

OEA/Ser.L/V/II.
Doc. 46
20 March 2021
Original: Spanish

REPORT No. 42/21
CASE 12.961 E
FRIENDLY SETTLEMENT REPORT

ECAR FERNANDO ZAVALA VALLADARES
HONDURAS

Approved electronically by the Commission on March 20, 2021.

Cite as: IACHR, Report No. 42/21, Case 12.961 E. Friendly Settlement. Ecar Fernando Zavala Valladares, Honduras. March 20, 2021.

REPORT No. 42/21
CASE 12.961 E
FRIENDLY SETTLEMENT
ECAR FERNANDO ZAVALA VALLADARES
HONDURAS
MARCH 20, 2021

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. Between 2003 and 2005, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission,” or “the IACHR”) received five (5) petitions: P 775-03: Juan González and others, submitted by José Marcelino Vargas, on September 23, 2003; P 1004-03: Julio César Villalobos and others, submitted by Julio César Villalobos Velásquez on November, 2003; P 22-04: Juan Bautista Vargas Díaz and others, submitted by Juan Bautista Vargas Díaz on January, 2004; P 217-05: César Augusto Somoza and others, submitted by Gladys Ondina Matamoros Arias on January 8, 2005; P 1092-05: Rosa Dilia Salinas Barahona and others, submitted by Rosa Dilia Salinas Barahona on December 15, 2005 (hereinafter the “presumed victims”). In these petitions, it was alleged the international responsibility of the Honduras State (hereinafter “Honduras”, “State” or “Honduran State”) for the presumed violations of the rights established on the American Convention on Human Rights (hereinafter the “American Convention” or “Convention”), derived from the massive dismissal of the National Police crew classified in different scales, within the framework of the depuration of the referred institution. On October 20, 2006 the Commission decided to accumulate the petitions 22-04; 217-05 and 1092- 05 to the initial 775-03.

2. It was alleged in all the petitions that the State committed the presumed violation of the articles 8 (judicial guaranties) and 25 (judicial protection) of the American Convention, because the presumed victims would have been dismissed in an unjustified way, in accordance with the decree 58-2001, published on the Official Diary Gazette No. 29,504 of June 15, 2001 (hereinafter “decree 58 – 2001”), and without following the legal procedure established by it. The petitioners also alleged that the Honduran State was responsible for the violation of the rights acclaimed in articles 5 (right to personal integrity), 10 (right to compensation), 11 (protection of the honor and the dignity), 17 (protection of the family), and 24 (equality in the face of law), of the American Convention, in accordance with the general obligation established in the articles 1.1 and 2 of that instrument.

3. On July 21, 2014, the IACHR issued the Admissibility Report No. 57/14 on Case 12.961 Juan Gonzalez and others, related to the aforementioned petitions that were accumulated in said case. In its report, the IACHR concluded that it was competent to examine the alleged violation of articles 8 (judicial guarantees) and 25 (judicial protection) of the American Convention on Human Rights in connection with articles 1.1 and 2 of said instrument. It also decided to declare inadmissible the allegations regarding the alleged violation of articles 5 (right to personal integrity), 10 (right to compensation), 11 (protection of honor and dignity), 17 (protection of the family), and 24 (equal protection of the law) of the American Convention, in accordance with the general obligation established in articles 1.1 and 2 of said instrument. Additionally, the IACHR declared the petition inadmissible in respect of 42 persons who filed an unconstitutionality action against Decree 85-2001 given that, according to the IACHR's calculation, the sentence was notified more than six months before the presentation of the petition at the IACHR, thus failing to comply with the requirement set forth in article 46.1b) of the ACHR.

4. In the Admissibility Report No. 57/14, it was noted that on December 11, 2006, the petitioners informed the Commission that the Committee for the Defense of Human Rights in Honduras (hereinafter “CODEH”) would be appointed as co-petitioner and that on May 21, 2007, Gladis Matamoros, original petitioner of petition P-217-05, indicated to the Commission that it would withdraw as petitioner and leave in its place CODEH. Subsequently, Mrs. Gladis Matamoros decided to resume her participation as petitioner in case 12,961 Juan Gonzalez and Others.

5. On April 29, 2018, the IACHR approved an amendment to paragraph 40 of Admissibility Report No. 57/14 and declared the petition admissible with respect to the 42 persons who had been declared inadmissible initially in report 57/14.

