

TECHNICAL INFORMATION SHEET
CASE 12.712 RUBÉN DARÍO ARROYAVE
FRIENDLY SETTLEMENT REPORT No. 135/17
TOTAL COMPLIANCE
(COLOMBIA)

I. SUMMARY OF THE CASE

Victim (s): Rubén Darío Arroyave

Petitioner (s): José Luis Viveros Abisambra and Luis Felipe Viveros Montoya, Human Rights Center of Antioquia

State: Colombia

Beginning of the negotiation date: May 17, 2016

FSA signature date: August 17, 2015

Admissibility Report No.: 69/09, published on August 5, 2009

Friendly Settlement Agreement Report No.: 135/17, published on October 25, 2017

Estimated length of the negotiation phase: 1 year 5 months

Related Rapporteurship (s): Persons Deprived of Liberty

Topics: Persons deprived of liberty / Detention centers / Detention conditions / Police stations / Care and Custody / Investigation / Penitentiary system / Investigation

Facts: The case refers to the State's responsibility for the failure to investigate and punish those responsible for the kidnapping and homicide of Rubén Darío Arroyave Gallego, while he was in the State's custody on November 20, 1995. The petitioners alleged that Rubén Darío Arroyave, who had a disability, had been kidnapped and killed by members of illegal armed groups while he was being held in a prison located in the municipality of El Bagre. According to the allegations of the petitioners, the State had failed to fulfill its duty to protect and safeguard Mr. Arroyave Gallego and had not investigated the incidents that had taken place nor had it compensated the next of kin of the alleged victim. The petitioners alleged that Mr. Arroyave Gallego suffered from a disability that would trigger behavioral disorders. As indicated by the petitioners, as a result of one of these episodes, Mr. Arroyave Gallego had perpetrated a crime of aggravated theft, for which he was convicted. The petitioners indicated that Rubén Darío Arroyave was incarcerated in a penitentiary center under the custody of the National Penitentiary and Prison Institute (*Instituto Nacional Penitenciario and Carcelario—INPEC*), which was not in keeping with his medical condition, because it did not benefit from medical staff or the necessary resources to take care of a person with a disability of this kind. The petitioners also indicated that, because he was a retired officer of the armed forces who had served in high-danger areas where there were illegal armed groups, the alleged victim feared for his life and had requested, on many occasions, his transfer to an institution in accordance with his medical condition and specific risk level. The petitioners alleged that, on September 20, 1995, men belonging to an unidentified illegal armed group had burst violently into the premises of the prison of the Municipality of El Bagre and had taken Rubén Darío Arroyave Gallego, who was then summarily executed in the neighboring municipality of Zaragoza, also located in the Department of Antioquia, where his lifeless body was found. The petitioners did not indicate the estimated time of his death or the duration of the kidnapping. The petitioners indicated that state authorities, both from the police and the penitentiary, had not taken any actions to prevent the kidnapping of Rubén Darío Arroyave, or to pursue his kidnappers once he had been taken out of the detention center by force.

Rights declared admissible: The Commission concluded that it was competent to hear the present case and that the petition was admissible according to Articles 46 and 47 of the American Convention, for the purpose of examining the alleged violation of Articles 4(1), 8 (right to a fair trial), and 25 (judicial protection

guarantees) in connection with Articles 1(1) and 2 of the American Convention, to notify the report to the parties, to order its publication, and to include it in its Annual Report to the General Assembly of the OAS.

II. PROCEDURAL ACTIVITY

1. On August 17, 2015, the parties signed a friendly settlement agreement.
2. On October 25, 2017, the IACHR published Report No. 220/23, approving the friendly settlement agreement.

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

Clause of the Agreement	Status of Implementation
<p>ONE: RECOGNITION OF RESPONSIBILITY</p> <p>The Colombian State acknowledges its international responsibility for failure to guarantee the rights to juridical personality (Article 3), to life (Article 4), to humane treatment (Article 5.1), and to personal liberty (Article 7) established in the American Convention on Human Rights, in light of the general obligation set forth in Article 1.1 of that instrument, of Mr. Rubén Darío Arroyave Gallego.</p> <p>Given that Mr. Arroyave Gallego was incarcerated and in the custody of the State, and because of the special condition of being subject to State power, the government is fully responsible for his safety and protection.</p> <p>In light of the foregoing, the State also acknowledges its international responsibility for violation of the right to humane treatment (Article 5.1) under the American Convention on Human Rights of the family members of Rubén Darío Arroyave Gallego, due to the anguish caused by his abduction from the jail and the uncertainty surrounding the causes and circumstances of his death.</p>	Declarative clause
<p>TWO: SATISFACTION MEASURES</p> <p>The Colombian State undertakes to hold a private act of recognition of responsibility in which it will deliver a letter of apology to the family of the victim.</p> <p>Logistical and technical support for these measures will be provided by the Office of the Presidential Advisor for Human Rights.</p>	Total¹
<p>THREE: PECUNIARY REPARATION</p> <p>The State undertakes to enforce Law 288 once this Friendly Settlement Agreement is approved through issuance of the Article 49 report under the American Convention, for the purpose of redressing the non-material damages that may be proven to the relatives of the victim which have not been compensated through the contentious administrative jurisdiction.</p>	Total²

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/es/IACHR/docs/annual/2018/docs/IA2018cap.2-es.pdf>

² See IACHR, 2023 Annual Report, Chapter II, Section X. Advances and challenges on negotiation and implementation of friendly settlements, Available at: https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_2_ENG.PDF

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 2023 Annual Report.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State held the ceremony acknowledging responsibility.
- The State made the payment of a total amount corresponding to seven hundred million pesos M/CTE. (\$700,000,000.00), in favor of five beneficiaries.