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CASE 13.642

FRIENDLY SETTLEMENT REPORT

**EDGAR JOSÉ SÁNCHEZ DUARTE AND FAMILY
COLOMBIA**

Approved electronically by the Commission on March 20, 2021.

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FRIENDLY SETTLEMENT
EDGAR JOSÉ SÁNCHEZ DUARTE
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I. SUMMARY AND RELEVANT ASPECTS OF THE FRIENDLY SETTLEMENT PROCESS

1. On February 1, 2007, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “IACHR”) received a petition presented by Graciela Sánchez Duarte and Legal Option Collective Corporation of Lawyers [*Corporación Colectivo de Abogados Opción Jurídica*] in which the international responsibility of the Republic of Colombia (hereinafter, “the State” or “the Colombian State”) was alleged for the extrajudicial execution of Mr. Edgar Sánchez Duarte (hereinafter “the alleged victim”), by members of the defunct Anti-Kidnapping and Extortion Unit (hereinafter “UNASE”), in the city of Valledupar, in the department of Cesar as well as for the lack of investigation and punishment of those responsible for the events. It should be noted that UNASE was integrated with members of the National Police and the then Administrative Department of Security (DAS). The petitioning party alleged the violation of Articles 4 (right to life), 5 (personal integrity), 7 (personal liberty), 8 (judicial guarantees), 24 (equal protection of the law) and 25 (judicial protection) of the American Convention on Human Rights (hereinafter the “Convention” or the “American Convention”).

2. The petitioners alleged that, although in the framework of the criminal proceedings, on July 31, 1994, the Fourth Criminal Court of the Valledupar Circuit sentenced a retired National Army soldier to 30 years in prison for the crime of homicide, the criminal prosecution would not have continued with respect to the other two officers allegedly involved in the events, including a Major Commander of UNASE, who would have been identified as an officer involved according to the confession obtained during the trial of the first convicted person. Likewise, the petitioners alleged that, as a consequence of the aforementioned confession and subsequent request for the arrest of the Major, the relatives of the victims had been submitted to of intimidation by members of UNASE.

3. Likewise, the petitioners alleged the violation of the right of access to justice and equal protection of the law, given the contradiction of the decisions made in the two processes followed by the victims' family members to obtain financial compensation. The foregoing, on the grounds that the judicial authorities had ruled in one of the contentious administrative proceedings granting a reparation to two family members, and in the framework of a second proceeding, the compensation was denied to the other members of the family group.

4. On July 7, 2018, the IACHR issued Admissibility Report No. 81/18 on Case 13,642 Edgar José Sánchez Duarte and Family, in which it was concluded that the Commission was competent to examine the petition in relation to the alleged violation of Articles 4 (right to life), 5 (personal integrity), 8 (judicial guarantees), 17 (protection of the family), 24 (equal protection of the law) and 25 (judicial protection) of the American Convention in concordance with its articles 1.1 and 2; and to declare the present petition inadmissible in relation to Article 7 (personal liberty) of the Convention.

5. On May 23, 2019, the parties signed a memorandum of understanding to seek a friendly settlement in this case, together with a work schedule to advance on the negotiations, which turn out to be materialized with the signing of a friendly settlement agreement on July 14, 2020 in Bogotá D.C.

6. On December 9, 2020, the parties signed an addendum to the FSA and subsequently, on January 29, 2021, submitted a joint report to inform on the progress in the implementation of the friendly settlement agreement and requested its approval by the Commission.

