

OEA/Ser.L/V/II.  
Doc. 44  
20 March 2021  
Original: Spanish

**REPORT No. 40/21**  
**CASE 11.562**  
FRIENDLY SETTLEMENT REPORT

DIXIE MIGUEL URBINA ROSALES  
HONDURAS

Approved electronically by the Commission on March 20, 2021.

**Cite as:** IACHR, Report No. 40/21, Case 11.562. Friendly Settlement. Dixie Miguel Urbina Rosales, Honduras. March 20, 2021.

**REPORT No. 40/21**  
**CASE 11.562**  
**FRIENDLY SETTLEMENT**  
**DIXIE MIGUEL URBINA ROSALES**  
**HONDURAS**  
**MARCH 20, 2021**

**I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS**

1. On November 17, 1995, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the IACHR”) received a petition presented by the Committee of The Family Members of Disappeared Detainees in Honduras “COFADEH” (“hereinafter the petitioners ”), in which the international responsibility of the Republic of Honduras (“ hereinafter “the State”, “the State of Honduras” or the “Honduran State”) was alleged for the forced disappearance up to this date of Dixie Miguel Urbina Rosales, who was allegedly arrested on October 22, 1995, by a patrol of the Public Security Force (FUSEP). The petitioners have not been able to find his whereabouts and those responsible for these actions so they could be identified, tried, and punished.

2. The petitioner party alleged the violation of the rights established in articles 4 (right to life), article 5 (right to humane treatment), article 8 (judicial guarantees) and article 25 (judicial protection guarantees) of the American Convention on Human Rights (hereinafter the “American Convention” or the “Convention”). They also alleged the violation of the general obligation of the State to respect the rights protected in the Convention in accordance with Article 1 (1) thereof.

3. On October 9, 2002, the IACHR issued an Admissibility Report No. 46/02 on case 11,562 Dixie Miguel Urbina Rosales, in which it decided to declare the case admissible on the alleged violation of Articles 4 (right to life), 5 (right to personal integrity), 7 (right to personal liberty), 8 (judicial guarantees) and 25 (guarantees of judicial protection) in accordance with Article 1.1 of the American Convention.

4. On March 17, 2017, the parties signed a friendly settlement agreement to put an end to the dispute through an alternative way to the contentious proceedings. Subsequently, on October 2, 2020, by notice to the IACHR, the petitioner party expressed its willingness to move forward with the approval of the friendly settlement agreement, taking into consideration a partial and acceptable compliance with the commitments assumed in the friendly settlement agreement by the State, requesting the supervision of the commitments pending fulfillment.

5. 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 petitioners is made and the friendly settlement agreement signed on March 17, 2017 between the petitioners and representatives of the Honduran State is transcribed. 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 is agreed.

**II. THE FACTS ALLEGED**

6. The petitioners alleged that on October 22, 1995, a patrol of the Public Security Force (hereinafter the “FUSEP”) detained Abelardo Acosta Jiménez and Dixie Miguel Urbina Rosales in a barber shop, taking them to the Posting of this force in the La Granja neighborhood. The petitioners clarified that, given that Dixie carried a birth certificate with the name of Ramón Antonio Ortega Vázquez, his detention would have been registered under that name, and that while Mr. Acosta Jiménez would have been released on the same day, Mr. Dixie Urbina remained in detention, and was later transferred to the Seventh Battalion of the Public Security Force (FUSEP).

7. According to what is alleged by the petitioners, on October 23 during the morning, Dixie Urbina was taken from prison cell number 3, where he was being held together with other people, and since

then his whereabouts have been unknown. On the same day, her sister Wendy Dayanara Urbina Rosales and her husband, Oscar Reniery Rosales, reportedly went to the Seventh Command of the FUSEP to investigate his whereabouts. At said place, they were informed that he had been released because of a "pardon" order around 7:00 a.m. A witnesses who would have met Dixie Urbina during his stay in cell number 3 of the Seventh Battalion, allegedly indicated that he was not released, but had actually disappeared from the Battalion. Likewise, as indicated by the petitioners, Mr. Abelardo Acosta Jiménez, who had been initially detained with the victim, also went to the Central Penitentiary to inquire into the situation of Dixie Urbina, and the officers reported, "There is no Dixie in here".

8. The petitioners indicated that the State had created an "Investigation Commission to learn all the internal details and subsequently report on the alleged disappearance of the Honduran citizen Dixie Miguel Urbina Rosales, alias Ramón Antonio Ortega Vásquez" (hereinafter "the Investigation Commission"), which concluded that the arrest of Urbina Rosales was due to Mr. Adamis Oyuela Carranza denouncing Dixie Urbina and Abelardo Acosta Jiménez "for insulting him at the barbershop in a threatening manner." In this regard, the petitioners alleged that the conclusion of the Investigation Commission does not correspond to the statement made by Mr. Oyuela before the First Instance Second Criminal Court, who mentioned that he had never denounced Dixie Urbina Rosales or Abelardo Acosta, and that he had simply limited himself to cutting their hair and, in fact he even had testified about the arbitrary detention of Dixie Urbina by several policemen in a patrol car and without the presentation of any arrest warrant.

