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**REPORT No. 32/24**  
**CASE 13.711**  
REPORT ON FRIENDLY SETTLEMENT

LEVIS ELCENER CENTENO CUERO AND FAMILY  
COLOMBIA

Approved electronically by the Commission on May 21, 2024.

**Cite as:** IACHR, Report No. 32/24, Case 13.711. Friendly Settlement. Levis Elcener Centeno Cuero and family. Colombia. May 21, 2024.

**REPORT No. 32/24**  
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FRIENDLY SETTLEMENT  
LEVIS ELCENER CENTENO CUERO AND FAMILY  
COLOMBIA<sup>1</sup>  
MAY 21, 2024

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

1. On December 12, 2008, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a petition filed by Eliana Patricia Quintero García, in representation of the family of Levis Elcener Centeno Cuero, whose representation was then assumed by Jonathan Almanza Triana (hereinafter "the petitioner"), alleging the international responsibility of the Republic of Colombia (hereinafter "Colombia" or "the State") for violating the human rights set forth in Articles 4 (life), 5 (humane treatment), 8 (right to a fair trial), 12 (freedom of conscience), 13 (freedom of thought and expression), and 25 (judicial protection) of the American Convention on Human Rights (hereinafter "American Convention" or "Convention"), in relation to its Article 1(1) (obligation to respect rights), and Article XVIII (right to justice) of the American Declaration of the Rights and Duties of Man (hereinafter "American Declaration" or "Declaration"). These violations occurred in the wake of the death of Levis Elcener Centeno Cuero while he was serving as a soldier with Mobile Brigade No. 6, Battalion No. 48, of the Colombian Army. The petition also refers to the State's failure to clarify the facts and the unwarranted delay in making reparation for the harm.

2. On December 10, 2018, the Commission issued the Admissibility Report No. 164/18, in which it found the petition admissible and declared its competence to hear the claim presented by the petitioner with respect to the alleged violation of the rights contained in Articles 4 (life), 5 (humane treatment), 8 (fair trial), 13 (freedom of thought and expression), and 25 (judicial protection) of the American Convention, in accordance with Article 1(1) (obligation to respect rights), to the detriment of Levis Elcener Centeno Cuero and his family.

3. On September 1, 2022, the parties signed a memorandum of understanding to pursue a friendly settlement in the instant case, along with a timetable for making progress in the negotiations. In the following months the parties held bilateral meetings to analyze the measures of reparation to be included in the friendly settlement agreement, that materialized with the signing of that instrument on May 18, 2023, in the city of Bogotá D.C. Subsequently, the contents of the friendly settlement agreement were partially modified by an "Amendment No. 1," signed by the parties on November 23, 2023; the Amendment No. 1 is considered an integral part of the friendly settlement agreement.

4. On June 28, 2023, the parties submitted a joint report on the progress in the implementation of the friendly settlement agreement, and requested the IACHR to approve it.

5. This friendly settlement report, in accordance with the provisions of Article 49 of the Convention and Article 40(5) of the Commission's Rules of Procedure, outlines the facts alleged by the petitioner and transcribes the friendly settlement agreement signed May 18, 2023, and Amendment No. 1, signed November 23, 2023, by the petitioner and the representatives of the Colombian State. Likewise, the agreement signed by the parties is approved, and it is decided to publish this report in the Annual Report to the General Assembly of the Organization of American States.

**II. THE FACTS ALLEGED**

6. The petitioner indicated that Levis Elcener Centeno Cuero (hereinafter "the alleged victim"), a soldier attached to the No. 6 Mobile Brigade, No. 48 battalion of the Colombian Army, died on June 6, 2002, while fulfilling military orders. The petitioner claimed that the alleged victim's right to life and humane

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<sup>1</sup> In accordance with Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the discussion or decision on this case.

treatment were violated by the Colombian State, as well as the judicial guarantees and the right to justice of his next-of-kin due to the lack of clarification of the facts and the unjustifiable delay in the reparation of the damage caused by the violations.

