**FOLLOW-UP FACTSHEET OF REPORT No. 100/05**

**CASO 10.855**

**PEDRO GARCÍA CHUC**

**(Guatemala)**

1. **Summary of Case**

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| **Victim (s):** Pedro García Chuc  **Petitioner (s):** Human Rights Legal Action Centre (CALDH)  **State:** Guatemala  **Merits Report No.:** [100/05](http://cidh.org/annualrep/2005eng/Guatemala10.855eng.htm), published on October 27, 2005  **Admissibility Report:** Analyzed in Merits Report No. 39/00  **Themes:** Right to Life / Right to Humane Treatment / Right to Personal Liberty / Right to a Fair Trial / Judicial Protection / Summary, extrajudicial or arbitrary executions / Investigation and Due Diligence  **Facts:** In the early morning hours of March 5, 1991, at kilometer 135 of the Westward Highway (*Ruta a Occidente*), in the municipality of Sololá, department of Sololá, several members of the State security forces captured Mr. Pedro García Chuc. Two days later, the body of Mr. Pedro García Chuc was found at the same spot where he had been captured, bearing several bullet holes. Presumably, the extrajudicial execution was because of his work as President of the San Juan Argueta R.L. Cooperative, and his active involvement in seeking to obtain benefits for his community. This complaint was submitted by the victim’s next of kin and was framed in 46 petitions received by the Commission during 1990 and 1991.  **Rights violated:** The Commission analyzed 46 petitions referred to allegations of extrajudicial executions of individuals by members of the security forces of the State or persons linked to them. The Commission concluded that the Guatemalan State bears responsibility for violations of the rights of Pedro García Chuc to life, and to judicial guarantees and protection as established in Articles 4, 8, and 25 of the American Convention. Likewise, the State bears responsibility for violation of the right to personal liberty, as established in the Article 7 of the Convention. |

1. **Recommendations**

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| **Recommendations** | **State of compliance in 2020** |
| 1. Carry out a complete, impartial, and effective investigation to determine the circumstances of the extrajudicial executions and related violations in the cases of the victims named in section VII, and to punish the persons responsible pursuant to Guatemalan law; | Pending compliance |
| 2. To adopt the measures necessary for the family members of the victims identified in paragraph 287 to receive adequate and timely reparation for the violations established herein. | Partial compliance |
| **\*Agreement on compliance signed by the parties**  **A. Investigation, prosecution and punishment of the persons responsible**  -The State undertakes to carry out a complete, impartial, and effective investigation to identify the persons who violated the human rights of the victim, including any members of judicial agencies who might have failed to meet their obligations, and to impose punishments, as appropriate, pursuant to our laws.  -In this framework, COPREDEH will encourage the Office of the Attorney General take the necessary measures to ensure a responsible investigation on the part of the State.  -The State undertakes to provide CALDH and the Commission with periodic reports on the aforementioned investigation process. | Pending compliance |
| **B. Reparations**  **1. Financial compensation**  a. The State recognizes that it has a duty to provide reparation and pay just compensation to the petitioners in accordance with the guidelines set forth in domestic and international law.  b. The State undertakes to reach an agreement with the petitioners on the amount and timing of payment of financial compensation before the end of first quarter 2005.  c. The Parties undertake to meet within a month after the signing of the instant agreement in Guatemala to discuss the issue of financial compensation and to set a timetable for compliance with paragraph (b) above. | Total compliance[[1]](#footnote-1) |
| **2.** **Public apology**  a. The State undertakes to make public its recognition of its institutional responsibility for violation of the human rights of the victim and to make a public apology to his family in a declaration made either by the President of the Republic, or by the Vice President of the Republic or the Chair of COPREDEH, in a public ceremony to be held in Guatemala City (the “Public Ceremony”);  b. The parties agree that the Public Ceremony shall be held within six months after the date of this agreement;  c. The parties undertake to reach an agreement on the place, date and time of the Public Ceremony within two months after the date of this agreement;  d. The State undertakes to publicize the Public Ceremony through the efforts of the COPREDEH Information and Press Department in the media. | Total compliance[[2]](#footnote-2) |
| **3.** **Recovery of the victim’s memory**  In recognition of the diverse activities of Mr. García Chuc on behalf of his community, the State pledges to make and place a plaque in memory of the victim, the contents and site of which shall be determined with the beneficiaries. | Total compliance[[3]](#footnote-3) |
| **Agreement on Financial Compensation. Case 10.855, Pedro José García Chuc**  **IV.  Technical Training for the García Yax and García Chuc families**  The State, through COPREDEH, undertakes to provide technical training to the beneficiaries on the creation and workings of an association for investment of the fund to be paid in financial compensation. That training shall be imparted at the time and place agreed with the petitioners and ideally shall center on the workings of micro enterprises and small businesses. | Pending compliance |
| **V. Incorporation and Workings of the Association**  The State, through COPREDEH, undertakes to grant the funds necessary to cover all professional fees incurred in the incorporation of the aforementioned association before a notary public and its entry in the Civil Register, as well as those of its legal representative.  The State, through COPREDEH, undertakes to take steps, preferably in the Department of Quetzaltenango, to locate and grant in usufruct a State-owned property for the functioning of the aforesaid association. However, should no State properties exist in said department, the same steps shall be taken to locate and grant a State-owned property in the Department of Sololá. Usufruct shall be granted for a period of twenty-five years, in accordance with the applicable laws. | Pending compliance |

