

TECHNICAL INFORMATION SHEET
PETITION N° 185-02 ROGER HERMINIO SALAS GAMBOA
FRIENDLY SETTLEMENT REPORT N° 107/05
TOTAL COMPLIANCE
(PERU)

I. SUMMARY OF THE CASE

Victim (s): Roger Herminio Salas Gamboa
Petitioner (s): Roger Herminio Salas Gamboa
State: Peru
Admissibility Report No.: 14/03 published on February 20, 2003
Report on Friendly Settlement Agreement No.: 107/05 published on December 28, 2005
Related Rappporteurship: N/A
Topics: Judicial Guarantees/ Equal protection/Judicial protection

Facts: On March 11, 2002, the IACHR received a petition wherein the petitioner complained about the decisions of the National Council of the Judiciary which, under provisions of Article 142 of the 1993 Political Constitution, in conjunction with Article 1 of the Organic Law of the National Council of the Judiciary, Law No. 26397, were not subject to review by a judicial branch, and therefore that no domestic remedy remains to be exhausted and that therefore the provisions of Article 46.2.a and b of the Convention apply; and that the petition was filed within the time required by the rules of procedure in view of the point at which he was notified of the decision in question.

Rights Declared Admissible: The Commission decided that it was competent to hear the present case and that the petition was admissible in accordance with Articles 8 (right to a fair trial), 24 (right to equal protection) and 25 (right to judicial protection) of the American Convention on Human Rights.

II. PROCEDURAL ACTIVITY

1. On December 16, 2005, the parties signed a friendly settlement agreement.
2. On December 28, 2005, the Commission approved the friendly settlement agreement signed by the parties in Report No. 107/05.

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

Agreement Clause	Status of Compliance
THIRD: REINSTATEMENT OF THE TITLE OF JUSTICE OF THE SUPREME COURT BY THE NATIONAL COUNCIL OF THE JUDICIARY.	

The Representative of the Peruvian State, in keeping with the First Clause of this Friendly Settlement Agreement, considers that it is lawful, and an obligation of the State, for the National Council of the Judiciary to reinstate the title of full member of the Supreme Court of Justice of the Republic for Mr. Róger Herminio Salas Gamboa, so that he may resume his duties.	Total¹
In addition, it is lawful for the Peruvian State to undertake to recognize the period of time not worked, counted from September 19, 2001, to the date of his actual resumption of duties, for the purposes of the calculating the time of service, retirement, and all other social benefits that he stopped receiving.	Total²
FOURTH: COMPENSATION	
a. The Peruvian State recognizes the petitioner's right to the payment of comprehensive compensation that includes lost earnings, actual damages, and moral damages, in the form of monetary reparation. This is in light of the responsibility to which reference is made in the second clause of this document.	Total³
b. The Peruvian State recognizes the sum of US\$ 20,000.00 U.S. dollars (twenty thousand U.S. dollars) for moral damages, in view of the special circumstance of his lack of confirmation and other facts set forth in the first clause of this document. Mr. Róger Herminio Salas Gamboa undertakes not to pursue any claim for moral damages, directly or indirectly. In addition, he agrees not to sue the Peruvian State for joint-and-several liability and/or a third party with civil liability, or on any other grounds.	Total⁴
FIFTH: ANOTHER TYPE OF MONETARY REPARATIONS	
For the purposes of monetary reparations, consisting of remuneration not received, operating expenses pending payment up until his actual restitution, and the amount of compensation, the parties, by mutual agreement, defer their payment pending the results of the initiatives being taken to that before the Judicial Branch. The Inter-American Commission on Human Rights shall be informed of its form of payment within six months.	Total⁵
This agreement does not imply that Mr. Róger Herminio Salas Gamboa is waiving any invocation of his rights, as he deems advisable, directly before the Executive Council of the Judicial Branch, or other national and international human rights mechanisms.	Declarative Clause
SIXTH: CEREMONY TO RESTORE HIS REPUTATION	
The Representative of the Peruvian State undertakes to hold a Ceremony to Restore Mr. Róger Herminio Salas Gamboa's reputation within three months of the signing of this Agreement.	Total⁶

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared total compliance with the case and ceased monitoring the friendly settlement agreement in its Annual Report 2013.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

¹ See IACHR, Annual Report 2013, Chapter III, Section D: Status of Compliance with Recommendations of the IACHR, paras. 995-1008.

² See IACHR, Annual Report 2011, Chapter III, Section D: Status of Compliance with Recommendations of the IACHR, paras. 86-94.

³ See IACHR, Annual Report 2011, Chapter III, Section D: Status of Compliance with Recommendations of the IACHR, paras. 1073-1082.

⁴ See IACHR, Annual Report 2011, Chapter III, Section D: Status of Compliance with Recommendations of the IACHR, paras. 1073-1082.

⁵ See IACHR, Annual Report 2011, Chapter III, Section D: Status of Compliance with Recommendations of the IACHR, paras. 1073-1082.

⁶ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with Recommendations of the IACHR, paras. 678-683.

- Mr. Roger Herminio Salas Gamboa was reinstated with the title of Full Member of the Supreme Court of Justice of the Republic by Resolution No. 021-2006- CNM of January 13, 2006, a position he served until he was 74 years of age, when its termination occurred due to the age limit on April 11, 2008.

- The State paid the petitioner the amount of 68,440 new soles on January 5, 2006, as economic reparation, and that in April 2011, it paid to Mr. Salas Gamboa the sum of 834,166.58 new soles (approximately US\$ 298,559.38).

- On December 16, 2005, at 11:00 am, a ceremony of public apology was held in the Ministry of Justice and Human Rights in favor of the petitioner.

- The State acknowledged the time not worked for the purposes of calculating the time he served, retirement and other labor benefits he did not receive.