

OEA/Ser.L/V/II.
Doc. 79
15 May 2019
Original: Spanish

REPORT No. 71/19
CASE 12.942
FRIENDLY SETTLEMENT REPORT

EMILIA MORALES CAMPOS
COSTA RICA

Electronically approved by the Commission on May 15, 2019.

Cite as: IACHR, Report No. 71/19, Case 12.942. Friendly Settlement. Emilia Morales Campos. Costa Rica. May 15, 2019.



REPORT No.71/19
CASE 12.942
FRIENDLY SETTLEMENT
EMILIA MORALES CAMPOS
COSTA RICA
MAY 15, 2019

I. SUMMARY AND MAJOR PROCEDURAL STEPS OF THE FRIENDLY SETTLEMENT PROCESS

1. On April 7, 2006, the Inter-American Commission on Human Rights (hereinafter “the Commission,” “the Inter-American Commission” or the “IACHR”) received a petition lodged by Mrs. Emilia Morales Campos (hereinafter “the petitioner”) alleging responsibility of the Republic of Costa Rica (hereinafter “State,” “Costa Rican State” or “Costa Rica”) for the alleged violation of the protections enshrined in the American Declaration of the Rights and Duties of Man (hereinafter “the Declaration” or “the American Declaration”), in the context of the processing of an application for a family housing voucher (hereinafter referred to as a “BFV” from the Spanish language initials of *Bono Familiar de Vivienda*),¹ which was submitted in 1991 and had not been resolved as of the date of the release of the Report on Admissibility². The petitioner alleged that the result of the foregoing was that she and her daughter lived in precarious conditions for many years, which especially harmed the health and rights of both.

2. The petitioner alleged that the Costa Rican State is responsible for the violation of the right to a family and to protection thereof, to the preservation of health and to wellbeing, and to property, as enshrined in Articles VI, XI and XXIII of the American Declaration, to the detriment of herself and her daughter, as a result of the State’s failure to provide an effective response in handling her application.

3. On April 3, 2014, the IACHR issued Report on Admissibility No. 19/14. In its report, the IACHR concluded that it was competent to examine the claim of alleged violation of Articles 5 (humane treatment), 8 (right to a fair trial), 19 (rights of the child), 25 (judicial protection) and 26 (progressive development) of the American Convention on Human Rights (hereinafter “the American Convention”), all in keeping with the general obligation to respect and ensure rights, as provided for in Articles 1.1 and 2 of the same instrument.

4. On September 3, 2015, the parties began the search for a friendly settlement, which was materialized with the signing of a friendly settlement agreement (hereinafter “FSA” or “Agreement”) on July 20, 2018, within of the framework of the petition filed before the Inter-American Commission on Human Rights against the Costa Rican State.

5. During the friendly settlement negotiation process, the petitioner stated that her only claim was to obtain a dignified house to live in. On July 20, 2018, the parties entered into a friendly settlement agreement, which addressed the petitioner’s claim, among other things. It is fitting to remark that the Commission has highlighted that this is the first friendly settlement agreement signed by the State of Costa Rica.³

6. In a communication of October 18, 2018, the State reported signing the FSA with Mrs. Emilia Morales Campos, and forwarded a copy thereof.

7. On April 5, 2019, the State and the petitioner submitted a report signed by both parties, in which they reported that the transfer of ownership of the house to Mrs. Emilia Morales Campos took place that same day. They also requested prompt approval of the friendly settlement agreement signed on July 20, 2018.

¹ The Family Housing Voucher is a subsidy to apply for government assisted housing, which is granted at the request of a party concerned to purchase a house, a plot of land, make repair or expand housing.

² See Report on Admissibility N° 19/14 of April 3, 2014, Case No. 12.492 - Emilia Morales Campos and Jennifer Emilia Morales Campos v. Costa Rica.

³ See, IACHR Welcomes Progress Made by Costa Rica to Implement Friendly Settlement in the Emilia Morales Campos Case. February 4, 2019. Available electronically at: <http://www.oas.org/es/cidh/prensa/comunicados/2019/025.asp>

8. This friendly settlement report, pursuant to the terms of Article 49 of the Convention and Article 40.5 of the Commission's Rules of Procedure, provides an overview of the facts alleged by the petitioners and a transcription of the friendly settlement agreement signed by the petitioners and representatives of the Costa Rican State on July 20, 2018. It also approves the agreement signed by the parties and agrees on the publication of this report in the IACHR's Annual Report to the General Assembly of the Organization of American States.

II. ALLEGED FACTS

9. The petitioner alleged that, since 1991, she has been applying for a family housing voucher (BFV), first to purchase a house, and then to make improvements to a property she received as a gift from private individuals, and that the Costa Rican State has prevented her from gaining access to resources in order to obtain this benefit. The petitioner claims that the house donated to her was in very poor condition and posed a risk to her and her daughter, who at that time was 11 years old. The petitioner further contends that she suffers from severe bronchial asthma, and that conditions in the house posed a health risk to her.

10. She further asserts that between 1991 and 1997, she attempted to secure a BFV and contacted authorities. However, the petitioner claims that the authorities merely sent letters to the Ministry of Housing and Human Settlements and the National Housing and Urban Development Institute asking them to aid her in processing the BFV application, but no significant action was taken.

11. The petitioner alleged that on November 13, 1997, she and her daughter received a house as a gift from private individuals, which was located 1.5 meters away from a stream. Because of humidity and soil erosion, product of the water in the streambed, the house was in an advanced state of deterioration and instability, posing a risk to her and her daughter. She alleged that her health was aggravated since the housing conditions were not suitable for an asthmatic person. The petitioner notes that, consequently, she needed to make improvements to the property and that the Bureau of Engineering and Operations of the Municipality of Goicoechea conducted an inspection visit to the petitioner's property and issued an written opinion dated August 13, 1997, ruling that Mrs. Morales should relinquish or sell the property in order to obtain a full housing voucher that would allow her to obtain a house elsewhere.

