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CASE 12.699

FRIENDLY SETTLEMENT

PEDRO ANTONIO CENTURION
PARAGUAY

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NOVEMBER 20, 2018

I. SUMMARY AND RELEVANT PROCEDURAL CONSIDERATIONS OF THE FRIENDLY SETTLEMENT PROCEEDINGS BEFORE THE IACHR

1. On June 21, 2005, the Inter-American Commission on Human Rights (hereinafter, “the Inter-American Commission” or “the IACHR”) received a petition presented by the Association of Relatives of Victims of Military Service [*Asociación de Familiares Víctimas del Servicio Militar*] (hereinafter “AFAVISEM” or “the petitioners”), which alleged the international responsibility of the Republic of Paraguay (hereinafter “Paraguay” or “the Paraguayan State” or “the State”) to the detriment of the minor child Pedro Antonio Centurion, for violations of Article 4 (right to life), 5 (right to humane treatment), 6 (freedom from slavery), 7 (right to personal liberty), 8 (right to a fair trial), 19 (rights of the child), and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter “the American Convention,” or “the Convention”), in accordance with the general obligation to respect and ensure such rights, provided for under Article 1(1) of the American Convention. On January 16, 2017, the victim’s relatives indicated that they would directly undertake their own representation in the case being processed before the IACHR.

2. The petitioners alleged that the minor child Pedro Antonio Centurion, an Argentine national who was 13 years old at the time of the events, had been forcibly conscripted to do compulsory military service and had died under “strange circumstances” at the Military’s Vista Alegre Cavalry Detachment. Furthermore, they indicated that despite the complaints filed, the Paraguayan State had not investigated the events that took place and that the case had been shelved in 2001. The petitioners stated that the investigations conducted by the military had not established who was responsible either nor had they clarified the facts leading to the minor’s death. The petitioners likewise alleged that State employees had forged the minor child Pedro Antonio Centurion’s identification document so that it appeared as if he was a Paraguayan citizen who was old enough to do military service.

3. On March 19, 2009, the IACHR approved Admissibility Report No. 19/09, in which it ruled the case to be admissible for alleged violations of the rights enshrined in Articles 4, 5, 6, 7, 8, 19, and 25 of the Convention.

4. On April 13, 2009, the Commission forwarded the admissibility report to the parties and made itself available for a friendly settlement to be reached. On August 5, 2011, the parties signed a friendly settlement agreement. The parties held two working meetings on May 18 and December 11, 2017, respectively, with the facilitation of the Commission in the framework of on-site working visits to the country. The Parties also signed an addendum to the friendly settlement agreement on July 20, 2018, whereby they declared full compliance with clauses 1, 2, 4, 5, and 6 of the agreement and requested that the IACHR approved the friendly settlement agreement. On October 3, 2018, during the working meeting held in the framework of the 169th Special Session of the IACHR, the parties signed a Minute of the working meeting, in which they jointly reiterated their request to the IACHR to approve the friendly settlement agreement.

5. In accordance with the provisions set forth under Article 49 of the Convention and Article 40(5) of the Commission’s Rules of Procedure, this friendly settlement report provides a summary of the facts alleged by the petitioners, a transcription of the friendly settlement agreement between the petitioners and the Paraguayan State that was signed on August 5, 2011, as well as an assessment regarding the status of its fulfillment. A determination is also made about the friendly settlement agreement’s compatibility with the object and purpose of the American Convention and its approval is decided for purposes of publishing it in the IACHR Annual Report to the General Assembly of the Organization of American States.

II. ALLEGED FACTS

6. The petitioners alleged that in March 2000, the 13-year old minor child Pedro Antonio Centurion, an Argentine national, was forcibly conscripted into compulsory military service. According to the petitioners, the child was taken from his home by members of the Paraguayan army, who transported him to a barracks.

7. According to the initial petition, the victim's mother had gone to the barracks to inform authorities that her child was Argentine and a minor. In response, a Paraguayan army captain told her that her son's nationality and age did not matter and "he would take care of that." He likewise told her that "her son had the necessary stature and build," whereby he stopped her from taking the minor child from the barracks.

