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REPORT No. 136/21
CASE 12.277
FRIENDLY SETTLEMENT

FAZENDA UBÁ
BRAZIL

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JUNE 26, 2021

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On May 4, 2000, the Inter-American Commission on Human Rights (hereinafter, “the Commission” or the “IACHR”) received a petition filed by CEJIL/Brazil, *Sociedad Paraense de Defensa de Derechos Humanos* and *Movimiento Nacional de Derechos Humanos* (hereinafter, “petitioners” or the “petitioning party”), which alleged the international responsibility of the Brazilian state, for the violation of the human rights recognized under articles 4 (right to life), as well as articles 8 (judicial guarantees) and 25 (judicial protection) in accordance with article 1.1 (obligation to respect) of the American Convention on Human Rights, (hereinafter “Convention” or “American Convention”), for the events that occurred on June 13, 1985 to the detriment of eight rural workers, including a pregnant woman, who were allegedly murdered in the area of the Ubá estate, municipality of São João de Araguaia, State of Pará, by a group of armed men during a rural eviction process.

2. On July 19, 2010, the parties signed a friendly settlement agreement.

3. On May 4, 2020, the Commission notified the petitioning party about the implementation of Resolution 3/20 on differentiated actions to address the procedural backlog in friendly settlement procedures. In this regard, on June 22, 2020, the petitioning party indicated that “in good faith and in recognition of the progress made by the Brazilian State, it does not oppose a homologation of the friendly settlement agreement.”

4. This friendly settlement report, pursuant to Article 49 of the Convention and Article 40.5 of the Commission’s Rules of Procedure, outlines the facts alleged by the petitioners and transcribes the friendly settlement agreement, which was signed on July 9, 2010, by the petitioners and representatives of the Brazilian State. Likewise, the agreement signed between the parties is approved and the publication of this report in the Annual Report of the IACHR to the General Assembly of the Organization of American States is agreed.

II. THE FACTS ALLEGED

5. According to the allegations by the petitioners, between June 13 and 18, 1985, eight rural workers, who occupied the grounds of the called “Fazenda Ubá”, were allegedly murdered by a group of armed men in what, according to their account, would have been a commissioned crime.

6. The petitioners alleged that on June 13, 1985, in the municipality of São João do Araguaia, a group of hitmen allegedly ordered the murder of five rural workers - including an unidentified pregnant woman - who were occupying the grounds of the “Fazenda Ubá”. The houses of the victims João Evangelista Vilarins and Francisco Pereira Alves were set on fire and Januário Ferreira Lima, Luiz Carlos Pereira Souza, and Francisca (the pregnant woman, unidentified) were executed afterwards. The alleged victims were found in a forest on the outskirts of Fazenda Ubá, with gunshot wounds to the skull and chest.

7. According to the petitioners, three days after the events, on June 18, 1985, a second attack was allegedly carried out in the same area. On this occasion, three people were said to have lost their lives, José Pereira da Silva (leader of the peasant community), Valdemar Alves de Almeida and Nelson Ribeiro, who were also found in the “Fazenda Ubá” area, and the injuries suffered by firearms in the skull and thorax were confirmed.

¹ Commissioner Flavia Piovesan, a Brazilian national, did not participate in the discussion and decision in this case, pursuant to Article 17.2.a) of the IACHR Rules of Procedure.

8. The petitioners indicated that, on June 15, 1985, a police investigation was initiated in relation to the events that occurred on June 13 of that year and that, based on the evidence gathered during the investigations, an order for the arrest of one of the alleged suspects was issued against José Edmundo O. Vergolino, who was a farmer and allegedly the mastermind of the crime, and who was allegedly arrested on June 19, 1985. The petitioners indicated that he was released on the 28th of the same month, after his lawyers filed a writ of habeas corpus, which was granted by the Court of Justice of the State of Pará.

9. As reported by the petitioners, on July 15, 1985, the competent delegate concluded the Police Investigation, by which Mr. José Edmundo O. Vergolino was charged under the charges contained in art. 121, ss22, inc. I, II, III and V (homicide) of the Brazilian Penal Code. At that time, he also requested the preventive detention of the alleged defendant, although there would be no record of said detention. However, the direct perpetrators of the crimes were not duly identified during these investigations and no autopsies were carried out on the bodies of the victims.

10. The petitioners alleged that, on December 6, 1985, the Marabá District Prosecutor, Francisco Barbosa de Oliveira, filed a complaint against the accused: Sebastião Pereira; Raimundo Nonato de Souza, and José Edmundo Ortiz Vergolino, as alleged perpetrators of the events that would appear in the file and who allegedly formed an armed group, and murdered the victims. However, the petitioners indicated that allegedly, since the filing of said complaint, serious irregularities had been observed in the process, among which there were the unjustified delays in collecting statements from those allegedly responsible for the events; the lack of execution in the arrest warrants and that only three autopsy reports would have been part of the case file, despite the existing photographic evidence of five victims. The petitioners also indicated that there had been unjustified delays in the final presentations of the Public Defender and the representatives of the alleged perpetrators, without administrative penalties for said delays.

