

OEA/Ser.L/V/II.  
Doc. 211  
12 July 2020  
Original: Spanish

**REPORT No. 197/20**  
**CASE 13.011**  
FRIENDLY SETTLEMENT

GRACIELA RAMOS ROCHA AND FAMILY  
ARGENTINA

Approved electronically by the Commission on July 12, 2020.

**Cite as:** IACHR, Report No. 197/2020. Case 13.011. Friendly Settlement. Graciela Ramos Rocha and Family. Argentina. July 12, 2020.



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**I. SUMMARY AND PROCEDURAL HIGHLIGHTS OF THE FRIENDLY SETTLEMENT PROCESS**

1. On September 17, 2007, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a petition submitted by Mrs. Stella Maris Martínez, within the framework of the Program for the Application of Treaties of Human Rights of the National Ombudsman's Office (hereinafter “the petitioners” or “the petitioner party”) alleging the international responsibility of the Republic of Argentina (hereinafter “the State” or “Argentina”), in relation to the procedure by which the conviction for the crime of usurpation of Mrs. Graciela Ramos Rocha (hereinafter “the alleged victim”) was ordered, violating the principle of legality.

2. The petitioner alleged the violation of the principle of legality and the judicial guarantees enshrined in Articles 8 (right to a fair trial) and 9 (freedom from ex post facto laws) of the American Convention on Human Rights (hereinafter “the American Convention” or “Convention”). As well as the obligation to respect and guarantee the rights provided for in Article 1.1 and the duty to adopt provisions of domestic law provided for in Article 2.

3. On October 26, 2015, the IACHR decided to declare the petition admissible in its report 62/15 for the alleged violation of Articles 8 (right to a fair trial), 9 (freedom from ex post facto laws) and 25 (right to judicial protection) of the American Convention, in connection with Article 1.1 of said instrument.

4. On September 13, 2019, the parties signed a memorandum of understanding with the Province of Mendoza with the inclusion of the reparation measures under negotiation which were the object of the friendly settlement agreement, (hereinafter “FSA” or “agreement”), which was subsequently signed on May 29, 2020. Likewise, on June 8, 2020 and June 9, 2020, respectively, the petitioner and the State requested the approval of said agreement.

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 friendly settlement agreement, entered into on May 29, 2020, between the petitioners and the representatives of the Argentinian State. It concludes with the approval of the agreement 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. ALLEGED FACTS**

6. The petitioner alleged that Graciela Ramos Rocha, at the time of the events, was pregnant, in charge of three minor children - one of whom had a severe physical and intellectual disability - and was unemployed. She indicated that, to escape the serious situation of domestic violence to which her husband had subjected her for years, she decided to leave the family residence owned by her husband’s family, thus finding herself in a street situation. For this reason, she and her children occupied a house that she found empty, without struggling with locks since the door was open.

7. As alleged by the petitioner, the alleged victim was reported and subjected to criminal proceedings for the commission of the crime of usurpation, a criminal offense established in article 181.1 of the Argentine Criminal Code. The petitioners indicated that on August 5, 2003, the Fourth Correctional Court of the First Judicial District of the Province of Mendoza had issued a conviction against Graciela Ramos Rocha, imposing a one-year prison sentence on conditional execution, as the author criminally responsible for the crime of usurpation. The petitioner considers that the attributed conduct would not have complied with the

requirements of the criminal figure of usurpation, so that the sentence of conviction would have been issued in violation of the principle of legality.

8. In addition, the petitioner indicated that, before the conviction, the official defender of the Fourth Ombudsman for the Poor and Absent filed an appeal that would have been declared admissible on August 28, 2003. Subsequently, according to the petitioners, on September 22, 2003, the Attorney General of the Province of Mendoza reportedly issued an opinion, coinciding with the defense's arguments and that it was appropriate to declare the nullity of the contested sentence and to order "plain and simple acquittal for lack of criminality". However, the Supreme Court of Justice of the Province of Mendoza had rejected this appeal, through a resolution of November 12, 2003, reproducing the arguments of the first instance. The petitioners stated that the official defender had filed an extraordinary federal appeal before the Mendoza Supreme Court of Justice, which would have been dismissed on December 22, 2003, without conducting a merit study of the matter and despite the opinion of the Attorney General favorable to its concession.

