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REPORT No. 136/17
CASE 12.714
REPORT ON FRIENDLY SETTLEMENT

BELEN DE ALTAVISTA MASSACRE
COLOMBIA

Approved by the Commission at its session No. 2102 held on October 25, 2017
165th Regular Period of Sessions

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CASE 12.714
FRIENDLY SETTLEMENT
BELEN DE ALTAVISTA MASSACRE
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I. SUMMARY

1. On August 11, 2006, the Inter-American Commission on Human Rights (hereinafter "the Commission" or the "IACHR") received a petition lodged by Abogados Asociados para el Litigio Interamericano (hereinafter "the petitioners") that alleged that the Republic of Colombia (hereinafter "the State") bore responsibility for the extrajudicial execution of Samir Alonso Flórez, Elkin de Jesús Cano Arenas, Mauricio de Jesús Cañola Lopera, Eduard Andrey Correa Rodríguez, Henry de Jesús Escudero Aguirre, the brothers Oscar Armando Muñoz Arboleda and Jair de Jesús Muñoz Arboleda, Germán Ovidio Pérez Marín, Norbei de Jesús Ramírez Dávila, Johnny Alexander Ramírez Luján, Berley de Jesús Restrepo Galeano, Juan José Sánchez Vasco, Jharley Sánchez Ospina, Nelson de Jesús Uribe Peña, Carlos Gonzalo Usma Patiño, and Leandro de Jesús Vásquez Ramírez, as well as the physical injuries caused to Yeison Javier Aristizabal and Carlos Andrés Peña Ramírez on June 29, 1996, in the district of Belén-Altavista, located in the city of Medellín, Department of Antioquia, as well as for failure to investigate and punish those responsible.

2. The petitioners alleged violations of Articles 4 (right to life), 5 (right to humane treatment), 8 (right to a fair trial), 11 (right to privacy), and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") taken in conjunction with Articles 1(1) and 2 of that instrument.

3. The petitioners alleged that members of the National Army and the National Police of Colombia were carrying out intelligence-gathering activities in 1995 and 1996 in "civic brigades" with the aim of identifying possible members of subversive groups. In that context, personnel from the Technical Investigation Corps (CTI) of the Office of the Attorney General of the Nation are said to have arbitrarily detained some residents of the district of Belén-Altavista in order to question them about the whereabouts of members of subversive groups in the area. According to the petition, upon obtaining no response and after making comparisons with a photographic file, the State agents opened fire on the detained persons, killing 16 and wounding 2 others.

4. On May 17, 2016, the parties signed a memorandum of understanding with a view to seeking a friendly settlement, which set out a working procedure for reaching an agreement. On March 17, 2017, the parties held a working meeting at the headquarters of the IACHR in Washington, D.C., in the context of the latter's 161st regular session. At that meeting they signed a friendly settlement agreement, in which the Colombian State accepted its international responsibility for violation of rights enshrined in Article 4 (right to life), taken in conjunction with the general obligation established in Article 1(1) of that instrument, to the detriment of the 16 executed victims. In addition, the State accepted its international responsibility for violation of the right enshrined in Article 5 (right to humane treatment) in relation to the three victims wounded in the incident. Finally, the State accepted its international responsibility for violations of Articles 5 (right to humane treatment), 8 (right to a fair trial), and 25 (right to judicial protection) of the American Convention to the detriment of the victims' relatives.

5. Pursuant to Articles 49 of the American Convention and 40(5) of the Commission's Rules of Procedure, this friendly settlement report includes a summary of the petitioner's allegations and transcribes

¹ Commissioner José de Luis Ernesto Vargas Silva, of Colombian nationality, did not participate in the discussion and decision of this case, in keeping with Article 17.2.a) of the Rules of Procedure of the IACHR.

the friendly settlement agreement signed on March 17, 2017, by the petitioners and representatives of the Colombian State. Also, the Commission hereby approves the agreement signed by the parties and decides to publish this report in its Annual Report to the General Assembly of the Organization of American States.

II. PROCESSING BY THE COMMISSION

6. The IACHR received the petition on August 11, 2006, and served notice of it to the Colombian State on April 14, 2008. On August 25, 2009, the Commission adopted report on admissibility No. 71/09 and notified the parties thereof. The IACHR concluded in its reports that it was competent to examine the alleged violations of Articles 2 (obligation to adopt provisions under domestic law), 4.1 (right to life), 5.1 (right to humane treatment), 8 (right to a fair trial), and 25 (right to judicial protection) of the American Convention on Human Rights, in relation to Article 1(1) (obligation to respect rights) thereof. It also decided to notify the parties of the report and to order that it be published in the Commission's annual report.