11. According to what was reported by the petitioners, on September 12, 1986, Sebastião Pereira was recaptured by the Tocantins Region Military Police and questioned in court on the 29th of the same month. Mr. Pereira died in 1995 at the Fernando Guilhon Penitentiary.

12. According to the petitioners, in 1991, with the creation of a new District in São João do Araguaia, the transfer of the criminal action was requested to the court of the aforementioned municipality, despite the procedural stage in which the case was at the time. In December of that year, a certificate of expiration of the records was attached to the file due to the lack of a Justice Officer. According to the petitioners, three more years would pass without any procedural act in the criminal action.

13. The petitioners indicated that, at the time the case was presented to the IACHR, the last action that would appear in the file would have been on June 25, 1998 and that, in November 1999, 14 years and 5 months after the alleged facts, the file would have been concluded.

14. The petitioners highlighted the difficulty encountered at the time of reconstructing the facts, relying only on what was included in the file, since the background information regarding the arrests was incomplete. On the other hand, they expressed their concern about the alleged lack of identification of the victim who was pregnant, despite the fact that said lack was found expressly in the file.

III. FRIENDLY SETTLEMENT

15. On July 19, 2010, the parties signed a friendly settlement agreement. The following is the text of the friendly settlement agreement sent to the IACHR:

FRIENDLY SETTLEMENT AGREEMENT Case 12.277 – João Evangelista Vilarins y otros (Fazenda Ubá)

1. The Brazilian State, represented by the Union, through the Human Rights Secretariat of the Presidency of the Republic (SDH / PR) and the Ministry of Agrarian Development (MDA), and by the State of Pará; and the next of kin of the victims indicated in clause 2,

represented by the Sociedad Paraense de Defensa de los Derechos Humanos (SDDH) and the Center for Justice and International Law (CEJIL), hereinafter, the "petitioners", celebrate the present Friendly Settlement Agreement in order to close the Case No. 12,277, which is being processed by the Inter-American Commission on Human Rights of the Organization of American States (IACHR / OAS).

2. Case No. 12,277 refers to the murder of rural workers João Evangelista Vilarins, Francisco Ferreira Alves, Januário Ferreira Lima, Luis Carlos Pereira de Souza, Francisca de Tal, José Pereira da Silva, Valdemar Alves de Almeida and Nelson Ribeiro, hereinafter, the "victims", committed in the vicinity of the Fazenda Ubá, located in the municipality of São João do Araguaia, Pará state, in June 1985.

3. The purpose of this Friendly Settlement Agreement is to establish concrete measures to guarantee the reparation of the material and moral damages suffered by the next of kin of the eight victims identified in clause 2, in response to their demands and also to prevent any new violation, and with this, to close Case No. 12,277 once the provisions of this Agreement have been fully complied with.

I. RECOGNITION OF RESPONSIBILITY

4. The Brazilian State recognizes its international responsibility for the violation of the rights to life, protection and judicial guarantees and within the framework of the obligation to guarantee and respect the rights, enshrined in the American Declaration of the Rights and Duties of Man and in the American Convention on Human Rights, in relation to the victims in this case.

5. The public acknowledgment of international responsibility by the Brazilian State and the request for an apology will be expressed in a public ceremony, where both the relatives of the victims and the petitioners will be able to speak, which will be held once the payment of compensation provided for in clauses 11 and 13 has been made. Said ceremony will take place in the Ubá Settlement, municipality of São João do Araguaia, Pará, on the occasion of the inauguration of a plaque honoring the victims, and will be attended by federal and state authorities, the petitioners and, if they so wish, the next of kin of the victims.

6. The Brazilian State, through the Human Rights Secretariat of the Presidency of the Republic and the state of Pará, will order the disclosure of this agreement in the Official Gazette of the Union and of the State of Pará.

7. Given the acknowledgment of responsibility made in the framework of Article 28 of the American Convention on Human Rights, the Brazilian State states that the measures provided for in clauses 8, 9, 10, 11, 12, 13, 17, 18, 19, 20 and 21 will be taken by the state of Pará, in full respect of the distribution of federative powers.

II. CRIMINAL AND CIVIL LIABILITY

8. The state of Pará will work actively in relation to the criminal action proposed for the person who ordered the crime (already convicted in two instances) and will activate all its institutions (Military Police, Civil Police, Public Ministry, Public Defender, Public Security Secretariat, among others.) so that, in collaboration with federal institutions and in full respect of the respective competencies, as appropriate, they locate, process and judge the other people involved in the process, who are currently fugitives.