9. According to the petitioners' allegations, before the denial of the federal extraordinary appeal, the alleged victim processed a complaint in *forma pauperis* and the Official Public Defender before the Supreme Court of Justice of the Nation (CSJN) assumed the technical defense. Finally, on March 20, 2007, the CSJN declared the appeal inadmissible, invoking article 280 of the Civil and Commercial Procedural Code of the Nation of Argentina.

### III. FRIENDLY SETTLEMENT

10. On September 13, 2019, the parties signed a Memorandum of Understanding of Friendly Settlement, the text of which states the following:

#### MEMORANDUM OF UNDERSTANDING OF FRIENDLY SETTLEMENT

In the City of Mendoza, Province of Mendoza, Argentine Republic, on the 13th day of the month of September 2019, within the framework of case No. 1.011 of the registration of the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS), "*Graciela Ramos Rocha vs. Argentina*", the petitioner, Mrs. Graciela Ramos Rocha, meets with the legal representation of Dr. Gustavo Iglesias of the National Ombudsman's Office, and the Government of the Province of Mendoza, represented by its Minister of Government, Labor and Justice, Lic. Miguel Lisandro Nieri.

Likewise, and in view of the international nature of the process in which the aforementioned case is dealt with, participated as observers Ramiro Badía, National Director of International Legal Affairs on Human Rights of the Secretariat of Human Rights and Cultural Pluralism of the Ministry of Justice and Human Rights of the Nation and Gonzalo Bueno, legal advisor to the Directorate of International Litigation in the Field of Human Rights of the Ministry of Foreign Affairs and Worship.

After the deliberations, the parties record the following:

#### I. Background of the case before the IACHR

1. The case is originated from the complaint made by the National Ombudsman on behalf of Mrs. Graciela Ramos Rocha before the IACHR, which revealed the alleged violation of rights enshrined in the American Convention on Human Rights (CADH) in the framework of the processing of a judicial process substantiated before the Judicial Power of the Province of Mendoza, which resulted in her and her family group being evicted from a home. The case was titled "*Ramos Rocha, Graciela s/ Usurpación*"; it was registered as Judicial File No. 26.035, and processed before the Correctional Court No. 4 of the First Judicial District of the Province of Mendoza. In the first instance, it culminated with a condemnatory sentence against Mrs. Ramos Rocha to one year of prison for conditional execution, as the author criminally

responsible for the crime of usurpation (art. 181.1, Criminal Code). The federal appeals and extraordinary appeals against that sentence were rejected by the Supreme Court of Justice of the Province of Mendoza and by the Supreme Court of Justice of the Nation, respectively and in due course.

2. In the international proceeding, the petitioner indicated that at the time the reported events occurred, she was pregnant, in charge of three minor children - one of whom with severe psychomotor disability - and without work. In turn, she indicated that, in a context of domestic violence suffered by the hands of her then partner, it was that she decided to leave the family residence and found herself in a street situation. For this reason, she entered to a house with her children that she found empty, without forcing the entrance door since it was open. The petitioner emphasized that this entry was the product of the situation of extreme need briefly outlined. And that the conduct attributed in the criminal process did not meet the requirements of the figure of usurpation.

3. On October 26, 2015, the Inter-American Commission on Human Rights adopted the Admissibility Report No. 62/15, in which it declared the petition that is the subject of this agreement admissible. In relation to the alleged effect on the articles 8, 9 and 25 of the American Convention, in connection with the obligations established in Articles 1.1 and 2 of the same instrument.

4. During the processing of the international case, socio-environmental and health reports were produced that give account of the serious situation that afflicts the family of Mrs. Ramos Rocha and, in particular, reflect the profound impact on the state of health of one of her daughters, C.M<sup>1</sup>.

5. In particular, C.M. suffers from a health condition known by the parties involved in this act and duly verified, which allows her to be considered as a person with a disability, holder of urgent positive action measures and aimed at adequately guaranteeing her rights.

6. In response to the situation of extreme vulnerability of the petitioner and her family group, both Mrs. Ramos Rocha, with the assistance of her legal representation, and the competent authorities of the Province of Mendoza maintained throughout the international process a space for dialogue aimed at exploring the possibility of reaching an eventual agreement for the friendly settlement of the dispute.

