year 2018.
4. Since the publication of the friendly settlement agreement on October 21, 2006, the IACHR has monitored compliance with the clauses agreed by the parties through the Chapter II D of its Annual Report submitted to the OAS General Assembly. For that effect, the IACHR has requested information to both parties on 12 occasions, on November 9, 2007, November 2008, November 13, 2009, November 19, 2010, October 25, 2011, November 16, 2012, 4 October 2013, November 25, 2014, October 5, 2015, October 12, 2016, August 23, 2017 and August 1, 2018. To this date, none of the parties has submitted updated information on the level of compliance of the agreed.
5. The last communication received from the petitioner was dated December 8, 2007, in which it was stated that the State made an specific admission of having violated the rights established in the American Convention on Human Rights; that the State failed to comply with each of the clauses of the agreement by publicly declaring that it was unaware of it and by publicly disqualifying the State agent who appears as signatory of the agreement while saying that it had no competence to undertake such commitment in the name of the State. Finally, the petitioners indicated that the lack of will to comply with the agreement was verified in the communications sent by the State to the IACHR dated December 11, 2006 and August 7, 2007, in which the State expressly stated its position not to continue with the friendly settlement process. The petitioner has not submitted updated information in 11 years, despite requests from the Commission to assess compliance with the agreement. In 2018, the Executive Secretariat undertook, without success, personalized actions to obtain a response from the petitioner. However, all efforts were unsuccessful.
6. On December 27, 2010, the IACHR received the last communication from the State, in which it reiterated the communication submitted on June 30, 2007, in which it stated that "on the basis of Article 41 of the Commission's Rules of Procedure, the Venezuelan State had decided not to continue the friendly settlement process, it "affirmed its position on the matter and indicated that it hoped that the IACHR would understand that the case had produced friction with the Spanish government," due to inconsistent actions of Ms. María Auxiliadora Monagas, which had the functions of State Agent for Human Rights at that time." Since then, the IACHR has not received any information from the State, in spite of multiple requests for information.
7. **Level of compliance in the case**
8. The Commission observes that there has been no progress toward complying with the friendly settlement agreement since it was approved 12 years ago. For this reason, pursuant to articles 42 and 48 of its Rules of Procedure, the IACHR decided on January 8, 2019, to cease monitoring compliance with the friendly settlement agreement and close the matter, while letting the record show in its Annual Report to the General Assembly of the Organization of American States that the friendly settlement agreement remains pending compliance.
9. Consequently, the IACHR concludes that the State failed to comply with the measures established in the friendly settlement agreement, and therefore they remain pending compliance. The friendly settlement agreement remains pending compliance.

**MONITORING SHEET ON REPORT ON FRIENDLY SETTLEMENT No. 32/12**

**CASE 11.706**

**YANOMAMI INDIGENOUS PEOPLE OF HAXIMÚ**

**(Venezuela)**

1. **Case summary**

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| **Victim(s):** Yanomami indigenous people of Haximú  **Petitioner(s):** Center for Justice and International Law (CEJIL), José Miguel Vivanco (HRW/Américas), Programa Venezolano de Educación Acción en Rights Humanos (PROVEA)  **Friendly settlement agreement report:** [**32/12**](http://www.oas.org/en/iachr/decisions/friendly.asp), published March 20, 2012.  **Related rapporteurship:** Indigenous peoples  **Issues:** Indigenous peoples / Right to life / Circulation and residence / equal protection / judicial protection / Investigation  **Facts:** This case involves the international responsibility of Venezuela for the murder of 16 Yanomami indigenous persons from the Haximu region in June and July 1993; for not effectively preventing the presence of the *garimpeiros* (independent mining prospectors) on Yanomami territory; and for failure to investigate, prosecute and punish those responsible.  **Rights alleged:** The petitioner alleged violation of articles 4 (right to life), 5 (right to humane treatment), 8 (right to a fair trial), 21 (right to private property), 22 (freedom of movement and residence), 24 (equal protection), and 25 (right to judicial protection) of the American Convention, in accordance with its Article 1(1), in compliance with the requirements set forth in its articles 46 and 47, and decided to notify the parties and publish its report in its annual report. |

1. **Procedural activities**
2. The IACHR asked the parties for updated information on October 8, 2013; October 5, 2015; October 12, 2016; August 23, 2017, and July 30, 2018.
3. The State provided information on October 19, 2017, and January 30, 2018.
4. The petitioners provided information on November 25, 2014, and January 30, 2018.
5. On October 2, 2018, the parties held a working meeting with facilitation from the Commission to encourage compliance with the pending points of the friendly settlement agreement.
6. **Analysis of compliance with individual clauses of the friendly settlement agreement**

