

OEA/Ser.L/V/II
Doc. 30
21 May 2024
Original: Spanish

REPORT No. 27/24
CASE 14.835
REPORT ON FRIENDLY SETTLEMENT

LILIA ANA VILLAGRA
ARGENTINA

Approved electronically by the Commission on May 21, 2024.

Cite as: IACHR, Report No. 27/24, Case 14.835. Friendly Settlement. Lilia Ana Villagra.
Argentina. May 21, 2024.

REPORT No. 27/24
CASE 14.835
FRIENDLY SETTLEMENT
LILIA ANA VILLAGRA
ARGENTINA¹
MAY 21, 2024

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On May 7, 2011, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition filed by Lilia Ana Villagra (hereinafter the "alleged victim"), with the legal representation of Federico Casiraghi (hereinafter "the petitioner" or "the petitioning party"), alleging the international responsibility of the Republic of Argentina (hereinafter "State" or "Argentine State" or "Argentina") for the violation of the human rights set forth in Articles 7 (personal liberty), 8 (right to a fair trial), 10 (compensation), 22 (movement and residence), 24 (equal protection of the law) and 25 (judicial protection) of the American Convention on Human Rights, (hereinafter "Convention" or "American Convention"), read in conjunction with Article 1.1 (obligation to respect rights) of the same instrument, to the detriment of the alleged victim, stemming from violations of due process and the denial of her request for economic reparations for her forced exile, filed within the framework of Law No. 24.043.

2. On December 31, 2021, the Commission issued Admissibility Report No. 412/21, in which it declared the petition admissible and declared its authority to hear the claim filed by the petitioner regarding the alleged violation of the rights contained in Articles 8 (right to a fair trial), 24 (equal protection of the law) and 25 (judicial protection) of the American Convention, read in conjunction with Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects) of the same instrument, to the detriment of Lilia Ana Villagra.

3. On November 14, 2022, the parties signed a friendly settlement agreement (hereinafter "FSA"), which, on July 26, 2023, initiated a friendly settlement process facilitated by the Commission on July 26, 2023. Subsequently, on August 25, 2023, the petitioner reported that the Decree No. 422/2023 of the National Executive Branch approving the respective agreement had been issued on August 18, 2023, and, in turn, requested the Commission for its corresponding approval, as established in the FSA. For its part, on December 1, 2023, the State requested the Commission for the corresponding approval.

4. Pursuant to Article 49 of the American Convention and Article 40.5 of the Rules of Procedure of the Commission, this friendly settlement report includes a summary of the facts alleged by the petitioning party and includes a transcription of the friendly settlement agreement, signed on November 14, 2022, by the petitioning party and the representatives of the Argentinian State. Likewise, the agreement signed by the parties is approved and it is agreed that this report will be published in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

II. THE FACTS ALLEGED

5. According to the petitioner's account, in the 1970s, the alleged victim's family was harassed by parapolice and State forces. Although the alleged victim did not directly challenge the dictatorship, the petitioner indicated that various circumstances placed her at risk of suffering repressive violence at the hands of the State apparatus, including the following: the fact that her father, a lawyer and member of the Socialist Party since his youth, had denounced human rights violations by the Argentine dictatorship; her younger sister was married to a prominent member of the Workers' Party; and a friend of the alleged victim, a member of the Revolutionary Armed Forces ("FAR"), had been killed during the Trelew Massacre on August 22, 1972. In addition, the petitioner reported that the harassment allegedly included the death of the alleged victim's first cousin, a FAR member, and the alleged murder of her brother-in-law, a member of the national legislature, on July 31, 1974, at the hands of a commando of the Argentine Anticommunist Alliance (AAA).

¹ In accordance with Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Andrea Pochak, an Argentinian national, did not participate in the discussion or decision on this case.