6. On November 2014, the parties began the process of negotiating a friendly settlement and held a working meeting with the facilitation of the Commission on September 5, 2017, within the framework of the 164th session of the IACHR. In addition, on December 5, 2018, the parties held another working meeting with the facilitation of the Commission on December 5, 2018, during the 170th session of the IACHR. Said negotiations materialized in the signing of a friendly settlement agreement (hereinafter "ASA" or "agreement") on June 12, 2019¹.

7. Between December 2018 and October 14, 2020, the State submitted multiple pleadings with payment vouchers for the disbursement process of the economic compensation accepted by the beneficiaries and requesting the approval of the agreement by the IACHR. This information was sent to the petitioner at the time.

8. On July 2, 2019, the Commission informed the parties of the disaggregation of Case 12,961 in 7 cases to facilitate the advanced negotiation processes in 6 separate agreements and the option of continuing with the contentious proceeding in one of them.

9. Subsequently, on December 3, 2019, the parties signed an addendum excluding from the FSA Lino Antonio Florez Cruz, Francisco Hermes Espino, German Rafael Cardona Velez, Geovany Velasquez Estrada, German Lopez, Guadalupe Del Carmen Guzman Segura, Dolores Yolanda Vidaurreta, Jose Anibal Alvarado Rivera, Jorge Domingo Suazo Zelaya, Jorge Alberto Cerrato Rivera, Aben Claros Mendez, Carlos Manuel Sierra Jimenez, Alex Andres Chevez Reyes, Jose Alfredo Laines, Jose Rodolfo Castillo Lazo, Jose Hernan Ramos Velasquez, Jose Cecilio Medina Herrera, Jose Antonio Canales, Jose Cecilio Tejeda Gomez and, Francisco Humberto Rodriguez Madariaga.

10. Likewise, on September 10, 2020, the parties signed a memorandum of understanding in which the parties clarified that, due to a material error; Carlos Manuel Sierra Jiménez had been excluded from the FSA of June 12, 2019, through its addendum of December 3, 2019, given that it had already received the financial compensation on July 9, 2019. In the same sense, they confirmed that Jorge Domingo Suazo Zelaya had received the material compensation granted on January 22, 2020, after the signing of said addendum; therefore, his willingness to join the ASA was verified. Consequently, through the memorandum of understanding of September 10, 2020, the parties agreed that the effects of the addendum of December 3, 2019, do not apply to these two beneficiaries, maintaining the effects of the friendly settlement agreement signed on them.

11. Pursuant to Article 49 of the Convention and Article 40.5 of the Commission's Rules of Procedure, a brief statement of the facts alleged by the petitioner and a verbatim transcription of the friendly settlement agreement entered into on June 12, 2019 between the petitioner and the representatives of the Honduran State are reproduced hereunder in the instant report. The Commission also approves the agreement between the parties and the publication of this report in the IACHR's Annual Report to the General Assembly of the Organization of American States.

II. THE ALLEGED FACTS

12. The petitioners alleged presumed violation by the State of the right to due process, contained in Articles 8 and 25 of the American Convention, since the presumed victims were unjustifiably dismissed based on Decree 58-2001. According to the petitioners, this decree authorized the Congress of the Republic to "dismiss the police personnel without considerations of any kind". In this regard, the petitioners

¹ It is to indicate that this FSA is 1 of 6 agreements signed between December 1, 2018 and September 18, 2019 on a total universe of 357 presumed victims of case 12,961 Juan Gonzalez and Others. This agreement and the effects of this Report are limited only to the beneficiaries referred to in it.

stated that although the permanent purge of the National Police was necessary for its better functioning, the legal procedure established for it must have been followed. In this regard, they indicated that a regular administrative process, which would have all the guarantees of any criminal process, should have preceded the dismissal.

13. The petitioners argued that Honduras had violated the right contained in Article 24 (equal protection of the law), because they had been subjected to a decree that was exclusive and detrimental to their interests, and was never applied to different category of public officials. They also indicated that Honduras had violated Article 11 (protection of honor and dignity) of the American Convention. Since because of the dismissal based on a "decree to purge corrupt people," the alleged victims would have been "targeted of popular derision", which would have affected their prestige inside and outside the institution, and would have prevented the majority from obtaining employment. Additionally, the petitioners alleged violations of articles 1, 2, 5, 10 and 17 of the ACHR.

