

**TECHNICAL INFORMATION SHEET**  
**CASE 11.466 MANUEL INOCENCIO LAVAY GUAMÁN**  
**REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 96/00**  
**ARCHIVE**  
**(ECUADOR)**

**I. SUMMARY OF THE CASE**

**Victim(s):** Manuel Inocencio Lavay Guamán

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

**State:** Ecuador

**Beginning of the negotiation date:** February 1, 1999

**FSA signature date:** February 26, 1999

**Report on Friendly Settlement Agreement No. 96/00,** published on October 5, 2000

**Estimated length of the negotiation phase:** 1 year

**Rapporteurship involved:** Persons Deprived of Liberty

**Topics:** Persons deprived of liberty/detention centers/investigation/torture/cruel, inhuman, and/or degrading treatment or punishment

**Facts:** The case relates to a series of arrests of Manuel Inocencio Lavay Guamán between 1993 and 1994 by State agents who subjected him to torture and cruel and inhuman treatment. On May 26, 1992, the jewelry store owned by Angel Guamán, where Segundo Malla, the petitioner's brother-in-law worked, was robbed. On July 7, 1992, Mr. Malla was arrested at his home and taken to the Office of Criminal Investigation of Pichincha [*Oficina de Investigación de Pichincha*] (hereinafter, "OID-P"), where he was tortured by OID-P agents and then released. On April 6, 1993, the petitioner was arbitrarily arrested at his shop by OID-P agents, without a warrant; the reason they gave was that he had reportedly been accused of being a criminal by residents of the La Colmena neighborhood. On April 7, 1993, after being transferred to the Police Barracks, at approximately 10:00 a.m., he was taken by officers Ortiz and Espinoza to a place called "La Terraza," where officer José Alvarado was present, and where the petitioner became victim of physical abuse and torture by the agents. The petitioner alleged that he was stripped naked and had his hands tied behind his back, after which he was submerged in a tank of water. In addition, he said a case filled with gas was placed on his head, and that, when he was almost unconscious, he was held up by cables and then violently dropped to the floor, fracturing his teeth. He further stated that he was tortured by electric shock. When they saw he could bear no more, they stopped the torture. After this session of torture, the petitioner was taken to the Office of Miscellaneous Matters to have his statement taken. The intent of the agents was to coerce him into accepting that he had committed a crime, and into signing a statement. When he refused to sign the statement, the petitioner was once again taken to the CDP, where he was held until his release. On September 8, 1994, members of the petitioner's family—Piedad Malla, his wife, and Segundo Malla, his brother-in-law—were also assaulted, with blows and cuts, by Angel Guamán, who had originally accused the petitioner of stealing jewels from his jewelry store. The victims went to the Fourth Police Precinct to file a report; Angel Guamán went there as well and asked the Commissioner to arrest those individuals.

**Rights alleged:** The petitioners alleged violation of the rights to humane treatment (Article 5) and personal liberty (Article 7) of the American Convention on Human Rights, in violation of the

obligations provided for under Article 1(1) thereof, to the detriment of Mr. Lalvay Guamán.

## II. PROCEDURAL ACTIVITY

1. On February 26, 1999, the parties signed the friendly settlement agreement.
2. On October 5, 2000, the Commission approved the friendly settlement agreement by report No. 96/00.

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

Agreement clause	State of compliance
<p><b>III. STATE RESPONSIBILITY AND ACCEPTANCE</b></p> <p>The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mr. Manuel Inocencio Lalvay Guamán enshrined in Articles 5 and 7 of the American Convention on Human Rights and other international instruments, considering that Mr. Manuel Inocencio Lalvay Guamán was illegally detained, tortured, and persecuted, and 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 No. 11.466 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><b>Declarative clause</b></p>
<p><b>IV. COMPENSATION</b></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. Manuel Inocencio Lalvay a one-time compensatory payment in the amount of twenty-five thousand US dollars (US\$ 25,000) or the equivalent in local currency, calculated at the exchange rate in effect at the time the payment is made, to be paid from the National Budget.</p> <p>This compensation covers the consequential damages, loss of income, and moral damages suffered by Mr. Manuel Inocencio Lalvay Guamán, as well as any other claims that Manuel Inocencio Lalvay Guamán or his family members may have, regarding the subject of this agreement, under domestic and international law, and is chargeable to the National Budget. To this end, the Office of the Attorney General will notify the Ministry of Finance, for it to carry out this obligation within 90 days of the signing of this document.</p>	<p><b>Total<sup>1</sup></b></p>

<sup>1</sup> IACHR, Report No. 96/00, Case 11.466, Friendly Settlement, Manuel Inocencio Lavay Guzman, Ecuador, October 5, 2018.

<p><b>V. PUNISHMENT OF THE PERSONS RESPONSIBLE</b></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><b>Noncompliance<sup>2</sup></b></p>
<p><b>VII. TAX EXEMPTION AND DELAY IN COMPLIANCE</b></p> <p>[...]In the event that the State is delinquent for over three months from the date the agreement is signed, it must pay interest on the amount owed, corresponding to the current bank rate of the three largest banks in Ecuador for the duration of its delinquency.</p>	<p><b>Total<sup>3</sup></b></p>

#### IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission assessed the request filed on January 17, 2020, by the petitioner to terminate supervision of the agreement and archive the case, because it lost contact with the victims of the case. In this respect, the Commission decided to cease supervision of the friendly settlement agreement and archive the case, noting 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, with interest, as set forth under the agreement.

<sup>2</sup>See 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>

<sup>3</sup> IACHR, Report No. 96/00, Case 11.466, Friendly Settlement, Manuel Inocencio Lavay Guzman, Ecuador, October 5, 2018.