

OEA/Ser.L/V/II.  
Doc. 230  
17 August 2020  
Original: Spanish

## **REPORT No. 216/20**

### **CASE 11.824**

#### REPORT ON FRIENDLY SETTLEMENT

SABINO DIAZ OSORIO Y RODRIGO GOMEZ ZAMORANO  
MEXICO

Approved electronically by the Commission on August 17, 2020.

**Cite as:** IACHR, Report No. 216/2020, Case 11.824. Friendly Settlement. Sabino Díaz Osorio y Rodrigo Gómez Zamorano. Mexico. August 17, 2020.

**REPORT No. 216/20**  
**CASE 11.824**  
**FRIENDLY SETTLEMENT**  
**SABINO DÍAZ OSORIO Y RODRIGO GÓMEZ ZAMORANO MEXICO**  
**AUGUST 17, 2020<sup>1</sup>**

**I. SUMMARY AND RELEVANT PROCEDURAL ASPECTS OF THE FRIENDLY SETTLEMENT PROCESS**

1. On November 24, 1997, the Inter-American Commission on Human Rights (hereinafter the “Commission” or “IACHR”) received the petition presented by Barbara Zamora Lopez of the Law Firm Tierra y Libertad A.C. on behalf of the next of kin of Messrs. Sabino Diaz Osorio and Rodrigo Gómez Zamorano (hereinafter “the petitioners” or “the petitioner party”). In which the international responsibility of the Mexican State was alleged in relation to the facts surrounding the alleged murder of Messrs. Sabino Diaz Osorio and Rodrigo Gomez Zamorano (hereinafter the “victims”), who were allegedly killed by two individuals, Donaciano and Carmelo Tapia Mendoza, on July 15, 1992. Additionally, the petitioners denounced the negligence on the part of the State in conducting the investigations and the unwarranted delay in the administration of justice.

2. The petitioner indicated that, after a series of ministerial actions, the State of Mexico would have verified the existence of the responsibility of Donaciano and Carmelo Tapia Mendoza listed among the ten most wanted in the state of Morelos. Which is why the Second Criminal Division Court of the First Judicial District of the state of Morelos would have issued a search and apprehension warrant against the alleged perpetrators, who would be fugitives from justice.

3. On November 12, 1999, after several exchanges of information between the parties, the IACHR placed itself at the disposal of the parties to achieve a friendly settlement. Subsequently, both the State and the petitioner expressed their willingness to resolve the matter through a friendly settlement. From the history of the negotiation and taking into account the presentations of both parties, it is evident that the methodology that the parties decided to use during the negotiation was through the subscription of minutes of partial agreements in working meetings.<sup>2</sup> Both the petitioner and the State acknowledge that said acts have the value of agreements within the framework of the friendly settlement. In this sense, the Commission observes that, for this friendly settlement report, the partial agreement minutes signed by the parties on July 25 and August 27, 2002, February 6, 2003, and November 26, 2004<sup>3</sup>, materialize the will of the parties to resolve the matter pending before the IACHR through a friendly settlement and, therefore, they are considered a comprehensive agreement<sup>4</sup>.

4. On June 4, 2001, the petitioner informed the IACHR that he had no relationship with the Center for Justice and International Law (CEJIL) and therefore were not co-petitioners in the case. However, on June 24, 2001, the petitioner informed the IACHR that from that moment, the CEJIL organization would join the case as co-petitioner. Subsequently, on October 26, 2016, CEJIL informed the IACHR about the cessation of representation and reported that as of that date, the Morelos Independent Commission on Human Rights assumed representation of the victims.

5. Pursuant to Article 49 of the Convention and Article 40.5 of the Commission’s Rules of Procedure, the instant friendly settlement report provides an outline of the facts alleged by the petitioners and, thereafter, a verbatim transcription of the agreements *supra* signed between the petitioners and the

---

<sup>1</sup> Commissioner Joel Hernandez, a Mexican national, did not participate in the discussion and decision in this case, under Article 17.2.a) of the IACHR Rules of Procedure.

<sup>2</sup> In this regard, see: IACHR, Report No. 1/93, Cases 10,288, 10,310, 10,436, 10,496, 10,631, and 10,771. Friendly Settlement. Argentina, March 3, 1993; IACHR, Report no. 164/10. Case 12.623. Friendly Settlement. Luis Rey Garcia Villagran. Mexico. November 1, 2010; IACHR, Report No. 90/10. Case 12.642 Friendly Settlement. Jose Ivan Correa Arevalo. Mexico. July 15, 2010.

<sup>3</sup> The parties did not send a copy of the minutes. However, each of them sent a document describing one by one the agreements reached on that date. Said information was observed in the State’s report dated January 14, 2005 and in that of the petitioner on January 6, 2005.

<sup>4</sup> In this regard, see Report No. 164/10, Case 12.623. Friendly settlement. Luis Rey Garcia Villagran. Mexico. November 1, 2010, see also, Report No. 68/12 Petition 318-05. Friendly settlement. Geronimo Gómez Lopez. Mexico.

representatives of the Mexican State. It concludes with the approval of the agreements executed between the parties and it is agreed to publish this report in the IACHR's Annual Report to the General Assembly of the Organization of the American States.

