

TECHNICAL INFORMATION SHEET
PETITION 279-03 FREDY ROLANDO HERNANDEZ RODRIGUEZ
FRIENDLY SETTLEMENT REPORT No. 39/15
TOTAL COMPLIANCE
(GUATEMALA)

I. SUMMARY OF THE CASE

Victim (s): Fredy Rolando Hernandez Rodríguez
Petitioner (s): Centro de Acción Legal de Derechos Humanos (CALDH)
State: Guatemala
Beginning of the negotiation date: October 16, 2003
FSA signature date: September 25, 2006
Report on Friendly Settlement Agreement: 39/15, published on July 24, 2015
Estimated length of the negotiation phase: 12 years
Associated Rapporteurship: N/A
Topics: Summary, extrajudicial, or arbitrary executions/Investigation/Displacement/Forced eviction

The case has to do with the acts of violence that took place on March 21, 1982, in the community of Parcelamiento La Esperanza, in the municipality of Santo Domingo Suchitepéquez, department of Suchitepéquez. The petition was filed in relation to the torture and extrajudicial execution of Héctor Hernández Rodríguez, Venancio Hernández Rodríguez, and Anacleto Soto Magaña, and the forced displacement of their immediate families by members of the Guatemalan Army. The case was heard by the First Trial Court of Mazatenango, and no serious investigation was conducted that would lead to a determination of liability and punishment of those responsible.

Rights alleged: The petition alleged violations of Articles 1 (obligation to respect rights), 4 (right to life), 5 (right to humane treatment), 8 (right to a fair trial), 22 (freedom of movement and residence), and 25 (right to judicial protection) of the American Convention on Human Rights.

II. PROCEDURAL ACTIVITY

1. The IACHR requested updated information from the parties on October 1, 2015; October 13, 2016; August 25, 2017; July 18 and September 24, 2018; July 12, 2019 and on August 5, 2020.

2. The State provided information on October 21, 2015; November 17, 2016; October 10, 2017; August 23, 2018; September 27, 2019 and on October 13, 2020.

3. The petitioners submitted information on June 9, 2015; December 5, 2016; July 14, 2017; and August 2, 2019.

III. ANALYSIS OF COMPLIANCE WITH THE CLAUSES OF THE FRIENDLY SETTLEMENT AGREEMENT

Agreement Clause	Status of Compliance
<p>III. RECOGNITION OF STATE RESPONSIBILITY AND ACCEPTANCE OF THE FACTS</p> <p>(1) Acting on instructions from the Constitutional President of the Republic, Oscar Berger Perdomo, COPREDEH, on behalf of the Guatemalan State, and before the Commission, recognizes the international responsibility of the State</p> <p>(a) for the violation of the right to life, enshrined in Article 4 of the American Convention, in respect of Hector Hernandez, Venancio Hernandez, and Anacleto Soto, for having been extra judicially executed in their community on March 21, 1982;</p> <p>(b) for the violation of the right to human treatment, enshrined in Article 5 of the American Convention, in respect of Hector Hernandez, Venancio Hernandez, and Anacleto Soto, for having suffered torture prior to their deaths;</p> <p>(c) for the violation of the right to humane treatment of the petitioners, established in Article 5 of the American Convention, for the psychological and moral harm caused by having been forced to witness the torture and death of the victims;</p> <p>(d) for the violation of the right to freedom of movement and residence of the victims' next-of-kin, as they were persecuted by the Army of Guatemala, resulting in their forced displacement (that right is enshrined in Article 22(1) of the American Convention);</p> <p>(e) for the violation of the right to judicial guarantees and judicial protection enshrined in Articles 8 and 25 of the American Convention in respect of the petitioners for the failure to investigate, prosecute, and punish the persons responsible for and who committed the above-noted violations.</p> <p>(2) The State also recognizes that there was violence against the rural communities of Suchitepaquez at that time, and that human rights violations were perpetrated against the victims as a result of that violence.</p>	<p>Declarative clause</p>
<p>IV. PUBLIC APOLOGIES</p> <p>(a) The State undertakes to make public its recognition of institutional responsibility for the violations detailed against the rural communities of Suchitepéquez in general, and to present apologies through a private ceremony directed to the victims' next-of-kin, by Eduardo Stein, Vice President of the Republic.</p> <p>(b) The parties agreed that the private ceremony will take place on September 28, 2006.</p> <p>(c) The State undertakes to publicize the private ceremony to the media through the efforts of the Dissemination and Press Department of COPREDEH.</p>	<p>Total¹</p>
<p>V. MEASURES TO HONOR THE VICTIMS' MEMORY</p> <p>The State undertakes to build a wall and place plaques on it in a prominent location in the community Parcelamiento la Esperanza,</p>	<p>Total²</p>