7. In this friendly settlement report, as established in Article 49 of the Convention and in Article 40.5 of the Commission's Rules of Procedure, a review of the facts alleged by the petitioning party is made and a transcription of the friendly settlement agreement, signed on July 14, 2020 by the petitioners and representatives of the Colombian State, as well as its addendum of December 9, 2020. Likewise, the agreement signed between the parties is approved and the publication of this report in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

II. THE ALLEGED FACTS

8. The petitioners alleged that, on September 13, 1993, Edgar Sánchez Duarte was extra judicially executed after receiving three shots from a firearm by members of UNASE, a special group based in the Popa Battalion in Valledupar, Department of Cesar. According to the petitioners, the UNASE agents considered that the alleged victim was linked to the Revolutionary Armed Forces of Colombia (F.A.R.C.), which is why the operation was deployed, in which, after several days of surveillance and monitoring finally, Mr. Sanchez Duarte was killed when he was outside his home, in front of his wife and two children. The petitioners affirmed that witnesses to the events managed to write down the license plate of the vehicle from which the alleged victim was shot, which later made it possible to establish that it belonged to the cars assigned to UNASE and indicated that two days after the events, that is, on September 15, 1993, the same vehicle returned to the house of the alleged victim and the driver asked around for the victim's family, which caused them anguish and fear.

9. According to what is alleged by the petitioners, as a result of the investigations initiated *ex officio*, on July 31, 1994, the Fourth Criminal Court of the Valledupar Circuit sentenced a retired soldier of the National Army to 30 years in prison for the crime of murder. Said ruling was confirmed by the Valledupar Superior Court on October 27, 1994. The petitioners indicated that, in various statements, the convicted person confessed to have been the one who was driving the official vehicle, but also held a UNASE Major Commander and two other police officers responsible for the intellectual and material authorship of the alleged victim's death.

10. The petitioners affirmed that, based on these statements, on January 3, 1995, the Delegate Prosecutor's Office initiated a preliminary investigation against the other three officers, and on November 4, 1995, it had ordered the arrest of the Major Commander. The petitioners indicated that, since said arrest, the relatives of the alleged victim began to receive intimidation, allegedly by members of UNASE, who in their vehicles were prowling and monitoring the home of Mr. Sánchez Duarte's parents to intimidate them.

11. The petitioners indicated that, on November 14, 1995, the proceeding was referred to the Military Criminal Jurisdiction in consideration of the fact that those implicated were active members of the National Army. Thus, on November 16, 1995, the Second Instruction Brigade of Barranquilla decided to exclude one of the agents from the investigations, release the Major Commander, and continue the proceedings against the third officer involved. On July 14, 1997, the Verbal Council of War ordered to cease the proceedings with respect to the Major Commander and sentence the remaining officer. The petitioners indicated that on July 2, 1998, the Superior Military Court abstained from hearing said appeal and referred the case to the Superior Court of the Valledupar Judicial District, considering that the facts were not related to military service.

12. The petitioners reported that, within the framework of the criminal process followed in the ordinary jurisdiction, the preclusion was ordered with respect to the Major Commander investigation. On the other hand, on June 18, 2003, the Criminal Court of the Santa Marta Specialized Circuit sentenced the officer to 26 years' imprisonment, for the crime of aggravated homicide. The conviction was confirmed by the Superior Court of Santa Marta on June 22, 2004 and by the Criminal Chamber of the Supreme Court of Justice on April 3, 2008.

13. The petitioners indicated that the family members of the alleged victim presented two petitions for direct reparation against the Ministry of Defense in the contentious-administrative jurisdiction. The first filed by Mrs. Clara Inés Uribe Reyes, ex-wife of Mr. Sánchez Duarte, and his daughter Angélica María Sánchez Uribe. In relation to said process, they stated that, on April 25, 1996, the Cesar Administrative Court

approved a judicial conciliation between the plaintiff and the Ministry of Defense, which established the reparation in favor of Mrs. Uribe Reyes and her daughter.

14. The second action for direct reparation was filed by the parents and siblings of the alleged victim, as well as by Mrs. Martha Cecilia Fuentes Gutiérrez and Edgar José Sánchez Fuentes, widow and son of Mr. Sánchez Duarte. In the framework of this second proceeding, on February 6, 1997, the Cesar Administrative Court declared the Nation administratively responsible and ordered the payment of a compensation to the plaintiffs. However, due to the appeal of the defendant, said judgment was revoked on November 27, 2002 by the Third Chamber of the Council of State, considering that the military condition of those involved in the case did not automatically lead to the conclusion that they had acted as agents of the State.

