**FOLLOW-UP FACTSHEET OF REPORT No. 60/01**

**CASE 9.111**

**ILEANA DEL ROSARIO SOLARES CASTILLO AND OTHERS**

**(Guatemala)**

1. **Summary of Case**

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| **Victim (s):** Ileana del Rosario Solares Castillo, María Ana López Rodríguez and Luz Leticia Hernández**Petitioner (s):** Edgar Pérez Archila, Ana Julieta Solares, Mutual Support Group (GAM)**State:** Guatemala**Merits Report No.:** [60/01](http://cidh.org/annualrep/2000eng/ChapterIII/Merits/Guatemala9111.htm), published on April 4, 2001 **Admissibility Report:** Analyzed in Merits Report No. 60/01**Themes:** Right to Life /Right to Humane Treatment / Right to Personal Liberty / Right to a Fair Trial / Judicial Protection / Enforced Disappearance / Investigation and Due Diligence**Facts:** On September 25, 1982, the victim was abducted by agents of the Guatemalan State—specifically, members of the army’s intelligence service (G2)—at the junction of 7th Street and 16th Avenue in Zone 11 of Guatemala City. This complaint was later expanded to cover María Ana López Rodríguez and Luz Leticia Hernández, who were abducted on November 21, 1982, by security forces from the Special Operations Reaction Battalion (BROE) and the Military Intelligence Service (SIM) while they were at the house located on Lot 13, Block 4E, in the Monte Real II district of Mixco’s Zone 4. Ever since the victims were taken into custody their whereabouts has remained unknown, even though the applicable judicial remedies have been pursued and numerous efforts have been made to locate them. In addition, as regards the victim Ileana Solares Castillo, her parents sent several open letters to the then President of the Republic. **Rights violated:** The Commission concluded that the Guatemalan State violated the rights of Ileana del Rosario Solares Castillo, María Ana López Rodríguez and Luz Leticia Hernández to life (Article 4 of the American Convention on Human Rights), to humane treatment (Article 5), to personal liberty (Article 7), to a fair trial (Article 8), and to judicial protection (Article 25), together with the obligation of ensuring the rights protected by the Convention as set forth in Article 1(1) thereof. |

1. **Recommendations**

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| **Recommendations** | **State of compliance in 2020** |
| 1. Conduct an impartial and effective investigation into the facts of this complaint to determine the whereabouts and condition of Ileana del Rosario Solares Castillo, María Ana López Rodríguez, and Luz Leticia Hernández, to identify the persons responsible for their disappearance, and to punish them in accordance with the rules of due legal process. | Pending compliance |
| 2. Take steps to make full amends for the proven violations, including measures to locate the remains of Ileana del Rosario Solares Castillo, María Ana López Rodríguez, and Luz Leticia Hernández, the arrangements necessary to fulfill their families’ wishes regarding the final resting place of their remains, and adequate and timely compensation for the victims’ relatives. | Partial compliance |
| **\*Compliance Agreement signed with the relatives of the victim Ileana del Rosario Solares Castillo and the relatives of the victim Ana María López Rodríguez:**Promoting trial and punishment of those responsible for these enforced disappearances. | **Next of kin of Ileana del Rosario Solares Castillo**Pending compliance |
| **Next of kin of Ana María López Rodríguez**Pending compliance |
| Recognition of international responsibility and apology.  | **Next of kin of Ileana del Rosario Solares Castillo**Total compliance[[1]](#footnote-1) |
| **Next of kin of Ana María López Rodríguez**Total compliance[[2]](#footnote-2) |
| Unveiling of commemorative plaque in memory of the victim. | **Next of kin of Ileana del Rosario Solares Castillo**Total compliance[[3]](#footnote-3) |
| **Next of kin of Ana María López Rodríguez**Pending compliance |
| Payment of financial compensation  | **Next of kin of Ileana del Rosario Solares Castillo**Total compliance[[4]](#footnote-4) |
| **Next of kin of Ana María López Rodríguez**Total compliance[[5]](#footnote-5) |
| Seed capital funding for the establishment of a foundation | **Next of kin of Ileana del Rosario Solares Castillo**Total compliance[[6]](#footnote-6) |
| **Next of kin of Ana María López Rodríguez**Total compliance[[7]](#footnote-7) |
| Creation of a CD with a biography of the victim and a summary of the case | **Next of kin of Ileana del Rosario Solares Castillo**Total compliance[[8]](#footnote-8) |
| Creation of educational brochure | **Next of kin of Ana María López Rodríguez**Pending compliance |
| Scholarships  | **Next of kin of Ana María López Rodríguez**Total compliance[[9]](#footnote-9) |
| Promote approval of Law No. 3.590 (which creates the Commission for the Search for the Detained and Disappeared) | **Next of kin of Ileana del Rosario Solares Castillo**Pending compliance |
| **Next of kin of Ana María López Rodríguez**Pending compliance |
| Construction of a wall in the USAC square | **Next of kin of Ileana del Rosario Solares Castillo**Pending compliance |