9. The state of Pará, through the State Public Defender's Office, will promote, at the request of the victims' relatives, a civil action for compensation against the perpetrators of the crimes, in accordance with the interest shown in the attached table (ANNEX I).

III. REPARATION MEASURES

III.1. SYMBOLIC REPARATION MEASURE

10. The state of Pará will build a "commemorative monument in homage to the struggle for possession of the land", in a place indicated by it, in the municipality of Marabá, after consulting the families of the victims and the petitioners.

III.2. MONETARY REPARATIONS

11. The state of Pará, as compensation for the moral and material damages suffered by the victims' next of kin due to the already recognized violations, will pay the sum of R \$ 38,400.00 (thirty-eight thousand four hundred reais) to a representative of each of the families of the victims, through the publication of a state law promoted by the Executive Power of the state of Pará.

12. In each specific case, and to give effect to this Agreement, the state of Pará undertakes to waive the prescription in favor of the representatives indicated by the families of the victims (ANNEX II), in accordance with the provisions of Article 191 of the Brazilian Civil Code.

13. The state of Pará will grant a legal, lifetime, exclusive and non-transferable pension, with a special character, estimated at a monthly amount equal to 1.5 minimum wage (one and a half minimum wage), to a representative of each of the families of the victims, in accordance with the bill promoted by the Executive Power, which must be approved by the Legislative Assembly of the State. The readjustment of said pension will be carried out using the same index that is applied to the salary readjustment of basic level state public officials.

14. In the event that the victim "Francisca de Tal" is identified, the purposes of this Agreement will apply to her next of kin. However, the impossibility of identifying said victim will not entail any failure to comply with this Agreement and will not prevent the adoption, by the Inter-American Commission on Human Rights, of the corresponding report pursuant to Article 49 of the American Convention.

15. In the event that the next of kin of the victims Januário Ferreira Lima, Luis Carlos Pereira de Souza and Nelson Ribeiro are located, the purposes of this agreement will be applicable to them. Similarly, the impossibility of locating them will not entail any lack of compliance with this Agreement and will not prevent the adoption, by the Inter-American Commission on Human Rights, of the corresponding report under Article 49 of the American Convention.

16. The bill mentioned in clauses 11 and 13 of this Agreement (Annex D1) will be sent by the Executive Power to the Legislative Assembly of the State of Pará no later than one week after the date of signature of this Agreement.

III.3. INCLUSION IN STATE PROGRAMS AND PROJECTS

17. The state of Pará will guarantee the effective inclusion of the victims' families in assistance and educational programs and projects once the pertinent legal requirements have been met. The amounts of compensation that are the object of this Agreement will not be considered for the purposes of restricting entry or permanence in said programs.

18. The Brazilian State, through the Ministry of Agrarian Development and the State of Pará, in coordination, will guarantee the access of the victims' relatives to rural settlements, in a place close to their current residence, with guaranteed access to rural credits, subject to

compliance with the legal requirements, in addition to all the benefits of the agrarian reform program, in the event that the relatives of the victims are interested in it, as expressed in the attached table (ANNEX IV).

19. The state of Pará will donate computers and the corresponding furniture for the installation of an "Info-center" with internet access, for use by the local community, and will provide training so that the users themselves guarantee the operation of said equipment. The "Info-center" will be installed at the headquarters of the Ubá Settlement Project Association, located on the Trans-Amazon Highway, km 37, Marabá, Pará, according to the criteria of the "Navega Pará" state project.

20. The state of Pará will install five agrarian public ombudsmen in the following municipalities: Marabá, Redenção, Altamira, Santarém and Castanhal.

IV. PREVENTION MEASURES

21. The state of Pará will facilitate the work of the state commission aimed at clarifying and fighting against homicides committed in the context of conflicts over land possession, and will endeavor to promote the participation of federal bodies dedicated to this matter.

22. The Brazilian State, through the National Agrarian Audit of the Ministry of Agrarian Development, in association with other public bodies, will promote, in 2010, a course on the resolution of agrarian conflicts aimed at military, civil, federal and federal highway police personnel, with 40 hours / class, nationwide. In that same year 2010, courses will also be given for mediators of agrarian conflicts, whose target audience will be made up of members of agrarian leagues, agrarian justice promotion entities, agrarian public defenders, state and regional agrarian audits, of the state land institutes, the agrarian civil and military police and INCRA (National Institute of Colonization and Agrarian Reform), also with 40 hours / class and nationwide.

V. FOLLOW-UP MECHANISM

23. The Brazilian State and the petitioners undertake to submit to the IACHR / OAS, as of the date of execution of this Agreement, semi-annual reports on compliance with its terms, and will also endeavor to hold working meetings, with the intermediation of the IACHR / OAS, with the same periodicity.