7. Among the most recent backgrounds, work meetings were held within the framework of the 159th Regular Session of the IACHR in Panama, the 161st Regular Period of Sessions of the IACHR in Washington, and the 162nd Regular Period of Sessions of the IACHR in Buenos Aires, and in turn, different communications were held between the parties aimed centrally at guaranteeing access for Mrs. Ramos Rocha and her family to a dwelling in conditions of habitability and security, and conditioned to the particular needs of C.M.

8. After several exchanges of proposals and observations between the petitioner and the Government of the Province of Mendoza, it has been possible to reach a reasonable understanding that, if fully satisfied, would end this controversy. The terms of that understanding are developed below.

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<sup>1</sup> The IACHR reserves the names of the victims' children because they are all minors at the time of approval of this report.

## **II. Commitments**

### **A. Housing situation**

1. The Government of the Province of Mendoza undertakes to give to Mrs. Graciela Ramos Rocha the possession and ownership of the home [in the] Province of Mendoza, consisting of a total area of ONE HUNDRED AND FORTY SIX METERS FORTY SQUARE CENTIMETERS (146.40), ACCORDING TO CATASTRAL NOMENCLATURE No. XXX, and which was awarded through Resolution No. XXX dated September 11, 2018. The property will be delivered to the petitioner in property, without any payment to her or her family group, and without any type of debts or encumbrances<sup>2</sup>.

2. The Government of the Province of Mendoza delivers the renovated and conditioned property, taking as a guide the guidelines duly indicated in the architectural technical report carried out by the Office of the National Ombudsman, which is included as an annex to this document. These guidelines are aimed at guaranteeing satisfactory living conditions for the family group, and appropriate to the health condition of C.M.

3. The delivery of possession in favor of Mrs. Graciela Ramos Rocha must be made within a maximum period of 15 days, counted from the signing of this, by Notarial Action to be carried out by the General Notary Office of the Government of the Province of Mendoza.

4. Mrs. Graciela Ramos Rocha must initiate the corresponding procedures for the deed and transmission of the property domain referred to before the I.P.V. The deed procedure will be at no cost to the petitioner, and the Government of the Province must collaborate so that the deed is completed in the shortest possible time. Once the aforementioned procedures have been completed and the adoption by the IACHR of the Article 49 Report of the American Convention on Human Rights has been notified, the Government of Mendoza will grant the petitioner the corresponding deed.

5. The transfer of people and goods to the indicated property will be in charge of the petitioner, and the authorities of the Province of Mendoza must be notified at least 48 hours before.

### **B. School and social insertion**

1. The Government of the Province of Mendoza undertakes to guarantee, within the new place of roots, the right to education for members of the family group of school age, within the framework of current regulations. Specifically, guarantee the school insertion in the radius of the dwelling detailed above, assisting the petitioner and her family group in what is necessary for the purposes of registration, and in all other accessory procedures. For which, the day of the delivery of possession, the corresponding data of the members of the family group will be released, and with this, intervention will be given to the General Directorate of Schools of the Province of Mendoza, who will notify the requirements and procedures that the members must comply to start schooling.

2. The Government of the Province of Mendoza undertakes to make available to the petitioner the offer of recreational, community and cultural activities existing in the area, the interested party being in charge of the procedures pertaining to its registration, with the intervention of the Undersecretary of Sports of the Province of Mendoza.

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<sup>2</sup> The IACHR reserves the data related to the location of the home and its cadastral registry at the request of the petitioner.

### C. Medical assistance

1. The Government of the Province of Mendoza undertakes to provide immediately, effectively and in accordance with current regulations, to existing public agents, medical assistance for Mrs. Ramos Rocha and her family group, made up of C.M., M.L.O.R., I.M.M.O.R., S.A.O.R. and S.A.O.R. The required treatments must be provided for as long as necessary, and must include medications and other resources that are directly related to those, with the intervention of the Undersecretary of Health, so that through him the access to services is guaranteed, likewise, the intervention of the Director of Attention to People with Disabilities, so that through him the full exercise of the rights of young people with disabilities is guaranteed.

### III. Final Provisions

1. The petitioner considers that the complete fulfillment of the commitments assumed hereby implies the satisfaction of its claims in case No. 13.011 of the registration of the Inter-American Commission on Human Rights. The Government of the Province of Mendoza, through its representative, and the petitioner, agree to sign this letter, so that the commitments assumed in this act are duly approved by Decree of the Executive Power of the Province of Mendoza.