## II. THE ALLEGED FACTS

6. The petitioners alleged that on July 15, 1992, Donaciano and Carmelo Tapia Mendoza murdered Sabino Diaz Osorio and Rodrigo Gomez Zamorano. In the area known as La Cruz, Ocotepec municipality, State of Morelos, due to a land boundary conflict in which the victims acted as authority.

7. On July 22, 1992, after a series of ministerial actions, including eyewitness statements, expert opinions, autopsy and inspection of the removal of bodies, the occurrence of the crime and the probable responsibility of Donaciano and Carmelo Tapia Mendoza would have been proved. Which is why the Second Criminal Court of the First Judicial District of the state of Morelos would have issued a search and apprehension order against the alleged perpetrators.

8. On August 5, 1992, the judiciary of the state of Morelos reportedly appealed to the judicial authorities of the States of Puebla, Guerrero, Michoacán, Veracruz, state of Mexico and the Federal District to order the arrest of Donaciano and Carmelo Tapia Mendoza, since it was presumed that they could be found in these states. On May 14, 1993, the National Human Rights Commission (CNDH) reportedly issued a recommendation to the state of Morelos requesting that it issue instructions for the state Attorney General to carry out the necessary legal actions to execute the arrest warrant against the alleged perpetrators. On the other hand, on March 27, 1996, the State, as a result of its investigations, had submitted to the Department of State and Justice of the United States of America a request for provisional arrest for international extradition of the alleged perpetrators, considering that Donaciano and Carmelo Tapia Mendoza could be living in that country.

9. However, the petitioners alleged that the State had not complied with the recommendations of the CNDH to find the whereabouts of the alleged perpetrators, executing the arrest warrants. They indicated that they had exhausted all domestic remedies with the final judgment dated 16 December 1997, that dismissed the trial of guarantees that they had promoted to give effect to the arrest warrants against Donaciano and Carmelo Tapia Mendoza. Said judgment, would have concluded the inadmissibility of the *Writ of Amparo* filed by the petitioners, in which the lack of legitimacy would have been invoked as a cause, since it would not be about acts that had emanated from the civil liability repair incident, but rather the omission in which would have incurred those responsible for failing to execute the arrest warrants mentioned.

10. According to the petitioners' allegations as of the filing date of the petition, the Mexican authorities would have been unable to find the whereabouts of those responsible despite having sufficient information for their location. For that reason, the petitioners indicated that the authorities had acted negligently, or they would be protecting those responsible. Therefore, the petitioners alleged that the facts denounced would constitute a violation of the rights enshrined in Articles 4 (right to life), 5 (personal integrity), 8 (judicial guarantees), and 25 (judicial protection) of the Convention American on Human Rights (hereinafter "the Convention" or "CADH).

## III. FRIENDLY SETTLEMENT

11. On July 25, 2002, the parties held a working meeting in Mexico facilitated by the then President of the IACHR. Within the framework of said meeting, the parties signed an agreement for the search for a friendly settlement that established the two fundamental components of the agreement and of the negotiation and which were subsequently developed through minutes of agreement in different working meetings. The text of the minutes is included below:

**WORKING MEETING HELD ON JULY 25, 2002, WITH THE PRESENCE OF DOCTOR JUAN MÉNDEZ, PRESIDENT OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

**(IACHR), THE PETITIONERS AND THE REPRESENTATIVES OF THE GOVERNMENT OF MEXICO<sup>5</sup>.**

**CASE: SABINO DÍAZ OSORIO AND RODRIGO GÓMEZ ZAMORANO**

**AGREEMENTS**

**FIRST:** The Ministry of Foreign Affairs undertakes, within 15 days from the date of the present meeting, to take the necessary steps to verify a meeting with the presence of the state governor, if the agenda of the state permits, as well as the attorney general of that federal entity. To establish a mechanism to comply with arrest warrants. In addition, to study the possibility of setting a deadline for the consignment and expediting the procedures related to the scholarships offered as part of the reparation.

**SECOND:** The representative of the Attorney General of the State of Morelos promised to designate two elements of that Prosecutor's Office to carry out the necessary investigations to complete the arrest warrants issued against Donaciano and Carmelo Tapia Mendoza. Also noted that due to the observation regarding the prescription related to the arrest warrants, it does not operate by the legislation of the State of Morelos, which establishes that once the defendants are removed from the criminal action, abandoning the State, each time they reenter, the term accounting restarts.

12. On August 27, 2002, a second meeting was held between the parties, in which a second agreement was signed. Here is the transcribed text:

**WORK MEETING HELD ON AUGUST 27, 2002, WITH THE PRESENCE OF LIC. GUILLERMO TENORIO ÁVILA, ATTORNEY GENERAL OF JUSTICE OF THE STATE OF MORELOS, LIC. JORGE TOLEDO BUSTAMANTE, FIRST VISITOR OF THAT LOCAL PROSECUTOR'S OFFICE, C. SAUL SALAVARRIETA GARCÍA, DIRECTOR OF DETENTIONS OF THE ATTORNEY GENERAL OF JUSTICE OF MORELOS AND LIC. JOSÉ IGNACIO MARTÍN DEL CAMPO COVARRUBIAS, DIRECTOR FOR MEXICO OF CASES BEFORE INTERNATIONAL ORGANIZATIONS IN THE FIELD OF HUMAN RIGHTS OF THE FOREIGN MINISTRY, REPRESENTING THE GOVERNMENT OF MEXICO AND REPRESENTING THE PETITIONERS, LIC. BÁRBARA ZAMORA LÓPEZ, FROM THE LEGAL OFFICE "LAND, AND FREEDOM", AS WELL AS SILVESTRE DIAZ OSORIO, BROTHER OF ONE OF THE VICTIMS.**