12. The petitioner argued that on May 16, 1998, she filed a complaint with the Ombudsman's Office (*Defensoría de los Habitantes*). She also claimed that she submitted documents to a public cooperative called UNIVICOOP, which lost them and, therefore, she received no response from this institution.

13. On June 1, 1998, the Assistant Manager of UNIVICOOP cooperative wrote an official letter to the Head of the Office of Admissibility and Immediate Defense of the Ombudsman's Office stating that he had corroborated that the petitioner and her daughter appeared as co-owners of the property, and that the next step was to process a diligence of utility and necessity, because the minor child appears as owner of the property, which would allow the home mortgage bank "Banco Hipotecario de Vivienda" (hereinafter BANHVI) to set limits on such a transaction. In the official letter, it was also asserted that the situation had been brought to the attention of the attorney, who had drawn up the deed to the house, so he could move the process forward.

14. The petitioner argued that she filed for the proceeding to determine the utility and necessity before the Family Court of the Second Judicial Circuit of San José, which issued its ruling on June 15, 1998, authorizing the petitioner to encumber the property in order to obtain a mortgage loan for the construction of a house. The petitioner claimed that even though she made several efforts to continue with the application process, her situation has not been resolved, and that proceedings were full of irregularities, including the loss of her case file by the institutions and an unreasonable delay given the condition of the house, her state of health, and the risk posed to her and her family, should they continue to live under such circumstances.

15. Based on the foregoing, the petitioner filed an *amparo* remedy before the Constitutional Chamber of the Supreme Court of Justice against Banco Hipotecario de Vivienda (BHV) and UNIVICOOP cooperative. However, on May 5, 1998, the Court ruled that the petition for *amparo* was without merit, noting that her claim was actually a complaint and that the court did not have jurisdiction to hear the case, because

other administrative bodies were responsible the investigation and subsequent admonishment of government authorities and, therefore, she should file her complaints with those institutions to register her disagreement, or else resort to the Ombudsman's Office.

16. Based on the foregoing, the petitioner again requested help from the Ombudsman's Office with the BFV process. The documentation submitted by the petitioner shows that the Ombudsman contacted the BAHNVI concerning the petitioner's application for the BFV, and was told that UNIVICOOP no longer had the legal authority to handle housing vouchers and that its portfolio of case files had been transferred to the Mutual Housing Fund (Mutual La Vivienda). The Ombudsman's Office then contacted the Mutual Housing Fund, which informed it that the procedure would be slow because of the number of cases in the portfolio, and that Mutual Housing Fund merely received documents and passed them on to the BAHNVI for it to proceed, in turn, as appropriate.

17. On August 1, 2000, the Office of the Ombudsman issued a final report and recommendations to both BAHNVI and UNIVICOOP.

18. Based on the information submitted by the petitioner, on March 21, 2001, the Ministry of Health conducted another inspection of the applicant's house and observed defects such as the unsafe condition caused by its structural weakness and deterioration and concluded that the house occupied by the petitioner did not conform to the minimum standards of the Urban Code and, therefore, the house was declared uninhabitable and was recommended for demolition. The Ministry of Health recommended the Health Area in the locality to work with Mrs. Morales to make arrangements with the appropriate authorities for the construction of a new house prior to issuing the demolition order.

19. In addition, the documentation submitted by the petitioner shows that the National Commission for Risk Prevention and Emergencies conducted another assessment of the property in February 2002, finding that the house was not safe because of its proximity to El Tanque stream, and that the greatest risk to the house was flooding. The report further noted that all of this, together with the state of the structure of the house, posed a serious risk to its occupants, and it asked the authorities of the Ministry of Health and of the Social Assistance Institute (hereinafter IMAS), in the sense that the first institution would issue a report declaring the property uninhabitable and the second institution would relocate the family as soon as possible. In April 2002, the petitioner received a letter from the IMAS indicating that it did not have a solution to this problem.

20. The petitioner alleged that she submitted an application to the BAHNVI on May 21, 2002 before Comprehensive Program of Assistance to Costa Rican Families of Minimum Income in Extreme Need, claiming that she received a disability pension and that she was living with her fifteen year old daughter. She explained she was in need; the fact that she had been trying for ten years to secure a BFV; and that she had been ordered to leave her house because it had been declared uninhabitable by the Ministry of Health and the National Emergency Commission and, therefore, she had requested to be entered into the list of the Comprehensive Program of Assistance to Families. The petitioner also stated that on July 23 and September 21, 2002, she asked the Ombudsman's Office for assistance in obtaining this benefit.

21. The information provided by the petitioner also shows that she filed a request for information to the Quality Audit Bureau of the MIVAH and that in December 2003, she received a note from the MIVAH indicating: "please find attached a list of the requirements that you should provide to the purchase of existing housing or of a plot of land and construction program of the financial entity of your choice." However, the note did not include any information about the status of her application.

22. The petitioner contended that, in January 2004, the National Risk Prevention Commission paid another visit to the petitioner's property, and issued a report finding that the risk and the lack of safety to the occupants of the house had grown worse as a result of considerable further erosion and washing away of the land. The aforementioned Commission, therefore, requested in this report that the IMAS, the INVU and the MIVAH collaborate in the case.

23. The petitioner argued that she sent letters to the Mayor of the Municipality of Goicoechea, and that he said in May 2004 that the municipality was unable to help her, but that he would write to the INVU and to the IMAS recommending that they help her. The Mayor also informed her on June 3, 2004 that she was the beneficiary of a voucher from INVU and that she should submit documentation in order to be able to complete the process.

