

TECHNICAL INFORMATION SHEET
CASE 12.558 FAUSTO MENDOZA GILER Y DIÓGENES MENDOZA BRAVO
REPORT ON FRIENDLY SETTLEMENT AGREEMENT N° 47/06
ARCHIVE
(ECUADOR)

I. SUMMARY OF THE CASE

Victim(s): Fausto Mendoza Giler and Diógenes Mendoza Bravo
Petitioner(s): Committee for the Defense of Human Rights, Ecumenical Commission for Human Rights of Ecuador
State: Ecuador
Beginning of the negotiation date: January 10, 2005
FSA signature date: September 20, 2005
Report on Friendly Settlement Agreement No. 47/06, published on March 15, 2006
Estimated length of the negotiation phase: 1 year
Rapporteurship involved: Persons Deprived of Liberty/Rights of the Child
Topics: Right to life/children and adolescents/persons deprived of liberty/investigation/right to humane treatment/personal liberty/a fair trial/judicial protection

Facts: The matter relates to the detention of Fausto Mendoza Giler (minor child) and Diógenes Mendoza Bravo (the child's father), on March 19, 2000 by members of the police Special Operations Group. The victims were beaten, as a result of which Fausto Fabricio Mendoza died. Diógenes Mendoza Bravo filed to be a party to the prosecution against the police officers who were involved in the detention. The petitioners also allege that on July 20, 2000, a blanket order to open proceedings was handed down; however, said order did not indict any of the officers responsible for the events.

Rights alleged: The petitioners alleged violation of the rights provided for under Articles 4 (life), 5 (humane treatment), 7 (personal liberty), 8 (a fair trial), and 25 (judicial protection) [of the American Convention on Human Rights], in breach of the obligations provided for under Article 1(1) thereof, to the detriment of Fausto Mendoza Giler and Diógenes Mendoza Bravo.

II. PROCEDURAL ACTIVITY

1. On September 20, 2005, the parties signed the friendly settlement agreement.
2. On March 15, 2006, the Commission approved the friendly settlement agreement by report No. 47/06.

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

Agreement clause	State of compliance
<p>III. RESPONSIBILITY OF THE STATE</p> <p>Ecuador accepts responsibility for violating the human rights of the minor Fausto Mendoza Giler and of Mr. Diogenes Mendoza Bravo, rights emanating from the general obligations of Article 1(1) of the American Convention and other international instruments, and that are specifically enshrined in Articles 4 (Right to Life), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) of the Convention. These violations were committed by agents of the State and have not been refuted by the State, which thus must bear responsibility for them before society.</p> <p>The Ecuadorian State thus agrees to accept the facts outlined in Petition P 533-01, currently being examined by the IACHR, and to take any reparatory measures necessary to assuring compensation of the damages suffered by the victim.</p>	Declarative
<p>IV. COMPENSATION</p> <p>The Ecuadorian State, through its Attorney General, the sole legal representative of the State according to Article 215 of the Constitution of the Republic of Ecuador, promulgated in Official Register No. 1 and in force since August 11, 1998, will compensate Mr. Diógenes Mendoza Bravo with a lump sum payment of three hundred thousand United States dollars (US \$300,000), to be paid from the National Budget.. [...]</p>	Total¹
<p>V. PUNISHMENT OF THOSE RESPONSIBLE</p> <p>The Ecuadorian State will undertake, to the extent possible, to bring both civil and criminal proceedings and to pursue administrative sanctions against those persons who, in the course of their official duties or by taking advantage of their position, are presumed to have participated in the alleged violation.</p> <p>The Office of the Attorney General will make available to the Public Prosecutor all documentation needed to initiate investigations that could lead to the punishment of the parties responsible for the violations in question. Likewise, it will encourage the competent judicial organs and other public or private entities to provide any legal evidence that may contribute to establishing responsibility for the violations. Any prosecution that may ensue will be carried out in accordance with the constitutional and legal framework of Ecuador.</p>	Noncompliance²

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission assessed the request filed on January 17, 2020, by the petitioners seeking termination of supervision of the agreement and archiving of the case, given that they were

¹ Report No. 47/06, Petición 533-01, Fausto Mendoza Giler y otro, March 15, 2006.

² See IACHR, Annual Report 2020, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2020/Chapters/IA2020cap2-en.pdf>

unable to contact the victims of the case. In this respect, the Commission decided to cease supervision of the friendly settlement agreement and archive the case, noting on the record in the Annual Report that the measure of justice was not complied by the Ecuadorian State and that the level of compliance of the agreement is partial.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State paid financial compensation, as set forth under the agreement.