

OEA/Ser.L/V/II.153  
Doc. 18  
7 November 2014  
Original: Spanish

## **REPORT No. 102/14**

### **CASE 12.710**

REPORT ON FRIENDLY SETTLEMENT

MARCOS GILBERTO CHAVES AND SANDRA BEATRIZ CHAVES  
ARGENTINA

Approved by the Commission at its session No. 2016 held on November 7, 2014  
153 Regular Period of Sessions

**Cite as:** IACHR, Report No. 102/14- Case 12.710. Friendly Settlement. Marcos Gilberto Chaves and Sandra Beatriz Chaves. Argentina. 7 de noviembre de 2014.



**REPORT No. 102/14**  
**CASE 12.710**  
FRIENDLY SETTLEMENT  
MARCOS GILBERTO CHAVES AND SANDRA BEATRIZ CHAVES  
ARGENTINA  
NOVEMBER 7, 2014

**I. SUMMARY**

1. On November 4, 2003, the Inter-American Human Rights Commission (hereinafter “the Inter-American Commission”, “the Commission”, or “the IACHR”) received a petition lodged by Ms. Sandra Beatriz Chaves, Mr. Marcos Gilberto Chaves, and Mr. Adolfo Diez, who would later be replaced by Ms. Stella Maris Martínez, the National Public Defender of Argentina (hereinafter “the petitioners”). The petition was filed on behalf of Mr. Marcos Gilberto Chaves and his daughter, Sandra Beatriz Chaves (hereinafter “the victims”), invoking the international responsibility of the Argentine State (hereinafter “Argentine Republic”, “Argentine State”, or “the State”) for violating the rights set forth in Article 8 (right to a fair trial) and Article 25 (judicial protection) of the American Convention on Human Rights (hereinafter “the American Convention”, “ACHR”, or “the Convention”). They also alleged the violation of the rights recognized under Article 5 (right to humane treatment), Article 11 (right to privacy), Article 19 (rights of the child), and Article 24 (right to equal protection) of the American Convention; as well as Articles 1 and 2 of the Convention on the Elimination of All Forms of Discrimination against Women; Articles 12.2, 16, and 19 of the Convention on the Rights of the Child; Articles 1, 7, 8, and 9 of the Intern-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention); and Article 16 of the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

2. The petitioners alleged that the rights to appeal, presumption of innocence, and due process had been violated, to the detriment of Mr. Marcos Gilberto Chaves and his daughter, Ms. Sandra Beatriz Chaves, who were sentenced to life in prison by the Third Criminal Chamber in the city of Salta on June 8, 2001 as the perpetrator and accomplice, respectively, in the alleged homicide of Ms. Chaves’s husband. The defenders of the alleged victims filed an appeal based on the arbitrariness of the conviction, which was founded on circumstantial evidence. The appeal was rejected on procedural grounds on September 11, 2001. On April 29, 2003, the Supreme Court of Argentina ruled that the extraordinary appeal had been denied due to late filing.

3. The petitioners considered these rulings to be in violation of the right to appeal and that they did not constitute effective appeals given the due process violations stemming from the conviction and sentence in the court of first instance. Furthermore, they alleged violations of privacy and non-discrimination against Ms. Chaves, as her sexual preferences and habits, stereotyped physical conditions, and supposed “coldness” at the loss of her husband were subject to inquiry throughout the process.

4. The State alleged that the criminal procedures followed in the case against Mr. Marcos Gilberto Chaves and his daughter, Ms. Sandra Beatriz Chaves, appropriately adhered to the guarantees of due legal process. It also states that the petitioners’ claims are only for the IACHR to act as a fourth instance and review the factual and legal assessments underpinning the rulings made in Argentina, based on a simple disagreement with the judge’s discretion. Therefore, the State claimed that the case should be declared inadmissible.

5. On August 4, 2009, the IACHR published Admissibility Report No. 66/09 regarding these alleged acts, declaring the petition admissible based on Articles 8, 25, 11, and 24, in relation to Article 1(1) of the American Convention.

6. On July 24, 2014, the parties signed a “Letter of Commitment to a Friendly Settlement Agreement.” This agreement was subsequently ratified by Decree 2.275, issued by the Salta Province

Executive Branch, dated August 4, 2014. The Friendly Settlement Agreement was signed by the parties August 5, 2014.