7. The petitioner stated that the alleged victim's next of kin were given as an official version that the alleged victim had died in combat against the "Miller Perdomo" unit of the Revolutionary Armed Forces of Colombia. The petitioner indicated that months after receiving the news, the alleged victim's parents found out from a conversation with their son's comrades that his death had occurred due to a tactical error of the Battalion Commander and not during combat with the guerrillas. According to evidence from eyewitnesses, on June 6, 2002, the squad was sent to a hill known as "Pico de Loro" in the Municipality of Jamundí, without informing other detachments that were already in the area. They related that when the National Army platoon already on the hill saw unknown troops, they opened fire, causing the death of the alleged victim. They stated that after his death, the Major in charge of the operations gathered his soldiers and ordered them to say that the alleged victim had died as a result of a guerrilla attack.

8. According to the petitioner, on April 14, 2003, Mr. Juan Helio Centeno Cuero made a statement regarding this new information before Section 48 of the Prosecutor's Office of Cali-Valle, where the formal report on the removal of the alleged victim's body was issued. The petitioner indicated that, although there was an order to open a criminal investigation in the ordinary jurisdiction, on July 28, 2004, it was referred to the 51st Military Criminal Court of Investigation. The petitioner alleges that as a result the alleged victim's next of kin were unable to appear in the military criminal proceedings, nor follow-up firsthand on the investigations and actions underway in that jurisdiction. The petitioner added that, so far, there has not been any conviction or decision against the perpetrators.

9. The petitioner indicated that there has been no timely and effective response to the writs filed by the alleged victim's next of kin on May 3, 2004, November 22, and December 18, 2006, asking for information on the existence and/or the progress in the disciplinary investigations. The petitioner added that in response, on December 17, 2006, the Commander of Mobile Brigade No. 6 stated that no disciplinary investigation had been opened in connection with this case. The petitioner also pointed out that neither the Attorney General's Office nor any other entity has provided information on other possible disciplinary proceedings.

10. The petitioner indicated that in 2004, they filed a claim for direct reparation No. 2004-1651 against the Colombian State with the Contentious-Administrative Court of Valle del Cauca. At the time of filing the petition - i.e. after more than four years - no decision on the merits has been issued.

### **III. FRIENDLY SETTLEMENT**

11. On May 18, 2023, the parties signed a friendly settlement agreement that establishes the following:

#### **FRIENDLY SETTLEMENT AGREEMENT CASE No. 13,711- LEVIS ELCENER CENTENO CUERO AND FAMILY**

On May 18, 2023, in the city of Bogotá D.C., in the context of the "Colloquium on Friendly Settlements in Colombia: One Step Closer to the Victims," a meeting was held between, for the first party, Martha Lucía Zamora Ávila, Director General of the National Agency for the Legal Defense of the State (Agencia Nacional de Defensa Jurídica del Estado, or ANDJE), who appears duly authorized to act in the name and in representation of the Colombian State, and who hereinafter shall be called the "State" or "the Colombian State," and for the second party Mr. Jonathan Almanza Triana,<sup>2</sup> representing the victims, who hereinafter shall be called "the petitioners," and together, "the parties," with the aim of signing this Friendly Settlement

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<sup>2</sup> As per the power-of-attorney given to the National Agency for the Legal Defense of the State, May 5, 2023, signed by Ms. Eliana Patricia Quintero García.

Agreement in the context of **Case No. 13,711, Levis Elcener Centeno Cuero and Family**, pending before the Inter-American Commission on Human Rights.

### **PART ONE: CONCEPTS**

For the purpose of this Agreement, the following terms may be used, with the meanings indicated:

**IACHR or Inter-American Commission**: Inter-American Commission on Human Rights.

**ACHR or American Convention**: American Convention on Human Rights.

**Moral damages**: Harmful effects of the facts of the case not economic or property-related in nature that are manifested in the victims' pain, affliction, sadness, anguish, and anxiety.

**Material damages**: The loss of or detriment to the victim's income, expenditures made to address the facts, and monetary consequences that have a causal nexus with the facts of the case.<sup>3</sup>

**Non-material harm**: Includes the suffering and affliction caused the victims, offending values very closely embraced by persons, as well as the alterations, non-monetary in nature, of the conditions of existence of the victim or the family.<sup>4</sup>

**The State or the Colombian State**: In accordance with International Public Law, it shall be understood that the signatory subject of the American Convention on Human Rights, hereinafter the "American Convention" or "ACHR" is the Colombian State.