6. The petitioner indicated that, due to the constant harassment by civilian groups and parapolice forces, the family was forced to move and was subjected to constant surveillance, questioning from the doorman and neighbors about their movements, and constant lurking in the vicinity of their home. In this context, the alleged victim was forced into exile, leaving Argentina on March 10, 1977, and arriving in France two days later. The French Office for the Protection of Refugees and Stateless Persons (OFPRA) of the French Ministry of Foreign Affairs recognized this context and granted her refugee status on November 7, 1977, keeping her under its protection until November 13, 1985.

7. Due to the events that led to the alleged victim's exile as a result of the dictatorship, on December 14, 2004, she requested the benefit established in Law No. 24.043, handled in File 146.729/2004 of the Ministry of Justice and Human Rights of Argentina. After completing the evidence gathering phase and receiving opinions from the Exile Area of the Secretariat of Human Rights and the General Directorate of Legal Affairs of the aforementioned Ministry, the Minister of Justice denied the relief through Resolution No. 828/08. This decision was based on Opinion No. 7 of January 15, 2008, of the National Treasury Attorney's Office and its narrow interpretation of Law No. 24.043. The petitioner argued that the aforementioned facts amounted to multiple violations of the alleged victim's human rights and indicated that attempts to resolve the situation at the national level were unsuccessful, culminating in the final decision of the Supreme Court of Justice of the Nation, which dismissed a motion for reconsideration of dismissal of appeal over denial of an extraordinary federal appeal, notified on November 8, 2010.

III. FRIENDLY SETTLEMENT

8. On November 14, 2022, the parties signed a friendly settlement agreement, the text of which states the following:

FRIENDLY SETTLEMENT AGREEMENT

The parties in Case n° 14.835 of the registry of the Inter-American Commission on Human Rights (hereinafter "IACHR" or the "Inter-American Commission"): Lilia Ana Villagra and Federico Casiraghi, in his capacity as legal counsel; and the Argentine Republic, as a State party to the American Convention on Human Rights (hereinafter the "American Convention"), acting under the express mandate of Article 99 paragraph 11 of the National Constitution, represented by the Undersecretary for International Human Rights Protection and Liaison and the National Director of International Legal Affairs in Human Rights Matters of the National Human Rights Secretariat, Dr. Andrea Pochak and Dr. Gabriela Kletzel, respectively; and the Director for International Human Rights Litigation of the Ministry of Foreign Affairs, International Trade, and Religion, Dr. A. Javier Salgado; have the honor of informing the Honorable Commission that they have reached a friendly settlement agreement in the case, the contents of which are set forth below.

I. Background

On May 7, 2011, Ms. Lilia Ana Villagra filed a petition before the Inter-American Commission for violation of articles 7 (personal liberty), 8 (judicial guarantees), 10 (compensation), 22 (movement and residency), 24 (equal protection), and 25 (judicial protection) of the American Convention, read in conjunction with Article 1(1) of the same instrument.

The complaint states that because of her family's political activism, Ms. Villagra was a victim of persecution and threats during the last civil-military dictatorship. Among other circumstances, it states that her father, Felipe Alberto Villagra, was a lawyer and long-time member of the Socialist Party who participated in founding the human rights organizations in Argentina, even participating in the Trial of the Military Juntas that took place in 1985.

She also states that her older sister, Helena Inés Villagra, was married to National Deputy Rodolfo Ortega Peña, and that they were both victims of an attack committed in full public view by the group AAA on July 31, 1974, in which Helena was wounded and her husband died.

The petition also states that her two younger sisters (Elsa Beatriz and Laura Raquel Villagra) were also subjected to repression because of their activism. Specifically, she states that Laura Raquel was married to Miguel Omar Gaugnini, the only survivor of three siblings, and that her entire family had to flee Argentina after Miguel was arbitrarily detained and later released in mid-1977.

She claims that she was forced into exile in France due to her well-founded fear of political persecution. There, the French Office for the Protection of Refugees and Stateless Persons (OPFRA) granted her refugee status.

In view of these facts, Ms. Villagra filed a request before the Ministry of Justice and Human Rights for the benefit provided for under Law No. 24.043. The request was rejected. Her claim was also rejected in court.