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| **Agreement clause** | **State of compliance in 2018** | **Relevant information provided by the parties** |
| 1. On surveillance and control of the Yanomami area.  The State undertakes to promote the signing of an agreement with the government of Brazil to establish a Joint and Permanent Surveillance and Control Plan to monitor and control the entry of garimpeiros and illegal mining in the Yanomami area. | **Partial** | In the approval report, the Commission recognized the willingness of the State of Venezuela to honor its commitment to provide surveillance and control over the Yanomami area, in drafting and implementing the National Strategic Plan for the Defense, Development and Consolidation of the South (PENDDCS), which aims to increase the presence of the armed forces in the southern region of the country, in the States of Apure, Amazonas, Bolivar and Delta Amacuro, and the areas bordering Brazil, Colombia and Guyana, and improve the security, protection health and education of 34 ethnic indigenous groups and the population that inhabits the region.  The petitioners expressed their concern over the alleged absence of surveillance and control of the unlawful entry of garimpeiros into the area, as well as the proliferation of illegal mining, maintaining that both the former and the latter were taking place with the complicity of the Armed Forces and the Environmental Police. The petitioners alleged that those acts have had adverse effects on the community, posing major threats to the safety and lives of the Yanomami people. They alleged that those acts have resulted in the pollution of the Atabapo River and the disturbance of the waterway ecosystem in the area, as well as the introduction and expansion of endemic diseases, organized crime, different forms of violence against indigenous women, and drug trafficking. In view of the above, the petitioners assert that the Venezuelan State continues to lack appropriate policies and measures to control the unlawful entry of garimpeiros, as well as appropriate policies to control the corruption of members of the Armed Forces, who have contributed to the establishment and growth of illegal mining in the area.  On January 30, 2018, the petitioner reported that 22 years after the massacre, the situation in the area persisted due to the existence of illegal mining, the presence of *garimpeiros* on the land, and the existence of landing strips all along the border with Brazil. They also stated that, due to a lack of policies to control corruption among members of the Armed Forces and measures to control the illegal mining in the area, the *garimpeiros* enter not only by crossing the border with Brazil but by crossing the border with Colombia.  Taking into consideration the information provided by the petitioner, the Commission finds that compliance with this measure remains partial. |
| 2. On the health situation of the Yanomami People.   * The State undertakes: to design, fund and put into operation, through the Ministry of Health and in Coordination with the Regional Council of Health of the State of Amazonas, an Integrated Health program targeted to the Yanomami People, to confront the serious health issues of the area. The program shall include, among other aspects, the construction of infrastructure, provision of medical equipment and training of members of the ethnic group. * The State undertakes to allocate an annual budget administrated by the Regional Council of Health for execution of the Program that has been adopted herein. | **Partial** | In the approval report, the Commission recognized recognizes the willingness of the State of Venezuela to improve the health situation of the Yanomami people, in drafting, funding and progressively executing the Yanomami Health Plan and implementing in complementary fashion the Sierra Unturan Support Program, the “Cadena de Frio” Project and the Intercultural Health Program with the Indigenous Peoples and Communities of Venezuela.  In response, the petitioners recognize significant gains as well as issues that must still be strengthened in the framework of the Yanomami Health Plan, which has been implemented since 2005 in the Municipality of Alto Orinoco (Upper Orinoco), State of Amazonas.  They noted that as of 2005, there has been evidence of a significant recovery of the ambulatory care network of the Health District of the Upper Orinoco. They indicated that by 2007 the number of doctors increased to eight and, therefore, they recognize the measures taken by the State as positive steps toward ensuring wider coverage of primary medical care for the Yanomami. They noted that there were a higher number of vaccination days and expeditious fixes to failures in operations of the ambulatory care network. Notwithstanding, it was pointed out that there are still signs of problems with regard to accessibility to health care services and, therefore, coordination, monitoring and follow-up on the Health Plan needs to be strengthened.  The petitioners assert that, in spite of the progress made by the IACHR on the issue, they have documented some setbacks: the constant and ongoing lack of adequate health personnel in rural areas and their continuous rotation; lack of continuity in medical treatments, which hinders the effective eradication of epidemics; increased mortality rate in 2013 due to infectious diseases such as malaria, pneumonia, and tuberculosis; lack of adequate transportation to access remote areas and the lack of suitable medical equipment to treat the aforementioned health crisis; and the need to continue training members of this ethnic group as “Yanomami Community Agents for Primary Health Care.” In particular, the petitioners ask that the efforts made to date be supported by increased monitoring by the institutions, and that the additional medicines and supplies necessary for it to complete its work be provided. Finally, the petitioners assert that the Yanomami Health Plan does not currently have a sufficient budget.  