**Measures of satisfaction**: Non-monetary measures that have the aim of seeking the victims' recovery from the harm that has been caused them.<sup>5</sup>

**Parties**: The Colombian State and petitioners .

**Recognition of responsibility**: Acceptance of the facts and human rights violations attributed to the State.

**Comprehensive reparation**: All those measures that have as their objective and that symbolically restore the victim to the state of affairs prior to the infliction of the harm.

**Petitioners**: Mr. Jonathan Almanza Triana, who is the victims' representative.

**Friendly settlement**: Alternative dispute resolution mechanism used for the non-disputatious and consensus-based coming to agreement before the Inter-American Commission.

**Victims**: Eufracia Cuero de Centeno, Mr. Levis Elcener Centeno Cuero's mother; Ildefonso Centeno, Mr. Levis Elcener Centeno Cuero's father; and his sisters and brothers Marlen Omeida Centeno Cuero, Darmar Adriana Centeno Cuero, Alister Adey Centeno Cuero, and Juan Elio Centeno Cuero.

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<sup>3</sup> Inter-American Court of Human Rights. Case of the Serrano Cruz Sisters v. El Salvador (Merits, Reparation and Costs). Judgment of March 1, 2005, Series C No. 120, para. 150.

<sup>4</sup> Inter-American Court of Human Rights. Case of Caesar v. Trinidad and Tobago (Merits, Reparations and Costs). Judgment of March 11, 2005. Series C No. 123, para. 125.

<sup>5</sup> Some examples of this modality of measures are ceremonies for public acknowledgement of the truth and acts of reparation.

## PART TWO: BACKGROUND

1. On December 12, 2008, the Inter-American Commission on Human Rights received a petition alleging the international responsibility of the Colombian State for violating the rights to life and humane treatment of Mr. Levis Elcener Centeno Cuero, a professional soldier assigned to Counter-guerrilla Battalion No. 48 Heroes of the Trenches, Mobile Brigade No. 6 of the National Army, who died on June 6, 2002, in the sector of Las Mesetas, municipality of Jamundí (Valle), while carrying out military orders.

2. In addition, the initial petition refers to the violation of the rights to judicial guarantees and judicial protection of his next-of-kin as a consequence of the failure to clarify the facts and punish the persons responsible.

3. The initial petition also states that the National Army informed Mr. Centeno Cuero's next-of-kin that he had died in a confrontation with the former Fuerzas Armadas Revolucionarias de Colombia (FARC: Revolutionary Armed Forces of Colombia).<sup>6</sup> Nonetheless, months later several colleagues of the deceased stated to the competent authorities that the actual cause of his death had been a confrontation between Army troops that resulted from a tactical error.

4. The Office of the Attorney General undertook a criminal investigation pursuant to the complaint lodged by the next-of-kin on April 14, 2003, which was identified as file No. 492808; the Office of the 53<sup>rd</sup> Prosecutor of Cali (Fiscalía 53 Seccional de Cali) took cognizance of the matter. Subsequently, the prosecutor in the case, by official note No. 565 of June 30, 2004, forwarded the investigation to the Military Criminal Courts, considering that the events in question entailed alleged irregularities in the procedure by members of the National Army assigned to Counter-guerrilla Battalion No. 48 Heroes of the Trenches, Mobile Brigade No. 6.<sup>7</sup>

5. By order of April 11, 2011, the Military Criminal Courts ordered the formal initiation of the investigation into a captain of the National Army for the crimes of negligent homicide (*homicidio culposo*) in conjunction with negligent personal injuries (*lesiones personales culposas*) and for the crime of disobedience.<sup>8</sup>

6. Nonetheless, counsel for the accused asked for a declaration that the criminal action was barred by the lapsing of the limitations period, given that nine years had passed since the underlying incident. The request was accepted by the court of first instance by interlocutory order of July 11, 2011, and confirmed on appeal by the Superior Military Court by order of February 23, 2012.<sup>9</sup>

7. In the face of this situation, the Superior Military Court ordered that copies be sent to the Office of the Procurator General's Office of Judicial Oversight, through order of February 23, 2012, for the purpose of conducting a disciplinary investigation into those officers who had helped bring about the prescription of the criminal action in the military criminal justice system.<sup>10</sup>

8. The Office of the Procurator General of the Nation took cognizance of the matter on June 26, 2013, ordering that a preliminary inquiry go forward against the 51<sup>st</sup> Judge of Military Criminal Investigation at the time of the events. Nonetheless, it determined, in an order of July 24, 2014, that the time for investigating the purported disciplinary breach by the judge in

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<sup>6</sup> Petition Levis Elcener Centeno Cuero and Family Members. P. 2.