2. Once this occurs, the petitioner undertakes, irrevocably, to sign the friendly settlement agreement with the National State with the express request that, in accordance with the consensus reached, the report contemplated in Article 49 of the American Convention on Human Rights is adopted, at which time it will acquire full legal power.

11. On October 2, 2019, the Governor of the Province of Mendoza issued the Decree through which the Memorandum of Understanding signed on September 13, 2019 with the Province of Mendoza was approved. Subsequently, on May 29, 2020, the parties signed a friendly settlement agreement, the text of which establishes the following:

#### FINAL FRIENDLY SETTLEMENT AGREEMENT

The parties in Case No. 13.011 of the registry of the Inter-American Commission on Human Rights (IACHR) —Graciela Ramos Rocha— the petitioner Graciela Ramos Rocha, represented by the General Defender of the Nation, Dr. Stella Maris Martinez, and the Government of the Argentinian Republic, in its capacity as a State party to the American Convention on Human Rights, acting by express mandate of Article 99 subsection 11 of the Constitution of the Argentinian Nation, represented by the Secretary of Human Rights of the Nation, Horacio Pietragalla Corti, and by the Director of International Litigation in Human Rights Matters of the Ministry of Foreign Affairs, International Trade and Worship of the Nation, Dr. Javier Salgado, have the honor to inform the Illustrious Inter-American Commission on Human Rights that they have reached a friendly settlement agreement on the case, the content of which is developed below, requesting that in order to reach the consensus reached it is accepted and the consequent report provided for in Article 49 of the Convention is adopted.

#### I. Background of the case before the IACHR - The friendly settlement process

1. On September 18, 2007, the Inter-American Commission on Human Rights received a petition against the Argentine Republic in which Mrs. Graciela Ramos Rocha, represented by the Ombudsman's Office, alleged the violation to her detriment of recognized rights in the American Convention on Human Rights in the framework of the case entitled "*Ramos Rocha, Graciela s/ Usurpation*", which was processed before the Correctional Court No. 4 of the First Judicial District of the Province of Mendoza.

2. Because of said judicial process, Mrs. Ramos Rocha and her family group were evicted from a house. Likewise, Mrs. Ramos Rocha was sentenced in the first instance to one year of prison for conditional execution, as the author criminally responsible for the crime of usurpation (art. 181.1 of the Criminal Code). The appeals tried against said pronouncement were rejected by the domestic jurisdictional instances.

3. On October 26, 2015, the Inter-American Commission on Human Rights adopted the Admissibility Report No. 62/15, declaring the petition admissible in relation to the alleged violations of the rights recognized in Articles 8, 9 and 25 of the American Convention on Human Rights, in connection with the obligations established in articles 1.1 and 2 of that instrument.

4. In response to the situation of extreme vulnerability of the petitioner and her family group, and to the severe disability of one of her daughters, the petitioner and the competent authorities of the Province of Mendoza, with the accompaniment of the National State, began a dialogue process aimed at evaluating the possibility of reaching a friendly settlement in the case.

5. After holding various working meetings between the parties, with the intervention and follow-up of the Illustrious IACHR, on September 13, 2019, a Memorandum of Understanding of Friendly Settlement was signed between the petitioner and representatives of the Province of Mendoza, which was approved by Decree No. 2,201 of the Governor of the Province of Mendoza, dated October 2, 2019.

## **II. The commitments assumed by the Province of Mendoza**

Within the framework of the Memorandum of Understanding of the Friendly Settlement approved by Provincial Decree No. 2.201/2019 - which are attached in Annexes as an integral part of this Agreement-, the Government of the Province of Mendoza assumed the following commitments:

### **1. Housing situation**

To give Mrs. Graciela Ramos Rocha the possession and ownership of the home [in the] Province of Mendoza, consisting of a total area of ONE HUNDRED AND FORTY-SIX METERS FORTY-SQUARE CENTIMETERS (146.40 m<sup>2</sup>), ACCORDING TO CATASTRAL NOMENCLATURE No. XXX, and that it was awarded by means of Resolution N°XXX dated September 11, 2018. The Government promised to deliver the property to the petitioner in ownership, without any payment from her or her family group, and without any type of debt or liens (section II.A.1 of the aforementioned Memorandum of Understanding of Friendly Settlement). The delivery and subsequent deed of ownership of said property must be made under the conditions established in sections II.A.2 to II.A.5 of the Memorandum of Understanding of Friendly Settlement<sup>3</sup>.