In its annual report, the Commission noted that on October 19, 2017, the State Reportd that, in connection with the Comprehensive Health Program in 2004, it established the National Indigenous Health Department in Caracas; in 2005, the Yanomami Health Plan Office (Plan de Salud Yanomami—PSY) was installed in Puerto Ayacucho; in 2006, the New Tribes Substitution Program started; in 2008, the State signed Resolution CD48/10 of the Pan American Health Organization (PAHO), whereby the State pledged to eliminate all eye diseases attributable to onchocerciasis (river blindness) and to interrupt the transmission of the disease; in 2009, the State signed resolution CD49.R19 of PAHO, on the elimination of neglected infectious diseases (NID) and other poverty-related illness, for the period 2008-2015. In 2010, the State dismantled an illegal garimpo (gold-digger) mining camp, provided comprehensive health services to the Yanomami community, and started a program of regular visits. In 2012, there was the second graduating class of Yanomami Primary Healthcare Agents. In 2013, the Minister of Health traveled to the Upper Orinoco River and approved 40 hours of helicopter flights every quarter to provide health care services to the Yanomami communities living along the Brazilian border. In 2014, the State signed a Memorandum of Understanding with Brazil to provide comprehensive healthcare services to the Yanomami communities located in the border area. In 2015, the State approved a new proposal for the Yanomami Health Plan. In September 2016, the State signed resolution CD55/15 of the Executive Board of the World Health Organization (WHO) to eliminate or control neglected infectious diseases for the period 2016-2022.  In addition, the Venezuelan State reported that, because of the measures taken by the Government, with support from the Yanomami population and the application of molecular biology technology, the transmission of onchocerciasis was interrupted in the area. It is now estimated that 75% of the Yanomami community now lives in areas free from risk of infection. As for the incorporation of new communities in the Health System, the State reported that, thanks to the helicopter flights and satellite imaging, it was possible to identify and incorporate 4,768 Yanomamis into the system. As a result, there are now 15,040 Yanomamis who belong to the healthcare system. The State also reported that regular operations are being conducted, mobilizing about 70 healthcare workers in the most remote areas of the state of Amazonas. As a result, they have managed to diagnose, vaccinate, and treat persons with malaria and onchocerciasis. This information was forwarded to the petitioners.  On January 30, 2018, the petitioner reiterated the information presented beforehand and stated that despite some progress toward complying with what was agreed upon, such as the establishment of the Yanomami Health Plan and the signing of a binational agreement between Venezuela and Brazil in February 2015 to strengthen the Onchocerciasis Elimination Program, the community had in recent years had to face incidents of violence; confiscation of products intended for traditional activities such as hunting, agricultural fishing, and gathering; lack of budget; lack of awareness among authorities on the existence of the plan; lack of supplies, medical equipment, and health professionals to diagnose and treat malaria; and lack of access to official epidemiological records and statistics.  The petitioner also stated that despite the efforts made, they were not able to hold new meetings with the Vice Presidency of the Republic since 2015 to raise the issues affecting the community. With regard to training for the members of this ethnic group to enable them to provide primary care to their populations, the petitioners have recognized that since 2012, a number of courses have been offered in the Yanomami language. These have been positive and continue.  On October 22, 2018, the State reiterated the information provided previously and presented a report by the Office on Intercultural Indigenous Health and Complementary Therapies, Simón Bolívar Autonomous Amazon Service Center for Investigating and Controlling Tropical Illnesses (SACAICET), Yanomami Health Plan. The report describes the achievements of the Health Plan from 2005 to 2018. The State underscored that this year, it provided comprehensive healthcare to 353 Yanomami communities in three municipalities of the Amazonas state and one in the Alto Caura state. A total of 16,379 Yanomami were cared for by air and by river. It stated that the Program to Eliminate Onchocerciasis in the South of Venezuela was able to provide healthcare to 12,993 Yanomami, coverage of 92.29%.  Taking into consideration the elements of information provided by the parties, the Commission finds that compliance with this measure remains partial. |
| 3. On the judicial investigation of the massacre.  • The State undertakes to monitor the judicial investigation of the criminal proceeding that was brought in Brazil, in order to establish responsibility and to apply the corresponding criminal sanctions.  • The State undertakes to periodically communicate with the Inter-American Commission and the petitioners on steps taken and on the status of the judicial proceedings in Brazil. | **Full[[1]](#footnote-1)** | |
| 4. On legislative measures for the protection of indigenous peoples.  • The Government undertakes to examine and promote ratification of ILO Convention No. 169, On Protection of Indigenous and Tribal Peoples in Independent Countries, which is currently before the Congress of the Republic for approval. | **Full[[2]](#footnote-2)** | |
| 5. On the appointment of an expert in indigenous matters.  • The State undertakes to appoint, in consultation with the petitioners, an expert in indigenous matters, to ensure execution of the items of the agreement. | **Full[[3]](#footnote-3)** | |

