

TECHNICAL INFORMATION SHEET
CASE 12.195 MARIO ALBERTO JARA OÑATE AND OTHERS
FRIENDLY SETTLEMENT REPORT N° 163/10
FULL COMPLIANCE
(CHILE)

I. SUMMARY OF THE CASE

Victim (s): Mario Alberto Jara Oñate, Julio César Cid Deik, Marcelino Esteban López Andrade, José Tobar Exequel Muñoz, Fernando Villa Molina, Ciro Elías Rodríguez Uribe, Mario Eduardo Araya Marchant and Sergio Iván González Bustamante, and all of the uniformed police, members of the Chilean “Carabineros” [National Police Force and Gendarmerie]

Petitioner (s): Center for Justice and International Law (CEJIL) and the *Clínica de Interés Público* of the Universidad Diego Portales

State: Chile

Admissibility Report: [31/03](#) published on March 7, 2003

Report on Friendly Settlement Agreement: [163/10](#) published on November 1, 2010

Related Rapporteurship: N/A

Topics: Right to a fair trial/ right to privacy/ rights of the family/ right to equal protection/ judicial protection

Facts: The petitioners contended that because of the protests that the wives of the Chilean Carabineros mounted in response to their husbands’ low salaries, the alleged victims were subjected to an arbitrary rating and evaluation process conducted by the authorities of the Carabineros. Because of this process, their names were placed on the institution’s Elimination List, and their fundamental rights were violated.

Rights Declared Admissible: The Commission concluded that it was competent to hear the present case and that the petition was admissible under Articles 2 (domestic legal effects), 8 (right to a fair trial), 11 (right to privacy), 17 (rights of the family), 24 (right to equal protection) and 25 (right to judicial protection), in relation to Article 1.1 of the American Convention.

II. PROCEDURAL ACTIVITY

1. On January 20, 2010, the parties signed a friendly settlement agreement.
2. On November 1, 2010, the Commission approved the friendly settlement agreement in Report No.163/10.

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

Agreement Clause	Status of Compliance
IV. PUBLIC RECOGNITION OF RESPONSIBILITY	

By means of this friendly settlement agreement, the Chilean State recognizes that from the standpoint of international standards, violation of the rights of the petitioners occurred	Declarative Clause
V. MEASURES OF NON-REPETITION	
The Chilean State shall undertake to submit for review the laws and regulations applicable to the rating or evaluation of Carabineros, with a view to verifying that the rules pertaining to the performance evaluation of its staff members are in compliance with the principles of objectivity, adversarial action, and opposability, and that they generally provide for due protection of their employment rights, in accordance with international human rights standards.	Total¹
Similarly, the State of Chile shall undertake to report to the IACHR within one year on the results of this review, and to inform on the progress made with regard to any measures that it may have adopted as a result of that review.	Total²
VI. MEASURES OF SPECIFIC REPARATIONS	
Within three months of the signing of this agreement, the State of Chile is required to proceed to withdraw or clear the administrative records of the victims in the case, by removing any reference to the acts that motivated the present complaints.	Total³
The Chilean State shall undertake to publish once a summarized version of the present friendly settlement agreement in the Official Gazette of the Republic of Chile, and to publish for six months said version on the web pages of the Ministry of Foreign Affairs, Ministry of Defense, and the Chilean Carabineros.	Total⁴
The Chilean State, in a letter sent by the Carabineros Under-Secretary, Javiera Blanco Suárez, shall present its formal apologies to each of the victims of both cases for the events that are the subject of the complaint and for the consequences they had on their lives and on their privacy and their families, and indicate at the same time the measures established to remedy the consequences and difficulties they caused.	Total⁵
The petitioners may have direct access to the health services provided both by the Carabineros' Hospital, "HOSPITAL DEL GENERAL HUMBERTO ARRIAGADA VALDIVIESO," and by the Hospital of the Carabineros' Social Welfare Department, [<i>Dirección de Previsión de Carabineros</i>], "HOSPITAL TENIENTE HERNÁN MERINO CORREA", indistinctly, in accordance with the fees of each hospital center and the rates of the health system of the welfare entity indicated, as appropriate, which are in force on the date of the health services provided, in accordance with the health care system applicable to the interested parties, FONASA or ISAPRE, as the case may be. To this end, they are understood to be authorized by the authorities of these two hospital centers, and thus do not require sponsorship of an active or passive contributor from the Carabineros Social Welfare Department to assume economic responsibility for the medical services granted.	Total⁶
For the purpose of implementing the foregoing, the responsible institutions of the hospitals shall include the petitioners in their databases, so that they only need to show their current identification card in order to receive the services of those centers.	Total⁷
VII. REPARATIONS	

¹ See IACHR, Report N° 163/10. Case 12.195. Friendly Settlement. Mario Alberto Jara Oñate and others. Chile. November 1, 2010.