1. **Procedural Activity**
2. The State entered into an agreement on compliance with the recommendations issued by the IACHR in Merits Report No. 60/01 on December 19, 2007 with the next-of-kin of victim Ileana del Rosario Solares Castillo, and on October 14, 2010 with the next-of-kin of Ana Maria Lopez Rodriguez.
3. On March 26, 2014, the IACHR held a meeting with the parties during its 150th Period of Sessions regarding the follow-up of the cases of forced disappearance in follow-up stage and friendly settlement against the Guatemalan State.
4. On October 2, 2018, the IACHR held a working meeting with the parties during its 169th Period of Sessions, in Boulder, Colorado, regarding the follow-up of the recommendations issued in the Merits Report No. 60/01. In this working meeting, the petitioners of Ana María López Rodríguez and the State of Guatemala were the only assistants.
5. In 2020, the IACHR requested updated information from the State about compliance with the recommendations on June 10. On July 10, the State submitted that information. Subsequently, the IACHR once again requested updated information about compliance with the recommendations on August 6. On August 19, the State requested an extension from the Commission and submitted that information on September 22 and October 12 and 23.
6. The IACHR requested updated information from the petitioners about compliance with the recommendations on June 10 and August 6, 2020. As of the date of publication of this report, the Commission had not received that information from the petitioners.
7. **Analysis of the information presented**
8. The Commission finds that the information provided by the State in 2020 is relevant to the measures adopted relating to compliance with at least one of the recommendations issued in Report No. 60/01.
9. **Analysis of compliance with the recommendations**
10. **As for the first recommendation**, that is, to investigate the incidents that were the subject of the complaint pertaining to the forced disappearance of Ileana del Rosario Solares Castillo, Ana Maria Lopez Rodriguez and Luz Leticia Hernandez, which took place in 1982, to determine those who are responsible for it and punish them, the State reported that the Office of the Public Prosecutors had opened two investigations (File MP001/2006/12842 for the forced disappearance of Ileana del Rosario Solares Castillo and File MP001/2006/67766 for the forced disappearance of Ana Maria Lopez Rodriguez and Luz Leticia Hernandez) and that the investigations are still on-going.[[10]](#footnote-10) In 2018, the State reported that, in order to provide updated information to the IACHR, the Presidential Coordinating Commission on Human Rights Policy (COPREDEH) requested information from the Office of the Public Prosecutor, specifically the Special Cases Unit of the Human Rights Section, on the case identified by the number MP001-2006-67766.
11. In 2019, the State reported that, in response to the request made, the Public Prosecutor, through the Office of the Human Rights Public Prosecutor of the Special Internal Armed Conflict Cases Unit, informed the COPREDEH that, with the aim of solving the facts established in Report 60/01, a series of steps had been taken consisting of requests for information sent to a variety of government and nongovernment offices. The State did not provide more details on the content of or responses to those requests. Likewise, the State reported that, although it had not been possible to identify any individual connected with the acts perpetrated against Ana María López Rodríguez and Luz Leticia Hernández, the Public Ministry would continue with the corresponding investigations.
12. In 2020, the State reiterated the information submitted in 2019. It claimed that the Public Prosecutor’s Office located the following case files relating to the facts of this case: two case files for the crime of forced disappearance, with respect to Ileana del Rosario (one of the cases at the investigation stage); two case files with respect to Ana María López, one for the crime of murder and forced disappearance, at the investigation stage and one for the crime of threats, currently filed away at the discretion of the prosecutor; and two case files with respect to Luz Leticia Hernández, one for the crimes of murder and forced disappearance and another for the crime of forced disappearance, both at the investigation stage. The State also attached three records relating to these three case files: in two of them, the records show several investigative steps for 2020, some with *status* “completed” and others “pending.” The State also noted that, in the case file regarding Ileana del Rosario, prior to 2020, some investigative steps were taken such as locating the exact site of the grave in order to perform the respective exhumation. It said that, in 2020, the Public Prosecutor made several requests for information to institutions. Additionally, with respect to the case file relating to Luz Leticia Hernández and Ana María López, the State claimed that, in 2020, investigative steps were taken, including requesting evidence in advance and some requests for information. The State also reported that implementation of some investigative steps is pending.