1. **Analysis of the information provided**
2. The Commission finds that the information provided by the parties in 2018 is relevant, as it is updated and includes the measures taken to comply with at least one of the paragraphs of the friendly settlement agreement.
3. Therefore, the IACHR concludes there is information for conducting an analysis of compliance with the friendly settlement agreement for the year 2018.
4. **Level of compliance in the case**
5. The Commission observes that there has been substantial progress toward complying with the friendly settlement agreement in recent years.
6. The IACHR therefore urges the parties to form a working table to establish a roadmap toward implementing the measures that have been partially complied with and to keep the Commission informed of the progress made so that it can evaluate compliance with its decision.
7. The IACHR concludes that the friendly settlement agreement has been partially complied with and urges the parties to provide information on points 1 and 2.
8. **Individual and structural results of the case**
9. **Structural results of the case**

* The State drafted and began implementing the National Strategic Plan for the Defense, Development and Consolidation of the South (PENDDCS), which aims to increase the presence of the armed forces in the southern region of the country, in the States of Apure, Amazonas, Bolivar and Delta Amacuro, and the areas bordering Brazil, Colombia and Guyana, and improve the security, protection health and education of 34 ethnic indigenous groups and the population that inhabits the region.
* The State drafted, funded, and began progressively executing the Yanomami Health Plan and implementing in complementary fashion the Sierra Unturan Support Program, the “Cadena de Frio” Project and the Intercultural Health Program with the Indigenous Peoples and Communities of Venezuela.
* The State implemented improvements to the infrastructure of the Dr. José Gregorio Hernández Type II Hospital in Amazonas state, Puerto Ayacucho; renovated the ambulatory network and increase the number of physicians and support staff in the Alto Orinoco Health District; established Indigenous Health Offices to provide care to indigenous patients through bilingual facilitators in the Autonomous Service Area of the Hospital Universitario de Maracaibo (SAHUM); in Hospital Ruiz y Pez in Ciudad Bolívar; in Hospital Luis Razzeti in Tucupita; and in Hospital Dr. José Gregorio Hernández; and it implemented intercultural lodging houses in the Cardozo sector of Ciudad Bolívar and Puerto Ayacucho.
* The state provided medications to the indigenous communities of the municipality of Alto Orinoco, Amazonas; the municipality of Machiques in Perija, Zulia; the municipality of Rómulo Gallegos, Apure; the states of Delta Anacaro, Monagas, Anzoátegui and Zulia, Misión Guacaipuro; the municipality of Gran Sabana y Piar, Bolívar; indigenous villages in the state of Monagas; the municipality of Gran Sabana Bolívar; the municipality of Achaguas, Muñoz, Páez, Pedro Camejo; and the municipalities of Cedeño and Gran Sabana, Bolívar state.
* This State expanded the healthcare system’s coverage to indigenous communities in the area of Delgado Chalbaud and to the Yanomami communities in lower Siapa, in the municipality of Rio Negro, Amazonas state.
* The State conducted a series of operations and visits with a multidisciplinary team from the Ministry of Health through the Visual Health Program, Indigenous Health Coordination, to provide variety of ophthalmological, dental, and comprehensive and intercultural treatments to a series of indigenous communities.
* The State developed a Strategic Immunization Plan to address yellow fever in Bolívar state, in conjunction with the expanded immunization program of the Ministry of Health.
* The State implemented the following training courses: "Orientation Course for Doctors Serving Indigenous Populations," "Graduate Studies in General Medicine, Comprehensive General Dentistry of the Misión Barrio Adentro and Graduate Studies in Epidemiology at the Instituto de Altos Estudios de Salud Pública (IAESP), Specialization in Public Health Management IAESP/Ministry of Health;” “Intercultural Training Program on Indigenous Assistance in Health Care,” “Comprehensive Community Medicine Training Program,” and “Intercultural Healthcare Courses.”
* Lastly, the State established an Office on Coordination of the Yanomami Health Plan, which includes: a general coordinator, a medical coordinator, a training coordinator, a coordinator of logistics and investigation, and assistance with research and monitoring health interventions.
* A judicial investigation of the massacre was conducted.
* The State ratified International Labour Organization Convention 169 on May 22, 2002.
* The State appointed an expert on indigenous matters for execution of the Yanomami Health Plan of the Office of Indigenous Health Plan Coordination and the Ministry of the People's Power for Indigenous Peoples.