7. The petitioners presented additional information on the following dates: October 14, 2009; May 14, June 29, and August 5, 2010; August 24 and 31 and September 13, 2012; and October 6 and 10, 2017. That additional information was relayed to the State.

8. The State presented additional information on the following dates: November 27, 2009; June 18 and December 15, 2010; February 27, 2014; and June 9, 2016. That additional information was forwarded to the petitioners.

9. On May 17, 2016, the parties signed a memorandum of understanding with a view to seeking a friendly settlement.

10. On March 17, 2017, the parties held a working meeting at the headquarters of the IACHR in Washington, D.C., in the context of the latter's 161st regular session. At that meeting, which was facilitated by Commissioner José de Jesús Orozco, IACHR Rapporteur for Colombia, the parties signed a friendly settlement agreement.

11. On August 23, 2017, the petitioners asked the Inter-American Commission on Human Rights to weigh and approve the friendly settlement agreement in accordance with Article 49 of the American Convention on Human Rights.

III. ALLEGED FACTS

12. The petitioners alleged that in 1995 and 1996, members of the National Army and the National Police of Colombia carried out intelligence-gathering activities in the district of Belen-Altavista to identify suspected members of subversive groups that were operating in that area. To that end, according to the petition, covert military operations were conducted under the guise of so-called "civic brigades," in which information was collected from district residents, which included taking photographs and carrying out interrogations, without a court order.

13. The petitioners said that at around 8:30 p.m. on July 29, 1996, approximately 10 men carrying firearms exclusively used by military forces and wearing distinctive vests and armbands that identified them as belonging to the Technical Investigation Corps of the Attorney General's Office (*Fiscalía General de la Nación*), arrived at the community bus terminal, where they forced all the occupants of a bus that was parked there to get off. According to the petitioners, most of those present were young people who were made to line up next to the bus and questioned about the whereabouts of members of subversive groups who lived in the area.

14. According to the petition, upon receiving no response, the State agents made comparisons with photographs and the superior in command gave the order to open fire, which resulted in 16 people killed and two others wounded. According to the petitioners, as the soldiers left, one of them dropped a photograph taken months earlier during one of the "civic brigades" of one of the people detained in the

operation. They said that despite the fact that the Internal Affairs Office (*Procuraduría General de la Nación*) was in possession of that evidence, no reason was found to open an administrative investigation and punish the agents involved, either in those operations or in the incident.

15. The petitioners alleged without providing details that, in spite of the passing years, the criminal investigation had made no progress with concrete measures aimed at disclosing the truth of what happened, as a result of which the incident remained unpunished. In that connection, the petitioners provided copies of the covers of investigation files Nos. 265 and 20.858 opened by the Attorney General's Office for bodily harm and homicide, which remain open without having made any significant progress. In addition, according to the petition, the disciplinary investigation was set aside on March 9, 2001. Finally, with regard to the administrative proceeding, on January 26, 2006, the Antioquia Administrative Tribunal denied the suit for direct reparations brought against the State in 1997, seeking compensation for the relatives of the 16 victims of extrajudicial execution. In its decision, the Antioquia Administrative Tribunal considered that there was no evidence of the involvement of the entities sued, which included the Security Administration Department, the Ministry of Defense, the National Army, and the National Police, but that the case involved acts committed by third parties from subversive groups.

IV. FRIENDLY SETTLEMENT

16. In Washington, D.C., on March 17, 2017, the State, represented by Juanita María López Patrón, Director of Legal Defense of the National Legal Defense Agency of the State; and the petitioners, represented by Centro Jurídico de Derechos Humanos de Antioquia, represented, in turn, by Luis Felipe Viveros Montoya, signed a friendly settlement agreement which establishes the following:

FINAL FRIENDLY SETTLEMENT AGREEMENT Case 12.714, BELÉN-ALTAVISTA MASSACRE

On March 17, 2017, in the framework of the 161st regular session of the Inter-American Commission on Human Rights, in Washington, D.C., Juanita María López Patrón, on one hand, Director of Legal Defense of the National Legal Defense Agency of the State, acting in the name and representation of the Colombian State, hereinafter referred to as "the Colombian State"; and on the other, Centro Jurídico de Derechos Humanos de Antioquia, represented by Luis Felipe Viveros Montoya, which acts as petitioner in this case, hereinafter "the petitioner," enter upon the present friendly settlement agreement in Case 12.714 (Belén de Altavista Massacre) processed by the Inter-American Commission on Human Rights.