15. Faced with this situation, the family of the alleged victim filed an extraordinary appeal, which was declared unfounded on July 31, 2006 by the Special Transitory Chamber of the Council of State, on the grounds that the public administration cannot be liable for damages caused by officers when they correspond to the orbit of their strictly private activity. Additionally, the plaintiffs were ordered to pay the legal fees. The judgment was notified by an edict on August 11, 2006, and subsequently the family members of Mr. Sánchez Duarte filed a constitutional protection action, which was rejected as inadmissible on June 14, 2007 by the Fourth Section of the Council of State.

16. The petitioners argued that the contradiction of the decisions taken in the two processes followed in the contentious-administrative jurisdiction, was in violation of the rights of the victim's family access to justice and equal protection of the law, since the judicial authorities acted differently in the same case, granting reparation to two of the family members and leaving the remaining family group unprotected.

III. FRIENDLY SETTLEMENT

17. On July 14, 2020, the parties signed a friendly settlement agreement that establishes the following:

FRIENDLY SETTLEMENT AGREEMENT Case 13.642 EDGAR JOSÉ SÁNCHEZ DUARTE

On July 14, 2020, in the city of Bogotá DC, on one side, Ana María Ordóñez Puentes, Director of International Legal Defense of the National Agency for Legal Defense of the State, who acts with due authorization on behalf of the Colombian State, and who hereafter will be called "the State" or "Colombia," and on the other side of the parties, Mrs. Graciela Sánchez Duarte who acts on her own behalf and also of her brothers, and, Legal Option Collective Corporation of Lawyers [*Corporación Colectivo de Abogados Opción Jurídica*] represented in this act by Arturo Mojica and Enrique Laiton Cortes, who hereinafter will be referred to as "the petitioners," sign this friendly settlement agreement in the framework of case 13.642 Edgar José Sánchez Duarte, pending before the Inter-American Commission on Human Rights.

FIRST PART: CONCEPTS

For the purposes of this Agreement, it will be understood by:

IACHR or Inter-American Commission: Inter-American Commission on Human Rights.

Non-pecuniary damage: Harmful effects of the facts of the case that do not have an economic or patrimonial nature, which are manifested through the pain, affliction, sadness, anguish and anxiety of the victims.

State or Colombia: In accordance with Public International Law, it will be understood that it is the signatory of the American Convention on Human Rights (hereinafter "Convention" or "ACHR"); the Colombian State.

Satisfaction measures: Non-pecuniary measures whose purpose is to ensure the recovery of the victims from the damage that has been caused to them. Some examples of this type of measure are: public knowledge of the truth and acts of redress.

Parties: State of Colombia, next of kin of the victim, as well as the representatives of the victims.

Acknowledgment of responsibility: Acceptance of the facts and human rights violations attributed to the State.

Integral reparation: All those measures that objectively and symbolically restore the victim to the previous state of the commission of the damage.

Representatives of the victims: Mrs. Graciela Sánchez Duarte, and the Legal Option Collective Corporation of Lawyers [*Corporación Colectivo de Abogados Opción Jurídica*] represented by Arturo Mojica and Omar Enrique Laiton Cortes.

Friendly Settlement: Alternative conflict resolution mechanism, used for peaceful settlement and agreed upon before the Inter-American Commission.

Victims: Family members of Mr. Edgar José Sánchez Duarte.

SECOND PART: BACKGROUND

A. Before the Inter-American Human Rights System.

1. On February 1, 2007, the Inter-American Commission on Human Rights received a petition alleging the murder of Mr. Edgar Sánchez Duarte by members of the anti-kidnapping and extortion unit (hereinafter "UNASE"), in the city of Valledupar, in the department of Cesar.

2. The petitioners denounce that, on September 13, 1993, Mr. Edgar José Sánchez Duarte was violently murdered after receiving three shots from a firearm by members of UNASE, jurisdiction of the department of Cesar.

3. The crime was allegedly committed by agents belonging to the UNASE of said city.¹

4. The petitioners state that the agents of the UNASE group considered that the direct victim was linked to the revolutionary armed forces of Colombia, and therefore carefully elaborated the military operation.