24. On July 26, 2005, the petitioner filed a petition for relief via *amparo* before the Constitutional Chamber of the Supreme Court of Justice, against IMAS and INVU for violating her right to dignified housing. According to the information provided by the petitioner, the response from IMAS was that it did not grant BFV benefits; that it was the responsibility of entities authorized by the National Housing Finance System. In its response to the petition for *amparo*, the INVU contended that on May 17, 2005, the BANHVI had ordered that no new cases should be taken and, consequently, the INVU was precluded from taking any of them, until such time as the BANHVI issued another directive and that any exception had to be, in turn, authorized by the BANHVI. Additionally, the INVU alleged that Mrs. Morales had made no efforts with its offices to solve her housing problem and that it did not have the necessary means to deal with her case at that time.

25. The Constitutional Chamber issued its judgment on February 22, 2006, holding that:

Although Article 65 of the Political Constitution provides that the State “shall promote the construction of social housing” (...),” that does not mean that it must provide housing to all inhabitants. (...) [in the specific case] this petition [for amparo] should be denied since no direct harm to the petitioner’s fundamental rights is evident. In fact, as stated above, although the Political Constitution establishes the State’s obligation to promote the construction of public housing and the fair distribution of wealth, that is substantially different from an obligation to purchase land and award it to individuals who lack housing and to provide a direct solution to the housing problem; what this leads to in fact is that that because State institutions exist, or in order to help solve the problem, access to them [the institutions] should be afforded to all individuals who meet the requirements for this purpose, but that does not mean that a solution will be found for everyone who seeks access, inasmuch as that will depend, inter alia, on the institution’s budget, the legal right of habitation, and on whether the applicant fully meets all the requirements. In the case of the petitioner, based on the facts found as proven, the conclusion is drawn that she did in fact have access to the State’s established mechanisms to pursue a solution to her housing problem, and if it has not yet been solved, it is because she has not met all the prerequisites, as was even attested to by the Office of the Ombudsman in its study of her case.⁴

26. The petitioner alleged that her application for the Family Housing Voucher was not resolved, and that the irregularities in the handling of her case can be seen not only in the absence of a result, but also in the disorganization of the administrative process. As an example of the above, she points out that, on November 25, 2008, she received a judicial notice of collection of debt stemming from a foreclosure case brought against her by the INVU on December 9, 2003, and about which she was not aware until the date of this notice. When she inquired at the offices of the INVU the reason for the debt, she was told that a plot of land filed under 15-B Finca CAPRI III has appeared in her name since 1993, and that she would have to pay off the money, even though she had not used it and if, in fact, the plot of land was inhabited, she would have to defray the cost of a legal proceeding to evict the individuals living on it. The second option that had been proposed to her was that she relinquishes the plot of land and let the INVU be responsible for the eviction, and that they would give her another plot of land, but it was not certain that another plot was available at that time. In other words, the petitioner had been assigned a plot of land since 1993, but she had not been notified of that, nor had the BFV voucher been processed so that she could build a new house.

27. The petitioner alleged that, in addition to the communications mentioned above, she appeared in person at the institutions, where she was given wrong or conflicting information, specifically, that some officials told her that she qualified for the voucher and others assured her that she did not. In particular, regarding the INVU, the petitioner claims that the documents she was providing were refused several times;

⁴ Res. No. 002619-2006 of the Constitutional Chamber of the Supreme Court of Justice dated February 28, 2006.

she was told that her disability pension was a very small amount and, therefore, she would not qualify for the voucher and, more recently, she was told that she no longer qualified for the BFV because she now lives alone with her daughter and would have to wait until she was 65 years old to reapply for the voucher.

28. Additionally, the petitioner alleged that she had been prevented from realizing her right to dignified housing, as enshrined in the Constitution, not only because of the procedural hurdles that she met with, but also because the requirements set by the INVU are impossible for her to meet. In addition, the fact that her property was declared uninhabitable made it impossible to dispose of it. Finally, the petitioner mentioned that she was required to defray the costs of expert reports, deeds, attorney's fees, registrations, appraisals and, in general, a high number of documents and procedures, many of which she paid by taking out loans and that her situation has not been resolved.

29. Based on all of the foregoing considerations, the petitioner alleged that her rights to family, to preservation of health and wellbeing, and property, enshrined in Articles VI, XI and XXIII of the American Declaration have been violated.

III. FRIENDLY SETTLEMENT

30. On July 20, 2018, the parties entered into a friendly settlement agreement, establishing the following terms:

FRIENDLY SETTLEMENT AGREEMENT

The Costa Rican State and the petitioner enter into the instant friendly settlement agreement, with respect to Articles 5, 8, 19, 25 and 26 of the American Convention in connection with Articles 1.1 and 2 thereof.

According to the current context, the steps taken to solve the housing problem, prior to the filing of the petition with the IACHR on April 7, 2006, took place in a context in which no clear (standardized) procedures, or at least any guidance mechanisms, were in place for persons seeking housing relief. On this issue, the consistent statements of the petitioner (Emilia Morales Campos) at many meetings with the Inter-institutional Team throughout the friendly settlement process should be underscored, when she asserts *verbatim*:

"...the efforts made since the nineties (specifically, as of 1991), as to the housing voucher (based on my health, economic capacity and immediate family conditions), were requested through the competent authorities of the State at the time (Housing Mortgage Bank, National Housing and Urban Institute, Special Housing Commission, IMAS and UNIVICOOP), with a view toward solving mine and my daughter's (Jennifer Emilia Morales Campos) housing problem. Nonetheless, the institutions mentioned above, did not ensure for me the mechanisms, the guidance, or the accompaniment to have access to said Voucher. Based on the foregoing, it is evident that my intent was not for the Costa Rican State to give me anything for free; but simply for the State to ensure access to the housing voucher for me."

It highly important to note that the system has been clearly evolving and the Costa Rican State has been striving to provide clearer guidance tools and mechanisms to persons seeking housing relief, particularly persons with disabilities. Likewise, the State has become aware of the particular and exceptional situation of Case 12.942, which took place prior to the creation of the National Housing Finance System (SNFV) of Costa Rica. At that time, Costa Rica had a body called the Special Housing Commission (Comisión Especial de Vivienda, created under Executive Decree No. 17270-P of October 29, 1986), which did not ensure for Mrs. Emilia Morales Campos improved State mechanisms, guidance, or accompaniment about temporary and permanent housing relief.