7. This friendly settlement report, in keeping with Article 49 of the Convention and Article 40.5 of the Rules of Procedure of the Commission, provides an overview of the facts alleged by the petitioners and a transcription of the Friendly Settlement Agreement signed August 5, 2014 by the petitioners and the Argentine State. Moreover, the signed agreement between the parties is approved and this report shall be published in the Annual Report to the General Assembly of the Organization of American States.

## **II. PROCEEDINGS BEFORE THE COMMISSION**

8. The petitioners sent their observations via communications received October 27 and 28, and November 6, 2009; July 11 and 18, and October 25, 2011; February 1 and August 24, 2012; March 11, 2013; and March 14, 2014. The State filed its observations on the merits of the case May 27, 2011.

9. On March 24, 2014, as part of the 150<sup>th</sup> period of sessions, a hearing was held to evaluate the merits of the case, during which the State expressed an interest in reaching a friendly settlement. Said settlement was accepted by the petitioners. The petitioners submitted information on the progress of the negotiations on the friendly settlement July 8, 2014.

10. July 30, 2014, the State sent a copy of the Letter of Commitment to a Friendly Settlement, signed by the parties on July 24, 2014.

11. On August 12, 2014, the State sent a copy of Decree 2.275, issued by the Salta Province, which approves the Letter of Commitment to a Friendly Settlement agreed to by the parties. Additionally, it sent the definitive Friendly Settlement Agreement signed by the parties on August 5, 2014, in which they request that the IACHR adopt the Report, as provided for in Article 49 of the Convention.

## **III. THE ALLEGED FACTS**

12. According to the contents of the petition, Mr. Marcos Gilberto Chaves (60 years of age at the time the petition was filed) and his daughter, Sandra Beatriz Chaves, were sentenced to life in prison on June 8, 2001 by the Third Criminal Chamber in the city of Salta, as the perpetrator and accomplice, respectively, in the homicide of José Antonio González, Ms. Sandra Beatriz Chaves's late husband. Mr. González was reportedly murdered on August 19, 1995 while he was sleeping in the room he shared with Ms. Chaves.

13. Additionally, they state that, following the conviction and sentencing, the alleged victims' defense attorneys filed an appeal due to the arbitrariness of the ruling in the court of first instance, which was reportedly handed down based on indirect and circumstantial evidence. The appeal filed by the lawyers invoked Article 8.2.h of the ACHR and argued that there were inconsistencies in the ruling in question.

14. The appeal was denied in a ruling issued by the Supreme Court of Salta on September 11, 2001 "due to merely procedural reasons." Subsequently, an extraordinary federal appeal was filed before the Supreme Court of Argentina, which was granted by the Provincial Supreme Court, on the grounds that the convicted parties had not been personally notified that the appeal had been rejected, thereby deeming the appeal filed on time. The petitioners explained that, despite this decision, the Supreme Court of Argentina ruled that the appeal had been filed late and declared the appeal inappropriately granted. Following this ruling, the alleged victims' defense lodged an appeal to reverse the judgment, which was rejected by the Supreme Court of Argentina on September 23, 2003. The petitioners argued that none of the higher courts were interested in verifying whether or not the conclusions of the court of first instance were reasonably derived from the evidence gathered.

15. The petitioners contended that, at the time of the filing of the petition, the alleged victims had been unjustly jailed for three years, eight months. They alleged that the Argentine State had violated the

right of the alleged victims to have their conviction reviewed by a superior judge, given that the appeal was rejected on procedural grounds, and then on April 29, 2003, the Supreme Court of Argentina ruled that the extraordinary appeal was denied due to late filing. The petitioners noted that the extraordinary appeal was filed 10 minutes after the deadline. They explained that the alleged victims had not been personally notified that their appeal had been denied; they were only notified by their defense attorneys, in violation with the law.

