

TECHNICAL INFORMATION SHEET
CASE N° 12.848 MRS. N
FRIENDLY SETTLEMENT REPORT N° 42/16
TOTAL COMPLIANCE
(PANAMA)

I. SUMMARY OF THE CASE

Victim (s): Mrs. N (Identity withheld upon request)

Petitioner (s): Carlos J. George B

State: Panama

Admissibility Report No. 160/11 published on November 2, 2011

Report on Friendly Settlement Agreement No.: 42/16 published on September 25, 2016

Related Rapporteurship: Rapporteurship on the Rights of the Child/ Rapporteurship on the Rights of Women/ Rapporteurship on the Rights of Persons with Disabilities

Issues: Right to Life/ Humane Treatment/ Personal Liberty/ Judicial guarantees/ Rights of the family/ Rights of the child/ Equal protection/ Judicial protection/ Progressive development/ Persons with disabilities

Facts: On January 3, 2008, the Inter-American Commission on Human Rights received a petition against the State of Panama. The petition alleged the international responsibility of the State when, in 2002, the alleged victim was 15 and in secondary school, and received a blood transfusion in a public hospital and was infected with the human immunodeficiency virus (HIV).

Rights Declared Admissible: The IACHR declared the petition admissible for the purpose of hearing the alleged violation of the rights enshrined in Articles 4 (right to life), 5 (right to humane treatment), 8 (right to a fair trial), 17 (rights of the family), 19 (rights of the child), 24 (right to equal treatment), 25 (right to judicial protection) and 26 (progressive development) of the American Convention on Human Rights, in conjunction with Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects) of the same treaty.

II. PROCEDURAL ACTIVITY

1. On August 7, 2015, the parties signed a Friendly Settlement Agreement.
2. On September 25, 2016, the IACHR approved the agreement signed by the parties in Report No.42/16.

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

Agreement Clause	Status of Compliance
1. Medical and psychological care:	

Given that the damage caused to the petitioner was the result of negligent actions in the public health system, both parties agree that for greater benefit and peace of mind of the aggrieved party, medical, and psychological care is to be provided in the private health care system, which is the preference of the petitioner. Notwithstanding the foregoing, the State is required at all times to provide access to the public health system under existing legal provisions whenever the petitioner so requires	Total¹
2. Scope, coverage, and conditions:	
The economic agreement reached with respect to medical and psychological care includes periodic check-ups, provision of medication for her treatment, specialized medical care where circumstances stemming from the illness so require, and physical, surgical, or pharmacological treatments, the purpose of which is to mitigate and counter the consequences of the illness and improve her quality of life.	Total²
3. Financial compensation measures:	
The Panamanian State commits to pay fair financial compensation based on the proposal made by the actuarial expert's report presented by Mrs. N.	
3.1. Pecuniary damages: Pecuniary damages have been assessed in order to cover the period during which the victim or her family had to incur expenses, including medical, legal, and related fees resulting from the violation suffered and for which she was not provided immediate reparation.	Total³
3.2. Future loss of earnings: The Panamanian State recognizes her precarious employment status, both with respect to obtaining job offers, as well as the physical consequences that may impact her job performance.	Total⁴
3.3. Non-pecuniary damage: Taking into account the setbacks suffered by the victim and her family, in addition to the decline in her quality of life due to her medical condition, the Panamanian State acknowledges the physical and psychological difficulties she faces and their impact on her family.	Total⁵
4. Satisfaction and non-repetition measures:	
The Panamanian State undertakes to provide services in its health system under the best quality standards. It further undertakes to ensure that laboratory samples are handled in compliance with safety rules that duly certify such medical procedures and that there is suitably trained personnel so that there are no further instances of operational negligence, and health system's users' rights are protected, providing them with safe and proper service.	Declarative Clause
5. Amount agreed upon for reparation:	
The parties have agreed upon the sum of [...] in financial compensation. The parties have agreed upon the sum of [...] in medical, psychological, and other kinds of health care in the health facility of the beneficiary's choosing.	Total⁶
6. Attorneys' and experts' fees:	
The parties have agreed to pay 6% above the assessed amount the petitioner	Total⁷

¹ See IACHR, Report No. 42/16, Friendly Settlement, Case No. 12.848, Mrs. N, Panama, September 25, 2016.

² See IACHR, Report No. 42/16, Friendly Settlement, Case No. 12.848, Mrs. N, Panama, September 25, 2016.

³ See IACHR, Report No. 42/16, Friendly Settlement, Case No. 12.848, Mrs. N, Panama, September 25, 2016.

⁴ See IACHR, Report No. 42/16, Friendly Settlement, Case No. 12.848, Mrs. N, Panama, September 25, 2016.

⁵ See IACHR, Report No. 42/16, Friendly Settlement, Case No. 12.848, Mrs. N, Panama, September 25, 2016.

⁶ See IACHR, Report No. 42/16, Friendly Settlement, Case No. 12.848, Mrs. N, Panama, September 25, 2016.

receives, equivalent to [...] in professional fees to A. Dr. B shall receive the sum of [...], plus 7% in ITBM Tax [<i>Impuesto de Transferencia de Bienes Muebles y Servicios</i>], totaling [...], in professional fees for the expert studies she conducted and the expert professional advice during the negotiations.	
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IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared total compliance with the case and ceased monitoring the friendly settlement agreement in Report No.42/16.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The Panamanian State delivered a check from the national treasury for the amount of compensation set out in the friendly settlement agreement, to cover all Mrs. N's lifetime medical costs in the private venue of her choice, as well as the material and immaterial damages caused, thus satisfying the interests both of the victim and of the State in the present case.
- The Panamanian State has delivered a check from the national treasury to Doctor B. in settlement of her professional fees for the expert studies she conducted and the expert professional advice during the negotiations.

⁷ See IACHR, Report No. 42/16, Friendly Settlement, Case No. 12.848, Mrs. N, Panama, September 25, 2016.