14. On the other hand, the petitioners pointed out that by resolutions of March 13, 2003, the Supreme Court of Justice of Honduras declared the unconstitutionality and inapplicability of Decree 58-2001. In this regard, they stated that although Article 316 (2) of the Honduran Constitution stipulates that when declaring the unconstitutionality of the law, it will be of general effect and of immediate application, the Supreme Court established that its ruling had no retroactive effect and that therefore, the declaration of unconstitutionality in favor of the alleged victims would not be applied. According to the petitioners, since the aforementioned decree was declared unconstitutional, it should also have been applied to the benefit of all the persons affected by it.

III. FRIENDLY SETTLEMENT

15. On June 12, 2019, a friendly settlement agreement reached between the State, represented by the Attorney General of the Republic, Lidia Estela Cardona Padilla, and the petitioners, represented by attorneys Hugo Ramón Maldonado, Leonel Casco Gutierrez, Fredy Omar Madrid and Gladys Ondina Matamoros. The friendly settlement agreement initially signed for the benefit of 58² people. The referred friendly settlement agreement establishes the following:

FRIENDLY SETTLEMENT AGREEMENT CASE IACHR 12.961 Juan González and others vs Honduras³

FRIENDLY SETTLEMENT AGREEMENT ON THE CASE IACHR 12.961 regarding Juan González and others, celebrated, on the one hand, the State of Honduras, duly represented by Dr. LIDIA ESTELA CARDONA PADILLA, in her capacity as Attorney General of the Republic, appointed by Legislative Decree No. 70-2018, published on July 27, 2018, duly authorized for this act by Executive Agreement No. 014-2018 dated December 19, 2018, which states that she is empowered to carry out this act, with the express power to compromise; and on the other hand: Hugo Ramón Maldonado (CODEH), Leonel Casco Gutiérrez (APRODEH); Fredy Omar Madrid and Gladys Ondina Matamoros; those who act on behalf of the petitioners who are beneficiaries of this agreement; which is held with the knowledge and consent of the INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR), by the provisions of Articles 48, numeral 1, subsection f) and 49 of the American Convention on Human Rights regarding a friendly settlement of the reference case.

²The FSA of June 12, 2019, initially covered 76 people, but later through the addendum of December 3, 2019, 20 people were excluded, and finally, through the memorandum of understanding of September 10, 2020, two people were reincorporated to the original ASA.

³ The parties included in the text of the FSA of Case 12,961 E the name of the original case disaggregated by the IACHR on July 2, 2019.

FIRST: BACKGROUND

The Inter-American Commission on Human Rights (IACHR), in its Admissibility Report No. 57/14 dated July 21, 2014, provided that it: "DECIDES: 1.- To declare the present case admissible in regard to the alleged violations of the rights established in Articles 8 and 25 of the American Convention, in connection with Articles 1.1 and 2 of said instrument, to the detriment of the alleged victims listed in Annex A. 2.- Declare the present petition inadmissible in regard to the alleged violations of Articles 5, 10, 11, 17 and 24 of the Convention."

In a communication dated May 24, 2018, the IACHR notifies the State of Honduras of the rectified version of the Admissibility Report No. 57/14 based on the amendment approved by the IACHR to paragraph 40 of the admissibility report, as well as the list that appears in the annexes, declaring the petition admissible regarding the 42 persons who were part of the unconstitutionality action presented by José Marcelino Vargas before the Supreme Court of Justice.

SECOND: GENERAL

Because of the will expressed by the parties to reach a friendly settlement in the case at hand, the State undertakes to comply with this agreement by the following parameters:

- a. **Scope:** It refers specifically to the legal consequences for the petitioners, caused by the issuance of Decree 58-2001 published in the Official Gazette La Gaceta No. 29,504 of July 15, 2001. Which was later declared unconstitutional by the Supreme Court of Justice of the Honduran State, through a sentence dated March 13, 2003, and published in the Official Gazette La Gaceta 30,166 dated August 19, 2003.
- b. **Nature:** Settle by the friendly settlement procedure as corresponds to the petitioners covered by this agreement (76 former police officers), through compensation and without implying any recognition by the State, neither of the facts nor of the right invoked within the framework of the process pending before the Inter-American Commission on Human Rights.
- c. **Modality:** Friendly settlement procedure regulated by articles 48, the numeral one subsection f) and 49 of the American Convention on Human Rights and Article 40 of its Regulations.
- d. **Determination of the beneficiaries:** By express agreement between the parties, the beneficiaries of this agreement are:

1	Aben Claros Méndez	[...]
2	Adán Mejía	[...]
3	Adán Sánchez López	[...]
4	Agustín Puerto Castro	[...]
5	Alejandro García Meza	[...]
6	Alex Andrés Chévez Reyes	[...]
7	Benjamín Eliu	[...]