16. The petitioners stated that the conviction of the alleged victims was based on “indirect and circumstantial evidence,” thereby violating their right to presumption of innocence. Likewise, they alleged that the State had breached the privacy of Ms. Sandra Beatriz Chaves “by inquiring about the color and shape of her undergarments, her sexual preferences and habits, stereotyped physical conditions, and her supposed “coldness” at the loss of her husband.” The judges themselves referred to her as the “merry widow.” The petitioners added that the lack of any evidence against them led to a verdict based on these inquiries that violated the privacy and human dignity of the alleged victims.

17. The petitioners alleged that the versions given by the children, regarding what happened the day of the death of their father, were not admitted by the court based on the argument that “children live in a fantasy world and see reality different from adults...” Therefore, the way Ms. Sandra Beatriz Chaves, her father, and her children were treated was incompatible with the State’s duty to protect human rights.

18. The petitioners alleged a violation of freedom from ex post facto laws, given that at the time the sentence of life in prison was handed down, the judges hearing the case chose the harshest sentence for both defendants. The judges convicted Mr. Chaves of being the perpetrator of an aggravated homicide based on a tie that he did not personally have with Mr. González, as he was not the ascendant or descendant of the latter. Ms. Chaves was convicted based on an aggravating circumstance that should not have been applied to her alleged role as an accomplice to the crime, under the law in force at that time.

19. In more recent communications, the petitioners indicated that Ms. Chaves and her father had been deprived of their liberty for 13 years and that during this time, their mother and wife, respectively, who had cancer, died after her condition was complicated by pneumonia.

20. The petitioners reported at a later date that over the course of the years, they had requested house arrest four times for Mr. Marcos Chaves due to his delicate state of health that was rapidly deteriorating in prison. They reported that Mr. Chaves suffered from irreversible COPD (chronic obstructive pulmonary disease), lower back pain that affected his spine and motor skills, and gastric conditions stemming from deficient nutrition and medication intake. After three unfruitful requests, the Sentence Enforcement Court of Salta granted house arrest to Mr. Chaves in a ruling on October 9, 2012.

21. As regards the specific situation of Ms. Chaves, the petitioners state that in 2013, she donated one of her kidneys to the close friend of her mother who had taken care of her mother during her illness, while her husband and daughter were incarcerated.

#### **IV. FRIENDLY SETTLEMENT**

22. On March 24, 2014, during the 150<sup>th</sup> period of sessions, a hearing was held on the merits of this case, during which the State expressed its interest in reaching a friendly settlement and the petitioners accepted exploring the possibility. On August 5, 2014, the parties signed a Friendly Settlement Agreement. The State and petitioners agreed that the Letter of Commitment to a Friendly Settlement signed by the parties July 24, 2014 and its Amending Letter signed July 31, 2014, were integral parts of said agreement. Both of these documents were ratified through Decree 2.275, dated August 4, 2014.

23. Below is the transcription of the Friendly Settlement Agreement, signed by the parties:

### **FRIENDLY SETTLEMENT AGREEMENT**

The parties to Case No. 12.710 in the Inter-American Human Rights Commission registry- Marcos Gilberto Chaves and Sandra Beatriz Chaves: the petitioners Marcos Gilberto Chaves and Sandra Beatriz Chaves, represented by the National Defender of Argentina, Stella Maris Martinez, and the Government of the Republic of Argentina, in its capacity as the State party to the American Convention on Human Rights, acting as expressly stipulated in Articles 99, paragraph 11 of the Argentine National Constitution, represented by the National Director of Legal Affairs in Human Rights Matters, under the Secretariat for Human Rights of the Ministry of Justice and Human Rights, Dr. Ana Oberlin, and Dr. Gonzalo Bueno, acting on behalf of the Director of International Litigation in Human Rights Matters for the Ministry of Foreign and Religious Affairs, Dr. Javier Salgado, have the honor of informing the illustrious Inter-American Human Rights Commission that it has reached a friendly settlement to this petition, which shall be detailed below. They request that, according to the consensus reached, the settlement be approved and the resulting report be adopted, as provided for in Article 49 of the Convention.

#### **I. Background on the case before the IACHR – The friendly settlement process**

1. On November 4, 2003, the Inter-American Human Rights Commission received a petition against the Argentine Republic regarding events that took place in the city of Salta. On June 8, 2001, the petitioners were sentenced to life in prison by the Third Criminal Chamber of Salta for the homicide of José Antonio Gonzalez, the spouse of the convicted woman.