8. Additionally, the petitioners indicated that Pedro Antonio Centurion was taken to "Fortín Cano," where he had experienced "hunger and difficulties of all kinds," and so in July 2000 he attempted to flee. He was captured, however, 40 kilometers from the barracks and taken to the "Vista Alegre" military detachment where he died under "strange circumstances." They highlighted that in keeping with the forensic examination, Pedro Antonio Centurion had died after being shot with a long arm.

9. The petitioners alleged that members of the army had forged the minor child Pedro Antonio Centurion's identification document so he would have to perform compulsory military service, making it appear as if he were Paraguayan and old enough to do military service. They likewise indicated that the then Commander of the Unit, as well as the Head of Recruiting No. 17 of Villa Hayes, had been sentenced to three months of arrest for forging documents.

10. In relation to the legal remedies filed, the petitioners asserted that they submitted a complaint on September 12, 2000, before the ordinary courts, which purportedly was shelved in 2001 by Criminal Unit No. 3 of the Public Prosecution Ministry because it was impossible to identify those responsible. An investigation was initiated under the military jurisdiction, which was dismissed due to the fact that Pedro Antonio Centurion's death "did not constitute a crime inasmuch as it happened in a manner that cannot be attributed to third-parties and as a result of an act in the line of duty."

III. FRIENDLY SETTLEMENT

11. On August 5, 2011, in the presence of Commissioner Jose de Jesús Orozco, IACHR Rapporteur for Paraguay, a friendly settlement was signed between Maria Noguera and Semproniana Centurion Benitez, on the part of the petitioners; and by the State, Roberto Manuel Miranda Acosta, Director General of Legal Affairs, Human Rights and International Humanitarian Law; Jose Enrique García Avalos, Inspector General of the Republic; Carlos Maria Aquino, Deputy Minister of Justice and Human Rights; Ines Martinez, Director of Human Rights of the Ministry of Foreign Relations; and Jorge Velazco Rivero, Legal Affairs' Director General of the Office of the Inspector General of the Republic, in the presence of Commissioner Jose de Jesus Orozco, IACHR Rapporteur for Paraguay; in the following terms:

FRIENDLY SETTLEMENT AGREEMENT CASE No. 12.699 "PEDRO ANTONIO CENTURION"

FIRST: ACKNOWLEDGEMENT OF RESPONSIBILITY

The Republic of Paraguay acknowledges international responsibility in Case No. 12.699 "Pedro Antonio Centurion"—which refers to the death of a child soldier, in the custody of the army, illegally conscripted into military service—for violation of the rights to personal liberty, humane treatment, life, special measures of protection for the child, judicial protection, and a fair trial, rights enshrined, respectively, in Articles 4, 5, 6, 7, 8, 19, and 25 of the American Convention on Human Rights (hereinafter "the Convention") (sic), in connection with the violation of the State's duty to respect and ensure all these rights pursuant to the provisions of Articles 1(1) and 2 of the American Convention.

SECOND: PUBLIC APOLOGY AND ACKNOWLEDGEMENT OF RESPONSIBILITY

The State of Paraguay, within four months as from the signing of this Agreement, will make a public apology and acknowledge international responsibility in relation to the human rights violation recognized above.

The apology and acknowledgement will be drawn up by mutual accord of the State and the victim's representatives. Said acknowledgement will be made at a public event where the Minister of Defense, the Commander of the Army, and a representative of the Commander of the Military Forces, and other high-level authorities will be in attendance. The State will guarantee the presence of the victim's relatives at the event and will inform their representatives, human rights organizations, and the media about the event at least 15 days in advance.

The public apology and acknowledgement event will be broadcasted on *Radio Nacional* (in Spanish and Guaraní), and widely covered in other mass media outlets.

At the same time, the State commits to publishing the Friendly Settlement Agreement in its entirety in a daily newspaper with national circulation and in the Official Gazette. It will also be published on the websites of the Office of the President of the Republic and the Ministry of Foreign Relations and maintained online for at least six months.

THIRD: MEASURES FOR SOCIAL REHABILITATION

The Paraguayan State commits to conveying to Mrs. Semproniana Centurion, the victim's mother, a plot of land selected by the petitioners that is located in Tarumandy Subdivision 8 of the Luque district. This plot of land will be conveyed by the Secretariat for Social Action (SAS).