9. The petitioners indicated that, on October 29, 1995, Mr. Miguel Urbina, father of Dixie Urbina Rosales, filed a complaint with the Criminal Investigation Directorate (DIC) for the disappearance of his son. Subsequently, on November 1, 1995, the victim's father would have filed an appeal for personal exhibition or *habeas corpus* against the Seventh Command of the Public Security Force (FUSEP), chaired by Colonel David Abraham Mendoza, legal order that was executed on November 3, 1995, by the Public Defense Executing Judge, without positive results. Likewise, on November 2, 1995, the victim's father filed a criminal complaint with the Second Criminal Court of Comayagua against a lieutenant, a Colonel, a Sergeant, and other agents and officers of the Seventh Police Command who participated in the arrest and disappearance of his son. Subsequently, on November 9 of the same year, the victim's father filed a second appeal for personal exhibition or *habeas corpus* against the Commander of the Cobras Battalion and on November 16, he filed another complaint with the Public Ministry. On November 28, 1995, the victim's father filed a third *habeas corpus* appeal before the Court of Appeals of La Ceiba, Atlántica, and on March 14, 1996, the Committee of The Family Members of Disappeared Detainees in Honduras "COFADEH" filed another appeal before the First Court of Appeals of San Pedro Sula, Cortés. As indicated by the petitioners, all of the actions were without positive results.

10. According to the petitioners, on January 23, 1996, the First Instance Criminal Court conducted an inspection at the Seventh Command of the FUSEP, in which it was established that, in the records book of the Seventh Command, on page 158, it was stated that Dixie Urbina Rosales had been admitted under the name of Ramón Antonio Ortega, supposedly for being in the company of the young Abelardo Rosales, from whom a Russian manufactured weapon was confiscated (a Te.Te. gun caliber 27) and that said the arrest was made at the Charly Barber Shop, in the Villa Adela neighborhood, Comayagua, by agent Victoriano Centeno, according to an arrest warrant issued by Lieutenant Oscar Francisco Andrade Flores, supposedly in response to the complaint filed by Mr. Adamis Oyuela against Dixie, for the crime of stealing sound equipment.

11. According to the petitioners, the last action recorded in the legal files is the appearance of the Prosecutor Suyapa Vásquez, a member of the Special Prosecutor for Human Rights, who on November 15, 1996, requested the First Instance Second Criminal Court, to send a judicial communication addressed to the First Criminal Court of Choluteca, so that a statement could be taken again from the witness Abelardo Acosta Jiménez, who was detained in the Choluteca Penal Center. In this regard, as alleged by the petitioners, said testimony was collected on December 11, 1996, without further action to identify and punish those responsible and to find the victim's whereabouts.

### **III. FRIENDLY SETTLEMENT**

12. On March 17, 2017, the parties signed a friendly settlement agreement, which establishes the following:

**DIXIE MIGUEL URBINA ROSALES  
CASE 11,562 HONDURAS  
FRIENDLY SETTLEMENT AGREEMENT**

#### **PRESENTATION**

This document contains the proposed terms for a friendly settlement agreement (hereinafter, “terms of the agreement”, within the framework of the process followed before the Inter-American Commission on Human Rights (hereinafter, “IACHR” or “Commission”) regarding of the case of DIXIE MIGUEL URBINA ROSALES (IACHR 11.562), which is celebrated, on one side, by the State of Honduras (hereinafter “Honduran State”, “Honduras” or “State”), duly represented by the lawyer ABRAHAM ALVARENGA URBINA, in his status as Attorney General of the Republic, appointed by Legislative Decree No. 392-2013 dated January 20, 2014, duly authorized for this act by Executive Agreement No. 001-2007 issued by the Constitutional President of the Republic on February 2007, published in Gazette No. 31,283 dated April 20, 2007, in which it appears that he was conferred the faculties to compromise; and on the other side, Mr. Miguel Antonio Urbina Ortega in his capacity as father of Dixie Miguel Urbina Rosales, as well as the Center for Justice and International Law (CEJIL)<sup>1</sup>, and by the Director of the Program for Central America and Mexico, ANA MARCIA AGUILUZ SOTO, and the Committee of the Family Members of the Detained-Disappeared in Honduras (COFADEH) duly represented by BERTHA OLIVA DE NATIVI in her capacity as General Coordinator; who appear in their faculties as representatives of the interests of the victims in accordance with the Special Power of attorney for Lawsuits No. 693 dated November 18, 2002, granted in the city of Tegucigalpa Municipality of the Central District before the offices of the Notary José de la C Núñez Velásquez - This agreement is signed with the knowledge of the Inter-American Commission on Human Rights, of (sic).

#### **FIRST: BACKGROUND**

On November 17, 1995, a petition was presented to the Inter-American Commission on Human Rights (IACHR) against the State of Honduras denouncing the violation of the rights recognized in Articles 4, 5, 7, 8 (1), 25 and 1 (1) of the American Convention on Human Rights to the detriment of Dixie Miguel Urbina Rosales and his next of kin. On October 9, 2002, through Report No. 46/02, the Commission declared the petition admissible on the grounds that it considered a possible violation of several of the rights protected by the convention, thus ordering to continue with the study on the merits of the matter.

On May 19, 2004, the State of Honduras, in response to the communication sent by the IACHR regarding the proposal for a Friendly Settlement presented by the victims' representatives on April 21, 2004, expressed its willingness to reach a Friendly Settlement agreement on the case, indicating the terms on which this friendly settlement would be based.