13. In 2018, the petitioners of Ana María López Rodríguez and her next of kin indicated that there has been no significant progress in the investigations, nor have high-level authorities in charge of the Office of the Public Prosecutor had the political will to conduct a serious, impartial investigation to shed light on the victim’s whereabouts and identify the perpetrators. Consequently, they consider that the State has not complied with this recommendation. During 2019, the petitioners did not provide information on compliance with this recommendation.
14. In the instant case, the Commission takes note of the information provided by the State with respect to the case files for crimes against the victims of this case. Particularly, the IACHR notes that the case files continue at the investigation stage and that, even though the records of some of these case files show some investigative steps taken over 2020, the status of some of them is pending. In the view of the Commission, it is especially worrying that, after thirty years have elapsed since the forced disappearance of the three women victims in the case, still no concrete results have been reported in the investigations into the identity of those responsible for their disappearance and the punishment that should be imposed on them pursuant to the norms of due process of law.
15. In that regard, the IACHR calls to mind that “the duty to investigate must be discharged in a serious manner, not as a mere formality that is doomed to fail from the very beginning, and it must pursue a goal and be undertaken by the State as its own legal duty rather than a mere processing of private interests, dependent upon the procedural initiative of the victim or the victim’s next of kin or on the contribution of evidence by private parties, without an actual quest for truth on the part of the public authorities.”[[11]](#footnote-11) Specifically, the obligation to investigate facts related to forced disappearance “persists as long as the uncertainty about the final fate of the disappeared person remains, because the right of the victim’s next of kin to know his or her fate and, as appropriate, where the victim’s remains are, represents a reasonable expectation that the State must satisfy using all the means at its disposal.”[[12]](#footnote-12)
16. The IACHR therefore considers that in terms of the first recommendation—related to conducting a complete, impartial, and effective investigation into the facts of the complaint to determine the fate of Ileana del Rosario Solares Castillo, Ana María López Rodríguez, and Luz Leticia Hernández, as well as prosecuting and punishing those responsible for the human rights violations committed against the three women—compliance remains pending.
17. **With respect to the second recommendation**, although the State of Guatemala signed a compliance agreement with the next of kin of Ileana del Rosario Solares Castillo and Ana María López Rodríguez, its comments in 2019 addressed only the agreement entered into in the case of the latter victim. In this regard, the State indicated that on January 21, 2011, COPREDEH held the ceremony to recognize the State’s international responsibility; on February 14, 2011, a summary of the case was published in the newspaper *Al Día* and on February 23, in the *Diario de Centro América*; and on February 27, 2012, Guatemala’s *Diario de Centroamérica* published the authorization of the Interior Ministry recognizing the legal status and approving the bylaws of the foundation called the Fundación Derechos Humanos en Acción (FUNDHA). The Guatemalan State reported that since December 28, 2010, it has paid compensation to the victim’s mother and allocated the sum of seventy-nine thousand two hundred quetzals (Q79,200) to fund three scholarships. In terms of draft Law No. 3.590, the “National Law on the Search for Disappeared Persons,” which was introduced in the Congress of the Republic of Guatemala in 2016, the Guatemalan State