24. The parties request that the IACHR / OAS approve this Friendly Settlement Agreement, with the adoption of the respective report in accordance with the terms of Article 49 of the American Convention, once all the obligations stipulated in the agreement have been satisfied.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

16. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, the purpose of this procedure is "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 procedure 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, by which the States must comply in good faith with the obligations assumed in the treaties.² It also wishes to reiterate that the friendly settlement procedure contemplated in the Convention allows the termination of individual cases in a non-contentious manner, and has shown, in cases involving various countries, to offer an important vehicle for settlement, which can be used by both parties.

² Vienna Convention on the Law of Treaties, U.N. Doc. A / CONF.39 / 27 (1969), Article 26: "*Pacta sunt servanda*". Any treaty in force is binding on the parties and must be performed by them in good faith.

17. The Inter-American Commission has closely followed the development of the friendly settlement reached in the present case and highly values the efforts made by both parties during the negotiation of the agreement to reach this friendly settlement, which is compatible with the object and purpose of the Convention.

18. In light of Resolution 3/20 of the IACHR on differentiated actions to address the procedural backlog in friendly settlement procedures, from the signing of the agreement, the parties will have two years to advance towards its approval by the Inter-American Commission on Human Rights, except for exceptions duly qualified by the Commission. In relation to those matters with a signed agreement and without approval in which the foreseen term has expired, the Commission will determine its course of action taking into special consideration the duration of the compliance phase, the antiquity of the petition and the existence of fluid dialogues between the parties and / or substantial progress in the compliance phase. In said Resolution, the Commission established that when assessing the appropriateness of the approval of the agreement, or the closure or maintenance of the negotiation process, the IACHR will consider the following criteria: a) the content of the text of the agreement and whether it has a clause full compliance prior to homologation; b) the nature of the agreed measures; c) the degree of compliance with it, and in particular the substantial execution of the commitments assumed; d) the will of the parties in the agreement or subsequent written communication; e) its suitability with human rights standards and f) the observance of the will of the State to comply with the commitments assumed in the friendly settlement agreement, among other elements.³

19. Taking into consideration the eleven years that have elapsed since the signing of the friendly settlement agreement, that this is a petition filed 21 years ago, on May 4, 2000, and that the petitioning party has expressly indicated that it does not oppose to its approval, it corresponds to determine the course of action of the present matter and to assess the viability of the homologation in light of the objective criteria established by the Commission in Resolution 3/20.

20. Regarding the content of the text of the agreement, the Commission observes that according to what is established in clause 24, on the mechanism for monitoring the friendly settlement agreement, the parties request that the IACHR ratify the agreement and its approval when all the obligations have been fully complied with. At the same time, special consideration should be given to the indication of the petitioning party, regarding the notification of Resolution 3/20 *supra*, to determine the course of action of this friendly settlement process, that despite what is established in clause 24, it does not oppose the approval of the agreement.

21. Regarding the nature of the agreed measures, the Commission observes that the agreement establishes measures of instantaneous execution such as the holding of an act of acknowledgment of responsibility, a commemorative monument in memory of the struggle for land, the publication of a press release on the agreement in a newspaper with wide national circulation and another with local circulation, the payment of a monetary reparation, as well as access to a settlement and rural credits located close to where the relatives of the alleged victims live. Likewise, it is observed that the agreement includes clauses of successive execution in the matters of training in mediation and protection of human rights in agrarian conflicts and the modification of the legislation in order to grant a life pension to a designated member of each family, the creation of an Info-center that has computers and internet access, the creation of five agrarian prosecutor's offices in five municipalities and the inclusion of the relatives of the alleged victims in assistance and educational programs and projects, as well as criminal prosecution and civil action against those responsible for the facts.

22. In relation to the degree of compliance with the agreement, the Commission below assesses the progress in relation to each of the clauses of the agreement.

23. The Inter-American Commission values declarative clause 4 in which the Brazilian State recognizes international responsibility for violations of the human rights to life, judicial guarantees and judicial

³ In this regard, see, IACHR, Resolution 3/20 on differentiated actions to address the procedural delay in friendly settlement procedures, approved on April 21, 2020.

protection in relation to the State's obligation to adopt provisions that guarantee the full access to human rights enshrined in the American Convention on Human Rights.