On November 4, 2004, the then President of the Republic of Honduras, Mr. Ricardo Maduro, acknowledged in a public act held at the Presidential House, the responsibility of the Honduran State for the events related to the forced disappearance of Dixie Miguel Urbina Rosales, asking her family for pardon.

---

<sup>1</sup>On January 31, 2019, the Center for Defense and International Law (CEJIL) and the Committee of The Family Members of the Detained and Disappeared of Honduras (COFADEH), informed the Commission about the cessation of CEJIL's representation as a petitioning organization in this case.

On February 10, 2005, the representatives presented to the IACHR a detailed report on the Friendly Settlement proposal, which was forwarded to the Honduran State by means of an official letter dated March 9, 2005. On June 2, 2005, the State of Honduras sent its response to the proposal, reiterating the points accepted to carry it out.

On November 24, 2014, the Commission was informed of the beginning of a new stage of dialogue. Subsequently, by means of an official letter dated December 8, 2014, the Office of the Attorney General of the Republic of Honduras sent a "Draft of the Friendly Settlement" to the representatives.

## **SECOND: GENERALITIES**

As a consequence of the will expressed by the parties to reach a friendly solution in the case at hand, the State undertakes to comply with this Agreement in accordance with the following parameters:

- a. The scope: the facts and human rights violations of Mr. Dixie Miguel Urbina Rosales and his next of kin, related to the forced disappearance of Mr. Dixie Miguel Urbina Rosales, which occurred on October 23, 1995.
- b. Nature: To settle through a friendly way a violation of rights protected by the American Convention, for which the State of Honduras is responsible, in order to provide comprehensive reparations to the victims in this case.
- c. The modality: A friendly settlement regulated by Articles 48.1 (f) and 49 of the Convention and Article 40 of the IACHR Rules of Procedure.
- d. The determination of the beneficiaries: By express agreement between the parties, it includes the father, adoptive mother, grandmother, life partner, daughter and sisters of Dixie Miguel Urbina Rosales, who will be given further details.
- e. The pecuniary: It was agreed to establish a fixed amount as a compensation and a fixed amount for expenses and legal fees.

## **THIRD: JURISDICTION OF THE INTER-AMERICAN SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS**

Honduras has been a State Party to the American Convention since August 9, 1977, and recognized the contentious jurisdiction of the Inter-American Court of Human Rights (hereinafter "I / A Court HR") on September 9, 1981.

## **FOURTH: AGREEMENT BETWEEN THE PARTIES**

Within the framework of the friendly settlement process carried out between the petitioners and the Honduran State, with the intervention of the IACHR, the parties have managed to reach a satisfactory agreement, based on the recognition of the State's responsibility for acts that violate human rights to the detriment of Mr. Dixie Miguel Urbina Rosales and his next of kin (IACHR Case No. 11.562).

Regarding the pecuniary part, the State of Honduras undertakes to verify the payment through the Finance Office of the Secretary of State, which will initiate the pertinent procedures as soon as this document is presented to it after the corresponding subscription of the parties, having to conclude the respective payment procedures in the course of a year.

This Agreement will be managed under the responsibility of the corresponding entities or Secretaries of State. The Office of the Attorney General of the Republic will coordinate and supervise the actions necessary for the total compliance of this Agreement.

For their part, COFADEH and CEJIL undertake to monitor the implementation stages of this Agreement, and to provide their collaboration so that it can become effective.

## **FIFTH: SATISFACTION MEASURES**

The terms and contents of this Friendly Settlement are developed considering international standards on human rights, widely recognized by the organs of the Inter-American System for the protection of Human Rights, by virtue of which, both the victim and his family, have the right to restore their Status Quo prior to the time of the events, and, if this is not possible, the right to a reparation in another way that, in good faith and in accordance with reasonable criteria, replaces restitution in species.

In accordance with the foregoing, through this document, the State of Honduras, through the acknowledgment made by the then President of the Republic, Ricardo Maduro, on November 4, 2004, in relation to the forced disappearance of Mr. Dixie Miguel Urbina Rosales, undertakes to:

### **1. INVESTIGATION OF THE FACTS**

The State of Honduras compromises to continue with the investigation of the forced disappearance of Mr. Dixie Miguel Urbina Rosales, including the location of his remains. The respective investigation will be carried out under the responsibility of the Security Office of the Secretary of State, through the Investigative Unit of the corresponding Police Directorate responsible for cases related to Human Rights, and the Public Ministry in its character of public officer that exercises this criminal persecution actions, as well as the technical and legal direction of the investigation of any illegal acts.

Through the aforementioned bodies, the Honduran State undertakes to develop and complete an impartial, total and effective judicial investigation, expeditiously, in order to establish the circumstances in which Mr. Dixie Miguel Urbina Rosales disappeared, as well as to locate his remains and identify all the people who participated in the different levels of the decision-making and execution of his disappearance, to proceed to their respective prosecutions and apply the sanctions that may correspond. The reports on the progress of the referred investigations will be presented every six months.

Likewise, the Honduran State undertakes to include, within the investigation proceedings, the performance of an analysis of the evidence that is already in the record, as well as the actions carried out so far, in order to raise a new research plan that takes care of the necessary corrections that must be attended according to the results of the analysis, and execute the plan according to the deadlines that are determined therein. Said plan of investigative actions must be delivered within three months after signing the Friendly Settlement.

