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REPORT No. 21/20
CASE 13.728
REPORT ON FRIENDLY SETTLEMENT

AMIRA GUZMÁN DE ALONSO AND FAMILY
COLOMBIA

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I. SUMMARY AND RELEVANT PROCEDURAL ASPECTS OF THE FRIENDLY SETTLEMENT PROCESS

1. On December 21, 2007, the Inter-American Commission on Human Rights (hereinafter “the Commission” or the “IACHR”) received a petition filed by Leonardo Fidel Guerra-Acero Ospina representing the alleged victim. The petitioner argued the international responsibility of the Republic of Colombia (hereinafter “the State” or “the Colombian State”) for the lack of investigation and punishment of those responsible for the events surrounding the kidnapping, attempted forced disappearance, and murder of Mrs. Amira Guzmán de Alonso —A.G.A.,¹ on October 5, 1988. Mrs. Amira Guzmán de Alonso was a consumer goods trader in the department of Caquetá, in the areas of the Municipality of Florencia, Puerto Rico, Río Caguán, and Río Orteguaza.

2. The petitioners argued the international responsibility of the Colombian State for the violation of articles four (right to life), five (right to humane treatment), seven (right to personal liberty), eight (right to a fair trial), and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter “the American Convention”). All of them in regards to the general obligation to respect and guarantee human rights, provided for in Article 1.1 of the same instrument. Likewise, the petitioners argued the violation of the rights enshrined in Articles I of the American Declaration of the Rights and Duties of Man; Articles 3 and 5 of the Universal Declaration of Human Rights; Article 7 of the International Covenant on Civil and Political Rights; and in general the violation of the rights enshrined in the Inter-American Convention to Prevent and Punish Torture and the Inter-American Convention on Forced Disappearance.

3. On December 26, 2018, the IACHR declared the petition admissible by means of Report No. 180/18. The report concluded that the Commission was competent to examine the alleged violation of the rights enshrined in articles four (right to life), five (right to humane treatment), seven (right to personal liberty), eight (right to a fair trial), 24 (right to equal protection), and 25 (right to judicial protection) of the American Convention on Human Rights in relation to Article 1.1 thereof. Likewise, the Commission declared the petition admissible with respect to the alleged violation of articles 7 of the Belem do Pará Convention, and articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture.

4. On July 25, 2019, the parties sent a minute of understanding that materialized with the signing of a Friendly Settlement Agreement (hereinafter “FSA” or “agreement”), subsequently on November 5, 2019. In said agreement, the parties jointly requested the approval of the friendly settlement agreement and promised to inform in a timely manner about the progress in the materialization of the agreed measures.

5. As established in article 49 of the Convention and article 40.5 of the Commission's Rules of Procedure, this friendly settlement report presents a summary of the facts alleged by the petitioner, as well as, the transcription of the friendly settlement signed on November 5, 2019 by the petitioner and the representatives of the Colombian State. Likewise, the Commission approves the agreement signed between the parties and agrees to publish this report in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

¹ The petition was initially filed with the request for reservation of identity on the name of the alleged victim, so her initials were assigned to the name of the case. However, by means of a note dated December 11, 2019, the petitioner requested the IACHR to lift the identity reserve.

II. ALLEGED FACTS

6. The petitioner alleged that Mrs. Amira Guzmán (hereinafter "the alleged victim") was murdered in an area beset by guerrilla groups and that, around the date of the events, it was an epicenter of violence. It indicated that Mrs. Guzmán was engaged in the trade of food and cattle among the towns of the Municipality of Florencia in the Department of Caquetá, so she usually traveled in a motorized canoe on the Orteguzza River, between Puerto Remolinos and Puerto Arango.

7. The petitioner reported that on October 4, 1988, while Amira Guzmán was carrying out her work she would have been kidnapped by three unknown men, who violently removed her from her boat and three days later, her body would have been found around the Orteguzza River. According to the petitioner, the alleged victim had stones tied to her body so that she did not float and identifying her was very difficult because they had sprayed acid on her face, head, feet, and hands, and that her family members only managed to recognize her by her clothes and body features. The petitioner indicated that the autopsy report showed that the lack of muscles and tissues in Amira Guzmán's skin was due to the application of an acid, and that the cause of death would have been possibly strangulation.

