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REPORT No. 93/18
PETITION 799-06
REPORT ON FRIENDLY SETTLEMENT

ISIDORO LEÓN RAMÍREZ, POMPILIO DE JESÚS CARDONA
ESCOBAR, LUIS FERNANDO VELÁSQUEZ LONDOÑO AND
OTHERS
COLOMBIA

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Colombia. August 23, 2018.

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FRIENDLY SETTLEMENT
ISIDORO LEÓN RAMÍREZ, POMPILIO DE JESÚS CARDONA ESCOBAR,
LUIS FERNANDO VELÁSQUEZ LONDOÑO AND OTHERS.
COLOMBIA
AUGUST 23, 2018¹

I. SUMMARY AND PROCEEDINGS BEFORE THE COMMISSION

1. On August 1, 2006, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a petition filed by the Human Rights Legal Center of Antioquia (hereinafter "the petitioners") alleging the responsibility of the Republic of Colombia (hereinafter "the State" or "the State of Colombia") for the extrajudicial execution of Isidoro León Ramírez Ciro, Pompilio de Jesús Cardona Escobar and Luis Fernando Velásquez Londoño.

2. The petitioners alleged violations of the rights in Articles 4 (right to life), 8 (right to judicial guarantees) and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter "the Convention" or the "American Convention") in accordance with Articles 1 and 2 of the same instrument.

3. The petitioners argued that the alleged victims were extrajudicially executed by unknown persons on December 8, 1993, in rural areas of the municipalities of Granada and el Santuario, in the Department of Antioquia. It indicated that this happened after being kidnapped by members of an illegal armed group, inside the prison of the municipality of Granada, with the complicity of the National Police and the National Penitentiary and Prison Institute.

4. On December 17, 2007, the Commission sent the pertinent parts of the petition to the State and made itself available to the parties to reach a friendly settlement of the case. On March 3, 2017, the parties signed a memorandum of understanding seeking a friendly settlement, in which they agreed an implementation method. On May 7, 2018, the parties signed a friendly settlement agreement, which they presented to the Commission the following day, within the framework of a working meeting convened by the Commission, in the city of Santo Domingo in the Dominican Republic, during its 168th period of sessions. At that meeting, the parties asked the Commission to formalize the friendly settlement agreement, in light of Article 49 of the American Convention on Human Rights.

5. As established in Article 49 of the American Convention and in Article 40.5 of the Commission's Rules of Procedure, in this report a summary is made of the facts alleged by the petitioners and the friendly settlement agreement signed on May 7, 2018, between the petitioners and the State's representatives is transcribed. In addition, a determination is made regarding its compatibility with the object and purpose of the American Convention, its approval is decided, and the publication of this report in the Annual Report of the IACHR to the General Assembly of the Organization of American States is agreed.

II. ALLEGED FACTS

6. The petitioners alleged that on December 6, 1993, Messrs. Isidoro León Ramírez Ciro, Pompilio de Jesús Cardona Escobar and Luis Fernando Velásquez Londoño were arrested by the police and held in the prison of the Municipality of Granada, by order of the First Municipal Magistrate of that locality, accused of the crime of larceny.

7. The petitioners alleged that on December 8, 1993, two days after their arrest, ten armed men entered the prison and kidnapped six detainees, including Messrs. Ramírez, Cardona and Velásquez. It stated

¹ Commissioner Luis Ernesto Vargas, of Colombian nationality, did not participate either in the discussion or the decision in the present case, in accordance with Article 17.2.c of the IACHR's Rules of Procedure.

that they were extrajudicially executed that same day in rural areas of the Municipalities of Granada and Santuario.

8. As the petition alleges, on November 11, 1994, the victims' next of kin filed an action for direct reparation with the Administrative Tribunal of Antioquia, which delivered a judgment on October 11, 2002, finding the administrative responsibility of the Police and the National Penitentiary and Prison Institute (INPEC), and ordering them to pay appropriate compensation.

9. Likewise, the petitioners indicated that neither the National Procurator's Office nor any other State-controlled entity initiated disciplinary actions against those responsible for the omissions enabling the extrajudicial execution of Messrs. Isidro León Ramírez Ciro, Pompilio of Jesús Cardona Escobar and Luis Fernando Velásquez Londoño. It also pointed out that neither the ordinary criminal nor the military criminal justice systems had advanced the necessary investigations leading to the clarification of the events.

