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CASE 14.940
REPORT ON FRIENDLY SETTLEMENT

HORACIO RICARDO NEUMAN
ARGENTINA

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

1. On October 3, 2010, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition filed by Horacio Ricardo Neuman (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 enshrined in Articles 7 (personal liberty), 8 (right to a fair trial), 10 (compensation), 22 (movement and residence), 24 (equality before 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 and the denial of her request for economic reparations for his forced exile, filed within the framework of Law No. 24.043.

2. On March 9, 2022, the Commission issued Admissibility Report No. 22/22, 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 enshrined in Articles 8 (judicial guarantees), 24 (equality before the law), and 25 (judicial protection) of the American Convention, related to Articles 1.1 (obligation to respect) and 2 (duty to adopt provisions of domestic law) of that instrument, to the detriment of Horacio Ricardo Neuman.

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 August 31, 2023, the State reported that the Decree No. 437/2023 of the National Executive Branch approving the respective agreement had been issued on August 29, 2023 and, in turn, requested the Commission for its corresponding approval, as established in the FSA. For its part, the petitioner requested, on October 6, 2023, that the Commission formally 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 petitioning party 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 petitioning party claimed that the alleged victim was persecuted and threatened during the 1970s because of his activities as a militant of the Peronist Youth, which intensified following the military coup of March 24, 1976. In this regard, the petitioner stated that his rights of movement and residence were violated, as he had to leave his home and live clandestinely until he was recognized as a refugee by the Office of the United Nations High Commissioner for Refugees (UNHCR), and went to live in Spain in exile for six years. The petitioner also claimed that he sought compensation for the violation of his freedom of movement granted by the State of Argentina, as a result of his exile in Spain. In this regard, the petitioner stated that he filed administrative and judicial claims, which were rejected for reasons for merely formal reasons. The petitioner argued that this resulted in the violation of his rights to minimum judicial guarantees and to judicial protection.

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.

The petitioner also stated that his right to equality before the law was violated since he met the factual and evidentiary requirements to receive the compensation that had been granted in other cases.

6. Lastly, in 2005, the alleged victim filed an administrative appeal under Law No. 24.043 seeking just reparation. However, in 2008, the Ministry of Justice and Human Rights denied the relief. The petitioning party stated that the alleged victim then filed an appeal under the terms of the same law, which was rejected by Court V of the National Chamber of Appeals. For this reason, the petitioner filed an extraordinary federal appeal, but part of the claims of the alleged victim were denied.

III. FRIENDLY SETTLEMENT

7. 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° 14.940 of the registry of the Inter-American Commission on Human Rights (hereinafter "IACHR" or the "Inter-American Commission"): the petitioner, Horacio Ricardo Neuman, with the legal counsel of Dr. Federico Casiraghi, 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 of the Republic of Argentina, 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 Religion, Dr. A. Javier Salgado, respectively, 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 October 3, 2010, Mr. Horacio Ricardo Neuman 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 (equality before the law) and 25 (judicial protection) of the American Convention, in relation to Articles 1.1 of the same instrument.

The complaint stated that Mr. Neuman and his brother were victims of persecution and threats during the last civil-military dictatorship and that, in order to safeguard their lives and freedom, they were forced to go into exile in Spain.

By virtue of these facts, Mr. Neuman filed an application before the Ministry of Justice and Human Rights requesting that the benefit governed by Law No. 24.043 be granted. The application was denied. His request was also denied in court.

On April 10, 2017, the IACHR forwarded the petition to the Argentine State.

On March 9, 2022, the Inter-American Commission approved the Admissibility Report No. 22/22. It declared the complaint admissible with regard to Articles 8, 24, and 25 of the American Convention related to Articles 1.1 and 2 of that instrument.

On August 6, 2020, the Minister of Justice and Human Rights of the Nation instructed the agencies involved in the processing of requests for the benefit established by Law No. 24.043 to apply the new legal opinion set forth by the National Treasury Department in Opinion No. IF-2020-36200344-APN-PTN. To this end, 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 the petitioner's claim to be recognized as a situation of exile.

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

The State considers that Mr. Horacio Ricardo Neuman has been a victim of political persecution by the civil-military dictatorship that devastated the Argentine Republic between March 24, 1976 and December 10, 1983. Therefore, in accordance with opinion IF-2002-114762451-APN-DNAJIMDDHH#MJ of the National Secretariat for Human Rights and in compliance with its international human rights obligations, the Argentine State understands that the petitioner has the right to adequate reparation for the violations suffered.

II. Measures to be adopted

1. The parties hereby agree that monetary compensation 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 Mr. Horacio Ricardo Neuman remained in forced exile, in accordance with opinion IF-2022-114762451-APN-DNAJIMDDHH#MJ. That is, from August 11, 1976 through October 28, 1983.
2. The Argentine State hereby undertakes to issue, within three (3) months of the publication in the Official Gazette of the Argentine Republic 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 the reparation shall be calculated as of the date of issue of the aforementioned ministerial resolution.
3. Once the petitioner submits to the National Administration of Social Security (ANSES) a true copy of his national identity document and the correctly completed application form (PS.6.298) for the benefit established by Law No. 26.913, and signs the affidavit attached to it as an appendix, the Argentine State commits to issue the corresponding resolution within a period of three (3) months.
4. The State commits to respect 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.
5. Upon payment of the compensation established in section II.1 of this agreement, the petitioner waives, definitively and irrevocably, 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. 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 petitioning party 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 the agreement will acquire full legal force and effect.

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

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

8. 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.

9. 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.

10. Pursuant to Clause III of the agreement, and in view of the State's confirmation of August 31, 2023, regarding the issuance of Decree No. 437/2023 of the National Executive Branch approving the ASA, as well as the request of the petitioner of October 6, 2023, to move forward with its approval, it is appropriate at this time to assess compliance with the commitments set forth in this instrument.

11. With regard to Clause II.2, on the issuance of the ministerial resolution granting the compensation benefit established by Law No. 24.043, the Commission notes that, on November 29, 2023, the State reported that on November 27, 2023, the Minister of Justice and Human Rights of the Nation issued resolution RESOL-2023-1422-APN-MJ, whereby it granted Horacio Ricardo Neuman the benefit provided for under Law No. 24.043, establishing the number of days eligible for compensation and the corresponding compensatory amount. This information was brought to the attention of the petitioner. In view of the foregoing, the Commission considers, and hereby declares, that Clause II.2 on the issuance of the ministerial resolution to effectively grant compensation to Mr. Neuman, has been met with full compliance.

12. Likewise, with respect to Clauses II.1 (payment of monetary compensation), II.3 (resolution under Law No. 26.913) and II.4 (term) of the friendly settlement agreement, the Commission considers, and hereby declares, these to be pending compliance. Therefore, the Commission considers, 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 is achieved.

13. 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

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.*

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. 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 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, based on the analysis contained in this report.
5. Continue to monitor compliance with Clauses II.1 (payment of monetary reparations), II.3 (resolution under Law No. 26.913) and II.4 (term) of the friendly settlement agreement, according to the analysis contained in this report. To this end, the parties are reminded of their commitment to periodically report 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.