24. Regarding clauses 5 and 6, concerning the performance of an act of acknowledgment of responsibility and publication of a press release, as indicated by the State, on August 16, 2012, said ceremony of acknowledgment of responsibility was held with the inauguration of a plaque to honor the victims, with the presence of federal and state authorities, the petitioners, and the victims' families. The photos of the act were attached by the State through Annex II dated September 21, 2012. The State also reported that on December 17, 2010, the publication required by clause 6 was made in the Official Gazette of the Union and of the State of Pará on January 21, 2012. On March 24, 2012, the petitioning party stated that clause 6 of the agreement was complied with and acknowledged the two publications of the FSA made by the State. Likewise, on May 7, 2012, the petitioner added that in order to comply with the act of acknowledgment of international responsibility, the inauguration of the commemorative plaque and the wording of its content should be held jointly, according to the petitioners' proposal. On August 10, 2012, a document was presented with the number of people that would need to be transported to the place where the act was held, in the Ubá settlement. Subsequently, on June 22, 2020, the petitioning party acknowledged compliance with clause 5 regarding the act, stating that it was necessary to do maintenance work to the commemorative plaque that has suffered deterioration over time. In a brief submitted on May 14, 2021, the petitioning party reiterated the need to recondition the plaque and reported that at the time of submitting observations they had not yet been contacted by the State to follow up on said works. Taking into consideration the information provided by the parties, the Commission considers that clauses 5 and 6 have been fully complied with and it declares it so.

25. In relation to clauses 8 and 9, the State reported that it has carried out the pertinent steps and arrest warrants to achieve criminal prosecution and civil liability of the perpetrators of the events. In this regard, it indicated the need to take into consideration that two of the convicted persons are escapees, and that the third convicted person was arrested, but later died in prison, which is why, in principle, the action for damages against any of the convicted persons is impossible. At the same time, the State stressed that a sentence was carried out against José Edmundo Ortiz Vergolino, issuing the prison order for 152 years and new arrest warrants were issued for the other two fugitives.

26. In this regard, on June 22, 2020, the victims' representatives stated that with the localization of Mr. Vergolino, clause 9 was enabled for compliance in order to initiate the corresponding actions for damages with respect to one of the those responsible for the events and that the State also made available the appointment of Public Defenders as members of the Office of the Ombudsman of the Judicial Power for the purposes of the corresponding execution of the action for damages against one of the perpetrators of the events. Subsequently, the petitioners indicated on May 14, 2021, that to date they consider that clause 9 is still unfulfilled and stated that they had not been contacted by the defender who would accompany the case. In addition, they requested that the State present more information regarding the new measures that appear in the file regarding the arrest warrants. Taking into consideration the information provided by the parties, the Commission considers that clauses 8 and 9 of the agreement have partially complied with and the Commission will continue to monitor this aspect of the agreement after its approval.

27. In relation to clause 10 on the elaboration of a commemorative monument in honor of the struggle for land, the State has proposed a place to build the memorial, but the petitioners did not agree, nor was another alternative place to build it proposed. The Commission considers that this end of the agreement is pending compliance and it declares it so. In this regard, the Commission urges the parties to form a working group to agree on the actions to fully comply with this part of the agreement.

28. In relation to the pecuniary compensation stipulated in clauses 11, 12, 13 and 16, on monetary reparation measures, the State reported that on July 15, 2011, it paid a pecuniary compensation of R \$38,400.00 (Thirty-eight thousand four hundred reais) to the families of the victims who were identified. Likewise, on June 15, 2011, the State granted a personal, monthly, life pension in the amount of 1.5 times the minimum wage to each representative of the victims' families. For their part, the petitioner agreed with respect to the payment of compensation to the next of kin of the alleged victims who were identified; however, they do not consider the obligation to grant the life pension described in clause 13 of the agreement to have been fulfilled. This is

because they consider that the adjustment table stipulated in the FSA should be made in accordance with the salary increases of state employees, and not in accordance with the minimum wage adjustments. In the brief dated June 22, 2020, the petitioning party reiterated that it does not consider the aforementioned clause fulfilled by virtue of not complying with the agreed adjustment table. The State, for its part, indicated that a double adjustment table had not been stipulated in the FSA as the petitioner requests, that is, in accordance with the updates of the minimum wage and the readjustments of the wages of state employees, therefore and in compliance of what is stipulated in the agreement, it considers that clause 13 is fulfilled. In view of the foregoing, on May 14, 2021, the petitioning party indicated that it considers that the measure is partially complied with and reiterated the need to make the adjustment mentioned in its previous observations to the amount of the pensions stipulated in the FSA. In this regard, considering that in the same clause of the agreement it was established that the update of the pension would be made using the same adjustment index of the basic level state public officials, the Commission considers that clauses 11, 12 and 16 have a full compliance and it declares it so. At the same time, the Commission considers that clause 13 has a substantial partial level of execution and declares it as such. In this sense, the State must take the corresponding steps to make the adjustment indicated by the petitioning party and as established in the agreement.

29. In relation to the measures established in the friendly settlement agreement in favor of an unidentified person "Francisca de Tal" and the non-located next of kin of the victims Januário Ferreira Lima, Luis Carlos Pereira de Souza and Nelson Ribeiro, the Commission cannot verify their consent to advance by means of a friendly settlement, through their representatives, in accordance with the provisions of Article 40 of the IACHR Rules of Procedure, since at the time of signing the agreement, the parties had not located their whereabouts and they have not expressed in subsequent years that these people have been located and received reparations. Therefore, the Commission, to safeguard their right to a full reparation in the future, decides to declare clauses 14 and 15 inapplicable and to break down the case with respect to those beneficiaries and to archive it due to lack of contact with the victims, notwithstanding that if they were located in the future, they can request the unarchive of their case.