	Rodríguez Álvarez	
8	Carlos Andrés Rivera Mejía	[...]
9	Carlos José Giacoman Díaz	[...]
10	Carlos Manuel Sierra Jiménez	[...]
11	Carlos Manuel Viera Reyes	[...]
12	Christiam Lenin Carias Arnold	[...]
13	Claritza Araminta Rivera Rodríguez	[...]
14	Damaris Abigail Gómez Amador	[...]
15	Denis Chavarría Vega	[...]
16	Denis Edgardo Zepeda	[...]
17	Denis Juventino Meraz Oseguera	[...]
18	Dionel Orellana	[...]
19	Dolores Yolanda Vidaurreta Montes	[...]
20	Douglas Asís Hernández Luna	[...]
21	Ecar Fernando Zavala Valladares	[...]
22	Edgar Amílcar Castillo Dardon	[...]
23	Edwin Miguel Zapata Oliva	[...]
24	Elmi Jobany Ríos Pérez	[...]
25	Enrique Santos Sánchez Osorio	[...]
26	Federico Adolfo Irias Godoy	[...]
27	Felicitó Reynaldo Baca Suazo	[...]
28	Félix Edil Meléndez García	[...]
29	Francisco Arturo Cruz Díaz	[...]
30	Francisco Hermes Espino	[...]
31	Francisco Humberto Rodríguez Maradiaga	[...]
32	Francisco Pérez Munguía	[...]
33	Fredis Roldan	[...]

	Cabrera Baca	
34	Geovani Javier Velásquez Estrada	[...]
35	Gerlin Yesenia García Amaya	[...]
36	German López	[...]
37	German Rafael Cardona Veliz	[...]
38	Guadalupe del Carmen Guzmán Segura	[...]
39	Gustavo Adolfo Bonilla Quiñonez	[...]
40	Héctor Orlando Martínez	[...]
41	Herin Rafael González Pagoaga	[...]
42	Hernán Romero Betanco	[...]
43	Herson Edmundo Pineda Palma	[...]
44	Isidro Brizuela Mejía	[...]
45	Ixel Amed Hernández Alcerro	[...]
46	Jacobo Ordóñez Espinal	[...]
47	Jaime de Jesús Hernández	[...]
48	Jorge Alberto Cerrato Rivera	[...]
49	Jorge Domingo Suazo Zelaya	[...]
50	Jorge Mario Velázquez Péres	[...]
51	José Alfredo Laínez	[...]
52	José Aníbal Alvarado Rivera	[...]
53	José Antonio Canales	[...]
54	José Antonio Navarro Matute	[...]
55	José Antonio Sánchez Lagos	[...]
56	José Antonio Wang Lung Raudes	[...]
57	José Cecilio Medina Herrera	[...]
58	José Cecilio Tejeda Gómez	[...]
59	José Edgardo Salgado Barrientos	[...]

60	José Geony Canales Fúnes	[...]
61	José Hernán Ramos Velásquez	[...]
62	José Medence Soza Ortez	[...]
63	José Rodolfo Castillo Lazo	[...]
64	José Rodolfo Torres Mejía	[...]
65	Juan Miguel Vásquez	[...]
66	Julio Cesar González	[...]
67	Lino Antonio Flores Cruz	[...]
68	Luís Enrique Baquedano Rueda	[...]
69	Madrid Smith Kelly Daniel	[...]
70	María Beatriz González González	[...]
71	Mateo Ismael Oyuela Carrasco	[...]
72	Miguel Ángel Benítez Martínez	[...]
73	Noé Rodríguez Sánchez	[...]
74	Ovidio García	[...]
75	Rafael Geovani Enamorado Padilla	[...]
76	Santiago Mendoza Osorto	[...]

e. Economic reparation: The parties agreed to establish a compensation amount, taking as a reference the scale to which the personnel belonged at the time of the issuance of Decree 58-2001.