2. The petitioners claimed that the State had violated the right to humane treatment, right to a fair trial, freedom from ex post facto laws, right to privacy, rights of the child, right to equal protection, among others, regarding the general duty to respect and guarantee these rights, as enshrined in Articles 5, 8, 9, 11, 19, 24, and 25, respectively, of the American Convention on Human Rights.

3. On August 4, 2009, the Inter-American Human Rights Commission issued Admissibility Report No. 66/09, declaring admissible the petition regarding the alleged violations of rights recognized under Articles 8.2, 11, 24, and 25 of the American Convention on Human Rights.

4. On March 24, 2014, during the public hearing held as part of the 150<sup>th</sup> period of sessions of the Inter-American Human Rights Commission, the parties expressed the intention to initiate a dialogue to explore the possibility of reaching a friendly settlement to this case.

5. After holding several working meetings between the parties, a Letter of Commitment was signed July 24, 2014 by the petitioners and the representatives of Salta Province. It was later subject to an Amending Letter signed by the same parties July 31, 2014. Both letters were approved by Decree No. 2.275 by the Governor of Salta Province, dated August 4, 2014. A certified copy is attached as Annex 1.

#### **II. Declarations**

In the framework of the Letter of Commitment to a Friendly Settlement and its Amending Letter, both approved by Decree No. 2.275/2014 and attached in the annex as an integral part of this settlement, the Government of Salta Province undertook the following commitments:

**a. Humanitarian assistance measures**

1. The Government of Salta Province, through Decrees No. 2.281 and 2.283, dated August 4, 2014, called for the commutation of the sentences for life in prison for Sandra Beatriz Chaves and Marcos Gilberto Chaves, for the prison terms effectively served by both at the time the commutation is granted. These decrees call for the immediate release of the petitioners, with no restrictions of any kind. A certified copy of said decree is attached as Annex II.

**b. Non-pecuniary reparation measures**

1. The Government of Salta Province committed to providing, pursuant to current statutes and subject to the prior request and agreement of the beneficiaries, immediate psychological and medical care, as necessary, to treat Marcos Gilberto Chaves, Sandra Beatriz Chaves, and her children Luz María and Marcos Nicolás González Chaves, in keeping with Point III.B of the Letter of Commitment to a Friendly Settlement, included as Annex I.

2. The Government of Salta Province committed to providing the means for Sandra Beatriz Chaves and her children, Luz María and Marcos Nicolás González Chaves, to receive education through completion of higher education, be it technical or university studies, according to the terms agreed in Point III.C.1 of the Letter of Commitment to a Friendly Settlement, included as Annex I.

3. The Government of Salta Province committed to adopting effective reintegration measures, especially in the work arena, for Sandra Beatriz Chaves, according to Point III.C.2 of the Letter of Commitment to a Friendly Settlement, included as Annex I.

4. The Government of Salta Province committed further implementing ongoing programs and training courses on gender perspective in the administration of justice and prohibition of discrimination, according to the terms of Point III.D of the Letter of Commitment to a Friendly Settlement, included as Annex I.

**III. Request**

The Government of the Argentine Republic and the petitioners celebrate the signing of this settlement and declare their full approval of the content and scope of the Letter of Commitment to a Friendly Settlement and its Amending Letter, agreed between the Government of Salta Province and the petitioning party. They also mutually value the goodwill shown during the negotiation process. The parties, therefore, request that the illustrious Inter-American Human Rights Commission accept the commitments undertaken by the Salta Province, as they are wholly compatible with the purpose and aim of the American Convention on Human Rights. Furthermore, the parties expressly request that the illustrious Commission adopt the report, as provided for in Article 49 of the Convention.

City of Salta, August 5, 2014.

24. Below is a transcription of the Letter of Commitment to a Friendly Settlement (Annex I) and its Amending Letter (Annex II)

**ANNEX I  
Letter of Commitment to a Friendly Settlement**

In the City of Salta, Argentine Republic, on July 24, 2014, in the framework of the dialogue to explore the possibility of reaching a friendly settlement to case No. 12.710 of the Inter-

American Human Rights Commission registry, the petitioners, Ms. Sandra Beatriz Chaves and Mr. Marcos Gilberto Chaves, with the legal representation of the Official Public Defender overseeing the Human Rights Treaties Enforcement Program under the National Public Defender's Office, Dr. Gustavo Martin Iglesias, are holding a meeting with the Government of Salta Province, represented by the Minister of Justice, Dr. Pamela Calletti.

