

TECHNICAL INFORMATION SHEET
CASE N° 11.525 ROISON MORA RUBIANO
FRIENDLY SETTLEMENT REPORT N° 45/99
(COLOMBIA)

I. SUMMARY OF THE CASE

Victim (s): Roison Mora Rubiano

Petitioner (s): “José Alvear Restrepo” Lawyers Collective, Colombian Commission of Jurists

Estado: Colombia

Report on Friendly Settlement Agreement No.: [45/99](#), published on March 9, 1999

Related Rapporteurship: N/A

Topics: Right to Life /Right to Humane Treatment

Facts: On July 27, 1995, the Commission received a petition alleging the international responsibility of the State of Colombia for the violation of Roison Mora Rubiano’s right to life and to a humane treatment. According to the petitioners’ allegations, on June 22, 1993, in Santafé de Bogotá, Roison Mora Rubiano and two friends were playing, throwing stones, as they walked back to their homes. By accident, one of the stones hit the roof of a bus carrying personnel from the National Army Command as it passed under a bridge. According to the petition, two sergeants got out of the bus and followed the youths. When they were some distance away, they discharged their weapons. As a result, Roison Mora Rubiano was seriously injured and subsequently died in the Hospital Meissen. According to the petitioners’ allegations, the victim’s family members were deprived of the right to participate in the investigation because it was conducted within the framework of the military criminal courts. Finally, since Article 680 of the Military Criminal Code provides that when there are two acquittal verdicts, they are mandatory even if inconsistent with the actual proceedings, those responsible for Roison Mora Rubiano’s death were acquitted.

Rights Alleged: The petitioner alleged that the Republic of Colombia was responsible for violation of the rights enshrined in Articles 4 (right to life) and 5 (right to humane treatment) of the American Convention on Human Rights.

II. PROCEDURAL ACTIVITY

1. The Commission notified the State of Colombia of the petition on August 17, 1995. On October 8, 1996, during its 93rd period of ordinary sessions, the Commission placed itself at the disposal of the parties to start the friendly settlement process. On May 27, 1998, they signed a Friendly Settlement Agreement, and subsequently held meetings in order to follow-up on the commitments assumed by the parties.

2. On March 9, 1999, the IACHR approved the friendly settlement agreement signed by the parties in Report No.45/99.

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

| Agreement Clause | Status of Compliance |
|--|--------------------------|
| <p>1. The State expresses its grief and solidarity to the relatives of the victims, and expresses its censure and rejection of actions of this type.</p> <p>The Government undertakes, within two (2) months from the date this document is signed, to hold a public act of reparation, in the presence of the President of the Republic, the victims, and their relatives and representatives, in which the victims and their family members will be able to hear that the Government accepts that the State is responsible for the events.</p> | Total¹ |
| <p>2. The Colombian State shall agree with the family members and their representatives, within two (2) months, from the signing of this document, on the appropriate mechanism for preserving the memory of the victims in the events denounced.</p> | Total² |
| <p>3. Considering the obligation the Colombian State undertaken according to the American Convention on Human Rights (hereinafter "the Convention"), to investigate, judge, sanction, and make reparations to the victims and their family members, and the irrelevance of domestic motives for failure to comply with its international obligations, the Government of Colombia undertakes to continue studying the internal mechanisms which, pursuant to the law, can enable the victims to satisfy their right to justice (Articles 8 and 25 of the Convention) and to inform the petitioners and the IACHR.</p> <p>In this regard, the Government undertakes to inform the petitioners and the IACHR the results of the study on the viability of filing an action for reconsideration by the competent organs.</p> | Total³ |
| <p>4. The Government of Colombia undertakes to observe, adopt, and carry out each of the recommendations contained in the report previously mentioned, in particular, related to the separation from service of all the agents involved in grave human rights violations, and providing that the persons involved in the events that are the subject of each of the two cases to which this report alludes, if they are still in the Armed Forces or National Police, be discharged, i.e. that they be separated from the service, in accordance with the constitutional and statutory faculties vested in the Executive Branch.</p> <p>The commitment undertaken by the Government to implement the recommendations should not be understood as to be "[...] breached merely because the investigation does not produce a satisfactory result. Nevertheless, it must be undertaken in a serious manner and not as a mere formality preordained to be ineffective." (Inter-American Court of Human Rights, Case of Godínez Cruz, Judgment of January 20, 1989, Series C No. 5, paragraph 188).</p> | Total⁴ |

¹ See IACHR, Report No.45/99, Case 11.525, Friendly Settlement, Roison Mora Rubiano., Colombia, March 9, 1999.

² See Note DDH.GOI No 39896/1933 of the Foreign Relations Ministry of the Republic of Colombia, August 4, 2008. Located in the file Case 11.525, folder 3.

³ See Note DDH.GOI No 39896/1933 of the Foreign Relations Ministry of the Republic of Colombia, August 4, 2008. Located in the file Case 11.525, folder 3.

⁴ See Note DDH.GOI No 39896/1933 of the Foreign Relations Ministry of the Republic of Colombia, August 4, 2008. Located in the file Case 11.525, folder 3.

IV. LEVEL OF COMPLIANCE OF THE CASE

4. On August 4, 2008, and February 17, 2009, the State of Colombia reported compliance with the commitments undertaken by the parties.

V. INDIVIDUAL AND STRUCTURAL RESULTS OF THE CASE

A. Individual outcomes of the case:

- On July 29, 1998, a public act of apology was held, presided by the President of the Colombian State, which publicly acknowledged responsibility for the events denounced.
- The parties agreed to prepare a diploma named after Roison Mora to be awarded in the closing ceremony of each course of the School of Education and Training of the National Army, to those students who obtain the highest average in the human rights program and have no criminal or disciplinary record for alleged human rights violations.
- On September 28, 2007, a motion was filed before the criminal chamber of the Supreme Court of Justice, Roison Mora, file No. 28477 Justice Mauro Solarte.
- The case was settled, in the administrative contentious proceedings. By means of Resolution 03704 of October 1998, the Ministry of Defense complied with the settlement agreement in favor of the relatives of Roison Mora and ordered the payment of financial compensation.
- Through disciplinary investigation No. 142-143-23 before the First District Procurator's Office, a decision was made to impose a disciplinary sanction involving the dismissal of Sergeant Major Luis Ferney Bonilla and Second Sergeant José Joaquín Mena Serna, which was confirmed by the Procurator's Office of the Armed Forces in 1997. The first was dismissed on February 13, 1998 and the latter on February 24, 1998.