

**TECHNICAL INFORMATION SHEET
CASE 12.298 FERNANDO GIOVANELLI
REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 81/08
ARCHIVE
(ARGENTINA)**

I. SUMMARY OF THE CASE

Victim(s): Fernando Giovanelli

Petitioner(s): Ana Giovanelli

State: Argentina

Beginning of the negotiation date: August 2002

FSA signature date: August 23, 2007.

Report on Admissibility No. 30/01, published February 22, 2001

Friendly Settlement Agreement Report No. 81/08, published on October 30, 2008

Estimated length of the negotiation phase: 6 years

Rapporteurship: Persons Deprived of Liberty

Topics: Investigation/police violence/Arbitrary or illegal detention/Summary, extrajudicial, or arbitrary executions

Facts: The petitioners alleged the State's responsibility for the death of Fernando Horacio Giovanelli, who at around 9:45 p.m. on October 17, 1991, in the close vicinity of his home, was approached by officers of the Buenos Aires Provincial Police who asked him for his ID, detained him, and took him in an unmarked vehicle to the Third Police Station in Quilmes. The petitioners claimed that at that police facility, the alleged victim was brutally beaten and then taken to the 14 de Agosto Bridge in Quilmes district, a few meters from the police station, where he was thrown onto the footpath and killed by one of the police officers who shot him in the head (with the bullet entering through his left earlobe). They also claimed that the victim's body was later taken to Villa Los Eucaliptos, a shanty town that is under the jurisdiction of that police station, where it was dumped approximately two and a half hours after his death. The petitioners maintained that the version of events contained in the police report, which was used as the basis for the criminal proceedings, was plagued with inconsistencies; that the police investigation was deliberately geared toward covering up the truth of the killing; and that the different judges that heard the case merely produced evidence that was largely irrelevant for clarifying the facts of Mr. Giovanelli's death and failed to address the confusing, suspicious, and contradictory evidence in the proceedings.

Rights declared admissible: The Commission concluded that it was competent to take cognizance of the instant matter and that the petition was admissible, pursuant to Articles 46 and 47 of the American Convention insofar as the alleged violations of the rights of Fernando Giovanelli under Articles 1(1), 4(1) (right to life), 5 (humane treatment), 7 (right to personal liberty), 8 (due process) and 25 (judicial protection) of the American Convention on Human Rights are concerned.

II. PROCEDURAL ACTIVITY

1. On August 23, 2007, the parties signed the friendly settlement agreement.
2. On October 30, 2008, the Commission approved the friendly settlement agreement by report No. 81/08.

III. ANALYSIS OF COMPLIANCE WITH COMMITMENTS IN FRIENDLY SETTLEMENT AGREEMENT

Agreement clause	State of compliance
II. The primary responsibility of the province of Buenos Aires. The attendant international responsibility of the Argentine State.	Declarative clause
III. Measures to be adopted	
a. Economic reparation	Total¹
b. Non-monetary reparation measures	
1. The Government of the Argentine Republic pledges to publish this agreement by means of a notice, whose text shall be agreed in advance with the victim's next of kin, in the Official Gazette of the Argentine Republic and in a nationally distributed newspaper, once it has been approved by the Inter-American Commission on Human Rights in accordance with the provisions of Article 49 of the American Convention on Human Rights.	Total²
2. The Government of the Argentine Republic undertakes to invite the Government of the Province of Buenos Aires to report on the status of the following cases being heard by courts in the provincial jurisdictional until their final conclusion: a) Case 1-2378, titled "N.N. re. Homicide - victim: Giovanelli, Fernando Horacio" proceeding before the Third Transitory Criminal Court of First Instance in Quilmes Judicial District, Province of Buenos Aires. b) Case 3001-1785/00 titled "Supreme Court of Justice - General Secretariat re. Irregular situation observed in the processing of case 1-2378 before the Third Transitory Criminal Court in Quilmes ", proceeding before the Supreme Court of Justice of the Province of Buenos Aires - Judicial Oversight and Inspection Office.	Noncompliance³
3. The Government of the Argentine Republic undertakes to invite the Government of the Province of Buenos Aires to evaluate the possibility of including the "Giovanelli" case in the current study	Total⁴

¹ See IACHR, 2013 Annual Report, Chapter II, Section D. Status of Compliance with the Recommendations of the IACHR, paras. 87 - 104.

² See IACHR, 2018 Annual Report, Chapter II, Section G. Status of compliance with the recommendations issued by the IACHR in merits reports and friendly settlement agreements approved by the IACHR, Available at: <http://www.oas.org/es/cidh/docs/annual/2018/docs/IA2018cap.2-es.pdf>

³ See IACHR, Annual Report 2019, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>

⁴ See IACHR, 2018 Annual Report, Chapter II, Section G. Status of compliance with the recommendations issued by the IACHR in merits reports and friendly settlement agreements approved by the IACHR, Available at: <http://www.oas.org/es/cidh/docs/annual/2018/docs/IA2018cap.2-es.pdf>

programs at police training academies, as a measure to ensure non repetition of practices that violate human rights.	
4. The Government of the Argentine Republic commits to developing a law setting forth the procedures for processing and responding to petitions under study by the Commission and before the Inter-American Court of Human Rights, that includes the establishment of a specific entity with jurisdiction in the decision-making process—including the institution of “friendly settlement”—, and a mechanism to ensure compliance with the recommendations and/or judgments of the Commission and/or the Inter-American Court of Human Rights, in accordance with the provisions of Article 28 (federal clause) of the American Convention on Human Rights, in connection with Articles 1(1) (general obligation to observe and ensure rights) and 2 (duty to adopt domestic legal provisions) of said international instrument.	Noncompliance⁵

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission took into consideration the petitioner’s request of March 22, 2019, to terminate supervision of the agreement and to archive the case, given the lack of progress in the status of those two items of the agreement, and in light of the length of time that has elapsed and the advanced age of the victim’s mother and her delicate health status. In this regard, the Commission decided to put on the record that the Argentine State failed to comply with those two measures on justice and legislative changes and that the level of compliance with the agreement is partial.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes in the instant case

- The State made economic reparation, as agreed in the arbitral award.
- The State published the friendly settlement agreement in the Official Gazette of the Argentine Republic.

B. Structural outcomes in the instant case

- The Curriculum for the Juan Vucetich Police Academy and Decentralized Branches entered into force at the behest of the Office of the Director General of Culture and Education of the Province of Buenos Aires.
- Case file No. 1-2378 was re-opened.
- The drawing up of a bill in the Province of Buenos Aires on compliance with decisions taken in the inter-American human rights system.

⁵See IACHR, Annual Report 2019, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>