1. **Procedural Activity**
2. On February 18, 2005, the State and the petitioners signed an “Agreement on Implementation of Recommendations. Case 10.855. Pedro José García Chuc,” and on July 19, 2005, they signed an agreement on compensation. On October 27, 2005, the IACHR published Report No. 100/05, on the “Compliance Agreement” in this case.
3. On August 7, 2020, the IACHR requested updated information on compliance from the State. By means of a note dated October 1, 2019, which was received by the IACHR on October 3, the Commission received said information from the State. On August 19 the State asked the Commission for an extension, and by note dated September 22, 2020, it reported that it was still in the process of compiling the information requested. On October 14, 2020, the State notified the Commission that the State of Public Calamity caused by COVID-19 has caused delays in the activities of the public administration, accordingly it was still engaged in the initiatives to respond to the request for information.
4. On August 7, 2020, the IACHR requested updated information on compliance from the petitioners. On August 9, 2019, the petitioners presented this information.
5. **Analysis of the information presented**
6. The Commission considers that the information presented by the State in 2019 is irrelevant given that it does not refer to the measures adopted to comply with at least one of the recommendations issued or to all of the commitments agreed upon between the parties in the Compliance Agreement.
7. Therefore, given the absence of updated information on the level of compliance with the recommendations, the IACHR reiterates, below, the analysis of compliance and the conclusions made in its Annual Report 2019.
8. **Analysis of compliance with the recommendations**
9. **Regarding Recommendation 1**,in 2019, the State did not provide information about actions taken to conduct a complete, impartial and effective investigation to determine the circumstances of the extrajudicial execution of Mr. Pedro José García Chuc.
10. On November 16, 2018, the petitioners informed the IACHR that, since 2011, the State had not provided information about any actions it had taken related to the investigation, prosecution or punishment of those responsible. Further, they stated that more than 20 years had passed since the reported facts occurred, and more than 13 years since the signing of the Agreement on Compliance with Recommendations, yet this case remains in a situation of total impunity.
11. In 2019, the petitioners said they did not have updated and detailed information on compliance with the recommendations that were not declared fully complied with by the IACHR in its 2018 Annual Report.[[4]](#footnote-4) Specifically, they said that during 2019, the State took no actions or steps to comply with its pending commitments: to grant in usufruct a building for the operation of the Indigenous Association for Entrepreneurial Development (ASINDE); to provide technical training for the García Yax and García Chuc families; and to try and punish those responsible, as set forth in the Compliance with Recommendations Agreement signed by the parties on February 18, 2005.
12. In accordance with what is established by Inter-American jurisprudence, a consequence of a lack of diligence in investigations is that, as time passes, the possibility of obtaining and submitting relevant evidence that would allow the clarification of facts and the determination of appropriate liability is unduly compromised, with the State thereby contributing to the impunity[[5]](#footnote-5). Thus, the IACHR underscores the absence of actions to comply with this recommendation, specifically those aiming at determining the circumstances surrounding the extrajudicial execution of Mr. Pedro José García Chuc and punish those responsible in accordance with Guatemalan law. Further, the IACHR draws attention to the failure by authorities of the State of Guatemala to report to representatives of the victims about the investigative process, pursuant to Item A of the Compliance Agreement signed by the parties.
13. Based on the foregoing, the IACHR concludes that this recommendation is pending compliance.
14. **Regarding Recommendation 2**, as it relates to items IV and V of the Agreement on Financial Indemnification signed by the parties,on April 9, 2018, the State informed the IACHR that the petitioners in the case had requested of COPREDEH that modifications and/or substitutions be made to the commitments agreed in the Friendly Resolution Agreement on construction of a multisport facility. They committed to formally submit a project through their legal representative during the first week of September 2017, a commitment that is still pending. The State holds that the IACHR must interpret this as lack of procedural activity on the part of the victims and a passive role taken by the petitioners.
15. Through a communication issued on November 16, 2018, the petitioners confirmed their interest in substituting the reparation measures contained in items IV and V of the Agreement on Compliance with a project to build a Multisport Facility for Basketball and Court Soccer (with a roof and artificial lighting) in the community of Colonia María Tecún Argueta, located in the department of Sololá, the birthplace community of Mr. José Pedro García Chuc. The petitioners informed the IACHR that on April 19, 2018, they requested a meeting with the State to reach an agreement on this proposed change to the reparation measures, but as of yet there has been no response.
16. In 2019, the petitioners reiterated that thus far, COPREDEH has not called together the relatives of José Pedro García Chuc to discuss and reach an agreement on the proposal for a project to build a basketball-indoor football multisport arena to substitute for the measures of reparation pending compliance regarding technical training and the provision in usufruct of a property, despite the fact that the corresponding request had been made to the authorities in April 2018.
17. In accordance with the information provided, the IACHR advises that meetings are still pending between the parties to move forward with compliance of these pending items, or their possible substitutes. Thus, the Commission concludes that compliance with Recommendation 2 is partial.
18. **Level of compliance of the case**
19. Based on the foregoing, the Commission concludes that the level of compliance of the case is partial. Therefore, it will continue to supervise compliance with Recommendations 1 and 2. The IACHR calls on the State of Guatemala to exert the necessary efforts to make substantive strides in contacting the petitioners of this case, so as to move forward with necessary actions related to the investigation, prosecution and punishment of those responsible.
20. **Individual and structural results of the case**
21. This section highlights the individual and structural results of the case, which have been informed by the parties.
22. **Individual results of the case**