In the current context and under the framework of the SNFV, the Housing Development Foundation (Fundación Promotora de Vivienda) has consented to sell⁵ the property belonging to her, registered to the sector of Alajuela 525479-000 located in District 7 Puente de Piedra, Cantón 3 Grecia, Provincia 2 Alajuela, through the Family Housing Voucher mechanism, and through the land plot and construction program.

It was hereby agreed at the meeting between Mrs. Emilia Morales Campos and the Inter-institutional Team, held on May 28, 2018, at the Foreign Ministry, the Costa Rican State would cover the purchase of the building through the National Housing Finance System, in addition to the construction of the aforementioned house. Based on the foregoing, the petitioner (Emilia Morales Campos, 63 years of age), shall not disburse to the Costa Rican State any amount [of money] for purchase of building, or for construction of the house in keeping with the statutory provisions of accessibility set forth in Law No. 7600, the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disability, and the United Nations Convention on Persons with Disability.

As part of the agreements reached in this friendly settlement process, expenses to formally complete the process, registration fees and closing costs for the sale of real property that are covered by the Family Housing Voucher with respect to Cartago Mutual Savings and Loans, will also be subsidized pursuant to current rules of the Housing Mortgage Bank (Banco Hipotecario de la Vivienda).

Through the Ministry of Foreign Affairs and Worship, the Costa Rican State recognizes the close collaboration of the petitioner (Emilia Morales Campos, 63 years of age) in this process, her activism from a human rights-based perspective, consistently upholding the principle of legality and the democratic system of Costa Rica in order to solidify the friendly settlement of Case 12.942. Likewise, the State recognizes the tireless struggle of the petitioner (Emilia Morales Campos, 63 years of age) throughout this period of time (12 years in the IACHR), at first, for the benefit of her daughter (Jennifer Emilia Morales Campos), when she was a minor in the beginning stage of this process and, currently, for the benefit of her minor granddaughter (IMM⁶).

As part of the agreements, a press release will be published at the time of the signing of this Friendly Settlement Agreement. The press release issued by the Foreign Ministry with regard to case 12.942 will be posted on the websites of the Ministry of Foreign Affairs and Worship, the Ministry of Housing and Human Settlements, and will be circulated to the press, as well as on social media.

The parties reached the Agreement that is included in this document.

Framework of Obligations of the Costa Rican State.

Article 7 of the Political Constitution of Costa Rica provides that international treaties have a higher rank than laws. Additionally, constitutional jurisprudence has established that international human rights treaties, insofar as they are able to provide greater protection to individuals, have a higher rank than the Political Constitution. In this regard, since it has ratified the Inter-American and international human rights instruments, the Costa Rican State has incorporated into its body of law the provisions of the American Convention on Human Rights,⁷ and other international and Inter-American instruments ratified by the State.

Likewise, these Inter-American provisions and the interpretation thereof by the Inter-American Court of Human Rights (IA Court of HR) and the IACHR –bodies in charge of the

⁵ This is the legally used term in these proceedings, but it does not pose any difficulty or obstacle to the access that Mrs. Emilia Morales Campos will have to the appropriate procedure.

⁶ The IACHR is not releasing the name of the victim's granddaughter because she is a minor at the time of approval of this report.

⁷ Costa Rica has been a State Party to the American Convention on Human Rights since April 8, 1970.

oversight thereof – are part of the framework of obligations of the State of Costa Rica.⁸ Specifically, the IA Court of HR, has held that:

*“when a State is a party to international treaties such as the American Convention on Human Rights, the Inter-American Convention on Forced Disappearances, the Inter-American Convention to Prevent and Punish Torture, and the Convention of Belém do Pará, these treaties are binding on all of its organs [...], whose members must ensure that the effects of the provisions of the said treaties are not impaired by the application of laws or interpretations contrary to their object and purpose.”*⁹

Costa Rica has been a historically committed State, not only to its general international obligations, but especially to the Inter-American body of law. There has been a gradual evolution in the country in the enforcement of the Convention and it is an increasingly more frequent practice for judicial bodies to consistently abide by Inter-American and international standards.

Based on the foregoing explanation, it is important to lay out the particular provisions of the American Convention on Human Rights comprising the framework of the State’s obligations in the instant friendly settlement:

Article 5 of the ACHR, specifically: Right to Humane Treatment.

1. *Every person has the right to have his physical, mental, and moral integrity respected.*
2. *No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All Persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.*

Likewise, Article 8 of the ACHR, specifically: Right to a Fair Trial.

1. *Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.*

Additionally, Article 19 of the ACHR, specifically: Rights of the Child.

Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.

Also, Article 25 of the ACHR, specifically: Judicial Protection.

1. *Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.*
2. *The States Parties undertake:*
 - a) *To ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;*
 - b) *To develop the possibilities of judicial remedy; and*

⁸ See, for example, Supreme Court of Justice of Costa Rica. Unconstitutionality Action. Opinion 2313-95 (Case File 0421-S-90), ‘whereas’ clause VII.

⁹ IA Court of HR. Case of Gudiel Álvarez et al (“Diario Militar”) v. Guatemala. Merits, Reparations and Costs. Judgment of November 20, 2012, par. 330.

c) *To ensure that the competent authorities shall enforce such remedies when granted.*

In addition to the articles cited above, Article 26 of the ACHR (Chapter III of ACHR, titled “Economic, Social and Cultural Rights”), specifically: Progressive Development.

The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.

