

TECHNICAL INFORMATION SHEET
CASE 12.007 POMPEYO CARLOS ANDRADE BENÍTEZ
REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 110/01
ARCHIVE
(ECUADOR)

I. SUMMARY OF THE CASE

Victim(s): Pompeyo Carlos Andrade Benítez

Petitioner(s): Norma García de Andrade, José Leonardo Obando Laaz, Pompeyo Carlos Andrade Benítez

State: Ecuador

Beginning of the negotiation date: April 2, 2001

FSA signature date: August 15, 2001

Report on Friendly Settlement Agreement No. 110/01, published on October 11, 2001

Estimated length of the negotiation phase: 6 months

Rapporteurship involved: Persons Deprived of Liberty

Topics: Persons deprived of liberty/detention center/detention conditions/police precincts/care and custody/investigation/prison system/torture/cruel, inhuman, and/or degrading treatment/arbitrary or illegal detention.

Facts: This case relates to the detention without a warrant of Pompeyo Carlos Andrade Benítez on September 18, 1996. After ten months of detention, the pretrial detention order was revoked and an order for dismissal was handed down; nevertheless, the victim continued to be held. According to the complaint, on September 18, 1996, Pompeyo Carlos Andrade Benítez was illegally deprived of his liberty, when he was detained without the constitutionally-required arrest warrant and held incommunicado for a week. The detention was carried out under the pretext of investigations by INTERPOL in Guayas, pursuant to a judicial assistance request from the Public Ministry, Office of the Special Prosecutor for Drug-related Crimes of Panama, Republic of Panama; the request was made under Article 7 of the 1988 Vienna Convention. The petitioner argues that during his detention, Mr. Andrade was not allowed to have the counsel of his attorney or see his family members and was confined to a small room with music playing full blast day and night. After five days of this psychological torture and incommunicado detention, a statement was taken from him, in disregard for proper procedure and without the presence of an attorney. The criminal proceedings were plagued by deficiencies and after 10 months of detention, the Third Criminal Law Judge of Guayas, by resolution of July 22, 1997, revoked the Mr. Andrade's pretrial detention order. On September 5, 1997, the Office of the Prosecutor issued a ruling in which it upheld the decision not to indict Mr. Andrade. Later, the same judge who had handed down the unlawful and arbitrary detention order, Judge Grace Campoverde, dismissed the charges against him, without prejudice. Despite that decision, however, Mr. Andrade was not released.

Rights alleged: The petitioners alleged violation of the rights to humane treatment (Article 5), personal liberty (Article 7), a fair trial (Article 8), and judicial protection (Article 25) of the American Convention on Human Rights, all in breach of the obligations provided for under Article 1(1) thereof, to the detriment of Mr. Pompeyo Carlos Andrade Benítez.

II. PROCEDURAL ACTIVITY

1. On August 15, 2001, the parties signed the friendly settlement agreement.
2. On October 11, 2001, the Commission approved the friendly settlement agreement by report No. 110/01.

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

Agreement clause	State of compliance
<p>III. STATE RESPONSIBILITY AND ACCEPTANCE</p> <p>The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mr. Pompeyo Carlos Andrade Benítez recognized in Article 8 (right to a fair trial), Article 7 (right to personal liberty), and Article 25 (right to judicial protection), in relation to the general obligation contained in Article 1(1) of the American Convention on Human Rights and other international instruments, considering that the violations were committed by State agents, which could not be disproved by the State, giving rise to State responsibility.</p> <p>Given the above, the Ecuadorian State accepts the facts in case N° 12.007 before the Inter-American Commission on Human Rights and undertakes the necessary reparative steps to compensate the victims, or their successors, for the damages caused by those violations.</p>	Declarative
<p>IV. COMPENSATION</p> <p>In view of the foregoing, the Ecuadorian State, through the Attorney General, as the sole judicial representative of the Ecuadorian State, pursuant to Article 215 of the Constitution of Ecuador, enacted in Official Register N° 1 and in force since August 11, 1998, is awarding Mr. Pompeyo Carlos Andrade Benítez a one-time compensatory payment in the amount of twenty thousand US dollars (US\$ 20,000), to be paid from the National Budget. [...].</p>	Total¹
<p>V. PUNISHMENT OF THE PERSONS RESPONSIBLE</p> <p>The Ecuadorian State pledges to bring civil and criminal proceedings and sanctions against those persons who are alleged to have participated in the performance of State functions or under the color of public authority. The Office of the Attorney General pledges to encourage the State Attorney General, judicial organs, and public agencies or private institutions to contribute to the determination of the liability of those persons. If admissible, the prosecution will be subject to the laws of the Ecuadorian State.</p>	Noncompliance²

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission noted that the petitioning party did not submit updated information since October 1, 2017. Additionally, the Commission noted that, since the publication of

¹ IACHR, Report No. 110/01, Case 12.007, Friendly Settlement, Pompeyo Carlos Andrade Benítez, Ecuador, October 11, 2001.

² See IACHR, Annual Report 2021, Chapter II, Section F. Negotiation and implementation of friendly settlement agreements. Available at: <http://www.oas.org/en/iachr/docs/annual/2021/Chapters/IA2021cap2-en.pdf>

the FSA, the Commission has followed up on compliance with the clauses agreed by the parties in Chapter II G of the Annual Report, submitted to the OAS General Assembly. As part of this follow-up, the petitioning party was requested updated information each year, granting them a reasonable period of time to submit the information they deem necessary.

4. Based on the foregoing and taking into consideration that the petitioning party did not submit the comprehensive report requested by the IACHR on July 28, 2021, together with the warning of the possible filing of the case, and observing the unjustified procedural inactivity of the petitioning party, which constitutes a serious indication of disinterest in the follow-up of the FSA, the Commission decided to cease monitoring compliance with the friendly settlement agreement and to archive the case in accordance with Articles 42 and 48 of its Rules of Procedure, noting in its Annual Report to the General Assembly of the Organization of American States that the measure of justice was not complied with by the Ecuadorian State and that the level of compliance with the agreement is partial.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State paid financial compensation, as set forth under the agreement.