**Case: Sabino Díaz Osorio and Rodrigo Gómez Zamorano.**

To comply with the provisions of the FIRST and SECOND agreements reached at the meeting of July 25, 2002, within the framework of the visit of the President of the Inter-American Commission on Human Rights (IACHR), the Attorney General of the State of Morelos, Lie. Guillermo Tenorio Avila offered an apology from Lie. Sergio Alberto Estrada Cagigal Ramirez, Governor of the State of Morelos, for not being able to attend the meeting. However, stated that the Governor asked him to report on the outcome of the meeting. Immediately afterward, he thanked the parties for their presence at the meeting and said that this shows the trust they place in the institution they are in charge of, he assured the petitioners that all the humanly and legally possible actions were going to be carried out in order to complete the pending arrest warrants.

Next, the Lie. Jorge Toledo Bustamante, First Visitor of that Local Prosecutor's Office. Explained the situation of the investigations and practices carried out in the preliminary

---

<sup>5</sup> The document was signed by petitioners Juan Carlos Gutiérrez from CEJIL, Bárbara Zamora from "Tierra y Libertad", Silvestre Díaz Osorio, and Gloria Gómez Zamorano, relatives of the victims. On the other hand, on behalf of the Mexican State: Marieclaire Acosta Urquidi of the Under secretariat for Human Rights and Democracy, Juan José Gómez Camacho, director general of Human Rights and Saúl Salvatierra García, director of detentions of the Attorney General of Justice of the State of Morelos.

investigation initiated against those likely responsible for the homicide of Sabino Diaz Osorio and Rodrigo Gómez Zamorano. Also updated those gathered there on the concrete actions, and exposed the background of the case. Lastly, he asked C. Saul Salvatierra Garcia, Director of Detention of the State Attorney of Morelos, to report on the efforts related to the capture of the brothers Donaciano and Carmelo Tapia Mendoza. Who read a detailed report of all the efforts aimed at locating the probable perpetrators that range from simple questionnaires to neighbors, to operations supported by inter-attorney agreements and the exchange of information with international authorities.

On behalf of the petitioners Lic Bárbara Zamora Lopez told the participants of the meeting about the skepticism experienced by the relatives of the victims regarding the actions being carried out by this and the previous administrations. Due to the low effectiveness in the results of completing the arrest warrants, and by the excessive lapse of time since the events in which Sabino Diaz Osorio and Rodrigo Gomez Zamorano were murdered. To date, when the result has not been satisfactory, however, it has expressed confidence in the actions that the current Attorney General and the other public servants attached to this Office have been carrying out.

The representative of the Foreign Ministry explained the efforts made by the Government of Mexico before international organizations on the specific case, also expressed the recognition of the Inter-American Commission on Human Rights to the State of Morelos for the political will that the administration of that federative entity in the area of human rights. Once again, the representative of the petitioners stated that it is the wish of the next of kin of the victims that the appropriate steps be taken to reclassify the crime subject to persecution for a qualified crime instead of a simple crime.

On the other hand, he expressed his concern that the legal figure of the prescription operates in favor of the responsible residents, this due to the time that has elapsed since the Attorney General of the State of Morelos began the investigations.

Concerning the previous points, the representative of the Office of the Inspector General of the Attorney General of the State of Morelos, explained the benefits of the prescription in that federative entity. Since it operates for the benefit of the victims, and not of those responsible. Because once it is known that the probable perpetrators leave the state, this figure does not elapse, it is suspended, to avoid precisely that the active subjects of any crime use it to evade the criminal responsibility that may apply to them by the simple passage of time.

On the other hand, about the request for reclassification of the crime by the petitioners' representative, he stated that reclassification in the State of Morelos is the power of the judicial authority. However, the indications and elements of the investigations will be those that the judge determine if the crime is reclassified or not.

The petitioners 'representative requested that a mechanism be established to allow the victims' next of kin to intervene in the implementation of the completion of the arrest warrants since they have contacts that would make it easier to capture the Tapia Mendoza brothers, should they become established in the State of Morelos.

In this regard, the C. Director of Apprehensions of the Morelos Prosecutor's Office told those gathered that they had apparently reliable elements of the whereabouts of Tapia Mendoza brothers. Moreover, that for the capture operation they had already spoken with the brother of one of the victims, Silvestre Diaz Osorio, to accompany them, so that he can witness the transparency and objectivity with which he is working on the case.

On the other hand, the representative of the petitioners, about the procedures related to the scholarships offered by the Government of the State of Morelos, again requested the intervention of the authorities to initiate them. In this regard, the Attorney General of the State

of Morelos promised to take the necessary steps before the corresponding education authorities in the State of Morelos, following an updated request from the petitioners in which they indicate which relatives of the victims would be eligible for a scholarship.

#### **AGREEMENTS**

**FIRST.** - The representatives of the Attorney General of the State of Morelos promised to continue working on the completion of the arrest warrants issued against the brothers Donaciano and Carmelo Tapia Mendoza. Under the principles of honor and adherence to the obligations inherent in the elements that intervene in the capture, as well as under the secrecy and confidentiality measures of this type of event.

