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## **REPORT No. 28/24**

### **CASE 14.836**

#### REPORT ON FRIENDLY SETTLEMENT

LYDIA CRISTINA VIEYRA  
ARGENTINA

Approved electronically by the Commission on May 21, 2024.

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**REPORT No. 28/24**  
**CASE 14.835**  
FRIENDLY SETTLEMENT  
LYDIA CRISTINA VIEYRA  
ARGENTINA<sup>1</sup>  
MAY 21, 2024

**I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS**

1. On July 18, 2011, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “IACHR”) received a petition filed by Lydia Cristina Vieyra (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 reparation for her forced exile, filed within the framework of Law No. 24.043.

2. On December 31, 2021, the Commission issued Admissibility Report No. 413/21, 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.

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. Subsequently, on October 6, 2023, the petitioner reported that the Decree No. 469/2023 of the National Executive Branch approving the respective agreement had been issued on September 6, 2023, and, in turn, requested the Commission for its corresponding approval, as established in the FSA. For its part, on December 4, 2023, the State requested that the Commission approve the agreement.

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 petitioner and representatives of the Argentine 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. The petitioner alleged the victim was abducted on March 11, 1977, by a task force of the Argentine military dictatorship, and held clandestinely in the Naval School of Mechanics (*Escuela de Mecánica de la Armada* - ESMA), where she was tortured. Her detention ended on July 26, 1978, when she was allegedly taken to the airport and deported from the country, to the United Kingdom. The restrictions on her liberty continued throughout her forced exile, until December 10, 1983, since she continued to be under threat of reprisals against her and her family if she did not meet certain conditions that the military authorities had imposed.

6. According to the petitioner, years later, the alleged victim requested the benefit of Law No. 24.043. On November 5, 1996, the Minister of the Interior granted her the benefit of compensation, but

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<sup>1</sup> 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.

excluded from its decision the exile. Although she filed for an appeal in April 1997, the Chamber V of the National Court of Appeals dismissed it, arguing that the law only covered the actual arrest, house arrest, and probation.

7. The petitioner stated that the alleged victim did not challenge the the judicial decision in a timely manner due to the unfavorable context at the time. In that regard, the petitioner explained that Law No. 24.906, which extended the scopes of Law No. 24.043, had not yet been enacted, and the final rulings of the Supreme Court that would alter the legal-political paradigm had not yet been issued. In March 2002, the victim requested the Secretariat for Human Rights to extend the benefit, but in September 2008, the Minister of Justice rejected the request.

8. Lastly, the petitioner indicated that the decision was appealed, but the Court of Appeals dismissed the motion in December 2008. The alleged victim filed an extraordinary federal appeal in February 2009, which was denied in August 2009. Subsequently, in September 2009, she filed a writ of complaint before the Supreme Court, which required a prior monetary deposit. Despite requesting that this requirement be waived, the Court did not grant it. On February 23, 2010, the victim paid the deposit, but in September 2010, the Supreme Court dismissed the writ based on failure to meet requirements. An appeal for reversal was brought against this new dismissal. Finally, on March 2, 2011, the Court upheld its decision to dismiss the appeal, notifying the alleged victim on March 21, 2011.

### **III. FRIENDLY SETTLEMENT**

9. 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° 14.836 of the registry of the Inter-American Commission on Human Rights (hereinafter "IACHR" or the "Inter-American Commission"): Federico Casiraghi, in his capacity as legal representative of Lydia Cristina Vieyra, and the Argentine Republic, in its capacity as State Party to the American Convention on Human Rights (hereinafter the "American Convention"), acting by 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 for International Human Rights Affairs 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 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 July 18, 2011, Ms. Lydia Cristina Vieyra filed a petition before the Inter-American Commission for violation of 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, read in conjunction with Article 1.1 thereof.

The international petition and the evidence submitted in this proceeding show that Ms. Vieyra was abducted on March 11, 1977, by a task force of the repressive structure of the last Argentine military-civilian dictatorship, and secretly held captive at the Naval School of Mechanics (*Escuela de Mecánica de la Armada* - ESMA), where she was tortured and subjected to degrading conditions. The petition also stated that her detention ended on July 26, 1978, when she was taken into the custody of the repressors to the airport and expelled from the country, to United Kingdom. The petition further indicates that during her exile in Europe, she was subjected to a probation system, and that the measure

restricting her freedom of movement continued until after democracy had been restored in Argentina.

Based on these facts, Ms. Vieyra filed a request to the Ministry of Justice and Human Rights that the benefit governed by Law No. 24.043 be granted. The usual administrative processing culminated in the issuing of Ministerial Resolution No. 2769, of October 23, 1996, which granted her benefit for her period during which she was detained, but denied the benefit with (sic) regard to the time she remained in exile. This request was also denied in court.

On March 5, 2002, Ms. Vieyra again appeared before the National Secretariat of Human Rights to request that the benefit be expanded to include the period of time she remained in exile. This request was denied both in administrative and judicial proceedings.