8. The petitioner indicated that, on October 10, 1988, the family of the alleged victim would have filed a criminal complaint for the aforementioned facts. However, it affirmed that on February 28, 1989, the Fourth Criminal Court of Florencia ordered the cessation of the procedure in favor of two of the suspects, and ordered the transfer of the proceedings to the technical body of the Judicial Police of Florencia to continue with the investigations. The petitioner indicated that the Attorney General's Office failed to comply with what was ordered by the court because the investigations did not continue.

9. As alleged by the petitioner, on January 10 and October 4, 2006, the children of the alleged victim, upon reaching legal age, filed two petitions before the Office of the Attorney General of the Nation, requesting information and a copy of the file. On November 27, 2006, by means of an official letter issued by the Delegated Unit before the Criminal Courts of the Circuit of Florencia, they were told that her file could not be located, despite the fact that, on November 16, 2006, the National Directorate Prosecutors' Office would have given them the filing number and the names of some people who had been linked to the case. Subsequently, on April 6, 2010, the daughter of the alleged victim once again requested information on the status of the process, without obtaining further details.

10. The petitioner indicated that, given the described situation, the family of the alleged victim filed a writ *of amparo* on October 17, 2008, which would have been resolved by the Second Family Court on November 20, 2008, providing the reconstruction of the criminal investigation. It said that, because of that ruling, some steps were carried out to reconstruct the file. Later on November 27, 2009, the Prosecutor's Office Section 11 of Florencia would have decided to terminate the criminal action due to the passing of 20 years since the events, indicating that the statute of limitations had not been taken into account when the writ *of amparo* was resolved.

11. The petitioner pointed out that, against such resolution, the son of the alleged victim filed an appeal for reinstatement, which would have been rejected by the Prosecutor's Office Section 11 of Florencia, indicating that the facts had been promptly investigated. Subsequently, on July 15, 2010, the Deputy Prosecutor before the Superior Court of the Office of the Attorney General of the Nation would have dismissed the appeal, indicating that there was a comprehensive investigation and that the criminal action for homicide had prescribed.

12. In this regard, the petitioner argued that by the date of filing the petition before the IACHR, the facts had not been investigated, nor those responsible would have been punished. On the other hand, it stated that on November 28, 2011, it would have filed a claim for direct reparation before the administrative contentious jurisdiction and that by the date of filing the petition it was pending of ruling. The petitioner concluded its arguments by stating that since the death of Mrs. Amira Guzmán de Alonso her children would have endured profound suffering which would have lasted for more than 18 years due to the lack of truth, justice, and reparation.

III. FRIENDLY SETTLEMENT

13. On November 5, 2019, the parties signed a friendly settlement agreement whose text states the following:

DEFINITIVE FRIENDLY SETTLEMENT AGREEMENT²
CASE 13.728
AMIRA GUZMÁN DE ALONSO AND FAMILY

On November 5, 2019, in the city of Bogotá D.C., Ana Maria Ordóñez Puentes, Director of International Legal Defense of the National Agency for the Legal Defense of the State, who acts in the name and representation of the Colombian State, hereinafter "Colombian State", and on the other hand, Arcángel Alonso and Leonardo Fidel Guerra-Acero Ospina, who act as petitioners in this case, and who hereinafter will be referred to as "the petitioners", sign this Friendly Settlement Agreement on the Case No. 13.728 AMIRA GUZMÁN DE ALONSO and FAMILY, processed before the Inter-American Commission on Human Rights.

PRELIMINARY CONSIDERATIONS

The facts of the petition refer to the murder of Mrs. Amira Guzmán de Alonso, on October 4, 1988, in the area of the Orteguzza River, jurisdiction of the municipality of Granario - municipality of Milan, department of Caquetá. The victim was engaged in food and cattle trade between the populations of the Orteguzza River and Caguán, so she usually traveled in a motorized canoe.

On October 4, 1988 while she was doing her work on the Orteguzza River, she was "kidnapped by unknown men, who violently removed her from her boat and three days later her body was found around the river"³. The investigation began before the Criminal Courts of Florencia, and subsequently assumed by the Attorney General's Office. In this process, there were irregularities in the conformation, custody, and location of the file.