<sup>7</sup> Office of the Attorney General of the Nation. Official note File No. 20151700014321 of March 9, 2015.

<sup>8</sup> Ministry of National Defense, Official note File No. OF115-38865 of May 20, 2015.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

question had surpassed the statutory term and, therefore, it ordered the prescription of disciplinary action and the archiving of the matter.<sup>11</sup>

9. Mr. Levis Elcener Centeno Cuero's next-of-kin, through their attorney, filed an action for direct reparation on July 9, 2004, which was heard in the first instance by the Contentious-Administrative Court of Valle del Cauca.

10. That judicial body found that the Nation (Ministry of Defense/National Army) was responsible, in a judgment of June 28, 2010.<sup>12</sup> This decision was not appealed,<sup>13</sup> which is why the judgment became legally enforceable as of February 3, 2011.

11. The judgment ordered the following compensation for moral damages, which were duly paid to the claimants<sup>14</sup>:

Eufracia Cuero de Centeno	100 SMLMV*
Ildefonso Centeno	100 SMLMV*
Marlen Omeida Centeno Cuero	50 SMLMV*
Darmar Adriana Centeno Cuero	50 SMLMV*
Alister Adey Centeno Cuero	50 SMLMV*
Juan Elio Centeno Cuero	50 SMLMV*

\*SMLMV = minimum monthly salary<sup>15</sup>

### **International proceeding**

12. By Report No. 164/18, the Inter-American Commission on Human Rights found the petition admissible with respect to the alleged violation of the rights recognized in Articles 4 (life), 5 (humane treatment), 8 (judicial guarantees), 13 (freedom of expression), and 25 (judicial protection) of the American Convention on Human Rights in relation to Article 1(1) (obligation to respect rights) of the same instrument.

13. The State informed the Inter-American Commission on Human Rights of its intent to pursue a friendly settlement on September 22, 2021. This intention was reiterated subsequently through notes of November 29, 2021 and June 6, 2022. On July 8, 2022, the petitioners stated their interest in pursuing a friendly settlement through a communication sent by email.

14. A Memorandum of Understanding to Pursue a Friendly Settlement was signed by the Colombian State and the petitioners on September 2, 2022.

15. In the following months joint meetings were held by the parties with the aim of analyzing the measures of full reparation to include in the Friendly Settlement Agreement that is being signed today.

<sup>11</sup> Office of the Procurator General of the Nation. Official note File No. 111046 - 460000005-SIAF 285541/15 - DMAM of September 7, 2015.

<sup>12</sup> Contentious-Administrative Court of Valle del Cauca, Court No. 8. Judgment of June 28, 2010. File no: 76-001-23-31-000-2004-01651-00.

<sup>13</sup> On January 20, 2011, Edict No. 021 was suspended and a term of ten (10) days was provided to file and support the motion for appeal. None of the parties filed the appeal.

<sup>14</sup> Ministry of National Defense. Official note File No. OFI15-35897 of May 8, 2015.

<sup>15</sup> Interpretation outside the text of the agreement.

### PART THREE: BENEFICIARIES

The Colombian State recognizes the following persons as victims in this agreement, all of them Colombian citizens:

Family member	Relationship	Identification
Eufracia Cuero de Centeno	Mother	(...)
Ildefonso Centeno	Father	(...)
Marlen Omeida Centeno Cuero	Sister	(...)
Darmar Adriana Centeno Cuero	Sister	(...)
Alister Adey Centeno Cuero	Brother	(...)
Juan Elio Centeno Cuero	Brother	(...)

