

TECHNICAL INFORMATION SHEET
CASE 11.450 MARCO VINICIO ALMEIDA CALISPA
REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 106/01
ARCHIVE
(ECUADOR)

I. SUMMARY OF THE CASE

Victim(s): Marco Vinicio Almeida Calispa
Petitioner(s): Ecumenical Commission for Human Rights of Ecuador
State: Ecuador
Beginning of the negotiation date: May 11, 1999
FSA signature date: August 15, 2001
Report on Friendly Settlement Agreement No. 106/01, 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

Facts: This case relates to the death of Marco Vinicio Almeida Calispa by asphyxiation on February 2, 1988, while in police custody, as well as the fact that the case was never brought to justice. On February 2, 1988, during police interrogations at the SIC-P, Marco Almeida died of asphyxiation. Lt. Juan Sosa Mosquera and detectives Víctor and Manuel Soto Betancourt were accused of being the officers in charge of Marco Almeida's custody when he died. The First Criminal Court of Pichincha initiated the respective criminal proceeding; the judge ordered the arrest of the officers, but that order was never executed. On September 14, 1988, an inquiry began at the First District Court of the Police, blocking the judge from the regular courts from assuming jurisdiction, because police jurisdiction was being applied to the accused. Thereafter, the case went before the Supreme Court where it remained at a standstill for two years. On February 10, 1992, the Court resolved the jurisdictional conflict in favor of the First Judge of the Police District. In August 1993, in the context of the investigative proceeding, an indictment was handed down, along with a reasoned order against police officers Víctor Abraham Soto Betancourt and Manuel Benigno Soto Betancourt. Nevertheless, as of 1994, six years after the proceedings were initiated, no judgment had yet been issued.

Rights alleged: The petitioners alleged violation of the rights to life (Article 4), humane treatment (Article 5), a fair trial (Article 8), 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 Marco Vinicio Almeida Calispa.

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. 106/01.

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. Marco Vinicio Almeida Calispa, recognized in Article 4 (right to life), Article 8 (right to a fair trial), Article 5 (right to humane treatment), Article 7 (right to personal liberty), and Article 25 (right to judicial protection), in relation to 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 N° 11.450 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 No. 1 and in force since August 11, 1998, is awarding Mr. Segundo José Arauz Maldonado, with citizen identification number 170034937-4, father-in-law of Mr. Marco Vinicio Almeida Calispa, deceased, in representation of Mrs. Sonia del Rosario Arauz Olmedo and Mr. Jaime Andrés Almeida Arauz, widow and son of Mr. Marco Vinicio Almeida Calispa, deceased, a one-time compensatory payment in the amount of thirty thousand US dollars (US\$ 30,000), to be paid from the National Budget. [...]</p>	<p>Total¹</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>

¹ IACHR, Report No. 106/01, Case 11.450, Friendly Settlement, Marco Vinicio Almeida Calispa, Ecuador, October 11, 2001.

²See IACHR, Annual Report 2020, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2020/Chapters/IA2020cap2-en.pdf>

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission assessed the request filed on January 17, 2020, by the petitioners seeking termination of supervision of the agreement and archiving of the case, given that they were unable to contact the victims of the case. In this respect, the Commission decided to cease supervision of the friendly settlement agreement and archive the case, noting on the record in the Annual Report that the measure of justice was not complied by the Ecuadorian State and that the level of compliance of 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.