**SECOND.** - The petitioners expressed their appreciation for the efforts made by the Morelos State Attorney General's Office, aimed at completing the referred arrest warrants.

**THIRD.** - The petitioners pledged to maintain the secrecy of the actions and efforts communicated to them, related to the capture of the probable persons responsible for the death of Sabino Díaz Osorio and Rodrigo Gómez Zamorano.

**FOURTH.** - The representatives pledged to involve directly one of the victims' next of kin in the operation of the capture of the Tapia Mendoza brothers, who will be designated by themselves.

**FIFTH.** - The representatives pledged to send a document to the judicial authorities of the State of Morelos so that in case the probable perpetrators are made available; they take into consideration that they are fugitives from justice and that the figure of prescription does not operate in their favor. A copy of this document will be given to the chancellery.

**SIXTH.** - The petitioners pledged to make an updated request for the intervention of the Attorney General of the State of Morelos, to carry out various steps before the Secretary of Public Education of that Federal Entity to explore the possibility for the victims they designate.

**SEVENTH.** - The Attorney General of the State of Morelos promised to take the necessary steps to comply with what is indicated in the agreement mentioned above.

**EIGHTH.** - The petitioners undertook to study the legal possibility for the crime to be reclassified from simple homicide to qualified homicide.

#### **MINUTE OF THE MEETING HELD ON FEBRUARY 6, 2003, THE OFFICE OF THE STATE ATTORNEY OF JUSTICE OF THE STATE OF MORELOS FOR THE SABINO DÍAZ OSORIO AND RODRIGO GÓMEZ ZAMORANO CASE.**

As resulted from the meeting held on February 6 of this year with the Attorney General of the State of Morelos, Lic. Guillermo Adolfo Tenorio Ávila, his private secretary, Lic. Óscar Rangel Gadea, the Commander, Saúl Salavarieta García, who is responsible for executing the arrest warrants, and with the presence of Lic. José Ignacio Martín del Campo Covarrubias, as representative of the Mexican State, as well as with the families of the victims and their representatives, as petitioners, in the case at hand, it was concluded with the agreements:

**FIRST.** - Regarding the arrest warrants, the Attorney General offered that on Monday, February 10, police officers would move to the city of Guadalajara, to execute the said arrest warrants, since the home where the murderers Donaciano and Carmelo Tapia Mendoza currently live is already located.

**SECOND.** - Regarding study scholarships for the daughters of the deceased Sabino and Rodrigo, the officials requested information on the age, studies carried out, and studies to which the daughters of the victims aspire to be benefited by the scholarships. The petitioners pledged to deliver all the required information in writing and send it to the Attorney's office, so that, with this information, in addition to that provided by us on September 5, 2002, [the State] moves to carry out the procedures to obtain the scholarships mentioned above. Which were accepted by the Mexican State at the hearing with the Inter-American Commission on Human Rights on July 25, 2002.

**THIRD.** - According to what was agreed, at the meeting held on August 27, 2002, the letter issued by the Attorney General of the State of Morelos that handed over to the judge of the case to request that the figure of the prescription, in this case, by which the probable perpetrators are at large, was handed to the petitioners.

13. On November 26, 2004, a bilateral meeting was held between the parties, in which a fourth agreement was signed. However, there is no copy of the record in the file, so the text subtracted from the reports submitted by the parties is transcribed below:

14. The document presented by the petitioners on January 6, 2005:

The State committed to:

- The Attorney General of the State of Morelos on behalf of the Mexican government as of January 2005 grants a job (permanent employment) to Ms. Beatriz Diaz Juarez Business Administrator and daughter of Mr. Sabino Díaz Osorio according to her abilities and education. The petitioners and the victim's family request this for Beatriz Diaz Juarez, to the Mexican government because initially, they asked for a scholarship as part of the friendly settlement, since years ago Beatriz Diaz Juarez was a girl. Still, for different reasons already described to the IACHR in previous communications, the scholarships requested for the victims' daughters were never granted. Now in the case of Beatriz, the scholarship has lost relevance, and today a job is more useful for her since she must earn a living and has finished studying by her effort.
- The Attorney General of the State of Morelos on behalf of the Mexican government will take steps before the psychology faculty of the Autonomous University of the State of Morelos so that Angelica Diaz Juarez, the other daughter of Mr. Diaz Osorio, is admitted to the next school year to pursue a degree in psychology.
- The Attorney General of the State of Morelos will intensify all the necessary actions to carry out the arrest warrants issued against Carmelo and Donaciano Tapia Mendoza, allegedly responsible for the murder of Osorio and Gomez Zamorano. Since in this meeting it was informed to the petitioners that it had not stopped taking steps to obtain these arrests, with the commitment to report on the result of the execution of the arrest warrants within three months, that is, in March 2005.

The petitioners pledged to:

- Present on November 29, the necessary documents so that the Attorney is in a position to initiate the procedures mentioned above.
- Locate the daughters of Mr. Rodrigo Gómez Zamorano, to establish a dialogue with them and study how the repair of the damage that corresponds to them will be carried out. The parties agree to hold a meeting in the first days of March 2005, in which they will report on the execution of the arrest warrants mentioned above and to study how the damage will be granted to the three daughters of Mr. Rodrigo Gómez Zamorano.