Given the international nature of the proceedings through which this case is being heard, the State will be represented at the meeting by the National Director of Legal Affairs in Human Rights Matters, under the Secretariat for Human Rights of the Ministry of Justice and Human Rights, Dr. Ana Oberlin.

Upon conclusion of the deliberations, the signatories record the following:

**I. Background of the case before the IACHR**

1. The petition, filed on November 4, 2003, was declared admissible by the Inter-American Human Rights Commission on August 4, 2009 through the adoption of Report No. 66/09, given that if the events detailed could be proven, they would constitute a violation of the rights recognized in Articles 8(2), 25, 11, and 24, in relation to Article 1(1) of the American Convention.

2. Subsequently, during the IACHR's 150<sup>th</sup> period of sessions, a public hearing was held in which Salta Province, with the consent of the State, offered to open a dialogue to explore the possibility of a friendly settlement to the case, without implying any international responsibility in the case. This is in keeping with the Argentine State's traditional policy of cooperation with the Inter-American System for Human Rights Protection.

3. Following an exchange of observations between the petitioners' representative and Government of Salta Province, a reasonable understanding has been reached, with compromises benefiting Sandra Beatriz and Marcos Gilberto Chaves, which would entail their immediate release and adoption, on humanitarian grounds, of the appropriate social reintegration measures, whose content is detailed below.

**II. Analysis of the situation described in the case**

1. The Government of Salta Province emphasized in said hearing at the Inter-American headquarters that it does not recognize responsibility for the facts alleged by the petitioners, who were sentenced to life in prison on June 8, 2001.

2. The representative of the alleged victims indicated the lack of acceptance of the charges against Marcos Gilberto Chaves and Sandra Beatriz Chaves for having been a perpetrator and accomplice in the events that resulted in the verdict made by the Third Criminal Chamber in Salta Province.

3. The above notwithstanding, the Government of Salta Province recognizes the consequences that the ruling has had on the lives of two of its citizens, to such a degree that it would be willing at the present time to study the appropriateness of the criminal response.

4. The Government of Salta Province and the representative of the alleged victims observe that Sandra Beatriz and Marcos Gilberto Chaves have served more than the fourteen (14) years of their prison term.

5. The Government of Salta Province and the representative of the alleged victims note Marcos Gilberto Chaves' health conditions, which even justified the timely authorization for house arrest granted by the competent legal authorities, and from which he

continues to suffer. Sandra Beatriz Chaves is currently under effective custody in Unit No. 4 of the Salta Penitentiary and has donated one of her kidneys. This has been documented in the legal proceedings and could pose an additional risk in maintaining incarceration.

6. As regards the general framework of the provincial judicial system and aside from the specific characteristics of the case, the Government of Salta Province underscores that in 2003, Law No. 7.262 expressly established that the appeal had certain factual and evidentiary issues (Section 3, Art. 466 of the former Criminal Procedure Code). It also notes that the current criminal procedure system was substantially reformed by Law No. 7.690, which has been in force since June 6, 2012. The reform allows for the broad exercise of the right to appeal against sentences rendered in criminal proceedings, as enshrined in Article 8, paragraph 2, subsection (h) of the American Convention. Specifically, it created a new criminal procedure court, consisting of Dispute Courts, with jurisdiction to resolve appeals. With respect to the appeal, Article 539 of the Criminal Procedure Code stipulates that appeals may be filed “*due to violations of essential procedural rules linked to the interpretation of the law, reconstruction of the facts, selection and assessment of evidence, termination of the prosecution, or sentencing.*” Additionally, as result of these reforms, the criminal justice system was reorganized and the new Dispute Courts have been launched and are in full force.