On April 18, 2017, the IACHR referred the petition to the Argentine State.

On December 31, 2021, the Commission approved the Admissibility Report n° 412/21. Therein, it declared the complaint admissible regarding articles 8, 24, and 25 of the American Convention, read in conjunction with articles 1(1) and 2 of the Convention.

In this context—and taking into account that on August 6, 2020, the Minister of Justice and Human Rights of the Nation instructed the areas involved in processing applications for the benefit provided for under Law No. 24.043 to apply the new doctrine set forth by the National Treasury Department in Opinion IF-2020-3620344-APN-PTN—the National Directorate of International Legal Affairs in Human Rights Matters of the National Secretariat of Human Rights consulted the Directorate for Management of Reparation Policies as to whether the criteria currently in force would allow for recognition of the petitioner's claim of a situation of exile.

Following its affirmative answer, a process of dialogue with the petitioner began in which the request for reparations was narrowed to the expedited granting of the benefit requested earlier, with no other claim for financial or any other type of reparations.

The State acknowledges that Ms. Lilia Ana Villagra was a victim of political persecution by the civil-military dictatorship that devastated the Argentine Republic between March 24, 1976, and December 10, 1983. In view of this, pursuant to opinion IF-2022-117767013-APN-DNAJIMDDHH#MJ of the National Secretariat of Human Rights and in compliance with its international human rights obligations, it is the understanding of the Argentine State that the petitioner has the right to be adequately compensated for the violations she has suffered.

II. Measures to be adopted

1. The parties hereby agree that monetary reparation shall be granted in accordance with the framework provided by Law No. 24.043, considering to that end the entire length of time during which Ms. Lilia Ana Villagra remained in forced exile, in accordance with opinion IF-2022-117767013-APN-DNAJIMDDHH#MJ. That is, from March 12, 1977, to October 28, 1983.

2. The Argentine State undertakes to issue , within three (3) months from the date of publication in the Official Gazette of the Argentine Republic (*Boletín Oficial de la República Argentina*) of the Decree of the National Executive Branch approving this agreement, the ministerial resolution granting the monetary benefit established by Law No. 24.043, without additional cost or expenses. The amount of the compensation shall be estimated as of the date of the issuance of the aforementioned ministerial resolution.

3. Once the petitioner submits a true copy to the National Administration of Social Security (ANSES) of her national identity document, along with the form (PS.6.298) requesting the benefit provided for in Law No. 26.913—filled out correctly—and signs the affidavit attached as an annex, the Argentine State undertakes to issue the corresponding resolution within three (3) months.

4. The State hereby undertakes to comply with the term set forth in Article 30 of the rules of Chapter V of Law No. 25.344, as set forth in the Executive Decree 1116/2000.

5. Upon payment of the compensation established in section II.2 of this agreement, the petitioner, definitively and irrevocably, waives the right to initiate any other claim against the State for monetary reparation in connection to the facts that gave rise to the instant case.

III. Signature *ad referendum*

The parties state that this agreement shall be approved by a Decree of the National Executive Branch.

The Government of the Argentine Republic and the petitioners hereby welcome the signing of this agreement, express their full agreement with its content and scope, mutually appreciate the goodwill shown, and agree that, once the decree of the National Executive Branch is published in the Official Gazette of the Republic of Argentina, the Inter-American Commission on Human Rights shall be requested, through the Ministry of Foreign Affairs, International Trade, and Religion, to adopt the report pursuant to Article 49 of the American Convention on Human Rights, at which time this agreement shall acquire full legal effect.