The parties ratified their willingness to continue through the friendly channel before the IACHR to settle this case.

15. The document presented by the State on January 14, 2005:

**SABINO DÍAZ OSORIO AND RODRIGO GÓMEZ ZAMORANO**  
**Case 11.824**

About case 11,824 Sabino Diaz Osorio and Rodrigo Gomez Zamorano, in the process of a friendly settlement before that illustrious Inter-American Commission on Human Rights (IACHR) the Government of Mexico reports that the Attorney General of Justice of the State of Morelos (PGJM) stated their full will to fulfill the commitments agreed upon by the parties in the friendly settlement. In this context, on November 26, 2004, at the call of the Ministry of Foreign Affairs (SRE), a working meeting was held at the offices of the PGJM. In which the following participated: the Attorney General of the State of Morelos, the Director-General of Preliminary Investigations, the Director for Individual Cases before International Human Rights Organizations of the SRE, the representatives of the petitioners and family of Mr. Sabino Diaz Osorio. At that meeting, the Government of the State of Mexico promised to:

- That the PGJM will analyze the possibility that Angelica Diaz Juarez, daughter of Sabino Diaz Osorio, who completed a degree in business administration, may obtain a job in the State government, which will be granted according to abilities.
- The PGJM will take steps before the Autonomous University of the State of Morelos so that Beatriz Diaz Juarez, daughter of Mr. Diaz Osorio, presents the admission exam in said higher education institution to pursue a degree in psychology since the previous time was not admitted.
- The PGJM reported that it has continued to take steps to complete the arrest warrants against Donaciano and Carmelo Tapia Mendoza, allegedly responsible for the murder of Diaz Osorio and Gómez Zamorano. Likewise, it stated that they would intensify the actions to obtain the arrest of said people.

The representatives, for their part, committed to:

- Present as soon as possible, the necessary documentation for the PGJM to initiate the agreed procedures in favor of the daughters of Mr. Diaz Osorio; this is a job position and admission to the Autonomous University of Morelos.
- Contact the three daughters of Mr. Rodrigo Gómez Zamorano, for them to enter into a dialogue with them and explore the possibility of granting possible reparation for the damage.

The parties ratified their will to continue through the friendly settlement before the IACHR and reached the following agreement:

- Hold a meeting in the first days of March 2005, in which the progress of the agreements mentioned above, will be reviewed and study how the damage to the three daughters of Mr. Rodrigo Gómez Zamorano could eventually be repaired.

**IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE**

16. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, this procedure aims to "reach a friendly settlement to the matter based on respect for the human rights recognized in the Convention." The acceptance of carrying out this procedure expresses the good faith of the State to comply with the purposes and objectives of the Convention by the pacta sunt servanda principle, by which the



States must fulfill in good faith the obligations assumed in the treaties<sup>6</sup>. It also wishes to reiterate that the friendly settlement procedure contemplated in the Convention allows the termination of individual cases in a non-contentious manner, and has demonstrated, in cases related to different countries, offering an important vehicle for settlement, which can be used by both parties.

17. The Inter-American Commission has followed the development of the friendly settlement reached in this case and values the efforts made by both parties during the negotiations to reach a friendly settlement that is compatible with the object and purpose of the Convention.

18. According to the Resolution 3/20 of the IACHR on differentiated actions to address the procedural delay in friendly settlement procedures, since the signing of the agreement, the parties will have two years to move forward towards the approval by the Inter-American Commission on Human Rights, except for duly qualified exceptions established by the Commission. In relation to those matters with a signed agreement and without homologation in which the foreseen term has expired, the Commission will determine its course of action taking into particular consideration the duration of the compliance phase, the antiquity of the petition and the existence of fluid dialogues between the parties and/or substantial progress in the compliance phase. In said Resolution, the Commission established that when evaluating the viability of the approval of the agreement, or the closure or maintenance of the negotiation process, the IACHR will consider the following elements: a) the content of the text of the agreement and whether it has a clause of full compliance prior to approval; b) the nature of the agreed measures; c) the degree of compliance thereof, and in particular the substantial execution of the commitments assumed; d) the will of the parties in the agreement or in a subsequent written communication; e) its suitability with human rights standards and f) the observance of the State's will to fulfill the commitments assumed in the friendly settlement agreement, among other elements.<sup>7</sup>

19. In consideration of the 16 years that have elapsed since the signing of the last friendly settlement agreement, which is a petition filed 23 years ago, on October 24, 1997, and that there is full compliance with the minutes of a friendly settlement agreement by the State. Corresponds to determine the course of action in this matter and to assess the viability of the homologation in light of the objective criteria established by the Commission in Resolution 3/20.

20. The Commission observes that the parties decided to sign four partial minutes of agreement on July 25 and August 27, 2002, February 6, 2003, and November 26, 2004, and therefore declares that they are an integral part of the friendly settlement agreement<sup>8</sup>.

21. Regarding the content of the text of the agreement, it is observed that, in this case, once the will of the parties was expressed to resolve the matter pending before the Commission through the friendly settlement and once the negotiation phase begun, the parties did not sign a macro text of the friendly settlement agreement (FSA). Instead, they decided to sign partial agreement minutes and none of them stipulated any clause on full compliance with the measures as a prerequisite for their approval.