PRIOR CONSIDERATIONS

1. On June 29, 1996, in the District of Belén-Altavista, city of Medellín, Antioquia, a group operating outside the law killed Messrs. Samir Alonso Flórez, Elkin de Jesús Cano Arenas, Mauricio de Jesús Cañola Lopera, Eduard Andrey Correa Rodríguez, Henry de Jesús Escudero Aguirre, Oscar Armando Muñoz Arboleda, Jair de Jesús Muñoz Arboleda, Germán Ovidio Pérez Marín, Norbei de Jesús Ramírez Dávila, Berley de Jesús Restrepo Galeano, Juan José Sánchez Vasco, Jharley Sánchez Ospina, Nelson de Jesús Uribe Peña, Carlos Gonzalo Usma Patiño, Leandro de Jesús Vásquez Ramírez, and Johnny Alexander Ramírez Lujan, and wounded Messrs. Yeison Javier Aristizabal, Carlos Andrés Peña Ramírez, and Juan Mauricio Toro Gómez.

2. On August 11, 2006, the Inter-American Commission on Human Rights received a petition that alleged the responsibility of the State for the events that occurred on June 29, 1996, in the District of Belén-Altavista, city of Medellín, Antioquia, as well as for the failure to conduct a judicial investigation of those events. That petition was forwarded to the State on April 14, 2008.

3. By means of Report No. 71/09 of August 5, 2009, the Inter-American Commission on Human Rights declared the petition alleging the events admissible in relation to Articles 2, 4(1), 5(1), 8, and 25 of the American Convention, taken in conjunction with Article 1(1) thereof.

4. At various points during the processing of the case, the parties expressed their willingness to move forward with the search for a friendly settlement, which did not materialize at the time. On May 17, 2016, the Colombian State and the victims' representatives signed a memorandum of understanding with a view to seeking a friendly settlement.

5. Over the months that followed joint meetings were held to analyze the proposals of both parties for constructing this friendly settlement agreement.

ONE. ADMISSION OF RESPONSIBILITY

The Colombian State recognizes its international responsibility for failing in its duty to ensure the rights recognized in:

- Article 4 (right to life) of the American Convention on Human Rights to the detriment of Messrs. Samir Alonso Flórez, Elkin de Jesús Cano Arenas, Mauricio de Jesús Cañola Lopera, Eduard Andrey Correa Rodríguez, Henry de Jesús Escudero Aguirre, Oscar Armando Muñoz Arboleda, Jair de Jesús Muñoz Arboleda, Germán Ovidio Pérez Marín, Norbei de Jesús Ramírez Dávila, Berley de Jesús Restrepo Galeano, Juan José Sánchez Vasco, Jharley Sánchez Ospina, Nelson de Jesús Uribe Peña, Carlos Gonzalo Usma Patiño, Leandro de Jesús Vásquez Ramírez, and Johnny Alexander Ramírez Lujan.

- Article 5 (right to humane treatment) of the American Convention on Human Rights to the detriment of Messrs. Yeison Javier Aristizabal, Carlos Andrés Peña Ramírez y Juan Mauricio Toro Gómez.

It also accepts responsibility for violation of Articles 5 (right to humane treatment), 8 (right to a fair trial), and 25 (right to judicial protection) of the American Convention on Human Rights to the detriment of the victims' relatives, by reason of the fact that, in spite of the efforts of the State, to date, it has not been possible to clarify the specific circumstances surrounding the facts in the case.

TWO. MEASURES OF JUSTICE

- Given the nature and consequence of the facts relating to the Belén de Altavista Massacre, based on the procedural documentation available at this time, the Office of the Attorney General of the Nation undertakes to carry out its constitutional and legal functions in respect of the case in question.

- In order to analyze progress, a semiannual meeting will be held with its representatives. Any requests arising from those meetings shall be included in the proceedings in accordance with legal requirements.