¹ IACHR, Report No. 39/15, Petition 279-03, Friendly Settlement. Fredy Rolando Hernández Rodríguez et al., Guatemala, July 24, 2015.

² IACHR, Report No. 39/15, Petition 279-03, Friendly Settlement. Fredy Rolando Hernández Rodríguez et al., Guatemala, July 24, 2015.

<p>Suchitepequez, which details the victims’ names and the violations committed by the Army against them, as a measure to recover and dignify their memory. The ceremony will be held two months after the date on which this agreement is signed.</p> <p>CALDH undertakes to forward the texts of the plaques and the specifications of the wall during the fifteen days following the signing of this agreement.</p>	
<p>VI. INVESTIGATION, PROSECUTION, AND PUNISHMENT OF THE PERSONS RESPONSIBLE</p> <p>(a) The State of Guatemala recognizes the pressing need to give impetus to investigations to identify, prosecute, and punish the persons responsible for the violations of the victims’ human rights.</p> <p>(b) In this framework, COPREDEH will give impetus to the necessary actions vis-à-vis the prosecutorial authorities (Ministerio Público) for the purpose of carrying out an immediate, impartial, and effective investigation by the State.</p> <p>(c) The State undertakes to provide CALDH and the Commission reports on the above-indicated investigation.</p>	<p>Total³</p>
<p>VII. REPARATIONS</p> <p>(a) The State acknowledges that accepting its international responsibility for the violation of the victims’ human rights entails the responsibility of granting fair compensation to the petitioners as per the standards established in domestic and international law.</p> <p>(b) The State undertakes to sign an economic compensation agreement that will define the amount and term for the payment of economic compensation with the victims’ next-of-kin before the end of October of this year.</p> <p>(c) The parties undertake to meet within eight days of the signing of this Friendly Settlement Agreement to discuss the question of economic compensation and to set a timetable for ensuring implementation of subsection (b) above.</p> <p>(d) The economic compensation shall not be subject to any tax, encumbrance, or fee currently existing or that may be decreed in the future.</p>	<p>Total⁴</p>

IV. LEVEL OF COMPLIANCE OF THE CASE

4. The Commission declared full compliance with the case and ceased monitoring the friendly settlement agreement in the 2020 Annual Report.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State held a public ceremony to recognize its institutional responsibility for the violations against the rural communities of Suchitepéquez in general;

³ See IACHR, 2020 Annual Report, Chapter II, Section F. Negotiation and Implementation of Friendly Settlement Agreements.

⁴ IACHR, Report No. 39/15, Petition 279-03, Friendly Settlement. Fredy Rolando Hernández Rodríguez et al., Guatemala, July 24, 2015.

- The State held a private ceremony, conducted by the Vice President of the Republic, Eduardo Stein, to apologize to the victims' next of kin;
- The State built a wall and hung plaques in a prominent location in the community of Parcelamiento la Esperanza, Suchitepéquez, listing the names of the victims and the violations committed by the Army against them, as a measure to revive and restore dignity to their memory;
- The State paid compensation to the petitioners, under the parameters established in the agreement;
- The State has taken steps to move forward with the investigation of the facts.