THIRD: JURISDICTION OF THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

Honduras has been a State Party to the American Convention on Human Rights since August 9, 1977, and recognized the contentious jurisdiction of the Inter-American Court of Human Rights on September 9, 1981.

FOURTH: AGREEMENT BETWEEN THE PARTIES

In the framework of the friendly settlement procedure carried out between the petitioners and the State of Honduras, with the intervention of the IACHR, the parties have reached a satisfactory agreement for the solution of this case.

To cover matters related to economic reparation, the State of Honduras undertakes to verify the payment in the manner proposed by the petitioners during the negotiation stage through the Secretary of State in the Office of Security, which will initiate the proper procedures as soon as this duly signed document is presented. In addition, the corresponding payment

procedures must be fully concluded no later than June 29, 2019, in the terms agreed in this friendly settlement agreement.

This agreement will be managed under the responsibility of the corresponding entities or Secretaries of State; the Office of the Attorney General of the Republic will coordinate and follow up on the actions necessary to fulfill this agreement.

For their part, the petitioners' representatives undertake to monitor the stages of execution of this agreement and to collaborate so that it can become effective.

FIFTH: PROVENANCE OF THE PRESENT FRIENDLY SETTLEMENT AGREEMENT

Throughout the process, the parties maintained a space for dialogue to explore the possibility of reaching an eventual friendly settlement agreement. Background to this is the working meeting held within the framework of the 164th Extraordinary Period of Sessions of the IACHR in Mexico City D.F. and the working meeting held within the framework of the 170th regular session of the IACHR in Washington D.C.

SIXTH: SATISFACTION OF THE PETITIONERS

The petitioning party considers compliance with the economic commitments assumed through this friendly settlement agreement implies full satisfaction of its claims in the Juan González et al. Case (IACHR case No. 12.961).

The State of Honduras and the petitioners, through their legal representatives, taking as reference the scale to which the dismissed personnel belonged at the time of issuance of Decree 58-2001, recognize and accept as individual compensation the sum detailed below in favor of each of the petitioners:

Police and Administrative: L. 320,000.00
Classes: L. 400,000.00
Officers: L. 700,000.00

The stated amount will be made in a single payment to each petitioner who has decided to avail himself or herself of this agreement.

Regarding the percentage of professional fees, these will be assumed by the petitioners based on the agreement that they have reached with their attorney.

SEVENTH: METHOD OF PAYMENT OF THE FINANCIAL REPARATION

According to the request made by the petitioners that the offered amount be made in a single payment; The State undertakes to make the values as mentioned above effective, through the Secretary of State in the Security Office in a single payment no later than June 29, 2019, and includes in full the agreed economic compensation and therefore with payment thereof, the State of Honduras is ultimately released from any compensation for the alleged facts and any subsequent claim.

For such purposes, the beneficiaries must identify themselves before the Secretary of State in the Security Office through the respective document.

In the case of relatives of the petitioners who have died on the date of signing of this Agreement, they must present the legally incumbent documentation upon, accrediting the corresponding Declaration of Heirs, so that the Secretary of Security can subsequently proceed to make the related payment.

The defined amounts include entirety any damage alleged to have been caused to the petitioners and their next of kin, and therefore with the payment of the reparation contained in this Agreement, the State of Honduras is released from any compensation for the facts as well as any present or future claim that may arise from this Agreement; It is also agreed that judicially or internationally, the responsibility of the State of Honduras for any compensation is extinguished; If eventually any other person appears claiming the right to compensation for these same events about the beneficiaries who have died on the date of signing of this Agreement, this will be recognized and paid directly by the beneficiaries.

EIGHTH: COMPLIANCE SUPERVISION

Concerning the petitioners not included in the agreed compensation payment, the mechanism for verifying compliance with the friendly settlement agreement will correspond to the IACHR; the Office of the Attorney General of the Republic will forward the information that the illustrious Inter-American Commission requires.

The State of Honduras will also inform the IACHR of its full availability to continue with the space for dialogue to explore the possibility of reaching an eventual friendly settlement agreement with the petitioners not included in this document.

NINTH: CONFIDENTIALITY

The parties are obliged to keep strict confidentiality of the amounts corresponding to the financial compensation and the personal data of the petitioners.