III. FRIENDLY SETTLEMENT

10. On May 7, 2018, in the city of Santo Domingo in the Dominican Republic, the State of Colombia, and the petitioners, signed a friendly settlement agreement the text of which establishes the following:

FRIENDLY SETTLEMENT AGREEMENT PETITION 799/06 ISIDORO LEÓN RAMÍREZ CIRO AND OTHERS

On May 6 (sic), 2018, in the city of Santo Domingo in the Dominican Republic, María del Pilar Gutiérrez, Advisor to the Directorate of International Legal Defense of the National Agency for the Legal Counsel of the State, who acts on behalf of the State of Colombia (hereinafter the "State of Colombia") and, on the other hand, the Human Rights Legal Center of Antioquia, acting as petitioners in this case (hereinafter "the petitioners"), sign this Friendly Settlement Agreement in Petition N. 799-06 Isidoro Ramírez Ciro et al., before the Inter-American Commission on Human Rights.

PRIOR CONSIDERATIONS

1. On August 11, 2006, the Inter-American Commission on Human Rights received a petition filed by the Human Rights Legal Center of Antioquia, denouncing that on December 8, 1993, Messrs. Isidoro León Ramírez Ciro, Pompilio of Jesús Cardona Escobar and Luis Fernando Velásquez Londoño, who had been incarcerated in the prison of Granada, Antioquia, were taken away by several armed men who entered the detention center in the early hours of the morning. Subsequently, the dead bodies of the three men were found in different municipalities of eastern Antioquia.

2. On September 3, 2015, the petitioners shared a proposal for a friendly settlement in this case with the State of Colombia.

3. The State of Colombia held a series of meetings with state entities, as well as with the representatives of the victims, and subsequently decided to begin a process of seeking a friendly settlement in the present case.

4. On March 3, 2017, the State of Colombia and the representatives of the victims signed a Memorandum of Understanding Seeking a Friendly Settlement in order to solve the case before the Inter-American Commission on Human Rights.

5. The petitioners acknowledges that at the domestic level there were proceedings before the contentious-administrative jurisdiction, which found the State liable for the events that occurred on December 8, 1993, and as a result of which it compensated the majority of the direct victims' next of kin. This is why the financial reparation only includes Messrs. Edgar

de Jesús Muñoz Orjuela and Goblis Anyelo Muñoz Orjuela, Mr. Luis Fernando Velásquez Londoño's foster children, who were not compensated domestically.

The parties have held a number of meetings in order to agree upon the elements of this Friendly Settlement, to be governed by the following clauses:

FIRST: ACKNOWLEDGEMENT OF RESPONSIBILITY

Whereas on December 8, 1993, Messrs. Isidoro León Ramírez Ciro, Fernando Velásquez Londoño and Pompilio de Jesús Cardona Escobar were abducted from the municipal prison of Granada, Antioquia and that for these actions, the Contentious-Administrative Court of Antioquia and the Third Chamber of the Council of State found the State of Colombia liable for special damages caused to the victims, for the breach of the duty of protection, security and custody of the State authorities and non-compliance with the principles of reasonableness and proportionality in this particular case, international responsibility is acknowledged in the following terms:

The State of Colombia acknowledges international responsibility for violation of the rights in Articles 4 (right to life) and 5.1. (right to personal integrity), of the American Convention on Human Rights - ACHR, in relation to Articles 8 (right to judicial guarantees) and 25 (right to judicial protection), due to lack of due diligence in the clarification of the events of which Messrs. Isidoro Ramírez Ciro, Fernando Velásquez Londoño and Pompilio de Jesús Cardona Escobar were the victims.

Likewise, the State acknowledges responsibility for the violation of Articles 8 (right to judicial guarantees) and 25 (right to judicial protection) in the ACHR, in relation to the general obligation established in Article 1.1 of the same instrument, in favor of the victims' next of kin, since the criminal proceedings exceeded a reasonable time.

SECOND: IN MATTERS OF JUSTICE

The State undertakes to continue with its obligation to investigate, prosecute and punish those responsible for the events.

THIRD: MEASURES OF SATISFACTION

The State of Colombia undertakes to stage a private event of acknowledgment of responsibility for the facts of this case. Likewise, it will deliver to the relatives of the victims a letter acknowledging responsibility for the events that occurred. Implementation of this measure will be agreed with the victims and their representatives.

The President of the Council for Human Rights will be responsible for the logistical and technical support for these measures.

