

TECHNICAL INFORMATION SHEET
CASE 12.972 MARCELO RAMÓN AGUILERA AGUILAR
FRIENDLY SETTLEMENT REPORT No. 334/20
TOTAL COMPLIANCE
(HONDURAS)

I. SUMMARY OF THE CASE

Victim(s): Marcelo Ramón Aguilera Aguilar

Petitioner(s): Marcelo Ramón Aguilera¹

State: Honduras

Date negotiations began: November 9, 2015

Date Friendly Settlement Agreement signed: August 12, 2020

Friendly Settlement Agreement Report No. [334/20](#) approved on November 19, 2020

Estimated length of negotiations: 5 years

Rapporteurship involved: N/A

Topics: Due legal guarantees/ judicial protection

Facts: On August 16, 2006, the IACHR received a petition wherein the petitioner alleged violation, by the State, of his rights to due process and judicial protection guarantees, protected under Articles 8 and 25 of the American Convention, because he—the alleged victim—had been unjustifiably dismissed on the basis of Decree 58-2001, which authorized the State Secretariat for Security to dismiss personnel in the higher, executive, and inspector categories of the preventive, investigative, and special forces police, as well as non-commissioned officers, junior officers, and rank and file. The petition stated, moreover, that at that time, the State Secretary for Security had publicly announced, based on the aforementioned decree, that [the police] were being purged because they were corrupt. The petitioner indicated that he began working on October 16, 1995 as a level III Technical Assistant in the Secretariat of Public Works, Transportation, and Housing (hereinafter, “SOPTRAVI”), an institution that was also part of the Executive Branch. Later, on July 14, 1999, he was reportedly appointed Director General of Special Investigative Services, an agency of the State Secretariat for Security, a position from which he was dismissed on August 9, 2001, based on Decree 58-2001, without the authorities following the procedure required by the Organic Law of the Judiciary, and without having been “heard and convicted in a trial.” The petitioner further claimed that in a judgment rendered on March 13, 2003, the Supreme Court of Justice of Honduras had declared Decree 58-2001 unconstitutional and unenforceable.² Nevertheless, even though Article 316(2) of the Honduran Constitution stipulates that when a law is ruled unconstitutional that decision shall have general consequences and shall be applicable immediately, the Supreme Court ruled that the judgment would not have retroactive effect. With respect to the exhaustion of domestic remedies, the petitioner indicated that, on the basis of the judgment declaring Decree 58-2001 unconstitutional, a regular complaint requesting nullification was filed with the Administrative Disputes Court (*Juzgado de Letras de lo Contencioso Administrativo*) to invalidate his dismissal and order his reinstatement, with payment of lost wages and reparation for damages.

¹ This petition was submitted by Rigoberto Duarte Acosta. However, in a June 26, 2012 note addressed to the Commission, Marcelo Ramón Aguilera Aguilar—the petitioner and alleged victim—announced that, as of that moment, he alone would be representing himself in his case.

² Regarding the judgments, the petitioner states that they were published by Legislative Decree 85-2003 of May 29, 2003, in Official Gazette No. 30166 of August 19, 2003.

According to the petitioner, when the request for nullification was denied, motions for appeal and cassation appeal (*casación*) were filed, respectively, with the Court of Appeals for Administrative Disputes (*Corte de Apelaciones de lo Contencioso Administrativo*) and the Supreme Court of Justice.

Rights declared admissible: The IACHR decided to declare the petition admissible for the alleged violation of the rights protected under Articles 8 (due legal guarantees) and 25 (judicial protection) of the American Convention on Human Rights, in connection with Articles 1(1) and 2 thereof, to the detriment of Marcelo Ramón Aguilera.

II. PROCEDURAL ACTIVITY

1. The IACHR published the Friendly Settlement Agreement Report on 334/20, indicating that the agreement had been complied with in full.

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

Clause of the Agreement	Status of compliance
<p>SECOND: GENERAL ITEMS</p> <p>As a result of the will expressed by the parties to reach a friendly settlement in this case, the State undertakes to comply with this agreement in accordance with the following parameters:</p> <p>a. <u>Scope</u>: This refers specifically to the legal consequences suffered by the petitioner in the wake of the issue of Decree 58-2001, published in Official Gazette No. 29,504 of July 15, 2001, which was later ruled unconstitutional by the Supreme Court of Justice of Honduras via a March 13, 2003 judgment that was published in Official Gazette No. 30,166 of August 19, 2003. In consideration of the fact that these consequences date back to October 16, 1995, when the petitioner joined the Secretariat of Public Works, Transportation, and Housing (SOPTRAVI).</p> <p>b. <u>Nature</u>: To resolve, by means of a friendly settlement, as far as the petitioner and party to the present agreement is concerned, compensation and without that implying any acknowledgement by the State of either the facts or law invoked in the context of the procedure underway before the Inter-American Commission on Human Rights.</p> <p><u>Form</u>: Friendly settlement agreement governed by Articles 48(1)(f) and 49 of the American Convention on Human Rights and Article 40 of the Commission’s Rules of Procedure.</p> <p><u>Determination of the beneficiaries</u>: By express agreement of the parties, the beneficiary of this agreement is Marcelo Ramón Aguilera Aguilar.</p> <p><u>Financial reparations</u>: The parties agreed to establish an amount of compensation</p>	<p>Total³</p>

³ IACHR, Report No. 334/20, Case 12.972. Friendly Settlement. Marcelo Ramón Aguilera Aguilar, Honduras, November 19, 2020. Available at: <http://www.oas.org/en/iachr/decisions/2020/HOSA12972EN.pdf>

that satisfies the claims of Marcelo Ramón Aguilera Aguilar .	
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IV. LEVEL OF COMPLIANCE OF THE CASE

2. The Commission declared full compliance with the case and ceased monitoring the friendly settlement agreement in the Friendly Settlement Report No. 334/20 published on November 19, 2020.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State paid financial reparations, as agreed under the friendly settlement agreement.