

TECHNICAL INFORMATION SHEET
CASE 12.516 RAÚL ZAVALA MÁLAGA AND JORGE PACHECO RONDÓN
FRIENDLY SETTLEMENT REPORT Nº 98/05
FULL COMPLIANCE
(BOLIVIA)

I. SUMMARY OF THE CASE

Victim (s): Raúl Zavala Málaga and Jorge Pacheco Rondón

Petitioner (s): Public Defender of the Republic of Bolivia

State: Bolivia

Friendly Settlement Agreement Report No.: [98/05](#) published on October 27, 2005

Related Rappporteurship: N/A

Topics: Political Rights/ Judicial Protection

Facts: The petitioner alleged that on May 21, 2003, the Administrative Director General of the Ministry of Education ordered the termination of Jorge Pacheco Rondón and Raúl Zavala Málaga from the position they held in the Deputy Ministry for Sports, an entity under the Ministry of Education, Culture, and Sports. The reason given for the disengagement was the elimination of positions provided for in Article 2 of Ministerial Resolution No. 10/03 of April 8, 2003, issued by that Ministry. The termination resolution also stated that since the Ministry of Finance had transferred the budget of the Deputy Ministry of Sports to the Ministry of Health and Sports, the Ministry of Education no longer had legal responsibility or competence or any obligations whatsoever with regard to the Deputy Ministry of Sports.

Rights Alleged: The petitioner alleged that the State was responsible for violation of the rights established in Articles 23 (right to participate in Government) and 25 (right to judicial protection) of the American Convention on Human Rights, to the detriment of the alleged victims, as well as of the general obligation to respect rights and guarantee the rights protected in Article 1.1 of the Convention.

II. PROCEDURAL ACTIVITY

1. On February 2, 2005, the parties signed a friendly settlement agreement.
2. On October 27, 2005, the Commission adopted the friendly settlement agreement in Report No. 98/05.

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

Agreement Clause	Status of Compliance
FIRST. - Regarding the parties	
On one side, Fernando Antezana Aranibar, representing the Ministry of Health and Sports, Félix Sandoval, Deputy Minister of Sports, Federico	Declarative Clause

<p>Álvarez Plata, Administrative Representative of the Deputy Ministry of Sports, Javier Terán, National Coordinator of ODESUR 2006 Games; on the other side, Jorge Pacheco Rondón with CI. 188393 LP, domiciled at calle N° 16 #100, Obrajes Zone, an architect by profession, and Raúl Zavala Málaga with CI. 098169 LP., domiciled at Avenida 14 de Septiembre # 5256, Obrajes Zone, an engineer by profession.</p>	
<p>SECOND. - Background.-</p>	
<p>Administrative Resolution SSC/IRJ/139/2003 of August 28, 2003, issued by the Civil Service Superintendent, which decided on the appeal to a higher authority, determining: First.- To revoke the administrative order by which the public officials were dismissed and to immediately reinstate them in the posts they held at the same rank and salary and to pay these public servants their salaries for the months of April and May of the current year.</p> <p>Second.- To instruct the Minister of Health and Sports to execute the Administrative Resolution, by ordering the Deputy Minister of Sports to reinstate Jorge Pacheco Rondón and Raúl Zavala Málaga to the positions they held with this public entity.</p> <p>Third.- To report to the Superintendency of the Civil Service on compliance with the Resolution, so that it can determine whether or not to submit information to the Accounts Office [<i>Contraloría</i>]. Resolution N° 45/03-SSA-I of November 20, 2003, issued by the First Social and Administrative Chamber of the Superior Court of the Judicial District of La Paz, which declares the constitutional petition [Writ of Amparo] to have merit and admonishes the appellee authorities to comply with Administrative Resolution No. 139103; in addition, each of the appellees is fined Bs. 500. Constitutional Judgment 0156/2004-R of February 4, 2004, in the operative section, APPROVES Resolution N° 45/03SSA-I of November 20, 2003 issued by the First Social and Administrative Chamber of the Superior Court of the Judicial District of La Paz.</p> <p>According to the report of the prosecutor of the General Department of Legal Affairs dated September 7, 2004, there is a criminal proceeding against the Minister of Health in the Fifth Court for Preliminary Criminal Proceedings [Juzgado 5to de Instrucción en lo Penal Cautelar] under case number 2204/07654, for noncompliance with judicial decisions.</p> <p>Complaint lodged with the Inter-American Commission on Human Rights. In a communication, Ref. D.P.4074/2004, dated September 6, the Public Defender communicated to the Minister of Health that he had lodged a complaint with the Inter-American Commission on Human Rights against the Bolivian State for violation of political rights, judicial protection, and fair remuneration.</p>	<p style="text-align: center;">Declarative Clause</p>
<p>THIRD.- Agreements reached</p>	