FOURTH: FINANCIAL REPARATION

Once this friendly settlement agreement is formalized by issuing an ACHR Article 49 report, the State undertakes to apply Law 288 of 1996, with the purpose of compensating the immaterial damages in favor of Messrs. Edgar de Jesús Muñoz Orjuela and Goblis Anyelo Muñoz Orjuela, Mr. Luis Fernando Velásquez Londoño's foster children, who have not been compensated through the Contentious Administrative Jurisdiction. In accordance with the provisions of Decree 507 of 2016, the entities responsible for advancing the processing of Law 288 of 1996 will be the National Police and the National Penitentiary and Prison Institute (INPEC).

FIFTH: FORMALIZATION AND FOLLOW-UP

The parties request that the Inter-American Commission on Human Rights formalize this agreement and follows up with compliance.

Signed in triplicate, in the city of Santo Domingo, Dominican Republic on the seven day of the month of May 2018.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

11. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, this proceeding is aimed at "reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention." The agreement to carry out this process is testimony of the State's good faith to comply with the object and purpose of the Convention under the principle *pacta sunt servanda*, by which States must comply in good faith with the obligations undertaken in the treaties. It also wishes to reiterate that the friendly settlement procedure contemplated in the Convention allows for the termination of individual cases in a non-adversarial manner and it has proved to be an important vehicle to reach a solution at the initiative of both parties, and has been used in cases involving many countries.

12. The Inter-American Commission has closely followed the negotiations in this case and highly appreciates the efforts made by both parties to reach a friendly settlement, which is compatible with the object and purpose of the Convention. On May 7, 2018, during the Commission's 168th period of sessions, a working meeting was held where the parties read the friendly settlement agreement, signed it and asked the Commission to issue the corresponding formalization report.

13. The Commission appreciates the State of Colombia's acknowledgment of international responsibility, set out in the first clause of the friendly settlement agreement and takes note of its commitment to hold a private event of acknowledgment of responsibility, in coordination with the victims and their representatives. The Commission requests that the parties inform it in a timely manner of the effective holding of the event of recognition and of the delivery of the letter to the victims' next of kin.

14. Regarding the second clause, the Commission urges the State to take the necessary measures to promote the investigations necessary to clarify the events. The Commission reminds the State of Colombia of its obligation to investigate, prosecute and punish those responsible for the events in this case. In this regard, it should be stressed that despite the passage of time, the duty of investigation and prosecution remains for as long as the objective that it serves remains unfulfilled, that is, the full knowledge of the facts, the identification of the perpetrators and the imposition of the appropriate sanctions.²

15. On the other hand, the Commission notes that proceedings were held domestically in the contentious-administrative jurisdiction, finding the State liable for the events of this case and compensating the majority of the direct victims' family members. The Commission urges prompt compliance by the State with the provisions of clause four of the friendly settlement agreement, so that Messrs. Edgar de Jesús Muñoz Orjuela and Goblis Anyelo Muñoz Orjuela, Mr. Luis Fernando Velásquez Londoño's foster children, also receive the financial reparation owed to them.

V. CONCLUSIONS

16. The Commission appreciates the State of Colombia's acknowledgement of international responsibility, enshrined in the fourth part of the friendly settlement agreement.

² I/A Court H.R., *Case of the 19 Merchants v. Colombia*. Judgment of July 5, 2004. Series C No. 109, para.258.

17. The IACHR has closely followed the development of the friendly settlement achieved in this case. From the information above, it is clear that the commitments undertaken in the friendly settlement agreement are pending compliance, so it will continue to monitor the process and urges the State to act as quickly as possible to comply with the reparation measures established in said agreement, and to submit to the Commission as soon as possible a compliance plan including the scheduling of the measures yet to be taken.

18. Based on the foregoing considerations and in accordance with the procedure provided for in Articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its profound appreciation for the efforts made by the parties and its satisfaction in achieving a friendly settlement in the present case, based on respect for human rights, and compatible with the object and purpose of the American Convention.

19. In light of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS DECIDES:

1. To approve the terms of the friendly settlement agreement signed by the parties on May 7, 2018.
2. To continue with the supervision of the commitments undertaken in the friendly settlement agreement until their full compliance. To that end, to remind the parties of their commitment to report periodically to the IACHR on compliance with the measures undertaken in the friendly settlement agreement and to present a plan and timetable for the implementation of the agreed measures.
3. Make this report public and include it in its Annual Report to the General Assembly of the OAS.

Approved by the Inter-American Commission on Human Rights, on the 23rd day of the month of August, 2018. (Signed): Margarette May Macaulay, President; Esmeralda E. Arosemena Bernal de Troitiño, First Vice President; Francisco José Eguiguren Praeli, Joel Hernández García, Antonia Urrejola, and Flávia Piovesan, Commissioners.