The victims recognized in this Friendly Settlement Agreement will benefit so long as they show their relationship, by consanguinity, with Mr. Levis Elcener Centeno Cuero.

In addition, the victims who will benefit from this Friendly Settlement Agreement will be those who were alive at the time of the victimizing fact<sup>16</sup> and are alive as of the moment of the signing of this Friendly Settlement Agreement.

### PART FOUR: RECOGNITION OF RESPONSIBILITY

The Colombian State recognizes its international responsibility for violating the rights to judicial guarantees (Article 8(1) and judicial protection (Article 25(1)) established in the American Convention, in conjunction with the general obligation to respect the rights (Article 1(1) of the same instrument), to the detriment of the next-of-kin of Mr. Levis Elcener Centeno Cuero, due to the failure to investigate the facts, which impeded clarification of the facts and punishing the persons responsible.

### PART FIVE: MEASURES OF SATISFACTION

The parties establish that in the context of this Friendly Settlement Agreement the following measures of satisfaction will be implemented:

#### I. Act of Recognition of Responsibility:

On the date of the signing of this Friendly Settlement Agreement, the Colombian State, through the National Agency for the Legal Defense of the State will hold an Act of Recognition of Responsibility, which will be presided over by the Director General of said Agency, and will include the participation of the family members of Mr. Levis Elcener Centeno Cuero and the rapporteur of the Inter-American Commission for Colombia, Commissioner Joel Hernández García.

All aspects related to the development of the Act of Recognition of Responsibility have been coordinated with the petitioners, and the statement of the Colombian State regarding its international responsibility will be consistent with the recognition of responsibility indicated in this Friendly Settlement Agreement.

<sup>16</sup> The foregoing, in keeping with the case-law of the I/A Court HR. See, I/A Court HR. Case of the Displaced Afrodescendent Communities of the Caicara River Basin (Operation Génesis) v. Colombia. (Preliminary Objections, Merits, Reparations and Costs). Judgment of November 20, 2013. Series C No. 270, para. 425.



## II. Economic Assistance:

The Colombian State, through the Ministry of National Education and the Colombian Institute for Educational Credit and Technical Studies Abroad (ICETEX: Instituto Colombiano de Crédito Educativo y Estudios Técnicos en el Exterior), shall grant one (1) economic assistance package to Mr. Juan Elio Centeno, Mr. Levis Elcener Centeno Cuero's brother, with the objective of financing one (1) academic program with a professional technical or technological level, at the university or graduate level, in an institution of higher education in Colombia recognized by the Ministry of Education.

The economic assistance will cover the value of tuition for the semesters of the academic program for a value, per semester, of up to eleven (11) times the minimum monthly salary and a stipend, per semester, of two (2) times the minimum monthly salary if the institution of higher learning is in the municipality in which the beneficiaries of the measure reside, or four (4) times the minimum monthly salary if the institution of higher learning is outside the municipality of residence.

In the context of university autonomy, the Ministry of Education shall refrain from proposing or requesting the admission or award of places in academic programs.

Those who benefit from the measure must go through the relevant procedures to be admitted in the institution of higher learning and comply with the requirements of a secondary school degree and the test administered by ICFES, in addition to the requirements noted by the institution of higher learning for the admissions process.

It is the sole responsibility of one who benefits from the measure to retain the status of student at the institution of higher learning he or she has chosen. If one ceases to be a student due to poor academic performance or disciplinary breach, the measure shall be considered to have been complied with by the State.

To access the economic assistance, Mr. Juan Elio Centeno must submit the following information to the National Agency for the Legal Defense of the State:

1. Identity document.
2. Date of issue of the document.
3. Public services receipt indicating stratum.
4. Department of residence.
5. City of residence.
6. Cell phone.
7. Home phone.
8. Home address.
9. Email.
10. Receipt for payment of tuition from the institution of higher learning indicating the name of the program, the value of the semester, and the modality.

The assistance should begin to be used within no more than five (5) years counted from the date on which the Friendly Settlement Agreement is approved by the Inter-American Commission on Human Rights; otherwise, it will be considered that the State has complied by having made it available.<sup>17</sup>

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<sup>17</sup> Ministry of Education. Official note File No. 2023-EE-094773 of April 24, 2023.



