

**TECHNICAL INFORMATION SHEET
CASE 11.538 HERSON JAVIER CARO
REPORT ON FRIENDLY SETTLEMENT N° [43/16](#)
TOTAL COMPLIANCE
(COLOMBIA)**

I. SUMMARY OF THE CASE

Victim (s): Herson Javier Caro
Petitioner (s): Interdenominational Commission for Justice and Peace, now called the Inter-Church Justice and Peace Commission
State: Colombia
Beginning of the negotiation date: May 6, 2015
FSA signature date: March 2, 2016
Admissibility Report No.: [72/09](#), published on August 5, 2009
Friendly Settlement Agreement Report No.: [43/16](#), published on October 7, 2016
Estimated length of the negotiation phase: 1 year and 5 months
Related Rapporteurship (s): Children and Adolescents
Topics: Peasants / Use of force / Summary, extrajudicial, or arbitrary executions / Investigation

Facts: The case refers to the extrajudicial execution of Herson Javier Caro, in the municipality of El Castillo, jurisdiction of Medellín del Ariari, Colombia, on November 15, 1992, who at the time was 15 years old and had died from injuries inflicted upon him by members of a military patrol of the National Army of Colombia. The petitioners alleged that, on the morning of November 15, 1992, 15-year-old Herson Javier had headed to the hamlet of Puerto Unión to sell a few kilos of coffee. That same day, a patrol from the National Army of Colombia, attached to the Vargas Infantry Battalion No. 21 had been carrying out roadblocks and searches in the hamlet of Puerto Unión. This patrol had installed a roadblock at the entry and exit points of the place and had treated many of dwellers badly. When Herson Javier realized what was happening, he ran away. When the military patrol servicemen saw Herson Javier running, they shot him, and he died a few hours later from his injuries.

Rights alleged: The Commission concluded that it was competent to hear the present case and declared that the petition was admissible with respect to Articles 4(1), 5(1), 8(1), 19, and 25, in connection with Article 1(1) of the American Convention. It also decided to declare the case inadmissible with respect to examining the alleged violations of Articles 7, 10, and 11 of the American Convention, to notify the parties, and to order its publication in its Annual Report.

II. PROCEDURAL ACTIVITY

1. On March 2, 2016, the parties signed a friendly settlement agreement.
2. On October 7, 2016, the Commission approved the agreement signed by the parties, by means of Report No. 43/16.

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

Agreement clause	State of compliance
<p>FIRST: RECOGNITION OF RESPONSIBILITY</p> <p>The Colombian state recognizes its international responsibility for the violation of the rights enshrined in Articles 4 (right to life), 14 (right to privacy), 19 (right of the child) (sic) of the child Herson Javier Caro (Javier Apache), as well as Articles 5 (right to humane treatment), 8 (right to a fair trial), and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter ACHR), to the detriment of the victim and his family, for the events occurred on November 15, 1992 in the village of Puerto Unión, located in the jurisdiction of Medellín de Ariari, Department of Meta, during which the child Herson Javier Caro died as a result of being shot at the checkpoint set up in the area by the National Army.</p>	Declarative clause
<p>SECOND: JUSTICE</p> <p>The Office of the Prosecutor General of the Nation, in the framework of its competencies, shall file the action for review of the ruling of May 29, 2003, handed down by the Fourth Military Criminal Brigade Court of Villavicencio Meta and upheld by the Superior Military Court on September 3, 2003, once the report called for in Article 49 of the ACHR is issued.</p>	Total¹
THIRD: SATISFACTION AND REHABILITATION MEASURES	
<p>1) An act to recognize responsibility and present public apologies carried out by high-level state officials, with the participation of public authorities, the families of the victims and their representatives, broadcast across mass media. The logistical and technical support for this measure will be provided by the Comprehensive Reparation and Assistance for Victims Unit [Unidad para la Atención and Reparación Integral a las Víctimas].</p>	Total²
<p>2) Provide a grant for \$50,000,000 pesos (FIFTY MILLION PESOS, local currency) for Cielo Yamile Apache Caro and another of the same amount for William Alfonso Apache Caro, siblings of the victim, in order to finance the technical, technological, or professional education of their choosing and pay living expenses. The beneficiaries of this measure must go through the relevant formalities to be admitted to the respective educational institution and shall complete the programs offered by the university institution that would ensure adequate academic performance. (...)</p>	Total³
<p>3) William Alfonso Apache (the victim's brother) will be exempted from compulsory military service upon turning 18 years of age and his military passbook will be issued free of charge. This measure shall be carried out by the Comprehensive Reparation and Assistance for Victims Unit and the Ministry of National Defense.</p>	Total⁴