22. On the other hand, at the Working Meeting convened by the IACHR and held on April 27, 2017, the parties agreed that progress could be made towards the homologation of the minutes of agreement once the State presented a report on substantial progress in the commitment related to the arrest warrants. As it is the most relevant component for victims and the only one pending compliance at that time. For which two months were set for the State to submit the corresponding report. On August 1, 2017, in fulfillment of the commitment established in the framework of the Working Meeting, the Mexican State presented a report in which it reported on the actions taken to promote the execution of the arrest warrants against the alleged perpetrators of the violations. The report was forwarded to the petitioner and as of the date of preparation of

<sup>6</sup> Vienna Convention on the Law of Treaties, U.N. Doc A / CONF.39 / 27 (1909), Article 2: "**Pacta sunt servanda**". *Every treaty in force binds the parties and must be carried out by them in good faith.*

<sup>7</sup> In this regard see, IACHR, Resolution 3/20 on differentiated actions to address the procedural delay in friendly settlement procedures, approved on April 21, 2020

<sup>8</sup> In this regard, see: IACHR, Report No. 1/93, Cases 10,288, 10,310, 10,436, 10,496, 10,631, and 10,771. Friendly Settlement. Argentina, March 3, 1993; IACHR, Report no. 164/10. Case 12.623. Friendly Settlement. Luis Rey García Villagrán. Mexico. November 1, 2010; IACHR, Report No. 90/10. Case 12.642 Friendly Settlement. José Iván Correa Arévalo. Mexico. July 15, 2010.

this report, the representatives have not disputed the information presented by the State on compliance with this measure, nor have they made any request in this regard.

23. In this sense, it is concluded that having exhausted the working-route agreed at the last meeting; it is appropriate to proceed with the approval of the agreement.

24. Regarding the nature of the measures, it can be seen that, in the minutes of the agreement, four measures were agreed upon, namely: (a) Establish a mechanism to execute the arrest warrants for those responsible for the death of Sabino Díaz Osorio and Rodrigo Gómez Zamorano; (b) Obtaining a job for Angélica Díaz Juárez; (c) Student scholarship in favor of Beatriz Díaz Juárez; and (d) Economic reparation in favor of Horblenda, Laura Abril and Blanca Azucena Gómez Villegas<sup>9</sup>. It is observed that said measures are of a different nature, such as measures of instant execution like obtaining a job and economic reparation, and measures of successive execution such as the mechanism to implement the arrest warrants against those allegedly responsible for the death of the victims and the student scholarship.

25. Regarding the compliance with the measures, it is observed that, in the last ten years, the State consistently presented four reports on progress in compliance with the measures agreed on July 22, 2010, February 28, 2011, 12 October 2016, and July 31, 2017. For their part, the petitioners submitted observations on the information provided by the State on three occasions, on November 12, 2010, April 28, 2011, and July 5, 2016.

26. Regarding the measure on the establishment of a mechanism that allows executing the arrest warrants for those responsible for the deaths of Sabino Diaz Osorio and Rodrigo Gomez Zamorano. The State reported that on August 2, 2002, the state of Morelos would have requested support from the Attorney General's Offices to all the States of the Mexican Republic, and to the Federal District, to establish whether their files contained recent records of the persons sought and to execute the arrest warrant against them. On February 14, 15 and 16, 2003, personnel from the Attorney General's Office of the state of Morelos, would have moved to the city of Guadalajara to investigate the address located at Calle de Gabaon # 3125, Colonia Bethel, in which it was presumed that the alleged perpetrators could be found. However, only the mother of Messrs. Donaciano and Carmelo Tapia Mendoza and the wife of the former would have been located. On December 15, 2004, the Mexican authorities in the United States reported that the Federal Bureau of Investigation (FBI) had investigated in its territory without having been able to find the whereabouts of the alleged perpetrators. On July 25, 2005, agents of the ministerial police reportedly returned to Guadalajara, Jalisco, to try to locate and apprehend the suspected perpetrators. On October 25 and 26, 2007, the state of Morelos reported that it had determined to classify the alleged perpetrators as "most wanted in the state of Morelos," so it proceeded to publish their profiles on the internet.

27. On April 24, 2017, a meeting was held at the Ministry of the Interior, attended by the Director-General of Human Rights of the Morelos State Prosecutor's Office. In the meeting mentioned above, the importance of continuing to promote actions to follow up on this matter was discussed, as well as the need to execute the arrest warrants mentioned above as soon as possible. The authorities agreed to send collaboration letters again to all the Prosecutors of the 31 entities in the country, in addition to issuing collaboration letters to both public and private agencies, with data related to the alleged perpetrators and their Location, it would have been requested to designate a specialized agent exclusively for the case, as well as the reactivation of the immigration alert, field investigation, and home visits, to exhaust all possible means of locating the responsible.