As for the provisions of the ACHR cited above, it is important to underscore to the Costa Rican State the interdependence existing between civil and political rights and economic, social and cultural rights. On this score, the IA Court of HR has established:

101. In this regard, the Court deems it appropriate to recall the interdependence that exists between civil and political rights and economic, social and cultural rights, since they should be fully understood as human rights, without any rank and enforceable in all the cases before competent authorities.¹⁰

As for the provisions of the Inter-American Convention on Protecting the Human Rights of Older Persons, it is important to cite the following articles to the Costa Rican State:

- Article 6, specifically: Right to life and dignity in old age.
- Article 23, specifically: Right to property.
- Article 24, specifically: Right to housing.
- Article 29, specifically: Situations of risk and humanitarian emergencies.
- Article 31, specifically: Access to justice.

As for the provisions of the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disability, it is important for the Costa Rican State to set an example of Article 3 and subsections 1.a and 1.b thereof, specifically: To achieve the objectives of this Convention, the State’s parties undertake:

1. To adopt the legislative, social, educational, labor-related, or any other measures needed to eliminate discrimination against persons with disabilities and to promote their full integration into society, including, but not limited to:

a. Measures to eliminate discrimination gradually and to promote integration by government authorities and/or private entities in providing or making available goods, services, facilities, programs, and activities such as employment, transportation, communications, housing, recreation, education, sports, law enforcement and administration of justice, and political and administrative activities;

b. Measures to ensure that new buildings, vehicles, and facilities constructed or manufactured within their respective territories facilitate transportation, communications, and access by persons with disabilities;

ACKNOWLEDGEMENT BY THE COSTA RICAN STATE

The Costa Rican State enters into the instant friendly settlement agreement with the petitioner (Emilia Morales Campos) (based on Articles 5, 8, 19, 25 and 26 of the American Convention in

¹⁰ IA Court of HR. Case of Acevedo Buendía et al (“Discharged and Retired Employees of the Comptroller”) v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of July 1, 2009. Series C No. 198, pars. 100, 101 and 102.

connection with Articles 1.1 and 2), because of the particular and exceptional situation of Case 12.942, which took place prior to the current development of the National Housing Finance System (SNFV) of Costa Rica. Specifically, the Special Housing Commission (Comisión Especial de Vivienda)¹¹ did not ensure for Mrs. Emilia Morales Campos improved state mechanisms, guidance, or accompaniment regarding temporary and permanent housing relief.

Background information on the National Housing Finance System (SNFV).

The Costa Rican State declared the housing issue to be a National Emergency in 1986. Consequently, the Special Housing Commission (Comisión Especial de Vivienda),¹² was created to cope with a high number of applications for public housing. Nonetheless, the Constitutional Chamber declared Executive Decree No. 17270-P, which created this Commission, to be unconstitutional because procedures of exception were not admissible, such as those applied by said Commission to carry out regular administrative activities.¹³ Concurrently with the efforts made by the country in the area of housing through the Special Housing Commission, a draft law was introduced in the Legislative Assembly creating a National Housing Finance System (SNFV).

Enactment of the National Housing Finance System (SNFV).

In November 1986, National Housing Finance System (SNFV) Law No. 7052 came into force and created the Housing Mortgage Bank (Banco Hipotecario de la Vivienda, as it is known by its Spanish initials BANHVI).

The SNFV is called on to provide permanent social interest housing relief within the applicable legal framework. This system is made up of the Banco Hipotecario de la Vivienda (BANHVI), as the governing body, and the authorized entities (public and private financial entities).

Pursuant to Article 1 of Law No. 7052, the BANHVI is “...a public interest entity...”, which is created to promote savings and investment in order to provide relief for the housing issue existing in the country at the end of the 1980s.

By the same token, the BANHVI is in charge of evaluating beneficiaries based on general parameters and rules, [which were] previously established by said Bank.

Additionally, the authorized (public and private) entities were assigned the [task of] processing voucher applications and channeling financial resources in the Housing Subsidy Fund (FOSUVI), in order to subsidize housing for the most needy families.

The aspects described above are of special significance to this case, because one of the authorized cooperatives of the system (specifically UNIVICOOP), which is named in the petition of Mrs. Emilia Morales Campos, was liquidated in bankruptcy proceeding in the 1990s.

The Costa Rican State deems it essential to note that the bankruptcy of the UNIVICOOP cooperative, as well as of other authorized entities during that period, lead to several adjustments and subsequent changes, which strengthened the National Housing Finance System (SNFV).

It is important to note, in light of the foregoing, that the SNFV has been clearly evolving and has strived to provide persons seeking housing relief with the most clear tools and guidance mechanisms. Additionally, the Costa Rican State has operationalized the provisions of Article

¹¹ Executive Decree No.17270-P of October 29, 1986.

¹² Executive Decree No. 17270-P of October 29, 1986.

¹³ Resolution No. 3410-92 of 14:45 hours of November 10, 1992.

65 of the Political Constitution¹⁴ of the Republic of Costa Rica and, in accordance with its economic capacity over the course of the life of the National Housing Finance System (SNFV), it has been able to remedy a total of 342,201¹⁵ housing situations in Costa Rica through public funding.

The State has been acting in the highest good faith and has been taking all measures available to it in all institutions to abide by the provisions of Article 2 of the American Convention. Nonetheless, in response to particular and exceptional Case 12.942, according to current context, the State cannot deny that, even though Mrs. Emilia Morales Campos had access to the State mechanisms to obtain dignified housing, the situation of the petitioner (Emilia Morales Campos) arose in a context where no clear (standardized) procedures, or at least guidance mechanisms, were in place for persons seeking housing relief.

In the agreement with the petitioner (Emilia Morales Campos), through the Ministry of Foreign Affairs and Worship, the Costa Rican State undertakes as it enters into this Friendly Settlement Agreement, to issue a press release acknowledging the petitioner's (Emilia Morales Campos, of 63 years of age) close collaboration in this process, her activism from a human rights-based perspective, consistently upholding the principle of legality and the democratic system of Costa Rica in order to solidify the friendly settlement of Case 12.942. Likewise, the State acknowledges the tireless struggle of the petitioner (Emilia Morales Campos of 63 years of age) over this period of time (12 years in the IACHR), at first, for the benefit of her daughter (Jennifer Emilia Morales Campos), who was a minor child at the beginning of this process, and currently for the benefit of her minor granddaughter (IMM). The press release that the Foreign Ministry will issue with regard to case 12.942 will be posted on the website of the Ministry of Foreign Affairs and Worship and will be circulated to the press, as well as posted on social media.