**MONITORING SHEET ON REPORT ON FRIENDLY SETTLEMENT No. 63/13**

**CASE 12.473**

**JESÚS MANUEL NARANJO CÁRDENAS ET AL.**

**(Venezuela)**

1. **Case summary**

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| **Victim(s):** Jesús Manuel Naranjo Cárdenas et al.  **Petitioner(s):** Center for Justice and International Law (CEJIL), Programa Venezolano de Educación Acción en Rights Humanos (PROVEA)  **State:** Venezuela  **Admissibility report No.:** [**70/04**](http://cidh.org/annualrep/2004eng/Venezuela.667.01eng.htm), published on October 13, 2004.  **Friendly settlement agreement report:** [**63/13**](http://www.oas.org/en/iachr/decisions/friendly.asp), published July 16, 2013.  **Related rapporteurship:** DESCA  **Issues:** Private property / judicial protection  **Facts:** The case involves the responsibility of the Bolivarian Republic of Venezuela for failure to comply with two rulings issued by the domestic courts protecting the right to social security of the 18 alleged victims. The victim's alleged having exhausted domestic remedies established in Venezuelan legislation by filing an action of *amparo* that was ruled upon in their favor by the Labor Trial Court of the Seventh Circuit of the Metropolitan Area of Caracas and upheld by the Third Superior Labor Court of the Caracas Metropolitan Area Judicial Circuit.  **Rights alleged:** The Commission concluded that it had competence to hear the case and found that the petition was admissible regarding articles 21 (Right to property) and 25 (judicial protection), in conjunction with Article 1(1) of the American Convention, and decided to notify the parties and publish the report in its annual report. |

1. **Procedural activities**
2. The IACHR asked the State for updated information on October 1, 2015; October 12, 2016, and August 23, 2017.
3. The State provided information on October 19, 2017.
4. The petitioners provided information on August 25, 2015.
5. **Analysis of compliance with individual clauses of the friendly settlement agreement**

