

TECHNICAL INFORMATION SHEET
CASE 12.078 RICARDO SEMOZA DI CARLO
FRIENDLY SETTLEMENT REPORT No. 31/04
TOTAL COMPLIANCE
(PERU)

I. SUMMARY OF THE CASE

Victim(s): Ricardo Semoza Di Carlo
Petitioner(s): Ricardo Manuel Semoza Di Carlo
State: Peru
Date of start of the negotiations: September 10, 2003
Date of signing of the FSA: October 23, 2003
Admissibility report No.: [84/01](#), published on October 10, 2001
Friendly settlement agreement report No.: [31/04](#), published March 11, 2004
Estimated duration of the negotiation phase: 6 months
Related rapporteurship: N/A
Topics: Due process / Judicial protection guarantees

Facts: On November 12, 1998, Ricardo Manuel Semoza di Carlo lodged a complaint against the Republic of Peru before the Inter-American Commission on Human Rights. The petitioner alleges that the Peruvian State has not complied with the court judgment ordering that Mr. Semoza Di Carlo be reinstated to the National Police of Peru. The petitioner alleges that this failure to comply is a violation by the Peruvian State of the right to judicial protection enshrined in Article 25 of the American Convention on Human Rights.

Rights declared admissible: The Commission concluded it was competent to hear the case in question and that the petition was admissible regarding article 25, (right to guarantees of judicial protection) of the American Convention, in concordance with its Article 1(1), in compliance with the requirements set forth in articles 46 and 47, and decided to notify the parties and publish its report in its annual report.

II. PROCEDURAL ACTIVITIES

1. The IACHR asked the parties for updated information on December 8, 2014, September 30, 2015, October 21, 2016, August 26, 2017, July 26, 2018 and July 12, 2019.
2. The State provided information on November 11, 2015, November 22, 2016, May 5, 2017, October 27, 2017, August 24, 2018, September 20, 2018 and September 26, 2019.
3. The petitioners provided information on January 8, 2015, October 1, 2015, and March 15, 2017.

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

Clauses of the agreement	Status of compliance
--------------------------	----------------------

<p>ONE: BACKGROUND On November 12, 1998, Ricardo Semoza di Carlo lodged a complaint before the Inter-American Commission on Human Rights, alleging that the Peruvian State had failed to comply with a court order to reinstate him with the National Police of Peru, and that the State had thereby violated his right to judicial protection, covered by Article 25 of the American Convention on Human Rights. [...]</p>	<p>Declarative clause</p>
<p>TWO: RECOMMENDATION Mindful that unqualified protection of and respect for human rights is the foundation of a just, decent and democratic society, in strict compliance with the obligations undertaken with signature and ratification of the American Convention on Human Rights and other international human rights instruments to which Peru is party, and conscious that any violation of an international obligation that has resulted in damages or injury carries with it the duty to make adequate reparation, which in the instant case means restoring the victim to his post, the State acknowledges its responsibility for violation of Articles 1(1) and 25 of the American Convention on Human Rights, to the detriment of Ricardo Semoza di Carlo.</p>	<p>Declarative clause</p>
<p>THREE: COMPENSATION The Peruvian State grants the following benefits to the petitioner as compensation:</p>	
<p>a) Recognition of the time that he was arbitrarily separated from the institution, as real and effective time, and of the consequent prerogatives and rights inherent in his rank, pursuant to decision No. 2 of Report 28/03 of the Inter-American Commission on Human Rights, including the financial benefits flowing therefrom, which does not imply the payment of wages and other remuneration forgone since the date of his removal from duty.</p>	<p>Total¹</p>
<p>b) Immediate reinstatement in the Superior School of the National Police of Peru (ESUPOL), so that he may continue the senior course for PNP Majors and Commanders that he was taking at the time he was relieved of his duties</p>	<p>Total²</p>
<p>c) Regularization of pension rights, as of the date of his reinstatement, taking into account the new calculation of his time in service.</p>	<p>Total³</p>
<p>d) Refund of the officers' retirement insurance (FOSEROF, AMOF etc.) by virtue of Article 4 of Supreme Resolution 0501-2003-IN/PNP of August 29, 2003.</p>	<p>Total⁴</p>
<p>e) A public ceremony will be held.</p>	<p>Total⁵</p>

¹ See IACHR, 2018 Annual Report, Chapter II, Section G. Status of compliance with the recommendations of the IACHR issued in reports on the merits and the friendly settlement agreements approved by the IACHR, available at: <https://www.oas.org/es/cidh/docs/anual/2018/docs/IA2018cap.2-es.pdf>

² See IACHR, Annual Report 2014, Chapter II, Section D: Status of Compliance with Recommendations. Para. 1174.