### **2. School and social insertion**

To guarantee within the new place of roots, the right to education for members of the family group of school age, within the framework of current regulations. Specifically, the Government of the Province of Mendoza undertook to guarantee school insertion within the radius of the dwelling detailed above, assisting the petitioner and her family group in whatever is necessary for the purposes of registration, and in all other accessory procedures. For which, on the day of the delivery of possession of the property, it promised to release the corresponding data of the members of the family group for the purpose of giving intervention to the General

<sup>3</sup> The IACHR reserves the data related to the location of the home and its cadastral registry at the request of the petitioner.

Directorate of Schools of the Province of Mendoza. Who will notify her of the requirements and procedures that the members must complete to start schooling. Likewise, the Government of the Province of Mendoza undertook to make available to the petitioner the offer of recreational, community and cultural activities existing in the area. The interested party being in charge of the procedures pertaining to its registration, with the intervention of the Undersecretary of Sports of the Province of Mendoza (sections II.B.1 and II.B.2 of the Memorandum of Understanding of Friendly Settlement).

### **3. Medical assistance**

Provide immediate, effective and in accordance with current regulations, to existing public agents, medical assistance in favor of Mrs. Ramos Rocha and her family group, made up of C.M., M.L.O.R., I.M.M.O.R., S.A.O.R. and S.A.O.R. The required treatments must be provided for as long as necessary, and must include medications and other resources that are directly related to those, with the intervention of the Undersecretary of Health so that, through them, access to services is guaranteed. As well as with the intervention of the Director of Attention to Persons with Disabilities, so that through her the full exercise of the rights of young people with disabilities is guaranteed (section II.C.1 of the Memorandum of Understanding of Friendly Settlement).

## **III. Status of compliance with the commitments assumed by the Province of Mendoza**

### **A. Delivery in possession of the home**

1. On September 17, 2019, the delivery of the possession of the property was made with the intervention of the General Office of the Government of the Province of Mendoza (point II.A.1, II.A.2 and II.A.3, Memorandum of Understanding). Since that date, Mrs. Ramos Rocha, her husband and her daughters have been living in the house, to which they have moved their household goods on their own (point II.A.5, Memorandum of Understanding).

2. The delivery was formalized through a minute, which recorded the need to carry out certain repairs to adjust the status of the delivery to that duly verified by the petitioners (point II.A.2, Memorandum of Understanding).

3. Regarding the aforementioned repairs, it is reported that from delivery to date, the following were carried out: (1) Electrical repairs: revision of the general panel, check of its operation, repair of keys and sockets, cable insulation and placement of lamp holders; 2) Repairs of the adapted bathroom: a foot for the basin and a hand basin, a toilet seat and a lid, as well as the repair of the shower; 3) Various repairs: windows were sealed with polycarbonate and the door of one of the bathrooms was fixed; 4) Locks repairs and fittings: Padlocks were placed and missing or broken house locks were repaired.

4. Among the parts pending execution and duly established in the delivery document, it remains to solve a severe problem of humidity in some parts of the house. In accordance with what was reported by the petitioner, the personnel sent by the provincial government indicated that it is necessary to wait a while for the absorption and drying of the walls, before proceeding to fix and paint.

### **B. Measures to guarantee access to the right to education for the daughters of Mrs. Graciela Ramos Rocha and to the right to health of the family group**

1. Regarding the efforts to guarantee the allocation of school places to the daughters of Mrs. Ramos Rocha in the new place of roots (point II.B.1, Memorandum of Understanding). The petitioner reports that currently, as of from the efforts made by the General Directorate

of Schools of the Province of Mendoza, the necessary places were obtained in the respective schools: the 17-year-old daughter was received in "XXX"; the 15-year-old daughter and the 14-year-old daughter were received at the "XXX" School; and the 10-year-old daughter was received at the "XXX" School. Mrs. Ramos Rocha carried out all the procedures corresponding to these passes between the previous schools located in "XXX" and the new ones in "XXX"<sup>4</sup>.

2. Regarding the health care of the family group in the new place of roots (point II.C.1, Memorandum of Understanding), the Office of the Ombudsman made a report and a referral of the family group to Health Center No. XXX and Hospital XXX. The young C.M., who has a severe disability, is currently attended by the Psychiatrist Service of said hospital.