TENTH: CONFORMITY OF THE PARTIES

The parties express their full agreement and satisfaction, irrevocably and immediately, with the agreements reached and embodied in this document. Consequently, the petitioners renounce any action that may arise from the employment relationship that united them with the Secretary of Security as former National Police members.

To the consensus reached, they are obliged to submit a joint or separate request to the IACHR to proceed to break down the case for the beneficiaries of this friendly settlement agreement for separated treatment for approval and closure by the IACHR and that it finally adopts the report contemplated in Article 49 of the American Convention on Human Rights. At this point, it will acquire full legal status.

ELEVENTH: VALIDITY

This agreement enters into force as of the day it is signed and will conclude when the agreed compensation payment is made.

For the purposes of the law, it is signed in the city of Tegucigalpa, M.D.C., on the Twelve (12) days of the month of June of the year two thousand and nineteen (2019).

AMENDMENT. Given having agreed to the signing of this Friendly Settlement Agreement for the signing of the same on this date and time, Attorney Gladys Ondina Matamoros having not presented, nor justified her absence; to comply with the petitioners in the agreed manner, the parties proceed to sign the Friendly Settlement Agreement on this date. The foregoing without prejudice to the fact that Attorney Gladys Ondina Matamoros may subsequently sign a Friendly Settlement Agreement concerning the petitioners she represents.

Date Up Supra.

**ADDENDUM TO THE FRIENDLY SETTLEMENT AGREEMENT
CASE IACHR 12.961-Juan González and others Vs. Honduras⁴**

ADDENDUM TO THE FRIENDLY SETTLEMENT AGREEMENT OF IACHR CASE 12,961 referring to Juan González et al., Held, on the one hand, by the State of Honduras, duly represented by Dr. LIDIA ESTELA CARDONA PADILLA, in her capacity as Attorney General of the Republic, appointed by Legislative Decree No. 70-2018, published on July 27, 2018, duly authorized for this act by Executive Agreement No. 014-2018 dated December 19, 2018, which states that she is empowered to carry out this act, with the express power to compromise; and on the other hand the lawyers Hugo Ramón Maldonado, Gladys Ondina Matamoros, and Leonel Casco, who act on behalf of the petitioners who are beneficiaries of this agreement; which is held with the knowledge and consent of the INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR), by the provisions of Articles 48, numeral 1, subsection f) and 49 of the American Convention on Human Rights regarding a friendly settlement of the reference case.

CONSIDERING (1): That on June twelve (12) of the year two thousand nineteen (2019), a Friendly Settlement Agreement was signed in which a list of seventy-six (76) beneficiaries was contemplated in its SECOND GENERALITIES section: Literal d. The determination of the beneficiaries: among which the following names are included:

1	LINO ANTONIO FLOREZ CRUZ	[...]
2	FRANCISCO HERMES ESPINO	[...]
3	GERMAN RAFAEL CARDONA VELIZ	[...]
4	GEOVANY VELASQUEZ ESTRADA	[...]
5	GERMAN LOPEZ	[...]
6	GUADALUPE DEL CARMEN GUZMAN SEGURA	[...]
7	DOLORES YOLANDA VIDAURRETA	[...]
8	JOSE ANIBAL ALVARADO RIVERA	[...]
9	JORGE DOMINGO SUAZO ZELAYA	[...]
10	JORGE ALBERTO CERRATO RIVERA	[...]
11	ABEN CLAROS MENDEZ	[...]
12	CARLOS MANUEL SIERRA JIMENEZ	[...]
13	ALEX ANDRES CHEVEZ REYES	[...]

⁴ The parties included in the text of the Addendum of December 3, 2020 regarding Case 12,961 E the name of the original case that disaggregated by the IACHR on July 2, 2019.

14	JOSE ALFREDO LAINEZ	[...]
15	JOSE RODOLFO CASTILLO LAZO	[...]
16	JOSE HERNAN RAMOS VELASQUEZ	[...]
17	JOSE CECILIO MEDINA HERRERA	[...]
18	JOSE ANTONIO CANALES	[...]
19	JOSE CECILIO TEJEDA GOMEZ	[...]
20	FRANCISCO HUMNERTO RODRIGUEZ MADARIAGA	[...]