5. They state that, as a result of the investigations initiated *ex officio*, on July 31, 1994, the Fourth Criminal Court of the Valledupar Circuit sentenced a retired soldier from the National Army to 30 years in prison for the crime of homicide. Said ruling was confirmed by the Valledupar Superior Court on October 27, 1994. They argue that, in various statements, the convicted person confessed to have been the one who was driving the official vehicle, but also held the UNASE Major Commander and two other military personnel responsible for the intellectual and material authorship of the death of the alleged victim.²

6. They state that, based on such statements, on January 3, 1995, the Delegate Prosecutor's Office initiated a preliminary investigation against the aforementioned three military agents, and on November 4, 1995, ordered the arrest of the Major Commander.

¹ Among them, the commander of said group, Major Jaime Esguerra Santos, Sergeant Jesús María Mahecha Mahecha and soldier Carlos Alberto Pérez Pallares.

² Inform 81/18. Par. 2

7. The petitioners point out that, since said arrest, the relatives of the alleged victim began to receive threats by members of the UNASE, whom in their vehicles prowled and watched the home of Mr. Sánchez Duarte's parents to intimidate them.

8. They report that, within the framework of the criminal process followed in the ordinary jurisdiction, the preclusion was ordered with respect to the Major Commander investigation. On the other hand, on June 18, 2003, the Criminal Court of the Santa Marta Specialized Circuit sentenced a military agent to 26 years in custody for the crime of aggravated homicide.³ The conviction was confirmed by the Superior Court of Santa Marta on June 22, 2004 and by the Criminal Chamber of the Supreme Court of Justice on April 3, 2008.⁴

9. They also indicate that the alleged victim's family members filed two claims for direct reparation against the Ministry of Defense in the contentious-administrative jurisdiction. The first filed by Mrs. Clara Inés Uribe Reyes, ex-wife of Mr. Sánchez Duarte, and his daughter Angélica María Sánchez Uribe.

10. In relation to said process, they state that on April 25, 1996, the Cesar Administrative Court approved the judicial conciliation between the plaintiff and the Ministry of Defense, which established reparation in favor of Mrs. Uribe Reyes and her daughter.

11. The second action for direct reparation was filed by the parents and siblings of the alleged victim, as well as by Mrs. Martha Cecilia Fuentes Gutiérrez and Edgar José Sánchez Fuentes, widow and son of Mr. Sánchez Duarte and, on February 6, 1997, the Cesar Administrative Court declared the Nation administratively responsible and ordered the payment of compensation to the plaintiffs. However, due to the appeal of the defendant, said judgment was overruled on November 27, 2002 by the Third Chamber of the Council of State, arguing that the military condition of those involved in the case did not automatically lead to the conclusion that they had acted in their capacity agents of the State.

12. Faced with this situation, the family of the alleged victim filed an extraordinary appeal, which was declared unfounded on July 31, 2006 by the Special Transitory Chamber of the Council of State, considering that the public administration cannot answer for the damages caused by agents when they correspond to the orbit of their strictly private activity. Additionally, the plaintiffs were ordered to pay the legal fees. The sentence was notified by edict on August 11, 2006. Against this ruling, the relatives of Mr. Sánchez Duarte instituted an action for protection, which was rejected as inadmissible on June 14, 2007 by the Fourth Section of the Council of State.

13. On July 7, 2018, the Commission declared the petition admissible in Report No. 81/18, based on the facts denounced.

B. Friendly settlement search process.

14. On December 5, 2018, the IACHR transmitted to the State the petitioners' intention to initiate a dialogue between the parties, in order to materialize a friendly settlement agreement.

15. On March 6, 2019, in a meeting held between the parties, the National Agency for Legal Defense of the State (ANDJE) explained to the petitioners its role in dealing with friendly settlement procedures and inquired about the aspirations of the victims in matters of integral repair.

³ To be noted: Jesús María Mahecha Mahecha.