7. The Government of Salta Province reports that it has implemented numerous training and awareness initiatives to address gender policies. These are not exclusively for the community, but rather also for judges, public servants, and justice operators. They are permanent and ongoing efforts. The Government also notes the implementation of three Gender Prosecutor’s Offices, with specific purview in criminal cases pertaining to the situations defined in the Inter-American Convention for the prevention and eradication of violence against women (Belém do Pará Convention), as well as the Women’s Office of the Judiciary, executed through Agreement No. 11.547, which operates as a functional and administrative unit of the Salta Court of Justice.

8. In light of the foregoing, and notwithstanding the position taken in the framework of the procedure followed before the illustrious Inter-American Human Rights Court, of subsidiary nature for international protection mechanisms and the procedural status of the case, bearing in mind strictly humanitarian reasons, the Government of Salta Province and the petitioners, Sandra Beatriz Chaves and Marcos Gilberto Chaves with their legal representative, agree to the following:

### **III. Humanitarian assistance measures**

#### **A. Commutation of the sentences against Sandra Beatriz Chaves and Marcos Gilberto Chaves**

1. The Government of Salta Province undertakes to move forward with measures to grant the commutation of the life in prison sentences handed down to Sandra Beatriz Chaves and Marcos Gilberto Chaves on June 8, 2001 by the Third Criminal Chamber of the Salta Province, for the fourteen (14) years they spent in prison.

2. Said measure shall be adopted in no more than fifteen (15) working days, counted from the signing of this agreement, which shall allow Sandra Beatriz Chaves and Marcos Gilberto Chaves to regain their personal freedom, with no restrictions of any kind.

#### **B. Medical and psychological treatment**

1. In order to facilitate the social reintegration of both persons, and based on evidence of their vulnerable situation and that of their close family group, the Government of Salta Province undertakes the commitment to immediately provide, in keeping with current

law and subject to prior request and agreement of the beneficiaries, the medical and psychological assistance that may be necessary for Ms. Sandra Beatriz Chaves and Mr. Marcos Gilberto Chaves and her children, Luz María and Marcos Nicolás González Chaves. The State shall, therefore, provide free and immediate medical and psychological treatment that may medically be necessary. The treatments shall be provided for as long as they are needed and shall include medication and, where applicable, other resources that are directly related and strictly necessary.

2. Psychological or psychiatric treatment shall be provided by specialized state personnel and institutions. Should the Government of Salta Province lack these services, it shall resort to specialized private or civil society institutions. The provision of said treatment shall take into consideration the specific circumstances and needs of each beneficiary, so as to provide them with family and individualized treatments, as agreed with each of them following an individual evaluation. Finally, the treatment shall be provided, where possible, in the facilities closest to their place of residence.

### **C. Training and work reintegration measures**

1. The Government of Salta Province and the representative for the alleged victims agree that the Provincial State shall provide the means for Ms. Sandra Beatriz Chaves and her children, Luz María and Marcos Nicolás González Chaves, to receive education through the completion of higher education, be it technical or university studies. The beneficiaries or their legal representatives shall notify the State, within six months, counted from the date of signing of this agreement, of their requests for training or, where appropriate, scholarships to study, depending on the educational opportunities in the Province.

2. In the specific case of Sandra Beatriz Chaves, given that Marcos Gilberto Chaves is currently retired, the Government of Salta Province is committed to quickly adopting effective reintegration measures, particularly in the work arena, according to her needs. To this end, the Government of Salta Province undertakes to provide counseling and professional mentoring to Sandra Beatriz Chaves in order to allow her to obtain a small business loan from the Ministry of Environment and Sustainable Protection to finance a project she will define, corresponding to the Productive Development Line – Micro-businesses of the Provincial Investment Fund, pursuant to the current laws and up to a maximum of fifty-thousand pesos (\$ 50,000).

### **D. Training justice operators and security forces**

1. The Government of Salta Province undertakes to continue implementing ongoing training programs and courses on the gender perspective in the administration of justice and prohibition of discrimination. These courses will be designed for public servants and employees of Salta Province, in particular, members of the Judiciary, Public Prosecutor's Office, Public Defender's Office, and security forces.

### **E. Final provisions**

1. The petitioners feel that compliance with the commitments undertaken in this agreement satisfactorily meet their claims in Case No. 12.710 of the IACHR registry.