THREE. MEASURES OF SATISFACTION

The State of Colombia undertakes to adopt the following measures:

- A private act of admission of responsibility in which a letter of apology shall be presented to each group of relatives.

- Construction of a commemorative plaque in remembrance of the events that occurred in the district of Belén-Altavista on June 29, 1996. The words on the plaque shall be agreed upon with the victims and their representatives.
- The Office of the Presidential Adviser for Human Rights shall be responsible for the logistical and technical support for those measures.

4. FINANCIAL REPARATION

Once this friendly settlement agreement is approved through the adoption of the corresponding report under Article 49 of the American Convention of Human Rights, the State undertakes to enforce Law 288 of 1996 in order to provide reparation for such material and nonpecuniary injuries as may be proven in favor of the groups of victims' relatives that have not received compensation in the administrative jurisdiction.

5. APPROVAL AND FOLLOW-UP

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

Signed in triplicate in Washington, D.C., on March 17, 2017.

V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

17. The IACHR reiterates that, under Articles 48(1)(f) and 49 of the American Convention, this procedure has the objective of “reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.” The State’s consent to pursue this avenue is evidence of its good faith to honor the Convention’s purposes and objectives, based on the principle of *pacta sunt servanda*. According to that principle, States must comply in good faith with the obligations undertaken in treaties. The IACHR also wishes to point out that, with the friendly settlement procedure provided for in the Convention, individual cases can be settled in a non-contentious manner. In cases involving a number of countries, the friendly settlement procedure has proven to be a useful vehicle that both parties can utilize to arrive at a solution.

18. The Inter-American Commission has closely monitored the progress of the friendly settlement reached in the present case and greatly values the efforts that both parties in negotiating this friendly settlement agreement, which is compatible with the object and purpose of the Convention.

19. In line with the provisions contained in the friendly settlement agreement, the parties have jointly requested the Commission to adopt the report envisaged in Article 49 of the American Convention with a view to initiating the procedures for beginning the implementation in favor of the victims' relatives of the reparation measures having to do with the enforcement by the State of Law 288 of 1996. In addition, the Commission takes into special consideration the communication from the petitioners of August 23, 2017, in which they reiterated the request for the Commission to adopt the report approving the friendly settlement agreement in order to allow implementation of the financial compensation measure to move forward.

20. The Inter-American Commission values the recognition of international responsibility made by the Colombian state, as recognized in the friendly settlement agreement, for the violation of the right to life of the 16 victims of the extrajudicial execution perpetrated by members of a group operating outside the law, as well as for the violation of the right to humane treatment of the people who were wounded in the events and of the relatives of the victims of that massacre.

21. In relation to measures of satisfaction, on October 6, 2017, the petitioners informed the Commission that on October 4, 2017, in the city of Medellín, Department of Antioquia, the Colombian State performed an act of admission of responsibility for the events that occurred on June 29, 1996, in the district

of Belén-Altavista. According to the petitioners, the act was agreed upon in advance with the victims and counted on logistical and technical support from the Office of the High Presidential Adviser on Human Rights and the Office of the Mayor of Medellín, so that it could be held in that city's Museum of Remembrance (*Casa Museo de la Memoria*). The petitioners also said that the ceremony was attended by various organizations and representatives of the State at the national and local level, including, in particular, senior authorities such as the Office of the High Presidential Adviser on Human Rights, the Office of the Undersecretary for Social Inclusion, Family, and Human Rights of the Office of the Mayor of Medellín, the National Legal Defense Agency of the State, the Office of the Director of the Museum of Remembrance, the Office of the Secretary of the Interior of the Department of Antioquia, the Metropolitan Police of Valle de Aburra, the Ministry of the Interior, the Ministry of Foreign Affairs, the Office of the Attorney General of the Nation, and the Victim Assistance and Comprehensive Reparation Unit, among others

22. The petitioners said that 139 relatives of the victims and survivors of the massacre attended the event and that the relatives of the victims who were killed had the opportunity say some words. In addition, the plaque in memory of the victims was unveiled and read. It says:

In memory of the victims of the events that occurred on June 29, 1996, at the bus terminal in the district of Belen-Altavista. That day bullets arbitrarily and unjustly ended the lives and dreams of 16 young people and left three others grievously wounded.