⁴ Inform 81/18 Par. 5

16. The petitioners suggested having as a reference point the items recognized by the judgment of February 6, 1997 of the Administrative Tribunal of Cesar⁵, which could be analyzed in accordance with current case law. They also mentioned the possibility of including psychological support measures and health related support in general.

17. On May 23, 2019, a meeting was held between members of the State and the representatives of the victims, in which Colombia expressed its intention to initiate a process to seek a friendly settlement in this case.

18. In this regard, the State indicated that the starting point of said process would be the determination of the scope of recognition of responsibility for violation of the right to equality in relation to access to justice, and an economic compensation as reparation, due to the non-pecuniary damage caused by such events. This would only be regarding all of those relatives who had not been previously compensated.

19. In turn, during the aforementioned dialogue, the victims' representatives expressed their interest in benefiting from an act of acknowledgment of responsibility, guarantees of non-repetition, and measures of satisfaction.

20. On the same day of the meeting, the parties signed a memorandum of understanding to seek a friendly settlement, and a work schedule was adopted between the parties.

THIRD PART: BENEFICIARIES

The parties have agreed that the following people would benefit from this agreement:

1. Martha Cecilia Fuentes Gutiérrez (widow)
2. Edgar José Sánchez Fuentes (son)
3. Graciela Sánchez Duarte (sister)
4. Wilson Sánchez Duarte (brother)
5. Claudia Patricia Sánchez Duarte (sister)
6. Luis Felipe Sánchez Duarte (sister)
7. Ramiro Antonio Sánchez Duarte (sister)
8. Oscar Sánchez Duarte (brother)
9. Blanca Del Rosario Sánchez Celedón (paternal sister)
10. Gladys Florinda Sánchez García (paternal sister)
11. Javier Ramiro Sánchez García (paternal brother)
12. Lilibeth Sánchez García (paternal sister)
13. Edgar Emerit Sánchez Maestre (paternal brother)

Victims would benefit as long as:

1. Prove with respect to Edgar José Sánchez: (i) the bond by affinity, that is to say that they prove that they were a spouse or permanent partner, or, (ii) by consanguinity, they prove their quality of son, daughter, brother or sister.
2. They have not been repaired within the framework of the decisions issued by the administrative contentious jurisdiction.
3. They are alive at the time of the signing of the Friendly Settlement Agreement.

⁵ Decision revoked by the Council of State: judgment of November 27, 2002. Speaker: María Elena Giraldo Gómez.

FOURTH PART: ACKNOWLEDGMENT OF RESPONSIBILITY

The Colombian State recognizes its responsibility for the violation of the right to equal protection of the law (Article 24), in relation to the right to judicial protection (Article 25) establish in the American Convention on Human Rights; both in relation to article 1.1 of the same instrument, due to the contradiction of the decisions issued by the contentious-administrative jurisdiction.

The foregoing, because the judicial authorities acted differently in the same case, granting reparation to two of Mr. Edgar José Sánchez's next of kin and denying it to the other family group.

FIFTH PART: REPARATION MEASURES AGREED BETWEEN THE PARTIES

The State, through its representative, undertakes to carry out the following reparation measures consisting of satisfaction, rehabilitation, and compensation measures, under the terms indicated below:

1) Satisfaction and Rehabilitation Measures.

The State of Colombia undertakes to carry out the following satisfaction and rehabilitation measures:

1.1. Act of redress: Colombia undertakes to carry out a public act of acknowledgment of responsibility and apology led by a high official of the State, with the participation of public authorities, the families of the victims and their representatives, which will be disseminated through the mass media. The act will be carried out in accordance with the acknowledgment of responsibility indicated in this Agreement.

1.2. Medical and psychosocial care:⁶

The Ministry of Health and Social Protection, in exercise of the powers described in Decree Law 4107 of 2011, will coordinate the health rehabilitation measures that constitute medical, psychological and psychosocial care through the General System of Social Security in Health and its members, which will guarantee adequate, opportune and prioritized treatment as long as necessary (according to medical criteria), in accordance with the legal provisions on the matter.