### **III. Publication of the Article 49 report:**

The Colombian State shall publish the relevant sections of the Friendly Settlement Agreement once it is approved by the Inter-American Commission on Human Rights, at the website of the National Agency for the Legal Defense of the State, for six (6) months.

#### **PART SIX: MEASURES OF COMPENSATION**

The State undertakes to begin the process of Law 288 of 1996, “By which instruments are established for compensating the damages suffered by the victims of human rights violations based on the decisions of certain international Human Rights bodies.” It will begin once this friendly settlement agreement is approved by the issuance of the Report pursuant to Article 49 of the American Convention, for the purpose of making reparation for the damages caused the victim’s next-of-kin as a result of the negative impacts brought about by the facts of the instant case, in keeping with the recognition of responsibility effectuated in this document. With the aim of avoiding the possibility of dual or excessive compensation, the sums that the State has paid, if any are in order, shall be discounted from the payment of the compensation.

The Ministry of National Defense shall be the institution in charge of implementing the process pursuant to Law 288 of 1996.<sup>18</sup>

#### **PART SEVEN: APPROVAL AND MONITORING**

The parties ask the Inter-American Commission to approve this Friendly Settlement Agreement and to monitor it.

Having read this Agreement, and the parties being in agreement as to its scope and legal contents, it is signed on May 18, 2023.

#### **AMENDMENT No. 1 TO THE FRIENDLY SETTLEMENT AGREEMENT SIGNED IN CASE No. 13,711 - LEVIS ELCENER CENTENO CUERO AND FAMILY**

Between the undersigned, to wit, for the first party Ana María Ordóñez Puentes, Director of the Office of International Legal Defense of the National Agency for the Legal Defense of the State, who is acting with the proper authorization in the name of and in representation of the Colombian State, which hereinafter shall be called “the Colombian State,” and, for the second party, Mr. Jonathan Almanza Triana, who appears as representative of the victims, who hereinafter shall be called “the petitioners,” together, “the parties,” sign this amendment No. 1 to the Friendly Settlement Agreement signed by the parties on May 18, 2023, in the context of Case No. 13,711, Levis Elcener Centeno Cuero, before the Inter-American Commission on Human Rights, which shall be governed by the following considerations:

#### **CONSIDERATIONS**

**First.** The parties agree to include a Part Eight in the Friendly Settlement Agreement called Justice Clause, which shall read as follows:

#### **“PART EIGHT: JUSTICE CLAUSE**

The National Agency for the Legal Defense of the State shall ask the Office of the Procurator General of the Nation to study the viability of filing a Motion for Review (*Acción de Revisión*) in response to the proceedings concerning the events of June 6,

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<sup>18</sup> Ministry of National Defense, email of May 16, 2023.

2002 in the sector of Las Mesetas, municipality of Jamundí, Valle del Cauca, in which Mr. Levis Elcener Centeno Cuero lost his life.”

**Second.** Accordingly, the parties who sign ask the Inter-American Commission on Human Rights to please include the clause described in the Friendly Settlement Agreement signed and proceed to approve it.

**Third.** The other clauses that were not modified by this amendment remain as stipulated in the Friendly Settlement Agreement signed by the parties on May 18, 2023.

Signed in two copies in the city of Bogotá D.C., November 23, 2023.

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

12. 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>19</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.

13. 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.

14. The IACHR observes that the parties signed an Amendment to the friendly settlement agreement, on November 23, 2023, in respect of which the Commission declares, based on the will of the parties, that it is an integral part of the friendly settlement agreement signed and has legal effects corresponding to including the commitment established in the eighth clause of the Friendly Settlement Agreement.

15. By virtue of what is established in the seventh clause of the Friendly Settlement Agreement, and in keeping with the parties’ requests of June 28 and November 23, 2023, by which they asked that said agreement be approved, this is now the moment to assess compliance with the commitment established in this instrument.