### **2. IMPLEMENTATION OF A REGISTRY OF DETAINEES**

The State of Honduras undertakes to create and implement a Registry of Detainees or, where appropriate, adapt existing ones in the terms established in the Judgment issued by the Inter-American Court in the case of Juan Humberto Sánchez v. Honduras, of June 7, 2003<sup>2</sup>, the Minimum Rules for the Treatment of Prisoners, adopted by the first United Nations Congress

---

<sup>2</sup> Court IHR. Case of Juan Humberto Sánchez v. Honduras. Interpretation of the Judgment of Preliminary Objection, Merits and reparations. Judgment of November 26, 2003. Series C No. 102. Para. 189

on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1995; as well as the Set of Principles for the Protection of all Persons subject to any form of detention or imprisonment, adopted by the General Assembly in its resolution 43/173, of December 9, 1988; and other applicable international instruments.

By virtue of this, at a minimum, the aforementioned Registry must allow controlling the legality of the arrests made by any manifestation of the public authority empowered to do so. For this purpose, and in accordance with the aforementioned international instruments, the Detainee Registry must include the identification of the detainees, reason for detention, competent authority, day and time of entry and release, and information on the arrest warrant.

The information contained in the Registry will be accessible to persons deprived of liberty, their families, their representative and the competent authorities.

The State undertakes to present semiannual reports to the Inter-American Commission, as of the signing of this agreement, regarding progress in the implementation of the Detainee Registry.

### **3. DISSEMINATION OF PUBLIC ACKNOWLEDGMENT OF RESPONSABILITY**

The State of Honduras undertakes to publish for one time only a summary of the Human Rights violation acts committed to the detriment of Dixie Miguel Urbina Rosales, along with the text of the public acknowledgment of responsibility made on November 4, 2004, by the then President of the Republic of Honduras, Mr. Ricardo Maduro, in the Official Gazette *La Gaceta*, and in the newspaper *La Tribuna* published in Tegucigalpa.

### **4. CONTRIBUTION OF THE STATE TO THE MEMORIAL BUILDING: HOME AGAINST FORGETFULNESS**

The relatives of the detained and disappeared victims in Honduras, grouped in COFADEH, built a physical space to recover historical memory and reinforce the fight against impunity, which was baptized as "The Home Against Forgetfulness."

For the purposes of this agreement, the State of Honduras undertakes to contribute economically an amount of Forty Thousand Dollars of the United States of America (\$ 40,000.00), for the construction of a new module on the property of "*El Hogar Contra El Olvido*", which will be called "Hall of reflection, analysis and training." COFADEH will have the obligation to inform the State of Honduras of the execution of the construction once it is completed. This sum will be effective within the term of one year.

### **5. PHYSICAL AND PSYCHOLOGICAL REHABILITATION MEASURES**

The State of Honduras undertakes to provide comprehensive medical, psychiatric and psychological care to the families of the victims, free of charge and through its public health institutions when the victims deem it necessary.

To this end, the Honduran State undertakes to provide, free of charge and through public health officials, the adequate treatment required by said persons, after a medical evaluation and issuance of the consent of the victim's family members for this purpose.

When providing the required treatment, be it medical, psychiatric or psychological, the particular circumstances and needs of each of the family members must be considered.

The Honduran State undertakes to initiate the first medical evaluation in one month after the signing of this agreement, in accordance with the victim's family members through the corresponding entity of the Ministry of Health. The service will be provided until it is necessary, or until the victims wish it so.

## **SIXTH: ECONOMIC REPAIR**

### **1.-AMOUNTS<sup>3</sup>**

The State of Honduras recognizes the right of the relatives of Mr. Dixie Miguel Urbina Rosales to receive financial compensation for the violations suffered on the occasion of his forced disappearance. For the definition of the corresponding amounts, the standards developed in the matter by the organs of the Inter-American Human Rights System have been considered.

#### **Moral damage**

The State of Honduras, and the victims, recognize and accept, respectively, as value to compensate the next of kin for non-pecuniary damage, the sum of [XXX] that will be distributed as follows:

1.	Miguel Antonio Urbina Ortega (father)	[XXX]
2.	Hilda Esperanza Gáelas Castro, (stepmother)	[XXX]
3.	Juana Olimpia Urbina Soto, (grandmother)	[XXX]
4.	Lesny Mitchell Urbina Elvir, (daughter)	[XXX]
5.	Denia Aracely Elvir Valladares, (life partner)	[XXX]
6.	Wendy Dayanara Urbina Rosales, (sister)	[XXX]
7.	Soery Argentina Urbina Rosales, (sister)	[XXX]
	<b>TOTAL</b>	<b>[XXX]</b>

In the case of compensation for non-pecuniary damage to Mr. Dixie Miguel Urbina Rosales (victim), the next of kin and their representatives have estimated equitable the amount of [XXX] that must be delivered to his daughter Lesny Mitchell Urbina Elvir.

#### **Material damage**

A single amount of [XXX] is established as pecuniary damage (loss of earnings), to be distributed equitably among the following beneficiaries.