28. On April 26, 2017, the Morelos State Prosecutor's Office promised to present a search and location strategy for the execution of the arrest warrants, through the Coordinator of the Morelos Criminal Investigation Police, would have promised to collaborate with the Director-General of Human Rights and Democracy of the Ministry of Foreign Relations to request support from the consular network, for the execution of the arrest warrants. Mrs. Cristina Garcia Flores, the agent of the Criminal Investigation Police, was assigned to search and locate the alleged perpetrators. On May 4, 2017, in a bilateral meeting with Mexican State

<sup>9</sup> On December 19, 2006, the sisters Abril, Blanca Azucena and Horblenda Gómez Zamorano daughters of Mr. Gómez Zamorano, asked the PGJ of the State of Morelos for \$ 50,000 (fifty thousand Mexican pesos) for each of them for the concept of damage reparation. In this sense, the Attorney General of Justice of the state of Morelos authorized the petition.

authorities, the petitioners reportedly met the special agent assigned to the case. At the meeting, they would have exchanged telephone contacts between the Mexican authorities and the relatives of the victims to increase communication between them, as well as to optimize the possibilities of entering the community, to gather information useful for the execution of arrest warrants and contribute to improving the effectiveness of the actions implemented by the Mexican authorities.

29. On May 18, 2017, the victims' next of kin and their representatives were presented with a breakdown of the letters sent by the State Prosecutor's Office to various institutions, including the Institute of Security and Social Services of the State workers, the Mexican Institute of Social Security and the National Institute of Older Adults. In addition to other government agencies for the provision of services, telephone companies, department stores, and those public or private institutions through which information could be obtained on the whereabouts of the alleged perpetrators. The Ministry of Foreign Affairs would have searched its internal records to locate data on Messrs. Donaciano and Carmelo Tapia Mendoza, which could help with the investigations of the Attorney General of the Morelos state. The Morelos state prosecutor's office would have continued with the process to request the activation of the immigration alert, as well as integrating the elements contributed by the victims' families to strengthen the investigation and search strategy for the alleged perpetrators.

30. The State reported that the investigating authorities have carried out all actions and legal proceedings within its reach aimed at capturing and prosecuting the alleged perpetrators of the killings of Messrs. Sabino Díaz and Rodrigo Zamorano throughout the Mexican Republic and in the United States of America, turning collaborative offices, and keeping watch on suspicious homes, and tracing phone calls and also indicated that it would have taken steps with the private sector in search of the homes of the fugitives using different means. Likewise, it provided the corresponding supports for the verification of said actions, as well as a copy of the death certificate of Mr. Donaciano Tapia Mendoza.

31. The petitioners indicated, within the framework of the working meeting held on April 25, 2017, that the item related to compliance with the arrest warrants would be pending compliance and stated that they agreed to advance towards homologation, once the State would present a full report regarding compliance with the arrest warrants, which was presented by the State and forwarded to the petitioners for their observations, without having present any such observations to date. For the aforementioned, and taking into consideration that the State has been complying with the investigation, which can be verified in the information provided, and taking into account that the Inter-American Court of Human Rights has established that the obligation to investigate of the States is an obligation on means and not of results<sup>10</sup>, the Commission considers that this part of the agreement is fully complied with and so it declares so.

32. Regarding the measure of obtaining a job for Angelica Diaz Juarez, the State reported that Mrs. Angelica Diaz Juarez had been notified that she had received a position as a typist within the Office of the Attorney General of Justice (PGJM) of the state of Morelos. However, on February 16, 2005, Mrs. Angelica Diaz Juarez stated that it was not her desire to accept the position offered since she was already working, and the post in question did not match her professional profile. Therefore, they could understand they fulfilled the commitments assumed by the Mexican State about it. Subsequently, on June 13, 2007, the State made a new offer on a job position for Angelica Diaz Juarez. She was hired on October 22, 2007, as a "sweep promoter" within the PAR program of the Tax Action System [SAT in *Spanish*], for which Mrs. Angelica Diaz Juarez indicated that she received a biweekly remuneration amounting to 3,400 Mexican pesos. Additionally, Mrs. Angelica Diaz Juarez stated that she was satisfied with the fulfillment of the agreed-upon measures and that on her part; she requested the definitive conclusion of case 11.824. Based on the preceding, the Commission considers that the obligation on the allocation of a job for Angelica Diaz Juarez agreed by the parties has fully complied and so it declares so.

33. Regarding the measure related to the granting of a student scholarship in favor of Beatriz Diaz Juarez, the initial agreement referred to covering school expenses for the victims' daughters until the

<sup>10</sup> In this regard, see Inter American Court HR. Velásquez Rodríguez Case v. Honduras. Merits, Reparations and Costs. Judgment of July 29, 1988. Series C No. 4, para. 174. See also Inter American Court HR. Godínez Cruz v. Honduras Case. Judgment of January 20, 1989, para. 186.

beneficiaries reached the age of majority. However, according to the petitioner, given the elapse of the time of the negotiation, the commitment was sterile since the victims' daughters not only had to bear the cost of their studies on their own but also fulfilled most of the age without receiving any scholarship, which is why the petitioner requested retroactive payment of the scholarships not awarded. Subsequently, the parties renewed the commitment about the granting of scholarships as established in the minute of August 27, 2002, in this sense, the State informed the petitioner of the requirements and procedures necessary to obtain scholarships for different universities in the State and requested that they go directly to the corresponding authorities to make them effective. However, the State presented a notarized document signed by Beatriz Diaz Juarez before the Attorney General of the State of Morelos on February 16, 2005, in which she renounced to the student scholarship in her favor. As she would have indicated, she would be pursuing a degree in English and would not be interested in moving from an institution or starting a different academic program. Subsequently, within the framework of the working meeting held on April 25, 2017, the petitioner reiterated that she considered this part of the agreement to be fulfilled. Since the petitioner decided to withdraw the measure related to the granting of scholarships, the Commission considers that the measures became inapplicable for which is not appropriate to rule on its fulfillment.