Three copies of the document are hereby signed in the Autonomous City of Buenos Aires on the 14th day of the month of November 2022.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

9. The IACHR reiterates that in accordance with Articles 48(1)(f) and 49 of the American Convention, the purpose of this procedure is to “reach a friendly settlement of the matter based on respect for the human rights recognized in the Convention.” The acceptance to pursue this process expresses the good faith of the State to comply with the purposes and objectives of the Convention pursuant to the principle of *pacta sunt servanda*, by which States must comply with the obligations assumed in the treaties in good faith.² It also wishes to reiterate that the friendly settlement procedure set forth in the Convention allows for conclusion of individual cases in a non-contentious manner, and has proven, in cases involving a variety of countries, to provide an important vehicle for resolution that can be used by both parties.

10. The Inter-American Commission has closely followed the development of the friendly settlement reached in this case and appreciates the efforts made by both parties during the negotiation of the agreement to reach this friendly settlement, which is compatible with the object and purpose of the Convention.

² Vienna Convention on the Law of Treaties, U.N. Doc A/CONF.39/27 (1969), Article 26: “**Pacta sunt servanda**” *Every treaty in force is binding upon the parties to it and must be performed by them in good faith.*

11. As established in Clause III of the Agreement, and in view of the petitioner's confirmation dated August 25, 2023, regarding the issuance of Decree No. 422/2023 of the National Executive Branch approving the FSA, together with the request of the State of December 1, 2023, to move forward with its approval, it is appropriate at this time to assess compliance with the commitments established in this instrument.

12. With respect to Clause II.2, regarding the issuance of the ministerial resolution granting the compensation benefit established by Law No. 24.043, the Commission notes that on December 1, 2023, the State reported that on November 29, 2023, the Minister of Justice and Human Rights of the Nation issued resolution RESOL-2023-1439-APN-MJ, whereby it granted Lilia Ana Villagra the benefit provided for under Law No. 24.043, establishing the number of days eligible for compensation and the corresponding compensation amount. This information was brought to the attention of the petitioner. Therefore, the Commission considers, and hereby declares, that the Clause II.2—on the issuance of the ministerial resolution to effectively grant compensation to Ms. Villagra—has been met with full compliance.

13. On the other hand, regarding Clauses II.1 (payment of monetary reparation), II.3 (resolution under Law No. 26.913), and II.4 (term) of the friendly settlement agreement, the Commission considers, and hereby declares, that compliance is still pending. The Commission therefore finds, and hereby declares, that the friendly settlement agreement has been met with partial compliance. In this regard, the Commission will continue to monitor the implementation of the FSA until full compliance with its terms has been achieved.

14. Finally, the Commission considers that the rest of the content of the agreement is of a declarative nature, and therefore it is not the Commission's responsibility to supervise it.

V. CONCLUSIONS

1. Based on the foregoing and in keeping with the procedure provided for in Articles 48(1)(f) and 49 of the American Convention, the Commission would like to reiterate its profound appreciation of the efforts made by the parties and its satisfaction that a friendly settlement has been arrived at in the present case on the basis of respect for human rights and consistent with the object and purpose of the American Convention.

2. Based on the considerations and conclusions contained in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the agreement signed by the parties on November 14, 2022.
2. To declare that clause II. 2 (issuance of ministerial resolution under Law No. 24.043) of the friendly settlement agreement has been fully complied with, according to the analysis contained in this report.
3. To declare clauses II.1 (payment of monetary reparation), II.3 (resolution under Law No. 26.913) and II.4 (term) of the friendly settlement agreement pending compliance, according to the analysis contained in this report.
4. To declare that the friendly settlement agreement has met a level of partial compliance, according to the analysis contained in this report.
5. To continue to monitor compliance with clauses II.1 (payment of monetary reparation), II.3 (resolution under Law No. 26.913) and II.4 (term) of the friendly settlement agreement, pursuant to the analysis contained in this report. To that end, to remind the parties of their commitment to report periodically to the IACHR regarding compliance with the agreement.
6. To publish this report 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 21st day of the month of May, 2024. (Signed:) Roberta Clarke, President; Carlos Bernal Pulido, Vice President; José Luis Caballero Ochoa, Second Vice President; Edgar Stuardo Ralón Orellana, Arif Bulkan, and Gloria Monique de Mees, Commissioners.