¹ See IACHR, 2018 Annual Report, Chapter II, Section G. Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, Available at: <http://www.oas.org/en/iachr/docs/annual/2018/docs/IA2018cap.2-en.doc>

² IACHR, Report No. 43/16, Case 11.538. Friendly Settlement. Herson Javier Caro (Javier Apache). Colombia. October 7, 2016

³ See IACHR, 2022 Annual Report, Chapter II, Section C. Advances and challenges on negotiation and implementation of friendly settlements, Available at: [4-IA2022_Cap_2_EN.pdf \(oas.org\)](http://www.oas.org/es/IA2022_Cap_2_EN.pdf)

⁴ See IACHR, 2018 Annual Report, Chapter II, Section G. Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, Available at: <http://www.oas.org/es/IACHR/docs/annual/2018/docs/IA2018cap.2-es.pdf>

4) Through its model for comprehensive care, assistance, and reparation for victims implemented by the Unit, the State undertakes to provide support for the victims in this case, so that they may gain access to the reparation plans, programs, and projects offered by the Colombian state. A differentiated approach shall be given to the mother of Herson Javier Caro, bearing in mind that she is an older adult.	Total⁵
5) The Ministry of Health and Social Protection shall implement the health rehabilitation measures consisting of medical, psychological, and psychosocial care through the General Health Social Security System [<i>Sistema General de Seguridad Social en Salud</i>] and the Psychosocial Care and Comprehensive Health Program for Victims [<i>Programa de Atención Psicosocial and Salud Integral para las Victimas</i>] (PAPSIVI). Adequate, timely, and priority treatment shall be guaranteed for those who so require, per their request, for as long as necessary. By providing psychological and psychosocial treatment, the circumstances and needs specific to each person must be considered, such that group, family, and individual treatment is provided, as agreed to with each of them, following an individual evaluation.	Total⁶
6) For access to comprehensive health care, the beneficiaries of these measures shall be guaranteed any type of medication and treatment they may need (including physical, mental, and psychological health). They shall receive preferential and differentiated care based on their status as victims.	Total⁷
<p>FOURTH: PECUNIARY REPARATION</p> <p>The State undertakes to enforce Law 288 of 1996, once this friendly settlement agreement has been approved upon issuance of the report pertaining to Article 49 of the ACHR, for purposes of redressing the pecuniary and non-pecuniary damages that may be proven in favor of the direct family members of Herson Javier Caro that have not been compensated in the contentious-administrative jurisdiction. The Ministry of National Defense shall be responsible for this measure.</p>	Total⁸

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared full compliance with the case and the ceasing of the follow-up of the friendly settlement agreement in the 2022 Annual Report.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State acknowledged its international responsibility for the violations that occurred in the case.
- The educational measure is being implemented for the victim's siblings.
- William Alfonso Apache (victim's brother) was exempted from fulfilling his military service obligations and his military passbook was issued at no cost whatsoever.
- The beneficiaries of the friendly settlement agreement were registered in the Consolidated Registry of Victims.

⁵ See IACHR, *Annual Report 2021*, Chapter II, Section F. Negotiation, and implementation of friendly settlement agreements. Available in: <http://www.oas.org/en/iachr/docs/annual/2021/Chapters/IA2021cap2-en.pdf>

⁶ See IACHR, 2018 Annual Report, Chapter II, Section G. Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, Available at: <http://www.oas.org/en/iachr/docs/annual/2018/docs/IA2018cap.2-en.doc>

⁷ See IACHR, 2018 Annual Report, Chapter II, Section G. Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, Available at: <http://www.oas.org/es/IACHR/docs/annual/2018/docs/IA2018cap.2-es.pdf>

⁸ See IACHR, Annual Report 2020, Chapter II, Section F. Negotiation, and implementation of friendly settlement agreements. Available in: <http://www.oas.org/en/iachr/docs/annual/2020/FB/Default.html#p=87>

- The beneficiaries of the friendly settlement agreement were provided with health coverage through the EPS.
- The beneficiaries of the friendly settlement agreement were provided with psycho-social treatment services through the PAPSIVI.
- The State paid financial reparation for 234,372, 600.00 pesos to the beneficiaries of the FSA.
- The State provided education grants in the amount of \$29,794,253 pesos to Cielo Yamile Apache Caro, and \$38,744,975 pesos to William Alfonso Apache Caro for matriculation fees and living expenses.

B. Structural outcomes of the case

- Criminal procedures were revised. On May 2, 2018, the Criminal Chamber of the Supreme Court of Justice overturned the judgments of May 29 and September 3, 2003, on the basis of which Pedro José Guarnizo was acquitted for the crime of aggravated homicide.