This plaque is put up in accordance with the reparation measure agreed upon in the friendly settlement agreement signed at the Inter-American Commission on Human Rights in Case 12.714 (Belén de Altavista Massacre), in which the Colombian State acknowledged its international responsibility for failing in its duty to ensure the rights to life and humane treatment of [the victims].

23. In the documents provided by the petitioners the names of those killed and wounded in the events that occurred in Belen-Alta Vista are visible on the plaque. The petitioners said that the plaque had not yet been put up, something that would be done soon in the vicinity of the Belen-Altavista district government building. The petitioners also said that there was an admission of responsibility and apologies were offered to the victims and relatives present. The petitioners provided photographs of the ceremony and underscored the remarks of the Presidential Adviser, who said:

To offer you our most sincere apologies for the mistake with which you had to live and the pain that you have endured all these years. That night will remain etched in the memories of the survivors and relatives who lost a loved one, but it was also emblematic of the history of Colombia, which has borne witness to the tears shed by thousands of compatriots who have suffered the horrors of war first-hand. You are our main motivation on the paths that we have taken to silence the guns of the violent and achieve reconciliation as a nation [...].

24. The petitioners said that during the ceremony a letter of apology was also handed out to the victims' relatives. The petitioners considered that the ceremony succeeded in commemorating the victims with a display of photographs of each of them, together with the words spoken by their relatives and the outlines of their life plans. The petitioners said that local and national media organizations were invited to broadcast the act of admission of responsibility and restoration of the good name of the victims who were killed in the events and of the survivors. The petitioners provided internet links for El Colombiano, El Tiempo, Minuto 30, WRadio, El Mundo, Radio Santa Fe, Caracol Radio, Canal CNC Medellín, Telemedellin, Teleantioquia, CM & la noticia, and Hora 13 noticias; as well as links to the event on the official websites of the Office of the Presidential Adviser for Human Rights and the National Legal Defense Agency of the Colombian State.

25. Taking into account the information presented by the petitioners, the Commission declares that point 1 of clause 3, regarding the act of admission of responsibility, has been fully implemented. As regards points 2 and 3 of that same clause, concerning the making of a commemorative plaque and logistical support from the Office of the Presidential Adviser for Human Rights in implementing the measures of

satisfaction, the Commission considers that they have been partially implemented and looks forward to seeing the installation of a plaque in the victims' memory as soon as possible, as established in the friendly settlement agreement.

26. As for the measure relating to justice, the Commission values the commitment of the State to continue the appropriate criminal and administrative investigations in accordance with its international obligations, and looks forward to receiving information from the parties on progress in the investigation of the facts and punishment of those responsible.

27. The Commission urges the parties to continue to work together on the preparation within six months of an implementation timetable for the friendly settlement agreement that includes deadlines and specific steps for carrying out the measures contained in that agreement.

28. In light of the foregoing, the IACHR finds that point 1 of clause 3 has been fully implemented, and that points 2 and 3 of that clause have been partially implemented. Furthermore, the Commission finds that implementation of the commitments set forth in clauses 2 and 4 of the friendly settlement agreement is pending. Therefore, it will continue to monitor the process and it urges the State to act as quickly as possible to implement the reparation measures set forth in the friendly settlement agreement signed by the parties.

VI. CONCLUSIONS

29. 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.

30. 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 agreement that the parties signed on March 17, 2017.
2. To declare point 1 of clause 3 on measures of satisfaction fully implemented.
3. To declare points 2 and 3 of clause 3 on measures of satisfaction partially implemented.
4. To declare clauses 2 and 4 of the friendly settlement agreement, relating to justice and financial compensation, pending.

5. To continue to monitor the commitments in respect of which compliance on the part of the State of Colombia remains pending. To that end, to remind the parties of their commitment regularly to inform the IACHR on compliance with the measures established in the friendly settlement agreement, to which end it urges the parties to submit to the Commission within six months a timetable for implementation of the points pending in the friendly settlement agreement.

6. To make the present report public and include it in its Annual Report to the General Assembly of the OAS.

Approved by the Inter-American Commission on Human Rights in the city of Montevideo, Uruguay, on the 25th day of the month of October, 2017. (Signed): Francisco José Eguiguren, President; Margarete May Macaulay, First Vice President; Esmeralda E. Arosemena Bernal de Troitiño, Second Vice President; José de Jesús Orozco Henríquez and Paulo Vannuchi.