

TECHNICAL INFORMATION SHEET
CASE 11.441 RODRIGO ELICIO MUÑOZ Y OTROS
REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 104/01
ARCHIVE
(ECUADOR)

I. SUMMARY OF THE CASE

Victim(s): Rodrigo Elicio Muñoz Arcos et al.

Petitioner(s): Ecumenical Commission for Human Rights of Ecuador

State: Ecuador

Beginning of the negotiation date: February 9, 1999

FSA signature date: August 15, 2001

Report on Friendly Settlement Agreement No. 104/01, published on October 11, 2001

Estimated length of the negotiation phase: 2 years

Rapporteurship involved: Persons Deprived of Liberty

Topics: Persons deprived of liberty/detention centers/detention conditions/police precincts/care and custody/investigation/prison system/torture/cruel, inhuman, and/or degrading treatment or punishment/arbitrary or illegal detention.

Facts: The case relates to the detention of four Colombian citizens, Rodrigo Elicio Muñoz Arcos, Luis Artemio Muñoz Arcos, José Morales Rivera, and Segundo Morales Bolaños—suspected of committing the crimes of robbery, attempted kidnapping, and homicide—by Ecuadorian police in Tulcán on August 26, 1993. According to reports, the aforementioned individuals were arrested and taken to the central office of the Office of Criminal Investigation [OID], where they were held incommunicado for 13 days and stripped of several thousand pesos and sucres. There are further allegations that they were tortured by members of the OID. Medical reports for these individuals indicate that they presented abrasions, bruises, and a fractured lower jaw, resulting from beatings, hangings, and kicks to different parts of their bodies. The detainees were moved to the Tulcán jail on September 7, 1993. The suspected perpetrators are members of the National Police's Carchi Command #10: Lt. Colonel Carlos Antonio Lozada Aldas, Corporal José Luis Cando Pérez, and Dr. Edgar Pacheco Mena, who signed the torture victims' statements. The relevant portions of the National Office for Social Rehabilitation's October 13, 1993 medical reports indicate the following in each detainee's diagnosis: (a) Luis Artemio Muñoz Arcos: presented multiple traumas and a fracture to the lower jaw; (b) Rodrigo Muñoz Arcos: chest trauma; (c) Segundo Hilarión Morales Baños: mild trauma in the left eye; and (d) José Vicente Morales Rivera: apparently healthy patient (on September 16, 1993 a private medical exam was performed, with the following diagnosis: intense pain in the right temporal region, pain in the sternal apex, with an observed fracture thereof, abrasions on his front right and left tibia, [and] scarred abrasions on his wrists. The wounds were caused by strong, forceful trauma to the body, like from a fist, kick, or stick).

Rights alleged: The petitioners alleged violation of the rights to humane treatment (Article 5), personal liberty (Article 7), a fair trial (Article 8), private property (Article 21), and judicial protection (Article 25) of the American Convention on Human Rights (ACHR), all in breach of the obligations provided for under Article 1(1) thereof, to the detriment of Rodrigo Elicio Muñoz Arcos, Luis Artemio Muñoz Arcos, José Vicente Morales Rivera, and Segundo Hilarión Morales

Bolaños, all Colombian nationals.

II. PROCEDURAL ACTIVITY

1. On August 15, 2001, the parties signed the friendly settlement agreement.
2. On October 11, 2001, the Commission approved the friendly settlement agreement by report No. 104/01.

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

Agreement clause	State of compliance
<p>III. STATE RESPONSIBILITY AND ACCEPTANCE</p> <p>The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mr. [Rodrigo Elicio Muñoz Arcos], [Luis Artemio Muñoz Arcos], [José Vicente Morales Rivera], [Segundo Hilarión Morales Bolaños], enshrined in Article 5 (right to humane treatment), Article 8 (fair trial), Article 21 (private property), Article 7 (personal liberty), and Article 25 (judicial protection), and at the same time the general obligation contained in Article 1(1) of the American Convention on Human Rights and other international instruments, considering that the violations were committed by State agents, which could not be disproved by the State, giving rise to State responsibility.</p> <p>Given the above, the Ecuadorian State accepts the facts in case 11.441 before the Inter-American Commission on Human Rights and undertakes the necessary reparative steps to compensate the victims, or their successors, for the damages caused by those violations.</p>	<p>Declarative</p>
<p>IV. COMPENSATION</p> <p>In view of the foregoing, the Ecuadorian State, through the Attorney General, as the sole judicial representative of the Ecuadorian State, pursuant to Article 215 of the Constitution of Ecuador, enacted in Official Register N° 1 and in force since August 11, 1998, is awarding [Rodrigo Elicio Muñoz Arcos, through his representative Miss Doris Elizabeth Posso Moran, a one-time compensatory payment in the amount of ten thousand US dollars (US\$ 10,000), to be paid from the National Budget] [Luis Artemio Muñoz Arcos, a one-time compensatory payment in the amount of ten thousand US dollars (US\$ 10,000), to be paid from the National Budget], [José Vicente Morales Rivera, a one-time compensatory payment in the amount of ten thousand US dollars (US\$ 10,000), to be paid from the National Budget], [Segundo Hilarión Morales Bolaños, a one-time compensatory payment in the amount of ten thousand US dollars (US\$ 10,000), to be paid from the National Budget].</p> <p>This compensation covers the consequential damages, loss of</p>	<p>Total¹</p>

¹ IACHR, Report No. 104/01, Case 11.441, Friendly Settlement, Rodrigo Elicio Muñoz Et al., Ecuador, October 11, 2001.

<p>income, and moral damages suffered by [Rodrigo Elicio Muñoz Arcos], [Luis Artemio Muñoz Arcos], [José Vicente Morales Rivera], [Segundo Hilarión Morales Bolaños], as well as any other claims that [Rodrigo Elicio Muñoz Arcos], [Luis Artemio Muñoz Arcos], [José Vicente Morales Rivera], [Segundo Hilarión Morales Bolaños] may have, regarding the subject of this agreement, under domestic and international law, and is chargeable to the National Budget. [...].</p>	
<p>V. PUNISHMENT OF THE PERSONS RESPONSIBLE</p> <p>The Ecuadorian State pledges to bring civil and criminal proceedings and pursue administrative sanctions against those persons who are alleged to have participated in the violation in the performance of State functions or under the color of public authority.</p> <p>The Office of the Attorney General pledges to encourage the State Attorney General, the competent judicial organs, and public agencies or private institutions to contribute legal evidence to determine the liability of those persons. If admissible, the prosecution will be subject to the constitution and laws of the Ecuadorian State.</p>	<p>Noncompliance²</p>

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission the Commission assessed the petitioner's request of May 17, 2018, in which they requested the termination of the supervision of the agreement and the archive of the case given the prescription of the criminal action and the loss of contact with the victims of the case. In this regard, the Commission reconsidered the request of the petitioner to archive and decided on this occasion to note that the justice measure was breached by the Ecuadorian State and that the level of compliance with the agreement is partial.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State paid financial compensation, as set forth under the agreement.

²See IACHR, Annual Report 2019, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>