reported that the bill is going through the legislative process. The bill came up for debate on January 13, 2014, and again on February 4, 2016. A third debate before the full Congress is now said to be pending. In 2020, the State reiterated the information submitted in 2019 with respect to the status of the legislative process for draft Law No. 3590 “National Disappeared Persons Search Law.” It further reported that on October 30, the State of Guatemala installed a steel plaque in the Martyrs Square (*Plaza de los Mártires*) of the Central Campus of the University of San Carlos of Guatemala, in memory of Rosario Solares Castillo and of the other victims of gross human rights violations during the internal armed conflict.
18. In 2018, the representatives of Ana María López Rodríguez reported that the State of Guatemala had in previous years met its commitments related to “Education, three scholarships,” “Funds to establish a foundation,” and “Letter of apology from the State of Guatemala.” They also requested that the State of Guatemala present a timetable for promoting draft Law No. 3.590.
19. During 2019, the petitioners did not provide information on compliance with this recommendation.
20. The IACHR notes that there is no dispute between the representatives of Ana María López Rodríguez and the State of Guatemala regarding the full implementation of the following points of agreement: 1) “Education, three scholarships,” 2) “Funds to establish a foundation,” and 3) “Letter of apology from the State of Guatemala.” In previous years, the representatives had also informed the IACHR that there had been full compliance with the commitments related to the publication of the case in the Official Gazette and in the newspaper *Al Día*, as well as the financial compensation paid to the next of kin of Ana María López Rodríguez. Consequently, the IACHR considers that compliance remains pending with regard to the following commitments: promote the prosecution and punishment of those responsible for the forced disappearances; unveil the commemorative plaque in memory of the victim; print an educational brochure; and approve Law 3.590.
21. With respect to the agreement signed with the next of kin of the victim Ileana del Rosario Solares Castillo, in 2013, the State of Guatemala reported that it had complied with its commitments related to the recognition of international responsibility and the apology; the unveiling of a commemorative plaque in memory of the victim; the payment of economic reparation; and the payment of seed capital for the establishment of a foundation. The Commission also takes note that the State reported unveiling a plaque at the University of San Carlos of Guatemala (USAC) in memory of Ileana del Rosario Solares Castillo, as part of the monument constructed in honor of the victims of human rights violations during the internal armed conflict. In this regard, the IACHR notes that the agreement entered into between the State and the family members of Ileana del Rosario established the construction of a wall in the square of USAC. However, in light of the fact that the State did not provide information about the participation of the petitioners in the unveiling of this plaque, the Commission requests information from both parties about the reparation effects of this measure for the victims as provided for in the compliance agreement and the agreement with the position of the family members of Ileana del Rosario. Taking into consideration that the two compliance agreements signed by the State have not been implemented completely, the IACHR concludes that there is partial compliance with the second recommendation.
22. **Level of compliance of the case**
23. Based on the foregoing, the IACHR concludes that the level of compliance of the case is partial. Consequently, the Commission will continue to monitor compliance with Recommendations 1 and 2.
24. The IACHR calls on the State of Guatemala to take action to make substantial progress in complying with the recommendations issued by the IACHR in Merits Report No. 60/01. In this regard, the IACHR urges the State to engage in dialogue with the parties to push for the implementation of the commitments that are pending. It also urges the representatives of Luz Leticia Hernández Agustín and Ileana del Rosario Solares Castillo to provide up-to-date information on compliance with the recommendations.
25. **Individual and structural results of the case**
26. This section highlights the individual and structural results of the case, which have been informed by the parties.
27. **Individual results of the case**