The petitioners had to resort to legal actions through a writ of *amparo* for the reconstruction of the file and the continuity of the investigations. However, on July 15, 2010, the Office of the Attorney General determined that the criminal action had prescribed.

The petitioners filed a direct reparation action for improper administration of justice, which is pending a second instance ruling before the Council of State.

On December 21, 2007, the Inter-American Commission on Human Rights received a petition presented by Dr. Leonardo Fidel Guerra-Acero Ospina, claiming the international responsibility of the State for the events surrounding the murder of Mrs. Amira Guzmán de Alonso, as well as the lack of investigation and clarification of the facts.

Through Report No. 180/18 of December 26, 2018, the Inter-American Commission on Human Rights declared the petition admissible in relation to Articles 4, 5, 7, 8, 24, and 25 of the American Convention on Human Rights. As well as, the violation of article 7 of the Convention of Belem Do Pará, and of articles 1, 6, and 8 of the Inter-American Covenant to Prevent and Punish Torture.

On July 25, 2019, the Colombian State and the representatives of the victims signed a Minute of Understanding to reach a friendly settlement.

² Numbering of the clauses outside the original text of the agreement.

³ IACHR, Report No. 180/18, Petition 1616-07. Admissibility. A.G.A. and family. Colombia. December 26, 2018.

In subsequent months, joint meetings were held to analyze the proposals of both parties to build this friendly settlement agreement.

The Colombian State and the representatives of the victims decided to sign this Friendly Settlement Agreement, which will be governed under the following terms:

FIRST: RECOGNITION OF RESPONSABILITY

The Colombian State recognizes its international responsibility for the violation of Articles 8 (right to a fair trial) and 25 (right to judicial protection) of the American Convention on Human Rights to the detriment of the victim's relatives, due to the lack of diligence in the investigation of the events that occurred on October 4, 1988, in which Mrs. Amira Guzmán de Alonso died.

SECOND: WITHDRAWAL FROM THE DIRECT REPARATION ACTION

Given that the Colombian State and the representatives of the victims signed the present Friendly Settlement Agreement, the petitioners are obligated to withdraw the Direct Reparation Action No. 18001233100020110040901, which is processed in the second instance before the Council of State, Third Section. Likewise, they expressly waive filing any other legal action at the domestic level regarding the same facts and for the same claims.

THIRD: SATISFACTION MEASURES

The State undertakes to implement the following measures:

- a) **Perform an act of acknowledgment of responsibility and a public apology in the municipality of Puerto Rico Caquetá, headed by a senior official of the National Government.** The act of recognition of responsibility will have the active participation of family members and representatives of the victims. In it, the State's responsibility will be recognized in the terms established by this agreement. The Presidential Counselling for Human Rights and International Affairs will be in charge of this measure.
- b) **Elaborate a commemorative plaque.** Unveiling of a commemorative plaque in which the life and legacy of Mrs. Amira Guzmán de Alonso is remembered, as a working person and promoter of trade between the rivers of the region. The text and location of the plaque will be arranged with the victims and their representatives.
- c) **Publication of the facts.** The Colombian State commits to publish the Article 49 ACHR report issued by the Inter-American Commission on Human Rights that approves the Friendly Settlement Agreement, on the websites of the Presidential Counselling for Human Rights and International Affairs, and of the National Agency for the Legal Defense of the State.

FOURTH: ECONOMIC COMPENSATION

The State undertakes to apply Law 288 of 1996, once this Friendly Settlement Agreement is approved through the issuance of the Report under Article 49 of the American Convention on Human Rights. The foregoing, with the purpose of repairing intangible and material damages that will be proven in favor of the victim's relatives who have not been compensated through the Contentious Administrative Jurisdiction, discounting, if applicable, the amounts recognized for administrative repairs. For these purposes, the criteria and amounts recognized by the current Jurisprudence of the State Council will be used.

FIFTH: APPROVAL AND MONITORING

The parties request that the Inter-American Commission on Human Rights approve this agreement and monitor its compliance.

This agreement was endorsed by the state entities committed to the execution of the reparation measures.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE.

14. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, this procedure is intended to "reach a friendly settlement of the matter, based on respect for the human rights recognized in the Convention." The acceptance of carrying out this process expresses the good faith of the State to comply with the purposes and objectives of the Convention by virtue of the *Pacta Sunt Servanda* principle, whereby States must comply in good faith with the obligations assumed in the treaties⁴. The IACHR also wishes to reiterate that the friendly settlement procedure contemplated in the Convention allows the closure of individual cases in a non-contentious manner, and has demonstrated, in cases related to various countries, to offer an important solution method, which can be used by both parties.

15. The Inter-American Commission has closely monitored the development of the friendly settlement achieved in this case and highly values the efforts made by both parties during the negotiation of the agreement to reach this friendly settlement that is compatible with the object and purpose of the Convention.

16. In accordance with the provisions of the friendly settlement agreement, as well as, by submitting a joint progress report on compliance with the agreed measures on January 9, 2020, the parties requested the Commission to adopt the report contemplated in Article 49 of the American Convention.

17. The IACHR observes that, given the information so far provided by the parties and their request to the Commission for the FSA approval, corresponds to assess the compliance of the commitments established in the friendly settlement agreement.

18. The Inter-American Commission values the first declarative clause, in which the Colombian State recognizes its international responsibility for the violation of the rights enshrined in the articles 8 (right to a fair trial) and 25 (right to judicial protection) of the American Convention on Human Rights.

19. The IACHR values the second declarative clause, in which the petitioners are obligated to withdraw from the Direct Reparation Action No. 18001233100020110040901 pending before the second instance of the Third Section of the Council of State. Likewise, expressly waive to file another domestic legal action regarding the same facts and claims.

20. In the report sent jointly by the parties to the Commission on January 9, 2020, on compliance with the agreement, they highlighted the execution of the public act of acknowledgment of responsibility on November 29, 2019, in the main park of Los Caucheros, in Puerto Rico department of Caquetá. The act was chaired by Camilo Gómez Álzate, General Director of the National Agency for the Legal Defense of the State, who on behalf of the Colombian State asked for forgiveness from the victims and their families for what happened, and acknowledged the responsibility of the Colombian State, with the following words:

"... [T]oday, in my capacity as Director of the National Agency for the Legal Defense of the State, I would like to acknowledge the international responsibility of the Colombian State for the lack of diligence, promptness, and commitment in the investigation for the painful events that occurred on the day October 4, 1988, in which Mrs. Amira Guzmán de Alonso died.

⁴ Vienna Convention on the Law of Treaties, U.N. Doc A/CONF.39/27 (1969), Article 26: "**Pacta sunt servanda**". *Every treaty in force binds the parties and must be complied with by them in good faith.*

The Colombian State publicly recognizes that the rights to a fair trial and judicial protection, enshrined in Articles 8 and 25, respectively, of the American Convention on Human Rights, were violated to the detriment of the victim and her family members.

With this spirit of willingness to build peace from the most sincere feeling of forgiveness and reconciliation, on behalf of the Colombian State, I offer the deepest apologies for the harm caused by the failures in the investigation of the events that occurred on October 4, 1988, in which, unfortunately, Mrs. Amira Guzmán de Alonso died.

Thus, the Colombian State complies with one of the measures agreed in the Friendly Settlement Agreement, signed on November 5, 2019, between the National Agency for the Legal Defense of the State, on behalf of the State, and the petitioners of the case, by carrying out this act of acknowledgment of responsibility and public apologies, as part of the integral reparation. We also assume the obligation to continue working on the integral repair to her family. [...]"⁵

21. As indicated by the parties, the victim relatives attended the event, as well as their representatives, the invited organizations, and officials of different entities at the national, regional, and local levels. The parties indicated that, there was permanent communication between the State and the representatives of the victim and their relatives, all of who arranged the details to comply with the measure.

22. As part of the Act of Recognition of Responsibility, they held a march in which they brought lighted candles to the shore of the Guayas River, where the Guzmán family deposited a flower offering as a sign of liberation, forgiveness, and reconciliation for the painful events in which Mrs. Amira Guzmán died, marking the closing of the solemn act. Considering the information provided by the parties, the Commission declares that clause 3 (a) of the agreement is fully complied and so it declares.

