

TECHNICAL INFORMATION SHEET
CASE 12.394 JOAQUÍN HERNÁNDEZ ALVARADO, MARLON LOOR ARGOTE Y HUGO LARA PINOS
REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 65/03
ARCHIVE
(ECUADOR)

I. SUMMARY OF THE CASE

Victim(s): Joaquín Hernández Alvarado, Marlon Loor Argote, and Hugo Lara Pinos
Petitioner(s): Joaquín Hernández Alvarado, Marlon Loor Argote, and Hugo Lara Pinos
State: Ecuador
Beginning of the negotiation date: July 22, 2002
FSA signature date: November 26, 2002 / December 16, 2002
Report on Friendly Settlement Agreement No. 65/03, published on October 10, 2003
Estimated length of the negotiation phase: 3 months
Rapporteurship involved: Persons Deprived of Liberty
Topics: Humane treatment/fair trial/judicial protection/investigation

Facts: On May 7, 2001, the Commission received a petition in which the petitioner alleged that on May 22, 1999, Hernández Alvarado, Loor Argote, and Lara Pinos were victims of an attack by agents of the National Police. They denounced the Ecuadorian courts' delay in prosecuting and punishing the perpetrators of these attacks. The State alleged failure to exhaust domestic remedies.

Rights alleged: The petitioners alleged the responsibility of the Republic of Ecuador for violations of the rights provided for under Articles 5 (humane treatment), 8 (fair trial), and 25 (judicial protection) of the American Convention on Human Rights, all in connection with Article 1(1) thereof, to the detriment of Joaquín Hernández Alvarado, Marlon Loor Argote, and Hugo Lara Pinos.

II. PROCEDURAL ACTIVITY

1. On November 26, 2002, and December 16, 2002, the parties signed the friendly settlement agreement.
2. On October 10, 2003, the Commission approved the friendly settlement agreement by report No. 65/03.

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

Agreement clause	State of compliance
III. STATE RESPONSIBILITY AND ACCEPTANCE The Ecuadorian State recognizes its international responsibility for having violated the human rights of Mr. Joaquín Hernández Alvarado	Declarative

<p>[of Mr. Marlon Iván Loor Argote] [of Mr. Hugo Jhoe Lara Pinos] as enshrined in Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), Article 8 (Right to a Fair Trial), and Article 25 (Judicial Protection) of the American Convention on Human Rights, in conjunction with the general obligation contained in Article 1(1) thereof, and in other international instruments, since the violations were committed by State agents and could not be disproved by the State, thus giving rise to State responsibility.</p> <p>Given the above, the Ecuadorian State accepts the facts in case No. 12.394 now before the Inter-American Commission on Human Rights and agrees to undertake the necessary reparatory steps to compensate the victims, or their successors, for the damages caused by those violations.</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, according to Article 215 of the Constitution of Ecuador, promulgated in Official Register No. 1, and in force since August 11, 1998, is awarding Mr. Joaquín Hernández Alvarado, citizenship document No. 1703265866 [Mr. Marlon Iván Loor Argote, citizenship document No. 090766661-4] [Mr. Hugo Jhoe Lara Pinos, citizenship document No. 020161760-2] lump sum compensatory damages of one hundred thousand [three hundred thousand] [fifty thousand] United States dollars (USD \$100,000.00) [(USD \$300,000.00)] [(USD \$50,000.00)], to be paid from the National Budget. [...]</p>	<p>Total¹</p>
<p>V. PUNISHMENT OF THOSE RESPONSIBLE</p> <p>The Ecuadorian State undertakes, to the extent possible, to bring both civil and criminal proceedings and to pursue administrative sanctions against those persons who, in the course of their official duties or the exercise of public power, are presumed to have participated in the reported violations.</p> <p>The office of the Attorney General undertakes to encourage the Public Prosecutor of the State, the competent judicial organs, and the competent public or private agencies to provide legal evidence to determine the responsibility of those persons. If appropriate, prosecution will be pursued in accordance with the constitutional and legal framework of the Ecuadorian State.</p>	<p>Noncompliance²</p>

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission noted that the petitioners did not submit updated information since the friendly settlement agreement was published in 2000. It further noted that since publication of the FSA, the Commission followed up on compliance with the clauses agreed upon by the parties in Chapter II G of the Annual Report, submitted to the OAS General Assembly. As part of

¹ Report No. 65/03, Case 12.394, Joaquín Hernández Alvarado, Marlon Loor Argote y Hugo Lara Pinos, October 10, 2003

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>

this follow-up, the petitioning party was requested updated information each year, granting them a reasonable period of time to submit the information they deem necessary.

4. Based on the foregoing and taking into consideration that the petitioners did not submit the comprehensive report requested by the IACHR on February 11, 2020 and in view of the unjustified procedural inactivity of the petitioners, which constitutes a serious indication of disinterest in the follow-up on the FSA, the Commission decided to archive the case in accordance with Articles 42 and 48 of its Rules of Procedure, to cease follow-up on compliance with the friendly settlement agreement and close the matter noting on the record in its Annual Report to the General Assembly of the Organization of American States that there has been partial compliance with the friendly settlement agreement.

5. Consequently, the Commission decided to cease follow-up on compliance with the friendly settlement agreement and archive the matter.

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.