

TECHNICAL INFORMATION SHEET
CASE 11.605 RENÉ GONZALO CRUZ PAZMIÑO
REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 21/01
ARCHIVE
(ECUADOR)

I. SUMMARY OF THE CASE

Victim(s): René Gonzalo Cruz Pazmiño
Petitioner(s): Ecumenical Commission for Human Rights of Ecuador
State: Ecuador
Beginning of the negotiation date: May 25, 1999
FSA signature date: June 11, 1999
Report on Friendly Settlement Agreement No. 21/01, published on February 20, 2001
Estimated length of the negotiation phase: 2 years
Rapporteurship involved: N/A
Topics: Summary, extrajudicial, or arbitrary executions/investigation

Facts: The petitioners alleged that on June 20, 1987, the youth René Gonzalo Cruz Pazmiño and his mother, Gloria Estela Pazmiño Mosquera, were leaving a cemetery when they were approached by two men, one of whom shot René Gonzalo Cruz Pazmiño, leading to his death. An Army First Sergeant perpetrated the extrajudicial execution. The trial of the perpetrator began on July 13, 1987. The case went before the Second Criminal Law Judge of Pichincha, who ordered pretrial detention for the accused, to be served in a military facility. The December 13, 1989, opinion of the prosecutor indicated that there were grave presumptions of responsibility against Sergeant Álvarez Narvaes. This opinion was accepted by the judge, who, on April 9, 1992, ordered the trial to begin and the case to be referred to the Criminal Court for judgment. The Superior Court of Justice of Quito upheld the order on February 2, 1993. The Third Criminal Court of Pichincha was to issue a judgment after holding the respective hearing; however, when it was discovered that the accused had escaped, examination of the case was suspended on June 11, 1993. According to the petitioner, Ecuadorian law enforcement did not investigate or conduct sufficient operations to pursue and capture the perpetrator.

Rights alleged: The petitioners alleged violation of the rights to life (Article 4), a fair trial (Article 8), and judicial protection (Article 25) of the American Convention on Human Rights (ACHR), all in breach of the obligations provided for under Article 1(1) thereof, to the detriment of Mr. René Gonzalo Cruz Pazmiño.

II. PROCEDURAL ACTIVITY

1. On June 11, 1999, the parties signed the friendly settlement agreement.
2. On February 20, 2001, the Commission approved the friendly settlement agreement by report No. 21/01.

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. René Gonzalo Cruz Pazmiño, enshrined in Article 4 (right to life) Article 7 (personal liberty), Article 8 (a fair trial), Article 25 (judicial protection), and the general obligation set forth in Article 1(1) of the American Convention on Human Rights and other international instruments, since 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 11.605 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</p>
<p>III. STATE RESPONSIBILITY AND ACCEPTANCE (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 N^o 1 and in force since August 11, 1998, is awarding Mrs. Gloria Esthela Pazmiño Mosquera, mother and legal representative of Mr. René Gonzalo Cruz Pazmiño, deceased, in keeping with the provisions of Articles 1045 and 1052 of the Civil Code, a one-time compensatory payment of thirty thousand US dollars (US\$ 30,000), 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. René Gonzalo Cruz Pazmiño and his next-of-kin, as well as any other claim that his next-of-kin 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>The Ecuadorian State pledges to bring civil and criminal proceedings against and shall seek the punishment of 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>Noncompliance²</p>

¹ IACHR, Report No. 21/01, Case 1.605, Friendly Settlement, Rene Gonzalo Cruz Pazmiño, February 20, 2001.

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>

<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.</p>	
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IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission assessed the request filed on January 17, 2020, by the petitioners seeking termination of supervision of the agreement and archiving of the case, given that they were unable to contact the victims of the case. In this respect, the Commission decided to cease supervision of the friendly settlement agreement and archive the case, noting on the record 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, as set forth under the agreement.