1.	Miguel Antonio Urbina Ortega (father)	[XXX]
2.	Hilda Esperanza Gáelas Castro, (stepmother)	[XXX]
3.	Juana Olimpia Urbina Soto, (grandmother)	[XXX]
4.	Dixie Miguel Urbina Rosales which should be given to Lesny Mitchell Urbina Elvir (daughter)	[XXX]
5.	Denia Aracely Elvir Valladares, (life partner)	[XXX]
6.	Wendy Dayanara Urbina Rosales, (sister)	[XXX]
7.	Soery Argentina Urbina Rosales, (sister)	[XXX]
	<b>TOTAL</b>	<b>[XXX]</b>

## **LEGAL FEES AND EXPENSES**

1. The State of Honduras recognizes and will pay COFADEH, and the victim's relatives, the amount of [XXX] for expenses and legal costs, both in the domestic and in the international proceedings. This amount will be distributed as follows:

<sup>3</sup> Considering the provisions of clause number eight of this agreement, the Commission reserves the amounts agreed for financial reparation.



	COFADEH	[XXX]
	Relatives of the victim	[XXX]
2.	CEJIL renounced to the perception of any legal fees	

**FORMS OF PAYMENT OF THE REPAIRMENT MESURES AND LEGAL FEES**

The aforementioned values will be made effective through the Finance Office of the Secretary of State, in accordance with the General Budget of the Republic of Honduras establish for the Fiscal Year of the year 2017, becoming (Sic) comply within the term of 1 year after the signing of this agreement.

For such purposes, the aforementioned beneficiaries must prove to the Attorney General's Office, with the respective document, the degree of kinship that united them with the victim.

The amounts provided fully include all the damages caused to the victim and their next of kin, and therefore with the payment thereof, the State of Honduras is completely released from any compensation for the events, as well as any subsequent claim. Likewise, it is agreed that both judicially and internationally the responsibility of the State of Honduras for any compensation is extinguished. In this sense, if any other person eventually appears claiming the right to compensation for the disappearance of Mr. Dixie Miguel Urbina Rosales, it must be recognized and paid directly by the beneficiaries.

**SEVENTH: COMPLIANCE SUPERVISION**

Based on Article 40 of the Rules of Procedure of the IACHR, the mechanism for verifying compliance with this Agreement will be implemented by the IACHR, corresponding to the Office of the Attorney General of the Republic to forward the information required by the Inter-American Commission.

The victims and their representatives may present information to the Commission at the request of said international instance, or if they consider it necessary at the time they determine it.

In addition to the procedures established by the IACHR for compliance with this Agreement, the parties undertake, in good faith, to prepare a schedule of activities for its implementation within one month after its signature. In addition to the foregoing, for monitoring purposes, follow-up meetings will be held between the Office of the Attorney General of the Republic and the petitioners, the frequency of which will be set in the aforementioned schedule.

Both parties request the IACHR that within a period of twelve months from the signing of this agreement, the progress in compliance with the points agreed upon be evaluated. For such purposes, thirty days before the expiration of the aforementioned term, or the one determined by the IACHR, the State will provide a related report on compliance with the points referred to in this agreement, which will later be forwarded to the petitioning organizations and to the Commission.

By virtue of this document, the parties request that the Commission, in accordance with the provisions of Article 49 of the American Convention, issue the corresponding friendly settlement report, solely and exclusively after the State of Honduras complies with all the clauses of the agreement, which will be valued based on information provided by both parties.

**EIGHTH: CONFIDENTIALITY**

The parties undertake to keep strict confidentiality of the amounts corresponding to the financial compensation and the personal data of the victims.

#### **NINTH: VALIDITY DATE**

This agreement enters into effect from the day it is signed, and will conclude until there is total compliance with the commitments assumed therein.

#### **TENTH: INTERPRETATION OF THE AGREEMENT**

In case of doubt or controversy about the interpretation of this agreement, the parties will submit it to the IACHR to resolve said circumstance.

#### **ELEVENTH: MODIFICATIONS**

This agreement may be modified, added or revoked by mutual agreement of the parties; these must be recorded in writing and become effective from its signature.

The parties express their full accord and satisfaction with the agreements reached and set out in this document.

Washington D.C and Tegucigalpa, M.D.C., March 17, 2017.

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

13. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, this procedure has the aim “reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.” Agreeing to pursue this procedure expresses the good faith of the State as regards carrying out the purposes and objectives of the Convention in keeping with the principle of *pacta sunt servanda*, by which states should carry out their treaty obligations in good faith.<sup>4</sup> It also reiterates that the friendly settlement procedure provided for in the Convention makes it possible to conclude individual cases in a non-contentious manner, and in cases relating to several countries, has proven to offer an important vehicle for settlement that can be used by both parties.

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

15. Considering the Resolution 3/20 of the IACHR on differentiated actions to address the procedural delay in friendly settlement procedures, from the signing of the agreement, the parties will have two years to move towards its approval by the Inter-American Commission on Human Rights, except for exceptions duly qualified by the Commission. In relation to those matters with a signed agreement and without approval in which the foreseen period has expired, the Commission will determine its course of action taking into special consideration the duration of the compliance phase, the age of the petition and the existence of fluid dialogues between the parties and/or substantial progress in this phase. In said Resolution, the Commission established that when assessing the appropriateness of the approval of the agreement, or the closing 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 total compliance clause prior to homologation; b) the nature of the agreed measures; c) the degree of compliance with it, and in particular the substantial execution of the commitments assumed; d) the will of the parties in the agreement or subsequent written communication; e) its suitability with human rights standards and f) the observance of the will of the State to comply with the commitments assumed in the friendly settlement agreement, among other elements<sup>5</sup>.

---

<sup>4</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.”