*Satisfaction measures*

* On July 15, 2005, in the department of Sololá, the State fulfilled its commitment to hold a public event to acknowledge its international liability in the case of the extrajudicial execution of Pedro García Chuc, and the installation of a memorial plaque.

*Pecuniary compensation measures*

* On November 29, 2007, the State reported on its fulfillment of commitments related to reparations.

1. **Structural results of the case**

* No structural results have been reported by the parties.

1. IACHR, Report No. 100/05, [Petition 10.855, Implementation Agreement, Pedro García Chuc, Guatemala, October 27, 2005](http://cidh.org/annualrep/2005eng/Guatemala10.855eng.htm), para. 25. [↑](#footnote-ref-1)
2. IACHR, Report No. 100/05, [Petition 10.855, Implementation Agreement, Pedro García Chuc, Guatemala, October 27, 2005](http://cidh.org/annualrep/2005eng/Guatemala10.855eng.htm), para. 23. [↑](#footnote-ref-2)
3. IACHR, Report No. 100/05, [Petition 10.855, Implementation Agreement, Pedro García Chuc, Guatemala, October 27, 2005](http://cidh.org/annualrep/2005eng/Guatemala10.855eng.htm), para. 24. [↑](#footnote-ref-3)
4. IACHR, 2018 Annual Report, Chapter II, Section G.4 Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, [Monitoring Worksheet, Case 10.855, Merits Report 100/05, Pedro García Chuc (Guatemala).](http://www.oas.org/en/iachr/docs/annual/2018/docs/IA2018cap.2.G.gu10.855-en.doc) IACHR, [Report No. 100/55, Petition 10.855, Compliance Agreement, Pedro García Chuc](http://www.cidh.org/annualrep/2005eng/Guatemala10.855eng.htm), Guatemala, October 27, 2005, para. 23. [↑](#footnote-ref-4)
5. IACtHR, [Case of Human Rights Defender et al. Vs. Guatemala, Judgment of August 28, 2014](http://www.corteidh.or.cr/docs/casos/articulos/seriec_283_ing.pdf). Series C No. 283, para. 214. [↑](#footnote-ref-5)