### **C. Measures pending execution**

In light of the foregoing, among the aspects pending resolution, the following stand out:

1. The realization of the humidity arrangements of the property, in accordance with what was indicated above (point II.A.2, Memorandum of Understanding).
2. The final deed of ownership of the property in favor of Mrs. Ramos Rocha, in the terms agreed in the Memorandum of Understanding (point II.A.1 and II.A.4, Memorandum of Understanding).

## **IV. Definitive Agreement of Friendly Settlement**

In response to the consensus obtained during the dialogue process, and taking into account the status of compliance with the commitments assumed by the Government of the Province of Mendoza. The petitioner and the Argentinian State proceed to sign this friendly settlement agreement, in accordance with the provisions of point III.2.A of the Memorandum of Understanding, a circumstance that supposes the cessation of the pending international controversy, without prejudice to the supervision exercised by the Illustrious Inter-American Commission on Human Rights until full compliance with the commitments assumed.

## **V. Petition**

1. The Government of the Argentinian Republic and the petitioner party celebrate the signing of this agreement, and mutually value the good will shown in the negotiation process.
2. In this sense, the parties request the illustrious Inter-American Commission on Human Rights to accept the commitments assumed by the Province of Mendoza, as long as they are fully compatible with the object and purpose of the American Convention on Human Rights.
3. Likewise, the parties expressly request the Illustrious Commission to adopt the report contemplated in article 49 of said Convention, an opportunity in which this agreement will acquire full legal force, and to continue with the periodic supervision of the commitments assumed in the case pending compliance.

## **IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE**

12. The IACHR reiterates that, pursuant to Articles 48.1.f and 49 of the American Convention, this process is aimed at "reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention." Willingness to engage in this process is a sign of the State's good faith to comply

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<sup>4</sup> The IACHR reserves the data that could identify the schools of the victim's children at the request of the petitioner.

with the object and purpose of the Convention under the principle of *pacta sunt servanda*, whereby States must comply in good faith with the obligations undertaken in treaties.<sup>5</sup> It also reiterates that the friendly settlement process provided for in the Convention allows for the disposition of individual cases in a non-adversarial manner; it has proven to be an important vehicle for reaching solutions at the initiative of both parties and has been used in cases involving a number of different countries.

13. The Inter-American Commission has closely followed the development of the friendly settlement achieved in the instant case and greatly appreciates the efforts put forth by both parties during the negotiation to reach this settlement, which is consistent with the object and purpose of the American Convention.

14. In accordance with the request included in the friendly settlement agreement, as well as, through the notes presented by the parties on June 8 and 9, 2020, by which they requested the Commission to adopt the report contemplated in the Article 49 of the American Convention, it is appropriate to assess compliance with the commitments established in the friendly settlement agreement.

15. In relation to numeral (1) of clause II of the friendly settlement agreement and points II.A. (1), II.A. (2), II.A. (3), II.A. (4) and II.A. (5) of the Memorandum of Understanding, related to the housing situation, the Commission observes that in subsection III.A of the friendly settlement agreement, referring to the status of compliance with the commitments assumed by the Province of Mendoza, the parties indicated that on September 17, 2019, the State gave the possession of the property which has been inhabited by Mrs. Ramos Rocha and her family, since then and that the family adequately moved their household goods. For their part, in subsection III.C of the FSA, referring to the measures pending execution, the parties reported that only the humidity arrangements of the property were pending, as agreed in point II.A. (2) of the Memorandum of Understanding, and the final deed of the property for the benefit of the victim, as agreed in point II.A. (1) and II.A. (4) of the Memorandum of Understanding. Therefore, the Commission considers that, in relation to the Memorandum of Understanding, points II.A. (1), II.A. (2) and II.A. (4) are partially fulfilled. In the same sense, the Commission considers that points II.A. (3), referring to the delivery of the house and II.A. (5), referring to the transfer of people and goods to the new property, of the Memorandum of Understanding are totally fulfilled and it declares it. Consequently, the Commission considers that numeral (1) of clause II of the friendly settlement agreement is partially complied with and hereby declares so.