<sup>5</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.

16. Regarding the content of the text of the agreement, the Commission observes that, as established in the seventh point of the agreement on the monitoring mechanism, the parties asked the IACHR for ratification of the agreement and its approval when all the obligations set forth are fulfilled. In this regard, considering the notification of Resolution 3/20 to the petitioner party, on October 2, 2020, said party asked the Commission to advance on the approval of the agreement, noting on record the existence of partial and acceptable compliance of the friendly settlement, and requested that the sections of the FSA related to justice measures, and the creation and implementation of a National Registry of Detainees, and the measure of psychological rehabilitation continued to be publicly supervised until full compliance.

17. Regarding the nature of the agreed measures, the Commission observes that the agreement establishes measures of instantaneous execution such as the acknowledgment of responsibility, the holding of a public act of acknowledgment of responsibility, the State's contribution to the memorial building, the payment of financial compensation to the victims and the payment of legal fees and expenses. Likewise, it is observed the inclusion of clauses of successive execution such as the continuation of the investigation into the facts of the case, the implementation of the registry of detainees and the medical and psychological rehabilitation.

18. In relation to the degree of compliance with the agreement, the Commission below assesses the progress made in relation to each of the clauses.

19. Regarding point 1 of the fifth clause, referring to the investigation of the facts related to the disappearance of Mr. Dixie Urbina, including the location of his remains, on February 17, 2019, the State reported that it began the corresponding investigation process with the request for a list of corpse surveys and autopsies between the years 1995-1996, without any record of Dixie Miguel Urbina being found. Likewise, the photographic register and birth certificate documents were requested in order to identify and determine the age of the victim at the time of his arrest. In addition, Dixie Urbina's genealogical album was requested, with no response to this date. On the other hand, records were requested from the immigration authorities and it was possible to identify migratory movements in 2006 and 2008 in the case of his alias Ramón Ortega, however, no records were found under the name of Dixie Urbina. Likewise, a copy of the register books and list of detainees of the Seventh Police Command were requested, in the period between September 1995 and January 1996, without obtaining a response to this date. Finally, the State indicated that the National Police was notified in order to inquire whether three officers allegedly involved are active in the public force and their affiliation records with the social security system, without obtaining a response to this date.

20. In this regard, on February 28, 2019, the petitioners indicated that, although the activities outlined by the State are pertinent, they do not make it possible to establish whether they obey a systematized plan, or whether the case has been assigned to an investigation unit or to the Forced Disappearance Unit of the Specialized Human Rights Prosecutor's Office. Likewise, the petitioners considered that the procedures in forensic medicine for the identification of corpses that could correspond to Dixie Miguel Urbina were insufficient and indicated on June 5, 2019, that the diligence mentioned by the State on requesting to the Directorate of Forensic Medicine the list of cadaveric surveys was limited, since there was not included any collection of fingerprints, dental records, anthropological or genetic (DNA) tests that should have been included, or an anthropometric study of the unidentified corpses in that period, in order to compare them with Dixie Miguel Urbina Rosales's genetic data, taking into consideration the age of the victim to reduce the sample.

21. On February 5, 2020, the State confirmed that, in response to what was indicated by the petitioners, an official letter was sent to the Public Ministry, requesting to submit a detailed report of the most recent procedures and actions taken and also to inform the petition made by the victim's relatives that a prosecutor is appointed to permanently monitor the investigation of the case. It also indicated the coordination efforts to hold a meeting with the Special Prosecutor for Crimes against Life (FEDCV) of the Public Ministry, the petitioners and the PGR, to follow up on the investigations of the case.

22. On September 2, 2020, within the framework of a working meeting facilitated by the Commission, the State undertook to prepare a work schedule and submit updated reports to the petitioners

every four months. In this regard, the petitioning party reiterated the foregoing, requesting the Commission to keep this measure under supervision.

23. Subsequently, on September 21, 2020, the State reported that it had requested the Criminal Courts of the Judicial Section of Tegucigalpa, arrest warrants against the three alleged perpetrators of the events, also requesting their migratory movements, birth certificates, photographic and fingerprint registers, death certificates and their administrative status in the officers' Department of the National Police. On the other hand, the Directorate of Forensic Medicine was requested to report on the practice of fingerprint, dental, anthropological, genetic or anthropometric studies on unidentified corpses, as requested by the petitioners. Faced with these proceedings, the State received information of one of the officers and his/her police postings and the denial of death of the three persons involved, and assured that it continues to advance with the investigations to make the arrest warrants effective. Therefore, taking into consideration the information elements provided by the parties, the Commission considers that this part of the agreement has a partial level of compliance and so it declares it so. In this regard, the Commission urges the Honduran State to prepare a clear, precise, and objective plan of action to identify and sanction all those responsible for the events that gave rise to the forced disappearance of Dixie Miguel Urbina Rosales.

24. Regarding point 2 of the fifth clause, related to the implementation of the detainee registry, as reported by the State on June 14, 2019, it made a request to the Peruvian embassy to obtain technical assistance in the revision and reformulation of the national registry of detainees in Honduras. In this regard, the State indicated that the cooperation project with the Mexican Agency for International Development Cooperation (AMEXCID) is being developed and that a bilateral working meeting was held with AMEXCID and the National Research Council (CNI) where they refined some aspects for the implementation of the Project "Reformulation of the National Registry of Detentions of Honduras" that is part of the XII Technical Cooperation Program between Mexico and Honduras 2019-2021.