23. Regarding the measure of satisfaction on the unveiling of a commemorative plaque, the parties informed that, within the framework of the Act of Acknowledgment of Responsibility, a commemorative plaque was unveiled and presented by the Director of the National Agency for the Legal Defense of the State to Amira Guzmán's family, made of Spanish white marble, with a size of 50 cm. high by 70 cm. wide, with the following text:

The Colombian State highlights the work of merchant women who, through their work, love, and courage, contribute every day in the construction of our country. In commemoration of AMIRA GUZMÁN LOMELIN, a pioneer woman in developing trade in the Guayas, Caguán, and Orteguzza rivers. Killed and tortured in facts never before investigated. This plaque is a symbol through which the State recognizes that crimes against life must be investigated, prosecuted, and punished. The life of the worker woman is the value of a Nation and must be protected and respected. A person whose life is taken unfairly and cowardly never dies. Justice and truth will forever claim them.

24. As jointly confirmed by the parties, the plaque was erected in the Parque de los Caucheros, in the municipality of Puerto Rico Caquetá, so that all the inhabitants can exalt the memory of Amira Guzmán. Likewise, the Commission was informed that in the Recognition Act, written memorials were given to the guests as a reminder, with the following text:

"AMIRA GUZMÁN LOMELIN great woman, wife, mother, friend, and worker who, with her love and courage, contributed to the development of trade in the Guayas, Caguán, and Orteguzza rivers and with it to the construction of a country in peace. Her legacy of honesty, work, and

⁵ Speech Recognizing International Responsibility. Camilo Gómez Álzate, General Director National Agency for the Legal Defense of the State, Puerto Rico, Caquetá. November 29, 2019.

solidarity with others has been the courage and virtue that her children have replicated to walk in paths of peace and righteousness.

She was the victim of torture and murder in 1988 on the Orteguzza River, her death was never investigated or those responsible punished. So that justice and truth can reach all victims of horrible crimes against life!"

25. Considering the information elements provided by the parties, the IACHR declares that clause 3 (b) of the friendly settlement agreement related to the establishment of a memorial plaque, in memory of the victim is fully complied and so it declares.

26. On the other hand, in relation to subparagraph c) of the third clause, on the publication of the facts and the fourth clause, on material reparation, the Commission observes that said measures must be complied once this homologation report has been issued; therefore it considers that it is pending of compliance and so it declares. The Commission awaits updated information from the parties on its execution after publication.

27. Furthermore, the IACHR considers that subparagraphs a) and b) of the third clause of the friendly settlement agreement have been fully complied and so it declares. In relation to subparagraph c) of the third clause, on the publication of the facts and the fourth clause, on economic compensation, the Commission considers that they are pending of compliance and so it declares.

28. Lastly, the Commission considers that the remaining content of the agreement is declarative in nature, so it would not be up to the IACHR to monitor its compliance.

29. Based on the foregoing, the Commission declares that the friendly settlement agreement has a partial level of execution, so it will continue to monitor the implementation of the pending parts of the friendly settlement agreement until its full compliance.

V. CONCLUSIONS

1. Based on the foregoing considerations and by virtue of the procedure provided for in Articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts made by the parties and its satisfaction for the achievement of a friendly settlement in the present case, based on respect for human rights, and compatible with the object and purpose of the American Convention.

2. In accordance with the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the agreement signed by the parties on November 5, 2019.
2. To declare fully complied with the literals a) Act of Recognition of Responsibility, and b) Unveiling of a plaque commemorating the third clause of the friendly settlement agreement, according to the analysis contained in this report.
3. To declare pending of compliance literal c) of the third clause on the publication of the facts, and the fourth clause on economic compensation, according to the analysis contained in this report.
4. To continue with the supervision of the commitments assumed in literal c) of the third clause and the fourth clause of the friendly settlement agreement by the Colombian State. To that end, it reminds the parties of their commitment to periodically inform the IACHR about compliance with said measures.

5. 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 13th day of the month of April 2020. (Signed): Joel Hernández García President; Antonia Urrejola, First Vice President; Flávia Piovesan; Second Vice President, Esmeralda E. Arosemena Bernal de Troitiño and Julissa Mantilla Falcón, Members of the Commission.