On May 15, 2017, the IACHR forwarded the petition to the Argentine State.

On December 31, 2021, the Inter-American Commission adopted the Admissibility Report No. 413/21. It declared the petition admissible in relation to Articles 8, 24, and 25 of the American Convention, read in conjunction with Articles 1.1 and 2 thereof.

On August 6, 2020, the then-Minister of Justice and Human Rights of the Nation instructed the agencies involved in the processing of requests for the benefit established in Law No. 24.043 to apply the new legal opinion set forth by the National Treasury Department (*Procuración del Tesoro de la Nación*) in Opinion No. IF-2020-36200344-APN-PTN. In response, the National Directorate of International Legal Affairs in Human Rights Matters of the National Secretariat of Human Rights (*Dirección Nacional de Asuntos Jurídicos Internacionales en Materia de Derechos Humanos*), consulted the Directorate for Management of Reparation Policies as to whether the criteria currently in force would allow the petitioner's claim to be recognized as a situation of exile.

Following its affirmative response, a process of dialogue with the petitioner began, which resulted in the request for reparations to be limited to expedited granting of the benefit duly requested, without any other claim for monetary compensation or reparation of any other kind.

The State considers that Ms. Lydia Cristina Vieyra has been a victim of political persecution by the civilian-military dictatorship that devastated the Argentine Republic from March 24, 1976 to December 10, 1983. Therefore, in accordance with Opinion IF-2022-118407986-APN-DNAJIMDDHH#MJ of the Secretariat of the Nation for Human Rights, and in fulfillment of the international human rights obligations incumbent upon it, the Argentine State understands that Ms. Vieyra has the right to adequate reparation for the violations 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. Lydia Cristina Vieyra remained in forced exile, in accordance with opinion IF-2022-118407986-APN-DNAJIMDDHH#MJ. That is, from July 26, 1978 to October 28, 1983.

2. The Argentine State hereby 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 costs or expenses. The amount of compensation shall be estimated as of the date of issue of the aforementioned ministerial resolution.

3. 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 No. 1116/2000.

4. Upon payment of the compensation established in section II.1 of this agreement, the petitioner, definitively and irrevocably waives the right to initiate any other claim against the State for monetary compensation in connection to the facts that gave rise to the instant case.

### **III. Annex**

At the request of the victim, annexed hereto is a closing personal statement written by the victim, which shall be read at the signing of this agreement as a measure of satisfaction or symbolic reparation.

### **IV. Signature *ad referendum***

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

The Government of the Argentine Republic and the petitioner hereby welcome the signing of this agreement, express their full agreement with its content and scope, mutually appreciate the good faith shown, and agree that once the decree of the National Executive Branch is published in the Official Gazette of the Argentine Republic, 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 force and 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.

### **Appendix**

“Authorities of the Argentine State

At this ceremony, through these remarks I am, represented by attorney Federico Casiraghi, who has supported me throughout these long years, here to be heard for the first time since my request for reparation was filed, more than two decades ago.

My name – as indicated in [my] national identity document (DNI) - is Lydia Cristina VIEYRA. During the year and a half of my detention at the Naval School of Mechanics (*Escuela de Mecánica de la Armada* - ESMA), my name was only the number assigned to me by the navy -- 900. Then, during the period of my probation, my name changed: it was “traitor, survivor, etc., etc.”

Now I am named or called by a case file number: I am Case No. 14.836 on the registry of the Inter-American Commission on Human Rights.

That said, I wish somehow to leave reflected my feelings and position with regard to this friendly settlement agreement with the Argentine State.

The Navy forced me to leave the country after being detained for a year and a half at the ESMA. At the time of my release from hell, I was 22 years old. At that age, I had already

known horror in all its forms. I was one of the first [female] detainees to leave the country, and I knew that my conduct abroad – in terms of denunciations – could aggravate not only the situation of the women who had not yet left, but also that of my own family: I had been threatened with the possible arrest of my brother (who was doing his mandatory military service). I had to report any change of address. My parents and brother were under surveillance.

The destination was England. For the entire time I lived there, the then-lieutenant YON used to call me by phone, as he was the naval attaché at the Argentine Embassy in London.

I decided to move to Spain, seeking to leave loneliness behind and needing loving encounter with family and colleagues who were there.

In Spain, I was summoned by Prefect Febres and other repressors “so that they could see me and find out how I was doing.” They did this through my parents. I could not refuse.

Once in Spain, I sought the embrace of family and colleagues abroad. On the contrary, I was rejected and stigmatized. The loneliness was immense, so much so that the psychological and emotional consequences persisted for years. I did not understand such rejection.

From the first day of my probation until well into democracy, I lived in fear that my family in Argentina would be kidnapped. This circumstance is reflected in the newspaper La Prensa, included in my file, published in January 1987 by family of the armed forces, titled, “WITNESSES USED TO CONDEMN THE ARMED FORCES.” In order to disqualify my testimony, they published my name, nickname, and ID number, and accused me – along with numerous witnesses of the trials of that decade – of being a “terrorist criminal.”