The State also undertakes the commitment to build a house in keeping with the standards proposed by the lead agency on housing issues, the National Housing Secretariat, (SENAVITAT), on the plot of land mentioned above.¹

FOURTH: MEASURES OF SATISFACTION

At the military detachment where the minor child died, the State shall hang a commemorative plaque with a text agreed to by the parties which refers to the child soldier's death. Furthermore, a street will be named for the minor child in the city of Luque-Loma Merlo, where the victim's relatives live.

FIFTH: PRIMARY CARE AND COMPREHENSIVE HEALTH MEASURES

The Republic of Paraguay commits to providing free medical and psychological care to the victim's parents and siblings, as well as medication to treat the ailments that they suffer from. This care is to be furnished at the hospital or health clinic closest to the parents' domicile that offers the services and medication that are appropriate for the exact treatment required in each case, regardless of the care provided at the military hospital.

SIXTH: MONETARY REPARATIONS

For purposes of ensuring monetary reparations the State undertakes the commitment to:

¹ Clause modified by the addendum signed by the parties on July 20, 2018.

- a. Pay the sum of \$US30,000 (thirty thousand US dollars) as compensation, which will be paid to the mother of the victim in this case within a year as from the signing of this agreement.
- b. Carry out the procedures leading to the formalization of the victim's relatives' pension within a year as from the signing of this agreement.

SEVENTH: MONITORING

In order to monitor this agreement's fulfillment until its effective compliance, the parties will prepare semi-annual reports on the progress made, which will be presented to the Inter-American Commission on Human Rights. Its compliance and follow up will be consistent with the functions and objectives of the Executive Inter-Agency Commission created by Decree 1595 of February 26, 2009.

EIGHTH: INTERPRETATION

The meaning and scope of this Agreement is interpreted in keeping with Articles 29 and 30 of the American Convention on Human Rights, as relevant, and based on the principle of good faith. Were there to be question or disagreement between the parties regarding the content of this Agreement, the Inter-American Commission on Human Rights will decide on its interpretation. The Commission will also be responsible for verifying its compliance.

NINTH: APPROVAL

The parties understand that non-compliance with one or more points of this Agreement empowers the petitioners to continue with the processing of the case in the inter-American human rights protection system until its full conclusion.

The foregoing does not preclude the petitioners from approving any requests for an extension to comply with one or more obligations committed to.

Once this Friendly Settlement Agreement is complied with and approved by the Inter-American Commission on Human Rights, the petitioners, parents, and relatives of the minor child Pedro Antonio Centurion may not make any claim regarding any of the points of this Agreement nor may they invoke this case for any kind of reparation or compensation from the Paraguayan State.

Signed in three copies, at Asunción, on the 5th day of August, 2011.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

12. The IACHR reiterates that according to Articles 48(1)(f) and 49 of the American Convention, this process is aimed at "reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention." The willingness to engage in this process is a sign of the State's good faith to comply with the object and purpose of the Convention under the principle of *pacta sunt servanda*, by which States must comply in good faith with the obligations undertaken in treaties.² The Commission also reiterates that the friendly settlement process provided for in the Convention allows for the settlement of individual cases in a non-adversarial manner; it has proven to be an important vehicle for reaching solutions at the initiative of both parties and has been used in cases involving many countries.

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.*

13. The Inter-American Commission has closely followed the friendly settlement negotiations in the instant case and highly appreciates the efforts made by both parties to reach this settlement, which is consistent with the object and purpose of the Convention.

14. The Commission observes that the parties signed an addendum after the friendly settlement agreement had been signed and hereby declares such addendum to be an integral part of the agreement between the parties.

15. The Inter-American Commission appreciates the first declarative clause, which recognizes the international responsibility of the Paraguayan State for the violation of the rights to life, humane treatment, freedom from slavery, personal liberty, a fair trial, rights of the child, and judicial protection established under Articles 4, 5, 6, 7, 8, 19, and 25 of the American Convention, to the detriment of Pedro Antonio Centurion.