INDIVIDUAL REPARATION MEASURE

I. One reparation measure is the Costa Rican State's acknowledgement, through the Ministry of Foreign Relations and Worship, of the close collaboration of petitioner Emilia Morales Campos of 63 years of age in this process, her activism from a human rights-based perspective, consistently upholding the principle of legality and the democratic system of Costa Rica in order to solidify the friendly settlement of Case 12.942.

II. The second reparation measure is awarding a house to her under the Family Housing Voucher system of the SFNV, which will be built on Plot No. 4 of the La Cedeña Street housing Project. The petitioner chose and accepted this plot of land based on the particular profile thereof, which is described below:

- Excellent climate and housing growth.
- Proximity to public medical services (EBAIS of Grecia).
- Based on Mrs. Emilia Morales' health conditions and age and in anticipation of the possibility of her using a wheel chair to move around, access to this property is viable.
- Location in an area of good access for a person without a vehicle.
- Proximity to bus stops. However, bus service at the present time does not run frequently, because of the extension of the public road known as "La Cedeña" to the public road known as "Los Rosales," in Puente Piedra of Grecia. Nonetheless, as for the issue of public transportation, the petitioners have consented because this is a temporary situation, stemming from the extension of the public thoroughfare.

¹⁴ Political Constitution of Costa Rica, Article 65. *El Estado promoverá la construcción de viviendas populares y creará el patrimonio familiar del trabajador.* ['The State shall promote the construction of public housing and shall create the worker's family patrimony']

¹⁵ As of June 2018.

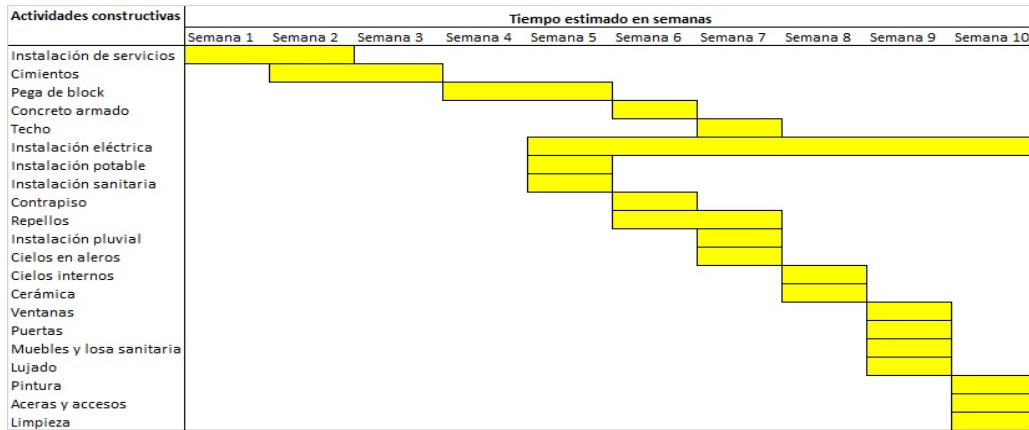
Once Banco Hipotecario de la Vivienda approves the Family Housing Voucher for Mrs. Emilia Morales Campos, and after submitting the construction permits, Cartago Mutual Savings and Loans will formally approve the case so the petitioner is able to purchase the real property registered to the sector of Alajuela real property folio 525479-000, which will be sold to her by the Housing Development Foundation (Fundación Promotora de Vivienda). Additionally, once the construction permits are approved, construction of the house will move forward. Mrs. Emilia Morales will acquire the property in keeping with the provisions of Law No. 7052, and the construction will conform to the statutory provisions governing the rules of the Family Housing Voucher program and the rules that have been approved by the Housing Mortgage Bank.

However, once the house is constructed on the property cited above, in compliance with the Law of Equal Opportunities for Persons with Disability (Law No. 7600), the housing problem of petitioner Emilia Morales Campos will be definitively resolved.

The house may be constructed to the following specifications:

- As for the layout of the house, it has one master bedroom, 1 additional bedroom, 1 living room, 1 dining room, 1 kitchen, 1 laundry room and common area.
- As for the design of the house, a simple one is planned (it is a minimum of 35 centimeters wide and four number 3 rods are placed in it [to form the design]). Additionally, it has 1 main façade and 1 rear façade.
- As for the construction system use for the house itself, integrated masonry is used (class a or b, with a thickness of 12 centimeters).
- As for the size of the home, it is 47 square meters.
- As for the roof structure, it uses PVC slats, steel known as “perlin,” square tube trusses and corrugated galvanized steel sheets.
- As for structure of foundation, columns and beams, cinderblock type A are used (fire resistant) and rebar number 3.
- As for structure of walls, cinderblock type A is used (fire resistant) and rebar number 3 (inside the walls, all cells reinforced rebar). External walls are also plastered over with stucco.
- As for painting and sealing the house, Lanco brand paint is be used (flat [matte], non-flammable, waterproof), and white acrylic sealant.
- As for the three doors to the house, laurel wood is used for the main access door and the rear access door, both with double cylinder deadbolt locks, and plywood bathroom door.
- As for the floor of the house and laundry room, anti-slip ceramic tile is used, color: terracotta; texture: matte.
- As for electrical installation, it complies with the latest version of the national electric code (NFPA70)”.
- As for the septic tank of the house, 1 septic tank is installed along with a spare tank.
- As for the structure of the house, pursuant to the Law of Equal Opportunities for Persons with Disability (Law No. 7600) it is important to note that:
 - The bathroom of the house is plated up to 1.80 meters, with easy wheel chair entry/exit access
 - 1 showerhead installed, for hot water.
 - 1 safety rail installed in the shower stall and by the toilet.
 - 1 emergency button installed in the bathroom and master bedroom.
 - 1 ramp with handrail installed for entry and exit to and from house.
 - Electric plug sockets installed at higher level, to facilitate use thereof.