34. Likewise, the Commission observes in light of the evolution of the friendly settlement mechanism and especially of the provisions established by its Resolution 3 of 2020, that in this case the lack of speed and subsequent withdrawal from the granting of the scholarship is a tangible result of the undue delay of the negotiation processes. The delay obviously violates not only the principle of speed and the characteristic of agility that the friendly settlement must-have, but is contrary to the integrative approach characteristic of the negotiations that are currently taking place within the framework of the friendly settlement processes before the IACHR, and that contributes to guaranteeing the adequate reparation of the victims.

35. Regarding the measure on economic reparation, on December 19, 2006, the Gómez Villegas sisters, daughters of Mr. Gómez Zamorano, requested from the Attorney General of Justice of Morelos the amount of 50,000 Mexican pesos for each of them as a reparation measure. The State reported that it would have delivered three checks with folios numbers 35308, 35309, and 35310, issued by the Morelos General Treasury for 50,000 Mexican pesos in favor of Horblenda, Laura Abril and Blanca Azucena Gomez Villegas, daughters of the Mr. Rodrigo Gómez Zamorano, as compensation for the damage and in compliance with the agreed measures and it also presented the corresponding supports. It also reported that on May 15, 2007, Mrs. Horblenda Gómez Villegas reportedly declared on her behalf and that of her sisters Laura Abril and Blanca Azucena their consent to consider the fulfillment of the commitment assumed by the Mexican State on this regard. Subsequently, in the framework of the Working Meeting held on April 25, 2017, the petitioner reiterated that he considered this end of the agreement to be fulfilled. Therefore, the Commission considers that the measure is fully complied with and so it declares so.

36. Regarding the existence of fluid dialogues between the parties and / or substantial progress in the compliance phase, it should be noted that, as of November 26, 2004, the date of signature of the last minutes of partial agreements, the parties have consistently reported on the existence of substantial progress in the implementation of the agreed measures. However, to date, there are no fluid dialogues between the parties, the last communication received by the State dates from August 1, 2017, while the petitioner sent its last communication on October 26, 2016, despite repeated requests for updated information made by the IACHR<sup>11</sup>.

37. Regarding the adequacy of the agreement with the standards on human rights. It is observed that the content of the minutes of the agreement is consistent with the standards on human rights, since they included elements consistent with comprehensive reparation such as measures of satisfaction, social rehabilitation, and financial compensation, which are considered appropriate within the factual scenario of the particular case, being compatible with the various pronouncements of the IACHR and the jurisprudence of the Inter-American Court of Human Rights regarding the reparation of victims of human rights violations.

<sup>11</sup> On December 18, 2018, the petitioner was again requested to update the information, while on June 27, 2019, the State was requested to update the information again.

38. Regarding the State's will to comply with the agreements, the Commission considers that, according to the technical analysis of the case, the matter has been in the negotiation phase since July 25, 2002. Within 18 years, the parties achieved full execution of the agreed measures. At the same time, it is observed that, in relation to the measures not implemented by the State, despite the actions carried out by the State aimed at achieving compliance, there is an explicit withdrawal of the beneficiaries in relation to the granting of the measure of scholarships as well as their consent to consider that the measures are totally complied with. Therefore, the State's willingness to comply with the agreement regarding reparations for victims can be verified.

39. For the above reasons, the IACHR considers that the measures regarding: a) establishment of a mechanism to execute the arrest warrants for those responsible for the deaths of Sabino Diaz Osorio and Rodrigo Gomez Zamorano; b) Obtaining a job for Angelica Diaz Juarez and d) the economic reparation in favor of Horblenda, Laura Abril and Blanca Azucena Gomez Villegas, are fully accomplished, and so it declares so.

40. On the other hand, in relation to the measure c) granting of educational scholarships, in view of the resignation expressed by the beneficiary, the Commission considers that it is not appropriate to rule on its fulfillment.

## **V. CONCLUSIONS**

1. Based on the preceding considerations, and by the procedure established in Articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts made by the parties and its satisfaction with the achievement of a friendly settlement in the instant case, founded on respect for human rights, and compatible with the object and purpose of the American Convention.

2. By the considerations and conclusions outlined in this report,

### **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

#### **DECIDES:**

1. To approve the terms of the partial agreement minutes signed by the parties on July 25 and August 27, 2002, February 6, 2003, and November 26, 2004, and declare that they are an integral part of the friendly settlement agreement.

2. Declare full compliance with the measures on establishing a mechanism to execute the arrest warrants for those responsible for the deaths of Sabino Diaz Osorio and Rodrigo Gomez Zamorano, obtaining a job for Angelica Diaz Juarez, and reparation in favor of Horblenda, Laura Abril and Blanca Azucena Gomez Villegas, according to the analysis contained in this report.

3. Declare full compliance of the friendly settlement agreement minutes signed by the parties.

4. Make this report public and include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on the 17 day of the August of 2020. (Signed): Antonia Urrejola, First Vice-President; Flávia Piovesan, Second Vice-President; Esmeralda E. Arosemena Bernal de Troitiño, Julissa Mantilla Falcón and Edgar Stuardo Ralón Orellana, Members of the Commission.