

TECHNICAL INFORMATION SHEET
CASE 11.584 CARLOS JUELA MOLINA
REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 97/00
ARCHIVE
(ECUADOR)

I. SUMMARY OF THE CASE

Victim(s): Carlos Juela Molina

Petitioner(s): Ecumenical Commission for Human Rights of Ecuador

State: Ecuador

Beginning of the negotiation date: October 12, 1998

FSA signature date: February 26, 1999

Report on Friendly Settlement Agreement No. 97/00, published on October 5, 2000

Estimated length of the negotiation phase: 2 years

Rapporteurships involved: Persons Deprived of Liberty/ Rights of the Child

Topics: Personas deprived of liberty/detention centers/police precincts/care and custody/
investigation/prison system/use of force

Facts: On December 21, 1989, when he was 15 years old, the petitioner was detained at 1:30 p.m. at the intersection of Bahía and Loja streets by police officer Marco Acosta Iza; the stated reason for the arrest was theft of a pair of eyeglasses. At that time, the petitioner was brutally beaten by the officer, who kicked him in the stomach, causing him to vomit blood. Later, he was taken by the officer to the offices of police investigation, at that time known as the Criminal Investigation Service of Pichincha [*Servicio de Investigación Criminal de Pichincha*] (SIC-P), where he was locked in a cell and beaten and kicked once again. As he was in great pain and was vomiting, the petitioner was taken to the Hospital Eugenio Espejo, where he underwent emergency surgery as the physicians found his duodenum had been perforated and showed injury. After a forensic medical examination was performed that determined that the petitioner would be physically incapacitated for 30 to 60 days, criminal proceedings were instituted against Officer Acosta Iza in the Eighth Criminal Court of Pichincha; however, the judge recused himself and referred the case to the Second Court of the First District of the National Police. The trial began on April 2, 1990. The first instance court ordered the arrest of Officer Acosta Iza, but he was released on bond. When Officer Acosta Iza failed to appear in court as required, the judge executed the bond and ordered the arrest of the accused for trial. On April 9, 1992, he was ordered discharged from the police on the grounds of professional misconduct. Given the lack of cooperation by the police, Officer Acosta Iza was not arrested until 1995. The accused immediately filed a motion to bar the action on the grounds that the statute of limitations had run out. This request was granted, on appeal, by the First District Court of the National Police, and the case was archived, which exhausted domestic remedies, as the State has acknowledged. The lack of diligence in processing the case in a timely fashion and the non-existence, in domestic jurisdiction, of a legal mechanism for seeking to punish the person responsible kept the petitioner from receiving compensation for the damages arbitrarily caused to him by the indicted police officer.

Rights alleged: The petitioners alleged violation of the rights to humane treatment (Article 5) and personal liberty (Article 7) of the American Convention on Human Rights (ACHR), in breach

of the obligations provided for under Article 1(1) thereof, to the detriment of Mr. Juela Molina.

II. PROCEDURAL ACTIVITY

1. On February 26, 1999, the parties signed the friendly settlement agreement.
2. On October 5, 2000, the Commission approved the friendly settlement agreement by report No. 97/00.

III. ANALYSIS OF COMPLIANCE WITH THE CLAUSES OF THE FRIENDLY SETTLEMENT AGREEMENT

Agreement clause	State of compliance
<p>III. STATE RESPONSIBILITY AND ACCEPTANCE</p> <p>The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mr. Carlos Alberto Juela Molina enshrined in Article 5(2) of the American Convention on Human Rights and other international instruments, considering that Mr. Carlos Alberto Juela Molina was arbitrarily detained and tortured, and that the violations were committed by State agents, which could not be disproved by the State, giving rise to State responsibility.</p> <p>Given the above, the Ecuadorian State accepts the facts in case No. 11.584 before the Inter-American Commission on Human Rights and undertakes the necessary reparative steps to compensate the victims, or their successors, for the damages caused by those violations.</p>	<p>Declarative clause</p>
<p>IV. COMPENSATION</p> <p>In view of the foregoing, the Ecuadorian State, through the Attorney General, as the sole judicial representative of the Ecuadorian State, pursuant to Article 215 of the Constitution of Ecuador, enacted in Official Register No. 1 and in force since August 11, 1998, is awarding Mr. Carlos Alberto Juela Molina a one-time compensatory payment in the amount of fifteen thousand US dollars (US\$ 15,000) or the equivalent in local currency, calculated at the exchange rate in effect at the time the payment is made, to be paid from the National Budget.</p> <p>This compensation covers the consequential damages, loss of income, and moral damages suffered by Mr. Carlos Alberto Juela Molina, as well as any other claims that Carlos Alberto Juela Molina or his family members may have, regarding the subject of this agreement, under domestic and international law, and is chargeable to the National Budget. To this end, the Office of the Attorney General will notify the Ministry of Finance, for it to carry out this obligation within 90 days of the signing of this document.</p>	<p>Total¹</p>
<p>V. PUNISHMENT OF THE PERSONS RESPONSIBLE</p>	<p>Noncompliance²</p>

¹ IACHR, Report No. 97/00, Case 11.584, Friendly Settlement, Carlos Juela Molina, Ecuador, October 5, 2000.

<p>The Ecuadorian State pledges to bring civil and criminal proceedings and pursue administrative sanctions against those persons who are alleged to have participated in the violation in the performance of State functions or under the color of public authority.</p> <p>The Office of the Attorney General pledges to encourage the State Attorney General, the competent judicial organs, and public agencies or private institutions to contribute legal evidence to determine the liability of those persons. If admissible, the prosecution will be subject to the constitution and laws of the Ecuadorian State; and therefore, it will not proceed against the persons who have been object of final judgment by the national courts, in relation to the alleged violations.</p>	
<p>VII. TAX EXEMPTION AND DELAY IN COMPLIANCE [...]In the event that the State is delinquent for over three months from the date the agreement is signed, it must pay interest on the amount owed, corresponding to the current bank rate of the three largest banks in Ecuador for the duration of its delinquency.</p>	<p>Total³</p>

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission assessed the request filed on January 17, 2020, by the petitioner to terminate supervision of the agreement and archive the case, because it lost contact with the victims of the case. In this respect, the Commission decided to cease supervision of the friendly settlement agreement and archive the case, noting in the Annual Report that the measure of justice was not complied by the Ecuadorian State and that the level of compliance of the agreement is partial.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State paid financial compensation, with interest, as set forth under the agreement.

²See IACHR, Annual Report 2020, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2020/Chapters/IA2020cap2-en.pdf>

³ IACHR, Report No. 97/00, Case 11.584, Friendly Settlement, Carlos Juela Molina, Ecuador, October 5, 2000.