*Pecuniary compensation measures*

* On January 8, 2008, COPREDEH informed the IACHR of the payment of Q520,762.32 quetzals to Mrs. María Olimpia Castillo (mother of Ileana del Rosario), corresponding to 45.62% of the agreed amount. On December 22, 2009, the State carried out the payment of Q620,841.28 quetzals, corresponding to the remaining 54.38%.
* On December 28, 2010, by means of Act 16, the State turned over the compensation payment to Mrs. Cayetana Rodríguez, mother of Ana María López Rodríguez, in the amount of one million four hundred one thousand one hundred thirty quetzals (Q1.401,130.00); that same act earmarked seventy-nine thousand two hundred quetzals (Q79,200.00) to fund three scholarships.

*Satisfaction measures*

* On December 12, 2008, a ceremony was held in the municipal park of Casillas, Santa Rosa, in which the State offered a public apology and recognition of its international responsibility to the next of kin of Ileana del Rosario Solares Castillo. The State also presented a letter of apology. A series of State authorities presided over the ceremony, among them Mr. Mynor Morales, Governor of the Department; Municipal Mayor Felipe Rojas Rodríguez; Ruth del Valle Cóbar, President of COPREDEH; Lorena Pereira, Executive Director of COPREDEH; and Julieta Solares, representative of the Solares Castillo family.
* On January 21, 2011, COPREDEH held a ceremony at its headquarters, led by its President, to recognize its international responsibility and present a letter of apology for the disappearance of Ana María López Rodríguez.
* On December 12, 2008, a commemorative plaque was unveiled on the premises of the municipal seat of Casillas, Santa Rosa, to honor the memory of Ileana del Rosario Solares Castillo.
* On February 14, 2011, the State of Guatemala published the case of Ana María López in the newspaper *Al Día* and on February 23 in the newspaper *Diario de Centro América*.
* The State indicated that the family of Ileana del Rosario Solares Castillo expressed its wish for the biography and executive summary of the case to be delivered and reproduced in electronic form, and it requested between 50 to 100 copies. The State agreed to the request and on September 22, 2009, it presented 100 copies to the family’s representative. The State also indicated that it had arranged with the Ministry of Education for the topics requested to be included in the curriculum and that these had been included, in compliance with the agreement.
* On October 30, 2020, the University of San Carlos of Guatemala unveiled a steel plaque in memory of Ileana del Rosario Solares Castillo, as part of a monument that was constructed in the central square in honor of victims of human rights violations during the internal armed conflict.
1. **Structural results of the case**

*Non-repetition measures*

* On February 27, 2012, Guatemala’s *Diario de Centroamérica* published the authorization of the Interior Ministry recognizing the legal status and approving the bylaws of the foundation called the “*Fundación Derechos Humanos en Acción*” (FUNDHA).
* On October 28, 2011, a certified copy of the charter of the Fundación Ileana del Rosario Solares was filed with the Interior Ministry, and only its publication is said to be pending. The seed capital funding for the foundation was reported to have been provided by the State.
1. IACHR, [2017 Annual Report, Chapter II, Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap2Dseguimiento-EN.pdf), para. 1226. [↑](#footnote-ref-1)
2. IACHR, [2017 Annual Report, Chapter II, Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap2Dseguimiento-EN.pdf), para. 1226. [↑](#footnote-ref-2)
3. IACHR, [2017 Annual Report, Chapter II, Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap2Dseguimiento-EN.pdf), para. 1226. [↑](#footnote-ref-3)
4. IACHR, [2017 Annual Report, Chapter II, Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap2Dseguimiento-EN.pdf), para. 1226. [↑](#footnote-ref-4)
5. IACHR, [2017 Annual Report, Chapter II, Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap2Dseguimiento-EN.pdf), para. 1226. [↑](#footnote-ref-5)
6. IACHR, [2017 Annual Report, Chapter II, Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap2Dseguimiento-EN.pdf), para. 1226. [↑](#footnote-ref-6)
7. IACHR, [2017 Annual Report, Chapter II, Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap2Dseguimiento-EN.pdf), para. 1226. [↑](#footnote-ref-7)
8. IACHR, [2017 Annual Report, Chapter II, Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap2Dseguimiento-EN.pdf), para. 1226. [↑](#footnote-ref-8)
9. IACHR, [2017 Annual Report, Chapter II, Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2015/doc-en/InformeAnual2015-cap2Dseguimiento-EN.pdf), para. 1226. [↑](#footnote-ref-9)
10. IACHR, 2017 Annual Report, Chapter II, [Section F: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2017/docs/IA2017cap.2-en.pdf), para. 1224. [↑](#footnote-ref-10)
11. IACtHR, [Case of Albán-Cornejo et al. Vs. Ecuador, Judgment of November 22, 2007](http://www.corteidh.or.cr/docs/casos/articulos/seriec_171_ing.pdf). Series C No. 171, para. 62. [↑](#footnote-ref-11)
12. IACtHR, [Case of the Río Negro Massacres Vs. Guatemala, Judgment of September 4, 2012](http://www.corteidh.or.cr/docs/casos/articulos/seriec_250_ing.pdf). Series C No. 250, para. 224. [↑](#footnote-ref-12)