25. On September 21, 2020, the State indicated that it would hold two additional working meetings, noting that it has the first institutional liaisons designated by the competent authorities in the matter to follow up on the cooperation project. The first working meeting was held on September 11, 2020 with the petitioners (COFADEH) to make a formal presentation of the technical cooperation project, and in general, the meeting had as objectives the presentation of the cooperation project, observations by the parties of those present and presentation of the work schedule to advance the pending measures. According to the State, at that meeting the objectives, topics of interest, beneficiaries, duration, parties involved, background information, and procedures carried out in the cooperation project were presented.

26. On the other hand, the second working meeting held on September 17, 2020, would have involved the institutional liaisons of Honduras to make a general presentation of the technical cooperation project and within that framework it was agreed to carry out internal procedures within the institutions to request more personnel as institutional liaisons, since to date there are initially four institutional liaisons designated by the highest authorities of the Public Ministry (MP), Secretary of State in the Security Office (SEDS) and Secretary of State in the Office of National Defense (SEDENA), to monitor the development and execution of the cooperation project.

27. On October 3, 2020, the petitioners confirmed the progress in bilateral dialogues and indicated that, according to the projection provided by the State, the plan to achieve the detainee registry would be subject to 12 months of work, between on July 22, 2020 and July 22, 2021, the date by which it is expected to be finalized. The petitioners also indicated that the construction project in its first phase includes indicators and products to assess progress in its execution and, at the same time, requested that the obligation to create a registry of detainees be declared unfulfilled and urge the State to comply with its formulation and completion within a period of one year from July 22, 2020. Therefore, taking into consideration the information elements provided by the parties, the Commission considers that this part of the agreement is pending compliance and so it declares it so.

28. Regarding point 3 of the fifth clause on the dissemination of the public acknowledgment of responsibility, the State presented the publications of December 13 and 20, 2017, in the Official Gazette and La

Tribuna, both of which have a widely national circulation. The petitioners, for their part, confirmed in their brief of June 5, 2019, compliance with this part of the agreement and valued the fact that the State had consulted with the petitioning party on the art, space, and pages for publication. Therefore, taking into account the information elements provided by the parties, the Commission considers that this part of the agreement has been fully complied with and so it declares it so.

29. In relation to point 4 of the fifth clause on the State's contribution to the memorial building, the State of Honduras provided documentation to verify the payment dated November 24, 2017 of an amount of forty thousand dollars of the United States of America (\$ 40,000 USD), through check No. 5023, payable to Mrs. Bertha Oliva de Nativi, as a contribution to the construction of a module for reflection, training and analysis, at the Center of Historical Memory Property of COFADEH called "Home against Forgetfulness" which was built and is located in the Aldea la Joya Municipality of Santa Ana Francisco Morazán.

30. In this regard, on June 5, 2019, the petitioners confirmed that they had received the contribution and indicated that, with the funds provided by the State, a building with a circular architectural concept was built, combining an environmental structure with the content and preservation of the works that will be housed inside and in turn ensuring the comfort of the people participating in the training processes in human rights and historical memory, the ultimate objective of the work. The petitioners described the design of the building as circular and provided information on the geographic dimensions of the place intended for it and the work plans that cover a 455-meter construction area, including its exteriors. The petitioners mentioned that the work had a cost of \$ 55,679.42 USD and was presented publicly on November 30, 2018. The petitioners indicated that the work fulfills educational functions and cultural in its first phase and that the second phase consists of the construction of sanitary works including the installation of a bio digester, green areas and the construction of a covered outdoor stage and the erection of a perimeter fence. In addition, the petitioners provided photographic, documentary, and accounting records of the project. Therefore, taking into consideration the information provided by the parties, the Commission considers that the State has complied with the commitment established in this point of the agreement and therefore declares it totally complied with.

31. In relation to point 5 of the fifth clause on physical and psychological rehabilitation, the petitioners indicated on June 5, 2019 that, although the State of Honduras presented a schedule for the psychological care of the victims at the Psychiatric Hospital Dr. Mario Mendoza, said center was not suitable to attend to this type of victims, for which reason the petitioners submitted a request to the Attorney General's Office in order to guarantee the right of the victims to obtain psychological rehabilitation in a dignified way. According to the petitioners, this situation was corrected by referring the beneficiaries to the San Felipe General Hospital, and allowing them to present their care schedule according to their availability of time and manner. Said timetable was subsequently transmitted to the State on May 23, 2017, with regard to Miguel Antonio Urbina Ortega (father), Hilda Esperanza Gáelas Castro (adoptive mother) and Soery Argentina Urbina Rosales (sister). On the other hand, the petitioners indicated to the State that Mrs. Juana Olimpia Ortega (grandmother) had died and that Lesny Michell Urbina Elvir (daughter); Denia Aracely Elvir Valladares (partner) and Wendy Dayanara Urbina Rosales (sister), resided outside the country, for which they asked the State to assume the costs of health care in their current place of residence abroad.