30. Regarding clause 17 concerning access to State's programs and projects, on September 25, 2018, the State communicated the inclusion of the families of the alleged victims in different state programs, indicating that the State of Pará stated that they were included in the COHAB program that is intended for house improvement. In this regard, on August 15, 2012, Mrs. Maria de Conceicao de Souza Soledade (mother of Francisco Ferreira Alves) was granted the sum of R\$6,300.00 (six thousand three hundred reais). The following day, August 16, 2012, Mrs. Marina Ferreira da Silva (wife of José Pereira Da Silva) was granted R\$4,880.00 (four thousand nine hundred and eighty reais). Finally, on August 15, 2013, Mrs. Andreлина Barbosa dos Santos (mother of Joao Evangelista Villarins) was granted the sum of R\$5,330.00 (five thousand three hundred and thirty reais).

31. In this regard, the petitioners stated on June 15, 2019, that they understand that the inclusion of part of the victims in the Moradia Check Program does not comply with Clause 17, since the obligation acquired in this clause pertains the inclusion of the victims' relatives in assistance and educational programs and projects. Likewise, the petitioners received information that at least one of the persons included in the Check-Moradia Program had not received the full benefit, a situation that was communicated to the State. Therefore, the petitioners asked the State to inform about the assistance and educational programs available, as well as the legal requirements for their inclusion, in order to evaluate, together with the State, the possibilities of compliance with Clause 17. As indicated by the petitioners, the State of Brazil, in its August 2020 report, communicated that, based on the visits made to the families of the alleged victims, the responsible technical teams concluded that none would fit the profile of inclusion in the Federal Government Single Registry of Social Security Programs, a fundamental requirement for them to have access to programs and projects of social assistance, since no risk or social vulnerability situation was found. On the other hand, as stated by the State, the Ministry of Women, Family and Human Rights would dialogue with the State Secretariat for Social Assistance, to evaluate the possibility of new technical visits to families, given the difficulties arising from the COVID-19 pandemic. Regarding this point, the petitioning party stated that, since the matters in the FSA stem from serious violations of human rights, the criteria of vulnerability and risk established by law for other citizens to be welcomed by these programs should not be applied in the specific case, even more so when the text of the agreed clause established that "the amounts of compensation under this agreement would not be

subject to restrictions for entry into force or permanence in the programs." In this regard, the petitioning party reiterated, on May 14, 2021, the request to the State to present the specific legal justifications pertinent to the reasons why the beneficiaries of the FSA cannot be included in such programs and that it considers that the measure is pending of compliance to date. Taking into consideration all the information elements previously described, the Commission considers that clause 17 of the agreement has reached a level of substantial partial compliance and it declares it so. In this regard, according to the list of family members indicated in Annex II of the agreement, the Commission would await information on the access of the family of Valdemar Alves de Almeida, represented by José de Ribamar Lima Almeida, to the corresponding state programs.

32. Regarding clause 18, related to the access of the victims' next of kin to settlements and rural loans, the State reported that, on April 11, 2016, it delivered eight lots to eight families located near the place where they reside. Both their representatives, as well as the families of the victims, accepted the transfer of the lots offered and acknowledged compliance with the aforementioned clause. Subsequently, the petitioners reported that at the meeting of the Regional Superintendence of INCRA, dated April 11, 2016, the parties expressed their agreement with respect to compliance with this clause, but that compliance should only be considered with respect to the intervening family members in the meeting and not of all the beneficiaries of the measure, pending compliance with this clause with respect to some families and their corresponding allocation of lots, therefore the petitioning party asked the Commission that the clause be considered partially fulfilled until it is fully extended to all families. On May 14, 2021, the petitioning party reported that to date the resettlement of two relatives of Francisco Ferreira Alves is still pending and that, due to the vulnerability that said beneficiaries are going through, they urged the State to take the corresponding measures to comply with said part of the FSA. On the other hand, in said communication the petitioners also highlighted that to date none of the beneficiaries of this agreement would have been able to access rural loans. In light of the information presented, the Commission considers this clause partially complied with and it declares it so.

33. Regarding clause 19, related to the installation of an Info-center, as indicated by the parties, the location and operation of the information center must still be decided with the petitioners, so the delivery of computers and furniture for the installation and connection of the Information Center can be advanced with through the Secretariat of Technology of the State of Pará. Based on the foregoing, the Commission considers that this clause is pending compliance and it declares it so.