CONSIDERING (2): That on October 24, 2019, the Secretary of State in the Security Office about the pending payments in the Friendly Settlement Agreement signed on June 12, 2019, communicated to the Office of the Attorney General of the Republic 20 beneficiaries who signed said agreement remain to be collected, for which it is necessary to confirm their willingness to continue with the Friendly Settlement Procedure or if they have chosen to continue through the Contentious Proceedings. Through communications and emails received by the beneficiaries' representatives, they inform that they have decided to continue through contentious proceedings.

CONSIDERING (3): That the petitioners described in considering (1) have decided to continue through contentious proceedings before the IACHR, so it is necessary to exclude them through an Addendum to the friendly settlement agreement signed in which they were included as beneficiaries, such action will ultimately affect the timely approval of the Friendly Settlement Agreement by the IACHR.

THEREFORE

AGREE:

FIRST: Subtract and consequently have as not included in the list of beneficiaries of the Friendly Settlement Agreement signed in this case on June 12, 2019, the following gentlemen **LINO ANTONIO FLOREZ CRUZ, FRANCISCO HERMES ESPINO, GERMAN RAFAEL CARDONA VELEZ, GEOVANY VELASQUEZ ESTRADA, GERMAN LOPEZ, GUADALUPE DEL CARMEN GUZMAN SEGURA, DOLORES YOLANDA VIDAURRETA, JOSE ANIBAL ALVARADO RIVERA, JORGE DOMINGO SUAZO ZELAYA, JORGE ALBERTO CERRATO RIVERA, ABEN CLAROS MENDEZ, CARLOS CHOSENO LAVEENFO, REODRES JOSEINFO, ALVARADO SIERRA REODRES CASTILLO LAZO, JOSE HERNAN RAMOS VELASQUEZ, JOSE CECILIO MEDINA HERRERA, JOSE ANTONIO CANALES, JOSE CECILIO TEJEDA GOMEZ, FRANCISCO HUMBERTO RODRIGUEZ MADRIAGA;** which also does not prevent the petitioners from pursuing the merits process before the IACHR.

SECOND: The parties express their full agreement and satisfaction irrevocably and immediately, with the agreements reached and embodied in this amendment to the Friendly Settlement Agreement signed on June 12, 2019.

THIRD: This Addendum enters into force as of the day of its signature, leaving without value or effect any legal expectation derived from the Friendly Settlement Agreement signed on June 12, 2019, in favor of the persons listed in the First paragraph of this Addendum.

For the purposes of the law, it is signed in the city of Tegucigalpa M, D.C. on the three (03) days of the month of December of the year two thousand and nineteen (2019).

Memorandum of Understanding of the Friendly Settlement Agreement signed on June 12, 2019, and the addendum dated December 3, 2019, about Case 12.961 E before the IACHR

In the city of Tegucigalpa, Honduras, on September 10, 2020, the State of Honduras represented by Dr. Lidia Estela Cardona Padilla, in her capacity as Attorney General of the Republic, appointed by Legislative Decree No. 70-2018, published on July 27, 2018, duly authorized for this act by Executive Agreement No. 014-2018 dated December 19, 2018, which states that it is empowered to carry out this act, with the express power to compromise; and on the other hand: Hugo Ramón Maldonado, representing the CODEH organization, Leonel Casco Gutiérrez, representing the APRODEH organization; both petitioner organizations in the framework of the case: "Ecar Fernando Zavala Valladares and 12,961 E - Honduras", sign the following memorandum of understanding of the friendly settlement agreement signed on June 12, 2019, and the addendum signed on December 3, 2019, about Case 12.961 E-Honduras, before the IACHR:

First: The parties acknowledge that Jorge Domingo Suazo Zelaya and Carlos Manuel Sierra Jiménez had been initially included as beneficiaries in the friendly settlement agreement dated June 12, 2019, signed in the framework of the case: "Ecar Fernando Zavala Valladares and others 12,961 E - Honduras".

Second: The parties also acknowledge that said persons were subsequently excluded from the said friendly settlement agreement through an Addendum dated December 3, 2019.

Third: On the other hand, the parties confirm that Carlos Manuel Sierra Jimenez had received his financial compensation in the amount of [XXX] on July 9, 2019. Therefore, its inclusion in the addendum of December 3, 2019, verifying their willingness to be part of said friendly settlement.

Likewise, the parties confirm that Jorge Domingo Suazo Zelaya received financial compensation in the amount of [XXX] on January 22, 2020, that is, after signing the addendum of December 3, 2019, verifying its willingness to be part of said friendly settlement.