It must be noted that the timeline for the housing construction process appearing below will come in effect once the construction permits have been approved by the Municipality of Grecia.



The inspection and supervision of the construction process of the dwelling house with Law N° 7600, which will be built in Lot N ° 4 of the La Cedeña Street Project, will be in charge of the Cartago Mutual Savings and Loan (MUCAP).

Additionally, the formal approval procedure must be simplified, as described below:

- Cartago Mutual Savings and Loan (MUCAP) will be responsible for the formal procedures, as it is the Authorized Entity in charge of said processing, through its office. It is important to note that MUCAP receives the case file with the complete and up-to-date documentation of the immediate family and property, to be reviewed and submitted to the BANHVI. Therefore, the formal approval process must conform to the legal provisions in force of the Banco Hipotecario de la Vivienda.
- Once Emilia Morales Campos becomes the owner, the Fundación Promotora de Vivienda will work together with Mrs. Morales Campos to put basic utilities services under her name, for which the petitioner (Emilia Morales Campos) must submit the case documentation to the appropriate offices.

As the petitioner (Emilia Morales Campos) in this friendly settlement process has stated, in the event of the death of the petitioner referenced above prior to the approval of this agreement before the IACHR, the immediate family of Mrs. Emilia Morales Campos (specifically, petitioner Jennifer Emilia Morales Campos and Miss IMM), will be the only beneficiaries with standing to handle any aspect arising from the follow-up and implementation of the friendly settlement process.

COSTA RICAN STATE’S COMPLIANCE WITH THE MEASURES OF NON-REPETITION

Both petitioners have donated the property identified under registration number 240792-001-002 located in District 7 Purrál, Canton 8 Goicoechea, Province 1, San José, to the Municipality of Goicoechea. This was done because of the risk, threat and uninhabitable condition posed by the above-referenced property, with the provision that it not be used by another person for habitation, and it was accepted by the Municipality of Goicoechea under that condition.

Through the Municipality of Goicoechea, the Costa Rican State accepted responsibility for the costs of attorney’s fees, seals, taxes and municipal assessments, among other expenses, as concerns the transfer of the property referenced above, to the Municipality of Goicoechea. This was agreed upon at Regular Session No. 46-17, held on November 13, 2017, Article 12, which in the relevant portion, establishes:

b- By unanimity and of a dispositive nature, the “Therefore” clause of Opinion No. 49-17 of the Committee on Finance and Budget is approved, as set forth hereunder:

AGREEMENT N° 7

“THEREFORE; *this Committee recommends the Municipal Council to:*

*1°. Authorize the Mayor to carry out the notarial procedure to convey the property identified under registration number 001-240792-001-002, located in district 7 Purral, with a [surface] area of 136.90 square meters, with cadastral plat number SJ-378673-97, located on the street known as Calle Morales toward this Municipality.
(...)”*

FOLLOW-UP ON IMPLEMENTATION OF THE FRIENDLY SETTLEMENT AGREEMENT

Entering into the instant friendly settlement agreement and effective compliance therewith will enable the petitioners (Emilia Morales Campos and Jennifer Emilia Morales Campos) of this case, and Miss Ivannia Moya Morales (granddaughter of Mrs. Morales Campos), to receive from the Costa Rican State, the definitive solution to their housing problem.

At the same time, the present friendly settlement agreement is an opportunity for the State, in the words of the IACHR, “to demonstrate its commitment to its duty to respect and ensure human rights, and its good faith compliance with its obligations under the American Convention and other regional human rights instruments.”¹⁶

As put by the IACHR, the effectiveness of the friendly settlement mechanism relies on both the willingness of the parties to reach a friendly settlement in the matter, and on the level of implementation of the measures of reparation agreed upon therein. This is because “States have the duty to comply fully and in good faith with the commitments they contain.”¹⁷

Thus, in order to ensure compliance with the measures agreed upon in the instant agreement in keeping with the principle of good faith, and in order to ensure appropriate follow-up to the implementation thereof, the parties will:

1. Apprise the Inter-American Commission on Human Rights about progress in complying with the instant friendly settlement agreement.
2. Only request approval of the instant agreement from the Inter-American Commission on Human Rights jointly and in writing, at such time that compliance with the measure contained therein has taken place, which is: that a house has been awarded in accordance with Law No. 7600, under the system of the Family Housing Voucher, which will be built on Plot of Land No. 4 of the Calle La Cedeña housing Project (property registered in the sector of Alajuela real property folio 525479-000, located in District 7 Puente Piedra, Cantón 3 Grecia, Province 2 Alajuela). As was fully explained under the section heading Individual Reparation Measures of the instant friendly settlement agreement.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE.

31. The IACHR reiterates that pursuant to Articles 48.1 and 49 of the American Convention, the purpose of this proceeding is “to reach a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.” Accepting this procedure to be carried out is an expression of the State’s

¹⁶ IACHR, “Impact of the Friendly Settlement Procedure.” OEA/Ser.L/V/II. Doc. 45/13, December 18, 2013, par. 5 available at: http://www.oas.org/es/cidh/soluciones_amistosas/docs/Informe-Soluciones-Amistosas.pdf

¹⁷ IACHR, “Impact of the Friendly Settlement Procedure.” OEA/Ser.L/V/II. Doc. 45/13, December 18, 2013, pars. 6 and 230 available at: http://www.oas.org/es/cidh/soluciones_amistosas/docs/Informe-Soluciones-Amistosas.pdf

good faith in fulfilling the purposes and objectives of the Convention under the principle of *pacta sunt servanda*, whereby States must discharge in good faith the duties undertaken by them in treaties.¹⁸ The Commission also underscores that the friendly settlement procedure set forth in the Convention provides for disposition of individual cases in a non-contentious manner and has proven, in cases concerning a variety of countries, to offer an important avenue of settlement that is available for use by both parties.