34. Regarding clause 20, related to the installation of five agrarian ombudsmen, since 2010 the State stated that it has progressively implemented five Agrarian Public Defenders in the counties of Marabá, Redencao, Altamira, Santarém, and Castanhal, creating a nucleus of Agrarian Ombudsman. Additionally, the State reported on the holding of a meeting on January 20, 2011, in which the "Agreement for the structuring and strengthening of the nuclei and Agrarian Public Defenders of the State of Para" was finalized with the purpose of intensifying the actions of the Public Defender's Office in rural areas where there is an imminent risk of agrarian conflict", with which the State considers this clause to be complied with. Similarly, in a brief of March 24, 2012, the petitioning party considered this clause to be complied with. Therefore, the Commission considers this clause to be fully complied with and it declares it so.

35. In relation to clause 21 on prevention measures, the State reported, in its September 2018 report, the conclusion of the progress made in the institutionalization of the state bodies in charge of monitoring criminal claims and mediating rural conflicts. Likewise, the Court of Justice of the State of Pará created the Commission for the Follow-up of Criminal Actions derived from rural territorial conflicts, through Ordinance No. 288 / 2010GP, of February 8, 2010. Subsequently, the National Council of Justice and the Court of Justice of the State of Pará signed Joint Ordinance No. 04/2010-CNJ / TJPA, of February 11, 2010, through which permanent monitoring was instituted for the resolution of rural territorial conflicts. Along the same lines, through decree No. 805/2010, of April 20, 2010, the Court of Justice of the State of Pará created the State Executive Committee of the Forum of Agrarian Affairs, to carry out dialogue and integration with the National Executive Committee through the aforementioned Forum. As reported by the State, the Presidency of the Court of Justice of the State of Pará and the *Corregidurías de Justicia* of the Metropolitan Region and the provinces of the interior signed the Full Justice Project of the *Corregidencia Nacional*, whose objective is to ensure society the constitutional principle of the reasonable duration of the process. In relation to this issue, the State recalled the work of the *Permanent Commission for Monitoring, Study and Advice on Issues Related to Grilagem*,

established by Ordinance No. 271/2007-GP, currently governed by Ordinance No. 1273/2017 -GP and chaired by the Agrarian Ombudsman's Office of the Court of Justice of Pará, and that said commission is an instance to discuss issues such as the verification of investigations and processes related to murders in the field, situations of land appropriation and modernization of the records of the agrarian courts. In June 2018, said commission met to discuss the policies that will be adopted by the Judiciary and other mediation bodies to seek urgent solutions to agrarian conflicts in the state.

36. Additionally, the State reported that the said commission discussed the preparation of a manual, prepared by the Agrarian Ombudsman's Office, which recounted the successful experiences in the resolution of territorial conflicts in possessory actions, among which it identified the need for the Judges of the Agrarian Courts to not issue precautionary measures without listening to the other party and the public, as well as holding hearings that involve all the actors before the execution of recovery orders. In this context, the need to record incidents of violence or human rights violations in land evictions was also identified, as well as the need to define spaces to settle families, after land tenure actions. The State also highlighted the operation of the Human Rights and Social Repercussion Legal Actions Commission (established by ordinance No. 0353/2014-GP, currently governed by ordinance No. 1245/2017-GP).

37. As reported by the State, the state of Pará continues to adopt other measures to prevent and mediate in agrarian conflicts in order to combat violence in the countryside on a permanent basis, including the following programs and institutions: a) the Program for the Protection of Human Rights Defenders at the state level (in implementation); b) the Center for the Defense of Human Rights - NDDH, permanently created in the Public Defender's Office of the State of Pará, a sector that promotes the defense of human rights in collectivized activities, and that covers strategic actions and issues related to public policies that may impact on human rights; c) the Pará Land Institute - ITERPA, which is actively implementing the Land Registry System - SICARF, which will allow the registries to dialogue with each other. As of its implementation, the entire ITERPA operation will be carried out digitally. Subsequently, the entire collection of existing titles in ITERPA will be digitized, which will allow better control of the territorial issue in the state; d) the state territorial planning bodies (ITERPA) and the Union (INCRA) are signing a cooperation agreement to discipline and promote existing joint action. According to the information provided by the State, the Commission considers that this part of the agreement has been fully complied with and it declares it so.

38. Regarding compliance with clause 22, the petitioning party indicated on March 24, 2012 that the Seminar that was held by the State in October 2010 called "National Training Seminar in Agrarian Law, Mediation and Resolution of agrarian conflicts" and that it was addressed to 115 mediators from different states of the federation was not sufficient for the purposes of considering the reference clause fulfilled since such clause provided that the training would be intended for police, military and civilian personnel. In this regard, the State reported in May 2014 that the Public Agrarian Defense of the State of Para instituted a specialization course in Agrarian Law for those who work in this area. Attentive to the information provided by the parties and to the precise measurement indicators established in the agreement regarding the content, duration and public of the training sessions, the Commission considers this clause to be partially complied with and it declares it so.