Additionally, if necessary and under the criteria of voluntariness and prioritization, the Ministry of Health and Social Protection will guarantee the victims the implementation of the rehabilitation measure understood from the components of comprehensive health care and psychosocial care, within the framework of the Program Psychosocial Care and Comprehensive Health for victims - PAPSIVI.

By virtue of the principle of territoriality, this measure of reparation will be implemented in the terms indicated before the beneficiaries who are in the national territory. For those who reside outside the country, its scope will only include psychosocial care.

Access to psychosocial care for people who are outside the national territory will be guaranteed through the virtual tools that may be applicable, after expressing their will and in accordance with the guidelines issued by the Ministry of Health and Social Protection in the matter.

⁶ Addendum to the friendly settlement agreement signed on July 14, 2020, case no. 13,642 Edgar José Sánchez Duarte and family, of December 9, 2020.

These measures will be implemented after the signing of the friendly settlement agreement".⁷

2. Financial aid:⁸

The Colombian State, through the Ministry of National Education and the Colombian Institute of Educational Credit and Technical Studies Abroad ICETEX, will grant financial assistance to Edgar José Sánchez Fuentes, son of Mr. Edgar José Sánchez Duarte, hereinafter the "beneficiary", who did not benefit from the reparation granted by the contentious-administrative jurisdiction, with the aim of financing an academic program of a technical, professional, technological, university or postgraduate level in a Higher Education Institution in Colombia recognized by the Ministry of National Education, in a classroom-base, distance-learning or virtual modality.

The economic aid will be granted once the National Agency for Legal Defense of the State or the Foreign Ministry of Colombia, carry out the pertinent procedures for the Ministry of Finance and Public Credit to distribute the resources.

The financial aid will cover the value of the tuition for the semesters of an academic program of a technical, professional, technological, university or postgraduate level, for a semester value up to eleven (11) SMMLV. [*Minimum Monthly Salary Legally Established in Spanish*]. Likewise, a biannual support resource⁹ will be granted to the beneficiary of two (2) SMMLV if the Higher Education Institution is in the municipality of their residence, or four (4) SMMLV if the Higher Education Institution is outside their municipality of residence.

Within the framework of university autonomy, the Ministry of National Education will restrain from managing or requesting before any Higher Education Institution, the admission or allocation of quotas in academic programs. The beneficiary must carry out the pertinent procedures to be admitted, ensuring their permanence in the institution of Higher Education, ensuring adequate academic performance.

The financial aid must be used within a term of no more than five (5) years from the signing of this agreement, or otherwise the State's management will be deemed to have been fulfilled."¹⁰

2. Economic reparations: The Ministry of National Defense undertakes to compensate the moral damages that will be proven by the violations recognized in this agreement through the mechanism established by Law 288 of 1996.

The mechanism in question will be activated once the present friendly settlement agreement is approved through the issuance of the report on article 49 of the ACHR, with the purpose of repairing the damages caused to the families of the victims duly legitimized, who prove the affectations generated on the occasion of the events related to this case.

Those who have already been repaired by the contentious-administrative jurisdiction will not benefit from this measure.

Read this agreement by the parties and being all aware of its scope and legal content, it was signed on July 14, 2020 in Bogotá D.C.

⁷ The foregoing, in accordance with the emails sent on November 9 and 17, 2020 by the Ministry of Health and Social Protection to the National Agency for Legal Defense of the State.

⁸ Addendum to the friendly settlement agreement signed on July 14, 2020, case no. 13,642 Edgar José Sánchez Duarte and family, of December 9, 2020.

⁹ The biannual support resource is understood as support for the beneficiary's permanence in the higher education program.

¹⁰ The foregoing, in accordance with the emails sent on November 13 and 24, 2020 by the Ministry of National Education to the National Agency for Legal Defense of the State.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

18. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, the purpose of this procedure is "to reach a friendly settlement on 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 virtue of the principle *pacta sunt servanda*, by which the States must comply in good faith with the obligations assumed in the treaties.¹¹ The Commission also would like to add that the procedure of a friendly settlement contemplated in the Convention allows the termination of individual cases in a non-contentious manner, and has shown, in cases involving various countries, to offer an important vehicle for settlement, which can be used by both parties.