<p>The parties have arrived at the following agreements: 3.1 The impossibility of reinstating Mr. Pacheco and Mr. Zavala in their previous places of work.</p>	<p>Declarative Clause</p>
<p>3.2 Because of budgetary restrictions and the issuance by the Executive Branch of new austerity measures, it is impossible to continue maintaining the salary levels they enjoyed in their previous positions.</p>	<p>Declarative Clause</p>
<p>3.3 The Ministry of Health and Sports, through the Deputy Ministry of Sports has entered into the following agreement with Jorge Pacheco Rondón: a) That he will be engaged for the ODESUR Project to work as Professional Sports Infrastructure Controller [<i>Profesional de Fiscalización de Infraestructura Deportiva</i>] at a monthly salary of Bs. 8,000 (eight thousand bolivianos); this salary shall be charged against budget item 25200, using resources of the Deputy Ministry of Sports, Source 10 TGN.</p>	<p>Total¹</p>
<p>b) That the amount of Bs. 125,964 (one hundred twenty-five thousand, nine hundred sixty-four bolivianos) shall be paid out of the budget of the Deputy Ministry of Sports for past wages accrued during the 2003 and 2004 fiscal years.</p>	<p>Total²</p>
<p>3.4 The Ministry of Health and Sports, through the Deputy Ministry of Sports, has entered into the following agreement with Raúl Zavala Málaga: a) That he shall be appointed as the head of sports infrastructure, with rank [<i>Item</i>] No. 13, as of January 3, 2005, for which the monthly salary is Bs. 6,000 (six thousand bolivianos), to be paid out of the budget of the FID Sports Investment Fund, and his government service shall be recognized as continuous as of his appointment.</p>	<p>Total³</p>
<p>b) That the amount of Bs. 54,036 (fifty-four thousand thirty-six bolivianos) shall be paid out of the budget of the Deputy Ministry of Sports, for past wages accrued during the 2003 and 2004 fiscal years.</p>	<p>Total⁴</p>
<p>FOURTH.- Discontinuance</p>	
<p>Jorge Pacheco Rondón and Raúl Zavala Málaga shall formally and expressly DESIST all legal action taken, on a national level, with the Fifth Court for Preliminary Criminal Proceedings, and internationally, with the Inter-American Commission on Human Rights. Jorge Pacheco Rondón and Raúl Zavala Málaga shall formally and expressly restraint from undertaking any future judicial or extrajudicial action pertaining to compliance with Administrative Resolution SSC/IRJ/139/2003 of August 28, 2003, by virtue of the fact that their petition has been fully resolved.</p>	<p>Declarative Clause</p>
<p>FIFTH.- Acceptance</p>	
<p>The parties, by mutual consent, without any pressure or malice involved, indicate their full agreement with each and every one of the clauses of the Compromise Agreement, in witness whereof it is signed in two equally authentic copies on the second day of February, two</p>	<p>Declarative Clause</p>

¹ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with recommendations of the IACHR, paras. 85-89.

² See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with recommendations of the IACHR, paras. 85-89.

³ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with recommendations of the IACHR, paras. 85-89.

⁴ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with recommendations of the IACHR, paras. 85-89.

thousand and five [...].	
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IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared full compliance in the case and ceased monitoring the friendly settlement agreement in its Annual Report 2008.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- Both Mr. Zavala and Mr. Pacheco were re-engaged in pursuing new work, as an inspector and responsible for sports infrastructure, respectively.
- Both Mr. Zavala and Mr. Pacheco received accrued wages from the 2003 and 2004 fiscal years.