² See IACHR, Report N° 163/10. Case 12.195. Friendly Settlement. Mario Alberto Jara Oñate and others. Chile. November 1, 2010.

³ See IACHR, Report N° 163/10. Case 12.195. Friendly Settlement. Mario Alberto Jara Oñate and others. Chile. November 1, 2010.

⁴ See IACHR, Report N° 163/10. Case 12.195. Friendly Settlement. Mario Alberto Jara Oñate and others. Chile. November 1, 2010.

⁵ See IACHR, Report N° 163/10. Case 12.195. Friendly Settlement. Mario Alberto Jara Oñate and others. Chile. November 1, 2010.

⁶ See IACHR, Report N° 163/10. Case 12.195. Friendly Settlement. Mario Alberto Jara Oñate and others. Chile. November 1, 2010.

⁷ See IACHR, Report N° 163/10. Case 12.195. Friendly Settlement. Mario Alberto Jara Oñate and others. Chile. November 1, 2010.

<p>The victims shall be paid, by way of reparations for the material and nonmaterial damages caused, the amount of US\$17,000 to each one (Case No. 12195 - Mario Jara Oñate et al) of the former employees names in this document, and the amount of US\$3,000 to each one of the petitioners who are not employees of the Carabineros listed in this document (Case N° 12281 Gilda Pizarro Jiménez et al). The aforesaid amounts shall be paid in their equivalent in pesos at the time of payment.</p> <p>The payment shall be made by means of a check made out in the name of each of the victims, within 3 months counting from the date of this agreement; these documents shall be given to the petitioners at the Human Rights Department of the Ministry of Foreign Affairs of Chile, after showing their national identification card</p>	Total⁸
VIII. FOLLOW-UP COMMITTEE	
<p>For the purpose of monitoring compliance with the commitments made in this agreement, the parties agree to set up a Follow-Up Committee coordinated by the Human Rights Department of the Ministry of Foreign Affairs of Chile. This Committee shall be made up of a representative of the Human Rights Department of the Chilean Foreign Ministry, a representative of the Chilean Carabineros, a representative of the Ministry of Defense, and a representative of the petitioners. The procedures and frequency of the meetings of this Committee shall be agreed by its members. The Committee shall periodically submit a report to the IACHR's Executive Secretariat, showing the progress made in fulfilling the obligations under this agreement.</p>	Total⁹

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared full compliance with the case and ceased monitoring the friendly settlement agreement in its Annual Report 2011.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State sent a letter of public apology to each of the petitioners, and since April 2010 the system was already operating so that the petitioners could access health benefits
- The State delivered the corresponding compensation for moral and non-pecuniary damage to each of the victims
 - The State cleared the petitioners' criminal background records.
 - The State granted health benefits through the Carabineros Hospital "DEL GENERAL HUMBERTO ARRIAGADA VALDIVIESO" and by the Hospital of the Carabineros' Social Welfare Department "HOSPITAL TENIENTE HERNÁN MERINO CORREA".
- The State published the text of the friendly settlement agreement in the Official Gazette dated March 17, 2010, and the text was available for 6 months on the websites of the Ministry of Foreign Affairs and Carabineros of Chile, as well as on the page of the Human Rights Directorate.

B. Structural outcomes of the case:

- The State modified the educational system of the Carabineros of Chile.

⁸ See IACHR, Report N° 163/10. Case 12.195. Friendly Settlement. Mario Alberto Jara Oñate and others. Chile. November 1, 2010.

⁹ See IACHR, Annual Report 2011, Chapter III, Section D: Status of Compliance with Recommendations of the IACHR, paras. 346-354.

- The parties established a FSA Implementation Monitoring Commission coordinated by the Human Rights Directorate of the Ministry of Foreign Affairs of Chile