It is devastating to be a concentration camp survivor. Society, through its social gaze, marginalized us, pointing out through questions that its members should have asked themselves: “What did they do to stay alive? They must have done something.”

We, the survivors of concentration camps, were always “uncomfortable.” We did not have a place in society. They were years of immense pain, feeling denied, rejected, excluded “just in case.”

Those behind the genocide were brought to trial, and with them came our devastating testimonies, proof upon proof. It was not easy; each testimony given was to return again and again to hell. Nonetheless, we never failed to appear, and I can speak for myself and many comrades. Even today, I continue to testify in the different trials for genocide.

It would be too long and painful for me to describe – that other hell, that which in my file was often called “exile.”

In this statement, I wish to make it very clear that I WAS NOT in exile. I was UNDER SURVEILLED FREEDOM until democracy was restored.

My colleagues who went into exile to save their lives did so in some way voluntarily. I was expelled from Argentina and under navy surveillance, my family being held hostage in the country.

From the age of 16, I was a militant seeking to further the idea of a more egalitarian and just society. I endured a concentration camp in my 20s, and survived a poor existence outside my country for 10 years. I returned to the country to continue to testify and be a social activist. I had and still have to endure the stigma of being a concentration camp survivor to this day. And now, having had to litigate in international courts for 11 years, this Friendly Settlement Agreement with my country’s government has arrived.

I never quarreled with my country. It hurts me to have had to get to this point, to have had to look for a “Court” outside Argentina when my Supreme Court of Justice decided not to grant my claim. I still remember how difficult it was to get enough money to pay the deposit for the motion for reconsideration of dismissal of appeal, to have a chance for justice. Invisible once again. They didn’t even take the time to read the file in the case of a victim of crimes against humanity. The only thing that mattered to them was whether the brief met the formal requirements and the number of pages. Once again, the disinterest of the State, accomplice of oblivion.

We survivors suffer from the syndrome of invisibility, and on this occasion I feel the same.

For that reason, I will always be grateful to Néstor Kirchner, that February 19, 2004, when, by his hand, the hand of a president, we entered ESMA for the first time after 26 years of invisibility. After so many years, for the first time, we felt protected, cared for. His embrace brought the horror to light, with the commitment to honor a debt that has never been paid.

In this ceremony, I ask you that for a few minutes you try put yourselves in the souse of those who are waiting to stop to be a file number. Because the worst abandonment a person can suffer, apart from that of their parents, is that of the State itself.

It is my wish to put an end to this litigation, which ought to be a matter of State, not of budget, vicissitudes, or political needs.

We talk of “reparation,” but since I am 66 years old, I no longer have time to continue waiting for the times of justice. For that reason, I am going to accept this agreement, making it clear that the Argentine State is pushing for it under the extortion of time.

During all these years, I have asked myself why justice has been so unequal in its treatment of concentration camp survivors. There are still comrades, like Marta Alvarez, whose file - - MjyDH No. 13252/2015 – remains forgotten in the Department of Legal Affairs, Ministry of Justice and Human Rights.

But I want you to know that we are not just another file, that there are still many colleagues who are waiting for some form of protection. And that we have no more time. Our State, my State, my country, for which I fought so hard, must and has the obligation to take care of us.

If these words succeed in reaching the hearts of the makers of justice, my long wait will be – at least – softened.

True reparation is not exhausted merely through “monetary” recognition. It is to be, and to know that I am - recognized by a State, which for once will give me a hand to get out of hell for good. When one enters a concentration camp, one knows the date of entry , but not the date of exit. The experience is with you for life.

If this reparation had arrived on time, my life would have been easier.

Thank you for listening to me.”

#### **IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE**

10. 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.<sup>2</sup> 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.

11. 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.

12. As established in Clause III of the Agreement, and in view of the petitioner's confirmation dated October 6, 2023, regarding the issuance of Decree No. 469/2023 of the National Executive Branch, approving the FSA, , together with the request of State of December 4, 2023, to move forward with its approval, it is appropriate at this time to assess compliance with the commitments established in this instrument.

13. 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 4, 2023, the State reported that on November 30, 2023, the Minister of Justice and Human Rights of the Nation issued resolution RESOL-2023-1449-APN-MJ, whereby it granted Lydia Cristina Vieyra 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 Mrs. Vieyra- has been met with full compliance.

14. Likewise, regarding Clauses II.1 (payment of monetary compensation), and II.3 (term) of the friendly settlement agreement, the Commission considers, and hereby declares, that these to be pending compliance. The Commission therefore finds, and hereby declares, that the friendly settlement agreement has been meet 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.

15. 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.

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<sup>2</sup> 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.*



3. To declare clauses II.1 (payment of monetary reparation) and II.3 (term) of the friendly settlement agreement to be pending, 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) and II.3 (term) of the friendly settlement agreement, pursuant to the analysis contained in this report. To that end, the parties are reminded 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 21<sup>st</sup> 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.