

TECHNICAL INFORMATION SHEET
CASE 11.991 KELVIN VICENTE TORRES CUEVA
REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 100/00
ARCHIVE
(ECUADOR)

I. SUMMARY OF THE CASE

Victim(s): Kelvin Vicente Torres Cueva

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

State: Ecuador

Beginning of the negotiation date: February 15, 1999

FSA signature date: June 11, 1999

Report on Friendly Settlement Agreement No. 100/00, published on October 5, 2000

Estimated length of the negotiation phase: 1 year

Rapporteurship involved: Persons Deprived of Liberty

Topics: Personas 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: On June 21, 1992, the petitioner was detained at 12:00 noon by a group of 20 hooded and heavily-armed individuals, who, beating him, forced him into a vehicle. At no time was he shown an arrest warrant issued by a competent judge or informed of the grounds for his arrest, nor did the individuals identify themselves as police. The petitioner was deprived of his liberty, mistreated, and detained incommunicado for a prolonged period. According to the petitioner, he was detained in the context of the National Police's counter-narcotics "Operation Cyclone" [*Operativo Ciclón*], merely for being a relative of Jorge Hugo Reyes Torres, the alleged head of a group of drug traffickers. Later, the petitioner was taken to the offices of the former SIC, now Quito Regiment No. 2, where he was placed in an underground cell and held incommunicado for 33 days. During this time he was tortured by being beaten in the stomach and about his ears, and with electric shock, in an attempt to get him to memorize a statement that he was to give afterwards to the representative of the Public Ministry. After 33 days of being held incommunicado, during which time he was unable to see his family or an attorney, the petitioner was taken to a yard along with several other detainees, where some 50 hooded and heavily armed police aimed their weapons at them. The police inserted the weapons in their mouths and pulled the trigger, but the weapons were not loaded. This was part of an effort to get them to sign self-incriminating statements. Afterwards, the petitioner was blindfolded and taken to Pavilion "A" in García Moreno prison, where he was allowed to have visitors. He was held incommunicado for a Full of 38 days.

Rights alleged: The petitioners alleged violation of the rights enshrined in Articles 5 (humane treatment), 7 (personal liberty), 8 (a fair trial), 11 (protection of honor and dignity), 24 (equal protection before the law), and 25 (judicial protection) of the American Convention on Human Rights (ACHR), in connection with Articles 1 and 2, thereof.

II. PROCEDURAL ACTIVITY

1. On June 11, 1999, the parties signed the friendly settlement agreement.
2. On October 5, 2000, the Commission approved the friendly settlement agreement by report No. 100/00.

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

Agreement clause	State of compliance
<p>III. STATE RESPONSIBILITY AND ACCEPTANCE The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mr. Kelvin Vicente Torres Cueva enshrined in Article 5 (right to humane treatment), Article 7 (right to personal liberty), Article 8 (fair trial), Article 24 (equality before the law), 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 No. 11.991 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 clause</p>
<p>IV. COMPENSATION 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. Kelvin Vicente Torres Cueva a one-time compensatory payment in the amount of fifty thousand US dollars (US\$ 50,000) 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. Kelvin Vicente Torres Cueva, as well as any other claims that Mr. Kelvin Vicente Torres Cueva 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>Total¹</p>
<p>V. PUNISHMENT OF THE PERSONS RESPONSIBLE The Ecuadorian State pledges to bring civil and criminal proceedings</p>	

¹ IACHR, Report No. 100/00, Case 11.991, Friendly Settlement, Kelvin Vicente Torres Cueva, Ecuador, October 5, 2000.

<p>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>	Noncompliance²
<p>VII. TAX EXEMPTION AND DELAY IN COMPLIANCE</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>	Total³

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 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, with interest, as set forth under the agreement.

² 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>

³ See IACHR, Annual Report 2017, Chapter II, Section D: Status of compliance with recommendations and friendly settlements in individual cases, paragraph 897.