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| **Agreement clause** | **State of compliance in 2018** | **Relevant information provided by the parties** |
| 1. To pay the 18 pensioners and their heirs, as appropriate, 100 percent of the pensions owed as of the date of payment. | **Full 2018** | In the approval report, it was established that the State is constantly and punctually complying with the monthly retirement and pension payments in favor of the victims of the case. However, the Commission decided to continue to follow up on all points of the agreement.  In its annual report, the Commission noted that on August 25, 2015, the petitioners confirmed that the beneficiaries have received the monthly payments, which are deposited in their individualized bank account in a state bank. This disbursement has been made in a constant and timely manner since they received their first monthly payment.  The Commission takes this opportunity to express appreciation for the States’ efforts and declare full compliance with this part of the agreement. |
| 1. To adopt a mechanism that enables the victims and survivors to collect their retirement pensions in the future, after the sums owed have been paid, in accordance with Venezuelan law. | **Full 2018** | In the approval report, it was established that the State is constantly and punctually complying with the monthly retirement and pension payments in favor of the victims of the case. However, the Commission decided to continue to follow up on all points of the agreement.  In its annual report, the Commission noted that on August 25, 2015, the petitioners confirmed that the beneficiaries have received the monthly payments, which are deposited in their individualized bank account in a state bank. This disbursement has been made in a constant and timely manner since they received their first monthly payment.  The Commission takes this opportunity to express appreciation for the States’ efforts and declare full compliance with this part of the agreement. |
| 3. The payment of six thousand U.S. dollars (US $6,000) or its equivalent in bolivars in compensation for pecuniary and non-pecuniary damages caused to each of the victims and their families. The State may request an additional two months beyond the previously established time limit in order to comply with these reparations. | **Full[[4]](#footnote-4)** | In the approval report, it was established that in communications dated July 25, 2011 and June 7, 2012, the petitioners reported that the State of Venezuela had complied with the fundamental aspects of the agreement. In particular, with regard to pecuniary commitments, they indicated that the beneficiaries of retirement and pension payments would have been receiving the payments agreed on a monthly basis; which are being deposited in a bank account individualized in the Bank of Venezuela. They reported that these payments have been made in a constant and timely manner since they received their first monthly payment. They also indicated that the beneficiaries of these measures were granted some benefits enjoyed by retirees from the Ministry of Finance, a body to which they were seconded by mutual agreement.  The Commission takes this opportunity to express appreciation for the States’ efforts and declare full compliance with this part of the agreement. |
| 4. To take steps to satisfy the non-pecuniary claims, ensuring that the State apologizes to the victims and their families. This shall consist of the following:   * 1. Acknowledgement of the international responsibility of the Venezuelan State under international law for the violation of human rights that occurred in 1992 as a result of the privatization of the company VIASA, which infringed the vested rights of the pensioners, and the acknowledgement by President Hugo Chávez Frías of the need to resolve the situation.   2. Publication of the apology to the pensioners and their families in a nationally circulated daily newspaper.   3. Production of a special television program on the State-owned network with the largest nationwide audience in tribute to the deceased pensioner Jesús Manuel Naranjo, President of the National Association of Retired Workers and Pensioners of VIASA, and in recognition of the perseverance of the pensioners in fighting for their rights.   d. Implementation of an educational campaign to raise awareness about the rights of retired persons in Venezuela and benefits to which they are entitled. | **Partial** | In the approval report, the petitioners indicated that the State has not complied with the commitments on recognition of responsibility and television programs.  In its annual report, the Commission noted that in 2015, the petitioners indicated that the State had not complied with the commitments in respect of recognition of responsibility and television programs established in point 4 of the agreement. In light of the above, the IACHR will continue to monitor that clause.  In its annual report, the Commission noted that on October 19, 2017, the State referred to subparagraphs 4c) and 4d) and reiterated its commitment and willingness to implement what had been agreed upon. The State indicated that the Ministry of People’s Power for Communication and Information had designated the Program Management Office of Venezuelan Television to be in charge of broadcasting the television program. The State also reported that it had contacted the representative of the petitioners to take the steps needed for the program’s production.  The parties did not submit information in 2018. Because the Commission does not have sufficient evidence to evaluate compliance with the measure, it finds that compliance with this measure continues to be partial. |

1. **Analysis of the information provided**
2. The Commission observes that the parties have not submitted information this year on compliance with the friendly settlement agreement.
3. Therefore, the IACHR concludes there is no information for conducting an analysis of compliance with the friendly settlement agreement for the year 2018.
4. **Level of compliance in the case**
5. The Commission observes with concern that there has not been substantial progress toward complying with the friendly settlement agreement in recent years. It also observes that the petitioner has repeatedly recognized that the State has made proper pension payments to the 18 retired individuals and/or their heirs, as well as future pension payments, which have been made monthly into individual bank accounts with a State bank since the agreement was reached in 2016. Thus, full compliance is declared for paragraphs 1 and 2 of the friendly settlement agreement, and the Commission urges the parties to work together to establish formulas to measure and encourage compliance with the last point pending compliance in this friendly settlement agreement.
6. The Commission thus concludes that compliance with this friendly settlement agreement is partial, and will consequently continue supervising point 4 of the friendly settlement agreement.
7. **Individual and structural results of the case**
8. **Individual results of the case**

* The State paid the pensions owed in their entirety.
* The State paid out the compensation for pecuniary and nonpecuniary damages to each of the victims and their relatives.

1. Report No. 32/12, petition 11,706, Yanomami indigenous people of Haximú March 20, 2012. [↑](#footnote-ref-1)
2. Report No. 32/12, petition 11,706, Yanomami indigenous people of Haximú March 20, 2012. [↑](#footnote-ref-2)
3. Report No. 32/12, petition 11,706, Yanomami indigenous people of Haximú March 20, 2012. [↑](#footnote-ref-3)
4. IACHR Report No. 63/13, Case 12,473, Friendly Settlement, Jesús Manuel Cárdenas *et al*. July 16, 2013. [↑](#footnote-ref-4)