See IACHR, 2018 Annual Report, Chapter II, Section G. Status of compliance with the recommendations of the IACHR issued in reports on the merits and the friendly settlement agreements approved by the IACHR, available at: <https://www.oas.org/es/cidh/docs/anual/2018/docs/IA2018cap.2-es.pdf>

⁴ See IACHR, Annual Report 2017, Chapter II, Section D: Status of Compliance with Recommendations. Para. 2198.

⁵ See IACHR, 2018 Annual Report, Chapter II, Section G. Status of compliance with the recommendations of the IACHR issued in reports on the merits and the friendly settlement agreements approved by the IACHR, available at: <https://www.oas.org/es/cidh/docs/anual/2018/docs/IA2018cap.2-es.pdf>

<p>FOUR: RENUNCIATION OF FINANCIAL COMPENSATION The petitioner claimed compensation in the amount of \$100,000, but considering the current situation of the national treasury, and declaring that he places the interests of the State before his own economic claims, Ricardo Semoza di Carlo has been inspired by the mystique and vocation of service as a Major in the PNP, which constitute the <i>raison d'être</i> of any officer of the National Police of Peru, and despite his financial situation, he expressly renounces any monetary compensation, considering that his reinstatement in the police force is of special ethical value and greater than any material reward.</p>	<p>Declarative clause</p>
<p>FIVE: INVESTIGATION AND PROSECUTION The Peruvian State will undertake an exhaustive investigation of the facts and will prosecute any person found to have participated in the deeds of this case. For this purpose, an Ad Hoc Commission will be established by the Office of International Affairs and the Legal Advisory Services of the Ministry of the Interior, in order to identify and establish the responsibility of officials of the Interior Sector who failed to comply in a timely manner with the court order, or who participated in the violation of the rights of judicial protection involving the reinstatement of Ricardo Manuel Semoza di Carlo to active police service.</p>	<p>Total⁶</p>
<p>SIX: RIGHT TO BRING ACTION The Peruvian State reserves its right, under the laws currently in effect, to bring action against those persons whom the competent national authority finds to be the responsible parties in the instant case.</p>	<p>Declarative clause</p>
<p>SEVEN: LEGAL BASIS This agreement is signed pursuant to Articles 2(1), 44, 55, 205, and the Fourth Final and Transitional Provision of the Political Constitution of Peru; Articles 1205, 1306, 1969, and 1981 of the Peruvian Civil Code; Articles 1, 2, and 48(1)(F) of the American Convention on Human Rights, and Article 41 of the Rules of Procedure of the Inter-American Commission on Human Rights.</p>	<p>Declarative clause</p>
<p>EIGHT: INTERPRETATION The meaning and scope of this agreement shall be interpreted in accordance with Articles 29 and 30 of the American Convention on Human Rights, as applicable, and with the principle of good faith. In the case of doubt or disagreement between the parties as to the contents of this agreement, the interpretation will be decided by the Inter-American Commission on Human Rights. The Commission shall also oversee its compliance, and the parties are obliged to report every three months on the status of such compliance.</p>	<p>Declarative clause</p>
<p>NINE: RATIFICATION The parties undertake to bring this friendly settlement agreement to the attention of the Inter-American Commission on Human Rights, so that the latter might confirm and ratify it in all its parts.</p>	<p>Declarative clause</p>

⁶ See IACHR, 2019 Annual Report, Chapter II, Section G. Friendly Settlements. Available at <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>

<p>TEN: ACCEPTANCE OF TERMS The parties signing this agreement state that of their own free will they agree with and accept the terms of each and every clause of this agreement, and expressly stipulate that this agreement settles the dispute between them and any claim concerning the Peruvian State’s international responsibility for the human rights violations of which PNP Major Ricardo Semoza di Carlo was victim. Signed in quadruplicate, in the city of Lima, the twenty-third day of the month of October in the year two thousand three.</p>	<p>Declarative clause</p>
--	----------------------------------

IV. LEVEL OF COMPLIANCE OF THE CASE

4. The Commission declared full compliance with the case and ceased monitoring the friendly settlement agreement in the 2019 Annual Report.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State recognized its international responsibility for the facts.
- The State recognized Major Semoza’s real and effective time of service with the Police, and consequently his renewable retirement equivalent to that of the next rank, and as of October 2005, the victim was granted non-pensionable fuel benefits.
 - The State proceeded to reinstate the victim in the Higher National Police Academy of Peru.
 - The State regularized the victim’s pension rights, as of the date of his reinstatement, taking into account the new calculation of his time in service.
 - The State returned the officers’ retirement insurance by virtue of Article 4 of Supreme Resolution 0501-2003-IN/PNP of August 29, 2003.
 - The State complied by creating an Ad Hoc Investigative Commission for the purpose of identifying and establishing the responsibility of the officials in the Interior Sector who failed to comply in a timely manner with the judicial mandate in the case of the reinstatement to Active Police Duty of Ricardo Manuel Semoza Di Carlo.