16. In relation to numeral (2) of clause II of the friendly settlement agreement and points II.B. (1) and II.B. (2) of the Memorandum of Understanding. Related to school and social integration, the Commission observes that in subsection III.B. (1) of the friendly settlement agreement, referring to the status of compliance with the commitments assumed by the Province of Mendoza, the parties indicated that, due to the efforts made by the General Directorate of Schools from the Province of Mendoza, the necessary places would have been obtained in the respective schools for each of the victim's daughters, considering this commitment fulfilled. Taking into consideration the information elements previously described, the Commission considers that numeral (2) of clause II of the FSA and points II.B. (1) and II.B. (2) of the Memorandum of Understanding are fully complied with and hereby declares so.

17. Regarding numeral (3) of clause II of the friendly settlement agreement and point II.C. (1) of the Memorandum of Understanding, related to medical assistance, the Commission observes that in subsection III.B. (2) of the friendly settlement agreement, referring to the status of compliance with the commitments assumed by the Province of Mendoza, the parties indicated that the Office of the Ombudsman made a report and a referral of the family group to a Health Center and that C.M. is being attended in a psychiatrist service, considering this part of the agreement fulfilled. Taking into consideration the information elements previously described, the Commission considers that numeral (3) of clause II of the FSA and point II.C. (1) of the Memorandum of Understanding are fully complied with and hereby declares so.

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<sup>5</sup> Vienna Convention on the Law of Treaties, U.N. Doc A/CONF.39/27 (1969), Article 26: "Pacta sunt servanda". *Every treaty in force is binding upon the parties to it and must be performed by them in good faith.*

18. On the other hand, the Commission considers that clause I of the Memorandum of Understanding is declarative in nature, like clauses I, III (A and B), IV and V of the friendly settlement agreement, which is why it would not correspond their supervision. Additionally, the Commission considers that numerals 1 and 2 of clause III of the Memorandum of Understanding, which established the final provisions for the perfection of the friendly settlement agreement, are fully complied with and hereby declares so.

19. Due to the above, the Commission considers that points II.A. (3), referring to the delivery of the home; the II.A. (5), referring to the transfer of people and goods to the new property; points II.B. (1) and II.B. (2) on schooling; and point II.C. (1) on health care, of the Memorandum of Understanding, are fully complied with. In the same sense, the Commission considers that numerals 2 and 3 of clause II of the friendly settlement agreement are fully complied with. On the other hand, the Commission considers that numeral (1) of clause II of the FSA, as well as numeral 1 and 2 of literal C of clause III of the friendly settlement agreement and points II.A. (1), II.A. (2) and II.A. (4) of the Memorandum of Understanding, clauses related to the final improvements to the home and its title, are partially fulfilled, so it decides to keep the supervision of the friendly settlement agreement until its full implementation.

## **V. CONCLUSIONS**

1. Based on the preceding considerations and pursuant to the procedure set forth in Articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts put forth by the parties and its satisfaction for achieving a friendly settlement in the instant case based on respect for human rights, and in a manner consistent with the object and purpose of the American Convention.

2. In accordance with the considerations and conclusions set forth in this report,

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

#### **DECIDES TO:**

1. Approve the terms of the Memorandum of Understanding signed by the parties on September 13, 2019, as well as the Friendly Settlement Agreement signed by the parties on May 29, 2020.

2. Declare total compliance with points II.A. (3), and II.A. (5) of the Memorandum of Understanding, related to the housing situation, according to the analysis contained in this report.

3. Declare total compliance with numeral (2) of clause II of the friendly settlement agreement and points II.B. (1) and II.B. (2) of the Memorandum of Understanding, related to school and social integration, according to the analysis contained in this report.

4. Declare total compliance with numeral (3) of clause II of the friendly settlement agreement and point II.C. (1) of the Memorandum of Understanding, related to medical care, according to the analysis contained in this report.

5. Declare partially compliance with numeral (1) of clause II of the friendly settlement agreement and points II.A. (1), II.A. (2) and II.A. (4) of the Memorandum of Understanding, related to the housing situation, according to the analysis contained in this report.

6. Continue with the supervision of the commitments assumed in numeral (1) of clause II and numerals (1) and (2) of literal C of clause III of the friendly settlement agreement and points II.A. (1), II.A. (2) and II.A. (4) of the Memorandum of Understanding. To this end, remind the parties of their commitment to report periodically the IACHR on compliance with said measures.

7. 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 July 12, 2020. (Signed): Joel Hernández García, President; Antonia Urrejola, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Esmeralda E. Arosemena Bernal de Troitiño and Julissa Mantilla Falcón, Members of the Commission.