2. Given the complex implementation of the friendly settlement agreement, the Government of Salta Province and the petitioners agree to sign this letter, upon which the commitments undertaken in this agreement shall be duly approved through decree of the Salta Province Executive Branch.

3. Once this has occurred, the petitioners irrevocably undertake to sign the friendly settlement agreement with the Argentine State, and expressly request that, according to the agreements reached, the report be adopted, as provided for in Article 49 of the American Convention on Human Rights, at which point the agreement will take on full legal force.

Four copies of equal content and effects are signed.

**ANNEX II**  
**AMENDING LETTER TO THE LETTER OF COMMITMENT TO A FRIENDLY SETTLEMENT**

In the City of Salta, Argentine Republic, on July 24, 2014, in the framework of the dialogue to explore the possibility of reaching a friendly settlement to case No. 12.710 of the Inter-American Human Rights Commission registry, the petitioners, Ms. Sandra Beatriz Chaves and Mr. Marcos Gilberto Chaves, with the legal representation of the Official Public Defender overseeing the Human Rights Treaties Enforcement Program under the National Public Defender's Office, Dr. Gustavo Martin Iglesias, are holding a meeting with the Government of Salta Province, represented by the Minister of Justice, Dr. Pamela Calletti.

Given the international nature of the proceedings through which this case is being heard, the State will be represented at the meeting by the National Director of Legal Affairs in Human Rights Matters, under the Secretariat for Human Rights of the Ministry of Justice and Human Rights, Dr. Ana Oberlin.

**I- Background**

1. On July 24, 2014, the above-mentioned parties signed the Letter of Commitment to a Friendly Settlement in order to formalize the commitments to achieve a settlement to Case No. 12.710.

2. As a result of the deliberations carried out, the parties agreed to study the possibility of commuting the sentences of Sandra Beatriz and Marcos Gilberto Chaves to a sentence that would allow both to obtain their freedom, with no restrictions, at the time the commutation is granted.

3. Once the relevant actions were taken, it emerged that the commutation of the sentences could only be applied, as a minimum, for the time effectively served.

4. Therefore, Point III. A. 1 and 2 of the Friendly Settlement Agreement signed July 24, 2014 must be amended.

**II- Amendment to the Friendly Settlement Agreement Letter**

The parties agree to amend Point III. A. 1 and 2 of the Letter of Commitment to a Friendly Settlement, dated July 24, 2014, which shall read as follows:

**III- Humanitarian assistance measures**

1. The Government of Salta Province undertakes to move forward with measures to grant the commutation of the life in prison sentences handed down to Sandra Beatriz Chaves and Marcos Gilberto Chaves on June 8, 2001 by the Third Criminal Chamber of the Salta Province, for the prison term effectively served by Mr. and Ms. Chaves at the time the commutation is granted.
2. Said measure shall be adopted in no more than fifteen (15) working days, counted from the signing of the Friendly Settlement Agreement on July 24, 2014, which shall allow

Sandra Beatriz Chaves and Marcos Gilberto Chaves to regain their personal freedom, with no restrictions of any kind.

It bears noting that this letter modifies Point III. A. of the Letter of Commitment to a Friendly Settlement signed on July 24, 2014 and is a part of the same.

In witness whereof, four copies of equal content and effect are signed.

25. Finally, the IACHR notes that on August 4, 2014 Decrees 2.281 and 2.283 were approved by the Salta Executive Branch, which granted the commutation of the sentences of Marcos Gilberto Chaves and Sandra Beatriz Chaves, respectively, thereby reducing their sentences and calling for their immediate release. Below is a transcription of the most important section of both decrees:

**DECREE 2.281**  
**THE GOVERNOR OF SALTA PROVINCE DECREES**

ARTICLE 1. – Declares the commutation of prisoner Marcos Gilberto Chaves, therefore reducing his sentence to 14 years, 4 months, and 22 days in prison.

**DECREE 2.283**  
**THE GOVERNOR OF SALTA PROVINCE DECREES**

ARTICLE 1. – Declares the commutation of prisoner Sandra Beatriz Chaves, therefore reducing her sentence to 14 years, 5 months, and 11 days in prison.