32. The Inter-American Commission greatly appreciates the efforts displayed by both parties during agreement negotiations to reach this friendly settlement, which is compatible with the object and purpose of the Convention.

33. Pursuant to the provisions of the friendly settlement agreement, the parties have jointly requested the Commission to approve the report, in accordance with Article 49 of the American Convention.

34. The IACHR notes that because of the information provided by the parties thus far and the request for approval of the FSA submitted by the parties to the Commission, it is the Commission's duty to assess compliance with the commitments set forth in the friendly settlement agreement.

35. According to the State's report of July 20, 2018, during the signing ceremony of the friendly settlement agreement, which was attended by Commissioner Esmeralda Arosemena de Troitiño in her capacity as witness of honor and First Vice President of the Commission, the Former Foreign Minister of the Republic of Costa Rica offered apologies to petitioner Emilia Morales Campos, on behalf of the State of Costa Rica. At said ceremony, the following words were spoken:

In representation of the Costa Rican State, I apologize to Mrs. Emilia Morales Campos for Case 12.942. Doña Emilia has struggled for years to get the State to reply to an application, where the central issue is protection of the human rights of persons. Therefore, what Doña Emilia has demanded from the State is clear, dignified and safe access to her rights and especially for the protection of her personal integrity, that of her daughter and now, that of her granddaughter. The State must ensure clear procedures for people. Currently, that is what the Costa Rican State is doing, but Doña Emilia experienced a particular and exceptional situation, that took place prior to the development of the current National Housing Finance System (SNFV) was in place in Costa Rica and in a context where the petitioner had no assurances of enhanced State mechanisms, guidance, or accompaniment to gain access to temporary or permanent housing relief. Therefore, as a specific reparation measure, the Costa Rican State is facilitating the awarding of a house under the system of the Family Housing Voucher of the SFNV to Doña Emilia Morales and, thereby, Costa Rica meets its human rights obligations in the context not only of the Inter-American human rights system [...].

36. In this regard, the Commission appreciates the apology of the Costa Rican State and the steps to dignify Mrs. Emilia Morales and her struggle to assert her rights, both in the declarative section of the friendly settlement agreement and in the words of the public officials, who were present at the signing ceremony of said agreement.

37. In relation to clause II Individual Reparation Measure, on October 24, 2018, the petitioner reported that, the house was in the process of being built and that it would be handed over to her in 22 days, because the retention wall was still being constructed. Furthermore, she expressed her satisfaction with the ongoing process and submitted photographic records of the progress in adapting the house to her needs and bringing it in line with the terms of the friendly settlement agreement.

38. On January 18, 2019, the State reported that on November 30, 2018, the formal awarding ceremony of the house to Mrs. Emilia Morales was held, with the respective modifications, as undertaken in the friendly settlement agreement entered into between the parties. The State provided comprehensive

¹⁸ 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.*

photographic, video and documentary records of the awarding of the house to the petitioner. Said ceremony was posted on the webpages of the Ministry of Foreign Affairs and Worship and circulated in both the press and on social media.¹⁹

39. On January 23, 2019, the petitioner reported that she now had access to the dignified house and an enhanced quality of life. She further reported that her family, and in particular her granddaughter, “*now has a beautiful space to play, a dignified bedroom and a place to do her homework.*”

40. Finally, on April 5, 2019, the State and the petitioner jointly submitted a written brief reporting that on that date, the State completed transfer of the house to Mrs. Emilia Morales Campos, under the program of Family Housing Vouchers of the National Housing Finance System, providing the details of the location of the house in *la Provincia 2 Alajuela*. In this regard, the parties reported to the Commission that Mrs. Emilia Morales Campos is now the owner of record of her house and, for this reason, were satisfied after finding a solution to her housing issue in the friendly settlement process. Taking into consideration the items of information described above, the Commission finds total compliance with clause II of the friendly settlement agreement and so declares it.

41. The Commission further finds that the rest of the content of the agreement is of a declarative nature and so declares it.

42. Based on the foregoing reasons, the IACHR considers the friendly settlement agreement to be totally implemented.

43. The Commission views as a positive step the signing of the first friendly settlement agreement by the State of Costa Rica and the progress made in total compliance therewith.

V. CONCLUSIONS

44. Based on the foregoing considerations and pursuant to the procedures set forth in Articles 48.1 and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts put forward by the parties and its satisfaction with their reaching a friendly settlement in the instant case, based on respect for human rights and consistent with the object and purpose of the American Convention.

45. In light of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. Approve the terms of the agreement entered into by the parties on July 20, 2018.
2. Declare total compliance with clause II of the friendly settlement agreement concerning the individual reparation measure, based on the analysis set forth in this report.
3. Declare total compliance with the friendly settlement agreement.
4. Release the instant report to the public and include it in its Annual Report to the OAS General Assembly.

¹⁹ In this regard, see, Press Release, Web page of the Ministry of Foreign Affairs of Costa Rica. “Press Release: Costa Rica complies with reparation measure as agreed after signing of friendly settlement agreement.” July 20, 2018”. Available electronically at: <https://www.rree.go.cr/?sec=servicios&cat=prensa&cont=593&id=4345>

Also see, Facebook Page of FUPROPI Available electronically at:

<https://www.facebook.com/140861025933522/videos/vb.140861025933522/487467208413326/?type=2&theater>

Approved by the Inter-American Commission on Human Rights on May 15, 2019. (Signed): Esmeralda E. Arosemena Bernal de Troitiño, President; Joel Hernández, First Vice-president; Antonia Urrejola, Second Vice-President; Francisco José Eguiguren, Margarete May Macaulay, Luis Ernesto Vargas and Flávia Piovesan, Members of the Commission.