16. The Inter-American Commission considers that the first clause (Concepts), the second clause (Background), the third clause (Beneficiaries), and the fourth clause (Recognition of Responsibility) of the agreement are of a declarative nature, therefore it is not appropriate to supervise their compliance. In this respect, the Commission values the fourth declaratory clause, in which the Colombian State recognizes its international responsibility for violating the rights to judicial guarantees (Article 8(1)) and judicial protection (Article 25(1)) enshrined in the American Convention, in relation to the general obligation to guarantee rights (Article 1(1) of the same instrument), to the detriment of the next-of-kin of Mr. Levis Elcener Centeno Cuero, for the failure to conduct an investigation into the facts, which impeded the clarification of the facts and punishment of those responsible.

17. Regarding section (i) *act of recognition of responsibility* of the fifth clause, on measures of satisfaction, as reported jointly by the parties, it was held on May 18, 2023, on the context of the “Colloquium on Friendly Settlements in Colombia: One Step Closer to the Victims.” The parties reported that there was permanent and fluid communication between the State and the petitioner, who coordinated each of the details

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<sup>19</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.*

for implementing the measure, such as the date, time, agenda, and logistics required. In this regard, the parties produced an uncertified copy of the invitation to the petitioner and next-of-kin to participate in the Act of Recognition of Responsibility, as well as several images of that event and its dissemination, in which Mr. Juan Elio Centeno participated, along with his representative Jonathan Almanza Triana, in person, and Ms. Eufracia Cuero de Centeno, Mr. Ildefonso Centeno, Mmes. Marlen and Darmar Centeno, Mr. Alister Centeno, who participated virtually, as well as the National Agency for the Legal Defense of the State.

18. Similarly, they informed on the contents of the agenda for the ceremony, which was agreed upon, and which included the signing of the Friendly Settlement Agreement, an opening session and installation of the ceremony, the national anthem of Colombia, the projection of photographs and a song in memory of Mr. Levis Elcener Centeno Cuero, as well as remarks by Mr. Jonathan Almanza Triana, the victims' representative. Speaking on behalf of the State was the Director of International Legal Defense of the ANDJE, who extended apologies to the victims and their families for what had happened, and acknowledged the responsibility of the State in the terms established in the friendly settlement agreement signed by the parties, indicating as follows:

[...]

We regret that the actual circumstances in which Levis Elcener died were not initially revealed to his next-of-kin and that the situation was covered up so as to not assume the reality of the facts. In no democracy is it possible to make progress in the search for peace and reconciliation when the truth is not known and impunity is perpetuated. Today we understand the pain that the Centeno Cuero family has had to experience all these years – the incessant search for the truth of what happened, and to see the persons responsible sanctioned.

(...)

It is precisely recognizing the profound harm caused to the next-of-kin that the Colombian State, through this public ceremony recognizing responsibility, apologizes to them.

In representation of the State of Colombia, as Director General of the National Agency for the Legal Defense of the State, I express to his family members our most heartfelt solidarity. We should all feel the pain of these events, and they invite us to continue working for the peace and reconciliation of our country. I'm honored to accompany you today, to lift up the memory of Levis Elcener and to continue this friendly settlement process that we have begun.

(...)

The running of the limitations period for bringing the action impeded the clarification of the facts and the individual identification of the persons purportedly responsible; which also obstructed the right of his next-of-kin to know the truth of what happened, obtain effective reparation, and advance in the process of forgiveness. The State understands that after decades of violence one of the key and urgent challenges in Colombia is overcoming impunity, which impairs the effective observance of human rights across the board.

We recognize that the search for a total peace, that endures over time and is sustainable, should be based on the effective observance of human rights and full respect for the principles of investigation, prosecution, and reparation.

(...)

In view of the foregoing, in the name of the State of Colombia, I recognize the international responsibility for violating the rights to judicial guarantees and judicial protection, recognized in the American Convention on Human Rights, in relation to the general obligation to respect and ensure the rights, established in the same instrument, to the detriment of the next-of-kin of Levis Elcener Centeno Cuero.

[...]

19. Finally, to conclude the ceremony Commissioner Joel Hernández, Rapporteur for Colombia, spoke, recognizing the efforts made by the parties to reach a friendly settlement agreement, and reiterating the Commission's commitment to monitor the matter until it is fully implemented. In this regard he noted:

[...]