**V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE**

26. The IACHR recalls that, according to Articles 48.1.f and 49 of the Convention, the purpose of this procedure is to reach “a friendly settlement of the matter on the basis of respect for the human rights recognized in the Convention.” The State’s agreement to use this procedure is evidence of its good faith to comply with the purposes and objectives of the Convention in conformity with the principle of *pacta sunt servanda*, according to which States must fulfill obligations assumed under treaties in good faith. It further recalls that the friendly settlement procedure contemplated in the Convention allows individual cases to be terminated in a non-contentious manner and, in cases involving various countries, has proven to be an important settlement vehicle that can be used by both parties.

27. The Inter-American Commission has closely monitored the development of the friendly settlement achieved in this case and acknowledges the efforts that both parties have made to reach this friendly settlement, which is compatible with the purpose and aim of the Convention. With respect to compliance with the agreed terms, the IACHR highly values the importance of commuting the sentences of Marcos Gilberto Chaves and Sandra Beatriz Chaves, which reduced their sentences and called for their immediate release. As explained in the previous paragraphs (see *supra* par. 29), this commutation was granted through the approval of Decrees 2.281 and 2.283 of August 4, 2014, issued by the Salta Executive Branch.

28. The IACHR appreciates the inclusion of the clause in the Friendly Settlement Agreement on training for justice operators and security forces that addresses gender perspective in the administration of justice and prohibition of discrimination. The Commission wishes to highlight the importance of making these training and awareness initiatives regular and ongoing. It would also like to congratulate the Argentine State on creating three Gender Prosecutor’s Offices, with specific purview in criminal cases pertaining to the situations defined in the Belém do Pará Convention, as well as the Women’s Office of the Judiciary.

29. The IACHR notes that in the Letter of Commitment to a Friendly Settlement, the parties agreed that once the decree from the Salta Province Executive Branch was issued to approve the letter of commitment, the parties would undertake to sign the friendly settlement agreement and “expressly request

that, according to the agreements reached, the report be adopted, as provided for in Article 49 of the American Convention on Human Rights.”<sup>1</sup> In order to comply with this term in the agreement, the Governor of Salta Province signed Decree No. 2.275 of August 4, 2014, which approves the Letter of Commitment to a Friendly Settlement.

30. In accordance with the provisions of the Friendly Settlement Agreement, and based on the principle of good faith, they agreed to issue the following request in writing: “the parties request that the illustrious Inter-American Human Rights Commission accept the commitments undertaken by Salta Province, as they are wholly compatible with the purpose and aim of the American Convention on Human Rights. Furthermore, the parties expressly request that the illustrious Commission adopt the report, as provided for in Article 49 of the Convention.

31. On August 28, 2014, the IACHR received a letter from the Argentine State requesting that the Commission adopt the report, as provided for in Article 49 of the American Convention, in order to proceed with the process to grant the victims the remaining humanitarian assistance measures agreed in the Friendly Settlement Agreement.

32. By virtue of the foregoing, the IACHR finds that this agreement is in the process of being executed, and will continue monitoring it.

## **VI. CONCLUSIONS**

33. On the basis of the foregoing considerations and by virtue of the procedure established in Articles 48.1.f and 49 of the American Convention, the Commission would like once again to express its deep appreciation for the efforts of both parties, as well as its satisfaction at the achievement of a friendly settlement of the case based on the respect for human rights and compatible with the purpose and aim of the American Convention.

34. By virtue of the considerations and conclusions set forth in this report,

### **THE INTER-AMERICAN HUMAN RIGHTS COMMISSIONS**

#### **DECIDES:**

1. To approve the terms of the settlement signed by the parties on August 5, 2014.
2. To continue monitoring compliance of the pending commitments to be fulfilled by the Argentine Republic. To this end, it will remind the parties of their commitment to regularly report to the IACHR on their progress.
3. To publish this report and include it in its Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 7<sup>th</sup> day of the month of November, 2014. (Signed): Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice President; Felipe González, Second Vice President; Rosa María Ortiz, Paulo Vannuchi and James L. Cavallaro, Commissioners.

---

<sup>1</sup> Letter of Commitment to a Friendly Settlement, July 24, 2014, Point IV, 2 and 3.