19. The Inter-American Commission has closely followed the development of the friendly settlement reached in the instant case and highly values the efforts made by both parties during the negotiation of the agreement to reach this friendly settlement that is compatible with the object and purpose of the Convention.

20. The Commission observes that, on December 9, 2020, the parties signed an addendum to the friendly settlement agreement originally signed on July 14, 2020, for which it declares that it is an integral part of the agreement signed between the parties.

21. In accordance with the provisions of clause 1.3 of Satisfaction and Rehabilitation Measures of the friendly settlement agreement, the parties agreed to request the Commission to issue the report contemplated in Article 49 of the American Convention, once the agreement was signed.

22. Likewise, in accordance with the joint brief of the parties dated January 29, 2021, through which they requested the Commission to issue the homologation of the friendly settlement agreement contemplated in Article 49 of the American Convention, it is necessary to assess the compliance with the commitments established in this ASA.

23. The Inter-American Commission considers that the first (Concepts), second (Background), third (Beneficiaries) and fourth clauses (Acknowledgment of Responsibility) of the agreement are declarative in nature, so it is not appropriate to supervise its execution. In this regard, the Inter-American Commission values the fourth declarative clause, in which the Colombian State recognizes its international responsibility for the violation of the rights enshrined in articles 24 (right to equal protection of the law) and 25 (judicial guarantees) of the American Convention on Human Rights, in relation to Article 1.1 (obligation to respect) of the same instrument, due to the contradiction of the decisions issued by the contentious-administrative jurisdiction.

24. Regarding point 1.1 of the fifth clause related to the act of redress, as reported jointly by the parties, it was carried out on December 3, 2020, through a virtual platform in the context of the COVID 19 pandemic using different technological tools.¹² The parties reported the existence of "permanent communication between the State, the petitioners, and the victims, who agreed on each of the details for compliance with the measure, such as the date and time for the act, as well as the order of the day and the logistics required for its development". In this regard, the parties provided a copy of the invitations circulated for said event, in which the relatives of Edgar Sanchez Duarte and his representatives, and the National Agency for Legal Defense of the State participated.

¹¹ 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 on the parties and must be performed by them in good faith.

¹² See YouTube. Channel of the National Legal Defense Agency of the Colombian State (ANDJE). Act of acknowledgment of responsibility of the State in the case of Mr. Edgar José Sánchez Duarte. Broadcast live on December 3, 2020. Available electronically at: <https://www.youtube.com/watch?v=kCtNmJrSVuQ>

25. Likewise, the parties gave an account of the content of the agenda, which included an opening and installation of the event, the projection of the National Anthem and a musical piece chosen by the family in honor of Edgar Sanchez Duarte, and during which his biography was included. This was followed by the intervention of the victim's daughter and a representative of the Legal Option Collective Corporation of Lawyers [*Corporación Colectivo de Abogados Opción Jurídica*], and finally, the intervention of the Director of International Legal Defense of ANDJE, who apologized for the events that occurred and acknowledged the international responsibility of the State under the terms of the friendly settlement agreement, indicating the following:

The Colombian State strongly condemns and rejects the facts surrounding the death of Mr. Edgar José Sánchez Duarte, the lack of access to the administration of justice under conditions of equality and, with this, the difficulty of his next of kin to access effective reparation, as a consequence of the events mentioned, which I repeat should never have occurred.

We deeply regret the pain the entire family has endured. We regret that his parents, now deceased, have not been able to access justice and effective reparation measures in some way to compensate for the suffering caused by the death of Edgar José.

The Colombian State recognizes that the right of access to the administration of justice constitutes an essential prerequisite for the realization of fundamental rights, and stands as one of the pillars that supports the model of Social and Democratic State of Law.

[...]