16. The agreement's second clause calls for a public apology and acknowledgement of responsibility, which took place, according to the parties, on October 19, 2011 at the Ministry of Foreign Relations. In attendance were senior Paraguayan authorities, including the then President of the Republic, Fernando Lugo Méndez, the Minister of Defense, and the Minister of Foreign Relations, as well as relatives of the victim and representatives of human rights organizations. The parties further reported that this event had been broadcasted over *Radio Nacional de Paraguay* and covered in other media, including the *Diario Última Hora* newspaper.³ Bearing in mind the information furnished by the parties, as well as the July 20, 2018 addendum in which the parties jointly recognized fulfillment of this agreement item, the Commission hereby declares that the second clause of this friendly settlement agreement calling for a public apology and acknowledgement of responsibility has been fulfilled in its entirety.

17. As to clause three regarding the social rehabilitation measure, on October 29, 2018, the Paraguayan State reported that the Ministry of Social Development had, under the TEKOHHA program, already apportioned a lot to Ms. Semprioniana Centurion, and that the lot was located in the Central Department. According to the information provided, the Ministry was taking steps to make the definitive conveyance to the beneficiary upon issue of the revolving funds of the TEKOHHA program, provided for in the national budget; this will be completely free of charge to the petitioner. The State indicated that either a Ministry of Social Development resolution or a Presidential decree would serve as the administrative vehicle for execution of the measure.

18. In this respect, the Commission values the State's commitment to finalizing full implementation of the friendly settlement agreement by involving authorities from the most senior levels in the quest for alternative ways to meet the commitments undertaken therein. The Commission observes that the parties signed an official document at the working meeting it facilitated on October 3, 2018 in Boulder, Colorado, in which they asked the IACHR to "continue to monitor compliance with the only pending clause [...] on the social rehabilitation measure—in the form of housing—until fully implemented in a period of six months as from the date of the approval." With this in mind, the Commission will continue to monitor clause three until it has been fully implemented. Based on the foregoing, the Commission hereby declares that this clause of the agreement is still being implemented.

19. As to the fourth clause on measures of satisfaction, according to the parties, on May 25, 2012, an event was held to unveil both a plaque at the Vista Alegre Military Post and a commemorative monolith. According to the information received, present at the event were the Vice Minister of the National Armed Forces; the Director General for Legal Affairs, Human Rights, and International Humanitarian Law; the Director of Gender at the Ministry of Defense; the Commander of the First Infantry Division; the Executive Director of AFAVISEM; representatives of the Foreign Ministry and the Office of the Inspector General; and relatives of the victim. Moreover, Municipal Ordinance 26, of July 3, 2012, passed by the Luque Municipal Council, ordered the full north-south artery of Calle Karandayty, in the 12th Subdivision of Luque's Loma Merlo District to be named

³ See: *Diario Última Hora: Lugo pide disculpa por muerte de soldados en cuarteles* [Lugo apologizes for the deaths of soldiers in barracks], October 19, 2011. Available online at: <https://www.ultimahora.com/lugo-pide-disculpas-muerte-soldados-cuarteles-n473511.html>

Soldado Pedro Antonio Centurion. Bearing in mind the information furnished by the parties, as well as the July 20, 2018 addendum in which the parties jointly recognized fulfillment of this Agreement item, the Commission hereby declares the fourth clause of the friendly settlement on measures of satisfaction to have been fulfilled in its entirety. At the same time, the Commission highlights that this case refers to a child victim of forced recruiting of children and adolescents in Paraguay.

20. Regarding the fifth clause, which refers to primary and comprehensive healthcare, on April 12, 2013, the State reported that representatives of the Ministry of Defense had attended several meetings with officials from the Ministry of Health and Social Welfare, settling on a draft Agreement for Comprehensive Medical Care. Similarly, on June 30, 2008, a Cooperation Agreement was signed between the Ministry of Defense and AFAVISEM. According to the information provided, the Agreement ordered the Ministry of Defense, through the Military Hospital, to provide medical care both to soldiers who had been wounded and were suffering after-effects from their compulsory military service and to the families of soldiers who had died. Lastly, in a January 18, 2017 communication, the State reported that the Ministry of Public Health and Social Welfare was providing periodic medical care, via the Family Health Unit, under the Office of Primary Care, both in its facilities and at the beneficiaries' homes.