32. As indicated by the petitioners, although the State requested the Office of the Secretary of Public Health to organize a clinical file, the attention had been focused on medical assistance, postponing the development of psychological rehabilitation, for which they considered that the authorities were not sufficiently informed about the purpose of this measure of the agreement, and that since they did not prepare an adequate evaluation at the time, they lack a diagnosis that determines the type of problems, as well as their origin and the variables that have intervened over the years. The petitioners considered that a scheme was not defined after the first contacts with the victims, nor was the treatment to be followed, individual and family wise, with short and long-term objectives being explained. Based on the foregoing, the petitioners considered that the schedule that the State initially determined to move forward with compliance with this part of the agreement does not by itself contribute to the construction of a personalized monitoring plan in accordance with the particular needs of the victims.

33. On February 5, 2020, the State reported that on September 17, 2019, a meeting was held with members of the San Felipe Hospital (HSF) to verify the current status of psychological care for the relatives of the victim and that, after the meeting, on September 20, the HSF sent the PGR a clinical report detailing the medical care received by Hilda Esperanza Gales Castro, Miguel Antonio Urbina Ortega, Soery Argentina Urbina Rosales. Likewise, on November 15, 2019, a second follow-up meeting was held, where the HSF expressed its willingness to resume the follow-up of the psychological care of the relatives of the victim and work on a comprehensive care protocol as a measure of non-repetition under a human rights approach. Subsequently, on January 22, 2020, a meeting was held with COFADEH and the PGR, where the request of the HSF about contacting the relatives of Dixie Miguel Urbina Rosales and in order to resume their psychological treatment, and on January 28 of the current year, COFADEH sent the contacts of the relatives who will be followed up for their psychological rehabilitation, being them Miguel Antonio Urbina Ortega (Father), Hilda Esperanza Gáelas Castro (Adoptive Mother) and Soery Argentina Urbina Rosales (sister).

34. On September 2, 2020, at the working meeting facilitated by the Commission, the parties agreed to work on a schedule to comply with this part of the agreement in the framework of the pandemic and social distancing conditions. Subsequently, on September 21, 2020, the State reported that as a result of the meeting held with the petitioners on September 11, 2020, it was agreed that COFADEH would contact the relatives of the victim to determine their willingness to continue with the physical and psychological rehabilitation measures, and following up on the dates established in the work schedule in relation to the friendly settlement agreement by the PGR. The petitioners, for their part, confirmed this information, indicating that a schedule was agreed to confirm the victims' willingness to continue with psychological treatment and identify their availability for that purpose, coordinate care with the HSF, and start the first care sessions, medical and psychological. Therefore, taking into consideration the information elements provided by the parties, the Commission considers that this part of the agreement has been partially complied with and so it declares it so.

35. In relation to point 6 of the fifth clause on measures of economic reparation and legal costs and expenses, the State reported that it delivered the checks for the amounts subscribed in the agreement, to the beneficiaries on November 20, 2017, November 2017 and October 30, 2018. For their part, the petitioners confirmed, in writing dated June 5, 2019 and in the framework of the working meeting of September 2, 2020, full compliance with the payment of the compensation amount corresponding to moral and material damage, costs and expenses. Therefore, taking into account the information elements provided by the parties, the Commission considers that this part of the agreement has been fully complied with and so it declares it so.

36. In relation to the suitability of the agreement with the standards on human rights, it is observed that the content of the FSA is consistent with the standards on human rights, since elements such as measures of satisfaction, non-repetition, economic compensation and justice that are considered appropriate within the factual scenario of the particular case, are in accordance with the various pronouncements of the IACHR and the jurisprudence of the Inter-American Court of Human Rights in the matter of reparation of victims of human rights violations.

37. Finally, in relation to the will of the State to comply with the FSA, it should be noted that, according to the analysis of the case, it is observed that there has been a commitment on the part of the State reflected in the partial fulfillment of the friendly settlement agreement.

38. Based on the foregoing, the Commission considers that points 3 (dissemination of public acknowledgment of responsibility) and 4 (State contribution to the memorial building) of the fifth clause of the agreement on satisfaction measures, as well as the sixth clause (economic reparation, legal fees and expenses), are totally complied with and so it declares it so. On the other hand, the Commission considers that points 1 (investigation of the facts) and 5 (physical and psychological rehabilitation measures) of the fifth clause of the agreement have been partially complied with and so it declares it so. Regarding point 2 of the fifth clause of the agreement, the Commission considers that compliance is pending. In this sense, the Commission considers that the level of compliance with the agreement is partial and so it declares it so.

39. Finally, the Commission considers that the rest of the content of the agreement is declarative in nature, and therefore it is not up to the IACHR to monitoring compliance.

## **V. CONCLUSIONS**

1. Based on the foregoing considerations and by virtue of 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 solution in the instant case, based on a 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 March 17, 2017.
2. To declare total compliance with points 3 (dissemination of public recognition of responsibility) and 4 (contribution of the State to the memorial building) of the fifth clause of the agreement on satisfaction measures, as well as clause six (economic compensation, legal costs and fees) according to the analysis contained in this report.
3. To declare partial compliance with points 1 (investigation of the facts) and 5 (physical and psychological rehabilitation measures) of the fifth clause of the agreement on satisfaction measures, according to the analysis contained in this report.
4. To declare pending compliance with item 2 (implementation of the detainee registry) of the fifth clause of the agreement on satisfaction measures, according to the analysis contained in this report.
5. To declare partial compliance with the friendly settlement agreement, according to the analysis contained in this report.
6. 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 Troitino, Edgar Stuardo Ralón Orellana and Joel Hernández García, Members of the Commission.