We join in this recognition just made by Dr. Martha Zamora for the omissions of the State from the moment of the tragic death of your brother, which was never properly clarified, and for which the State did not recognize its responsibility. No doubt the video conveys your affection for Levis, and how difficult it must have been for you, Juan Elio, to have turned to the authorities to denounce the facts and not receive any response.

Today, however, we have heard from Ms. Martha Lucía Zamora the recognition of international responsibility of the State for its omissions and an apology so that you as a family can get your lives back on track. The Inter-American Commission is at the service of the victims and we feel very satisfied to know that when domestic remedies were exhausted in Colombia you then turned to the Commission to ask for justice, and we feel all the more satisfied to know that at the appropriate procedural moment the parties – the State, represented by the National Agency, and you – were willing to pursue and reach a friendly settlement agreement.

(...)

The Commission remains at your disposal; we must now proceed to approve the agreement, then monitor its implementation. We are pleased to see how expeditiously the process is moving from when you agreed to pursue this path, and to see how quickly you have reached this point of being able to sign it today so that it can begin to be implemented. We are certain that it will be possible to implement the remaining clauses with this same diligence, so as to be able to remember your brother, to remember Levis Centeno, with this affection, with memories, with the images of the brother, the son, the soldier who shared so many happy moments with you.

[...]

20. The ceremony of recognition was recorded at the YouTube page of the National Agency for the Legal Defense of the State.<sup>20</sup> In view of the foregoing, taking into account the information provided jointly by the parties, the Commission considers that section (i) of the fifth clause of the friendly settlement agreement, related to act of recognition of responsibility, has been fully implemented, and so declares.

21. As regards section (ii) economic assistance and section (iii) publication of the Article 49 report, both of the fifth clause on measures of satisfaction, as well as the sixth clause (measures of compensation) and the eighth clause (justice clause) of the friendly settlement agreement, and in light of the parties' joint request to proceed with the approval of the agreement prior to its implementation, the Commission observes that those measures shall be complied with after the publication of this report.

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<sup>20</sup> See, ANDJE, YouTube, Acto de Reconocimiento – Caso No. 13.711, Levis Elcener Centeno Cuero y familia: [Caso No. 13.711, Levis Elcener Centeno Cuero y familia \(youtube.com\)](#)

Accordingly, it considers that they are pending implementation, and so declares it. Accordingly, the Commission will be awaiting updated information from the parties regarding their implementation after the approval of this report.

22. In view of the foregoing, the Commission concludes that section (i) act of recognition of responsibility of the fifth clause has met with full compliance, and so declares. Moreover, the Commission considers that section (ii) economic assistance, and section (iii) publication of the Article 49 report, of the fifth clause, on measures of satisfaction, as well as the sixth clause (measures of compensation) and the eighth clause (justice clause) of the friendly settlement agreement are pending implementation and so declares. Accordingly, the Commission considers that the friendly settlement agreement has been partially implemented, and so declares. Finally, the Commission reiterates that the remaining contents of the agreement are of declarative nature and therefore does not fall under its supervision.

## **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 reiterates its acknowledgement 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 May 18, 2023.
2. To find that the Amendment to the Friendly Settlement Agreement of November 23, 2023, is an integral part of the friendly settlement agreement.
3. To declare full compliance with section (i) on the act of recognition of responsibility, of the fifth clause of the friendly settlement agreement, as per the analysis contained in this report.
4. To declare that the following provisions of the friendly settlement agreement are still pending compliance: sections (ii) economic assistance and (iii) publication of the Article 49 report, both of the fifth clause on measures of satisfaction, as well as the sixth clause (measures of compensation) and the eighth clause (justice clause) of the friendly settlement agreement, as per the analysis contained in this report.
5. To continue monitoring the commitments assumed by the parties in sections (ii) economic assistance and (iii) publication of the Article 49 report, both of the fifth clause, on measures of satisfaction, as well as the sixth clause (measures of compensation) and the eighth clause (justice clause), all of the friendly settlement agreement, as per the analysis contained in this report. To that end, to remind the parties of their commitment to periodically inform the IACHR regarding their compliance.
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; José Luis Caballero Ochoa, Second Vice President; Edgar Stuardo Ralón Orellana, Arif Bulkan, Andrea Pochak, and Gloria Monique de Mees, Commissioners.