21. On June 7, 2015, the petitioners confirmed that they were receiving comprehensive care at a health clinic; they emphasized that the care being provided by the doctor in charge was excellent. Furthermore, at that working meeting between the parties on October 3, 2018, the State also committed to providing a point of contact for any issue that might arise in the future in connection with implementation of this measure over time. Accordingly, the State provided a point of contact on October 29, 2018 and this was communicated to the petitioners. Lastly, bearing in mind the information furnished by the parties, as well as the July 20, 2018 addendum in which the parties jointly recognized fulfillment of this agreement item, the Commission hereby declares that the fifth clause of the agreement has been implemented in its entirety.

22. Regarding clause six, letter (a) on monetary reparations, on April 12, 2013, the State reported that Executive Decree No. 8668 of March 29, 2012 had authorized payment of US\$30,000 (thirty thousand dollars) in compensation, which was paid in full. Taking into account the briefs submitted by the parties throughout the negotiations, as well as the July 20, 2018 addendum in which the parties jointly recognized compliance with this Agreement item, the Commission hereby declares that this Agreement item has been complied with in its entirety.

23. As to clause six, letter (b), regarding the pension for the victim's relatives, on April 23, 2012, the State reported that it had begun to take steps toward securing 100% of the pension due Ms. Semproniana Centurion, as heir to her son, soldier Pedro Antonio Centurion; initially, just 50% of the pension was secured. Subsequently, according to the parties' communications, between October 2016 and January 2017, the State reportedly took further steps toward securing 100% of the pension for Ms. Semproniana Centurion. On August 1, 2018, the State reported that pursuant to Article 124 of Law 1115/1997 of the Military Statute, and via the Finance Ministry, 100% of the pension that would have been due to Pedro Antonio Centurion at the rank of vice sergeant first class was disbursed, as was a retroactive payment of the 50% reportedly never received by the beneficiaries. The Commission observes with satisfaction all the posthumous military promotions given to Pedro Centurion as well as the corresponding adjustments to the pension amount. Because of the foregoing, and taking into consideration the information provided by the parties, as well as the July 20, 2018 addendum in which the parties jointly recognized compliance with this Agreement item, the Commission hereby declares full compliance with this Agreement item.

24. In light of the above, the IACHR deems and hereby affirms that the first clause of the friendly settlement agreement is declaratory in nature, and clauses two, four, five, and six have been complied with in full. Additionally, the Commission considers that the third clause of the agreement is still being implemented and encourages the State to continue to take the steps necessary to convey the land and subsequently build the home, as agreed. Based on the foregoing, the IACHR declares that the friendly settlement agreement has been substantially executed and partially fulfilled, and it will therefore continue to monitor implementation of the third clause thereof until the agreement has been fully implemented.

V. CONCLUSIONS

25. The IACHR has closely followed the evolution of the friendly settlement reached in this case. From the information above, it is clear that the third clause of this agreement is still in the process of being implemented, and therefore the Commission will continue to monitor the process. In that regard, it encourages the State to comply as quickly as possible with the reparation measure provided for in clause three and submit to the Commission, as soon as possible, a compliance plan that includes a schedule of activities to be implemented over a six-month period.

26. Based on the foregoing considerations and in accordance with the procedure provided for in Articles 48(1)(f) and 49 of the American Convention, the Commission wishes to reiterate its appreciation for the efforts made by the parties and its satisfaction with the achievement of a friendly settlement in the present case, based on respect for human rights, and consistent with the object and purpose of the American Convention.

27. In light of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the friendly settlement agreement signed by the parties on August 5, 2011, as well as the addendum to the third clause, signed by the parties on July 20, 2018, which is an integral part of the agreement.

2. Declare full compliance with clauses two, four, five, and six of the friendly settlement agreement.

3. To continue to monitor the third clause of the friendly settlement agreement until full compliance is achieved. To that end, remind the parties of their commitment to report periodically to the IACHR on compliance.

4. To make this report public and include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on the 20th day of November 2018. (Signed) Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-president; Luis Ernesto Vargas Silva, Second Vice-President; Francisco José Eguiguren, Joel Hernández, Flávia Piovesan, Members of the Commission.