39. Regarding clause 23, referring to the follow-up mechanism, the State has sent relevant information for verifying compliance with the measures established in the agreement and has expressed its commitment to the IACHR to continue sending reports until they are fully complied with. Likewise, the Ministry of Human Rights has carried out missions to the State of Pará to achieve cooperation between federal and state institutions in order to comply with the agreement. Based on the foregoing, the Commission considers that this part of the agreement has been partially complied with and it declares it so.

40. Finally, it should be noted on this aspect of the analysis of the case that the IACHR considers that the rest of the content of the friendly settlement agreement is of a declaratory nature, for which reason is not subject to its supervision.

41. Regarding the suitability of the agreement with the standards on human rights, the Commission observes that the content of the FSA is consistent with the standards on human rights, since

elements such as measures of, rehabilitation, satisfaction, economic compensation and non-repetition were integrated, which are considered appropriate within the factual scenario of the particular case, being in accordance with the various pronouncements of the IACHR and the jurisprudence of the Inter-American Court of Human Rights in the matter of reparation of victims of human rights violations.

42. Finally, in relation to the will of the State to comply with the FSA, it should be noted that, according to the analysis of the case, it is observed that there has been a commitment on the part of the State in the total fulfillment of seven clauses, the substantial partial fulfillment of two measures and partial compliance with five clauses of the friendly settlement agreement. At the same time, it is observed that only two of the clauses are pending compliance and that two extremes of the FSA became inoperative. Therefore, important progress was observed in the execution of 14 of the 16 clauses of the friendly settlement agreement, which shows the willingness to implement the agreement.

43. Therefore, the Commission considers that clauses 5 (act of acknowledgment of international responsibility), 6 (publication of the friendly settlement agreement), 11 (compensation), 12 (waiver of prescription), 16 (bill for compensation), 20 (agrarian ombudsmen), 21 (incentive for the work of the State Commission on Land Conflicts) have been fully complied with and it declares it so.

44. On the other hand, the Commission considers that clauses 13 (legal lifetime pension) and 17 (inclusion in state programs and projects) have a substantial partial level of compliance and so it declares it so. Likewise, clauses 8 and 9 (criminal and civil prosecution), 18 (access to rural settlements), 22 (training) and 23 (follow-up mechanism) have been partially complied with and it declares it as such. Lastly, the Commission considers that clauses 10 (monument) and 19 (Info-center) are pending compliance and it declares it so. In this sense, the Commission considers that the execution of the agreement has reached a substantial partial level and will continue its supervision until its full implementation.

V. CONCLUSION

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 with the achievement of a friendly settlement in the instant case, based on respect for human rights, and compatible with the object and purpose of the American Convention.

2. By virtue of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. Approve the terms of the friendly settlement agreement signed by the parties on July 19, 2010.

2. Declare full compliance with clauses 5 (act of acknowledgment of international responsibility), 6 (publication of the friendly settlement agreement), 11 (compensation), 12 (waiver of prescription), 16 (bill for compensation), 20 (agrarian ombudsmen), 21 (incentive for the work of the State Land Conflict Commission), according to the analysis contained in this report.

3. Declare substantial partial compliance with clauses 13 (legal lifetime pension) and 17 (inclusion in state programs and projects), according to the analysis contained in this report.

4. Declare partial compliance with clauses 8 and 9 (criminal and civil prosecution), 18 (access to rural settlement), 22 (training) and 23 (follow-up mechanism), according to the analysis contained in this report.

5. Declare clauses 10 (monument) and 19 (Info-center) pending compliance, according to the analysis contained in this report.

6. Continue with the monitoring of clauses 8 and 9 (criminal and civil prosecution), 10 (monument), 13 (life pension), 17 (inclusion in state programs and projects), 18 (access to rural settlement), 19 (Info-center), 22 (training) and 23 (follow-up mechanism), according to the analysis contained in this report and in that sense remind the parties of their duty to keep the Commission informed about the progress in the implementation of these points of the agreement until its full compliance.

7. Declare the ineffectiveness of clauses 14 and 15 (economic compensation of uncontacted persons), according to the analysis contained in this report and in that sense, break down the case and archive it with respect to “Francisca de Tal” and the non-located relatives of the victims Januário Ferreira Lima, Luis Carlos Pereira de Souza and Nelson.

8. Declare that the friendly settlement agreement has reached a substantial partial level of execution, according to the analysis contained in this report.

9. 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 June 26, 2021. (Signed): Antonia Urrejola, President; Julissa Mantilla Falcón, First Vice President; Margarette May Macaulay; Esmeralda E. Arosemena Bernal de Troitiño; Edgar Stuardo Ralón Orellana and Joel Hernández García, Members of the Commission.