We hope that with this act, which is part of the satisfaction measures agreed to in the Friendly Settlement Agreement signed with the next of kin of Mr. Edgar José Sánchez Duarte and the representatives of the victims on July 14, 2020, with the due knowledge of the Inter-American Commission on Human Rights, help fill the void left by the death of your loved one, claim the right to equality in relation to access to the administration of justice and accompany them in their healing process, to ease so many years of pain and hopelessness, allowing their memory to remain forever in their hearts.

We reiterate our conviction that the path of peace, forgiveness and reconciliation constitutes the only way out to confront the violence and to pay off the historical debt owed to you, the victims.

Today we praise the memory of Edgar José Sánchez Duarte as one of the many victims who has suffered from the violence in our country and who must be vindicated and remembered so that episodes like his are never repeated and are repudiated by all of society.

26. The parties also confirmed the dissemination of the act on the website of the National Legal Defense Agency and on various social networks. Likewise, it was published in other media, including the newspapers "*El Espectador*"¹³, "*El Meridiano*"¹⁴, and "*del Cesar*"¹⁵. In this regard, the Commission verified the publication of said text on the respective state web pages and received the photographic record and graphic video of the preparatory activities for the act of dignity and the ceremony, therefore, taking into account the above, and the information provided jointly by the parties, it is to be considered that point 1.1. of the friendly settlement agreement related to the act of redress has been fully complied with and it declares it so.

¹³ See *El Espectador* newspaper. The State's request for forgiveness for the crime of the optometrist Edgar José Sánchez. Published on December 3, 2020. Available at: <https://www.elespectador.com/noticias/judicial/el-pedido-de-perdon-del-estado-por-el-crimen-del-optometra-edgar-jose-sanchez/>

¹⁴ See *El Meridiano* newspaper. Today the State will publicly apologize for the crime of the optometrist Edgar José Sánchez Duarte. Published on December 3, 2020. Available at: <https://www.midiario.co/nacionales/estado-hoy-pedira-perdon-publicamente-por-crimen-del-optometra-edgar-jose-sanchez-duarte/>

¹⁵ See *Diario Del Cesar*. State apologized for the murder of the optometrist Sánchez. Published on December 6, 2020. Available at: <https://www.diariodelcesar.com/archivos/113194>

27. On the other hand, in relation to point 1.2 of the fifth clause related to the measure of medical and psychosocial care, as reported by the parties, a meeting was held between them on November 3, 2020 and the data of the beneficiaries was sent to the Ministry of Health and Social Protection on November 30, 2020, so that the Ministry of Health is currently making progress in complying with this measure. In this regard, taking into consideration the information provided by the parties, the Commission considers that this part of the agreement is still pending compliance and it declares it so.

28. In relation to the financial compensation clauses in favor of the 13 beneficiaries of the FSA, as well as the benefit of financial assistance for the victim's son, it is observed that said commitments would be enforceable after this approval, for which reason the Commission will not issue on these reparation measures in this instance.

29. Furthermore, the Commission considers that the rest of the content of the agreement is declarative in nature, so the IACHR would not be responsible for monitoring compliance.

V. CONCLUSIONS

1. Based on the foregoing considerations and by virtue of the procedure provided for 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, based on the respect for human rights, and compatible with the object and purpose of the American Convention.

2. By virtue of the considerations and conclusions set out in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the agreement signed by the parties on July 14, 2020, as well as the addendum to the FSA dated December 9, 2020.

2. To declare point 1.1 (act of redress) fully complied with, according to the analysis contained in this report.

3. To continue with the supervision of points 1.2 (medical and psychosocial care), 2 (Economic Assistance), 3 (Economic Reparations) of the fifth clause of the friendly settlement agreement, according to the analysis contained in this report. To this end, remind the parties of their commitment to periodically inform the IACHR on its compliance.

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

Approved by the Inter-American Commission on Human Rights on March 20, 2021. (Signed): Antonia Urrejola, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay, Esmeralda E. Arosemena Bernal de Troitiño, Edgar Stuardo Ralón Orellana and Joel Hernández García, Members of the Commission.