Fourth: Therefore, the parties sign this memorandum of understanding to indicate that the effects of the addendum dated December 3, 2019, do not apply to Carlos Manuel Sierra Jiménez and Domingo Suazo Zelaya and that they remain as beneficiaries of the friendly settlement agreement initially signed on June 12, 2019, in the framework of the case "Ecar Fernando Zavala Valladares et al. 12,961 E - Honduras".

Fifth: the parties request the IACHR to take the necessary corrective measures for the registration of the corresponding victims in the case "Ecar Fernando Zavala Valladares and others 12,961 E - Honduras."

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

16. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, this procedure has the aim “reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.” Agreeing to pursue this procedure expresses the good faith of the State as regards carrying out the purposes and objectives of the Convention in keeping with the principle of *pacta sunt servanda*, by which states should carry out their treaty obligations in good faith.⁵ It also reiterates that the friendly settlement procedure provided for in the Convention makes it possible to conclude individual cases in a non-contentious manner, and in cases relating to several countries, has proven to offer an important vehicle for settlement that can be used by both parties.

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

18. The Commission observes that the parties signed an Addendum on December 3, 2019, which excludes from the FSA signed on June 12, 2019 Lino Antonio Florez Cruz, Francisco Hermes Espino, German Rafael Cardona Velez, Geovany Velasquez Estrada, German Lopez, Guadalupe Del Carmen Guzman Segura, Dolores Yolanda Vidaurreta, Jose Anibal Alvarado Rivera, Jorge Domingo Suazo Zelaya, Jorge Alberto Cerrato Rivera, Aben Claros Mendez, Carlos Manuel Sierra Jimenez, Alex Andres Chevez Reyes, Jose Alfredo Laines, Jose Rodolfo Castillo Lazo, Jose Hernan Ramos Velasquez, Jose Cecilio Medina Herrera, Jose Antonio Canales, Jose Cecilio Tejada Gomez and, Francisco Humberto Rodriguez Madariaga.

19. At the same time, on September 10, 2020, the parties signed a memorandum of understanding in which the parties clarified that, due to a material error; Carlos Manuel Sierra Jiménez had been excluded from the FSA of June 12, 2019, through its addendum of December 3, 2019, given that he had already received the economic compensation on July 9, 2019. In the same sense, they confirmed that Jorge Domingo Suazo Zelaya had received the material compensation granted on January 22, 2020, after the signing of the addendum, and therefore their willingness to join the FSA was verified. Consequently, through the memorandum of understanding of September 10, 2020, the parties agreed that the effects of the addendum of December 3, 2019, do not apply to these two beneficiaries, maintaining the friendly settlement agreement's effects over them.

20. Based on the preceding, the Commission takes note of the effects of both instruments and declares that they are an integral part of the agreement signed between the parties and that this Approval Report does not produce legal effects for the persons excluded through the Addendum of December 3, 2019, except for Carlos Manuel Sierra Jiménez and Jorge Domingo Suazo Zelaya, whom are covered under the original FSA.

21. In accordance to what was established in clause 9 of the friendly settlement agreement, the parties agreed to request the Commission to issue the report contemplated in Article 49 of the American Convention, once the friendly settlement agreement was signed. Given that the State provided detailed information on the actions taken to comply with, the obligations derived from this friendly settlement agreement, and extensive documentation that verifies the payment of the obligations derived from it, at this moment it is necessary to assess the fulfillment of the commitments established in this FSA.

22. Regarding clauses 6 (Satisfaction of the petitioners), and 7 (Form of payment of economic reparation) of the agreement, the State reported that all the compensations in favor of the 58 beneficiaries of the friendly settlement agreement were paid. Said information was corroborated with payment vouchers provided by the State giving account for the payment of 320,000L (three hundred twenty thousand lempiras)

⁵ Vienna Convention on the Law of Treaties, U.N. Doc A/CONF.39/27 (1969), Article 26: **Pacta sunt servanda**. “Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”

in favor of 44 beneficiaries, the amount of 400,000L (four hundred thousand lempiras) in favor of 11 beneficiaries, and the amount of 700,000L (seven hundred thousand lempiras) in favor of 3 beneficiaries. According to the information provided by the State, the total amount of 20,580,000L (twenty million five hundred eighty thousand lempiras) or approximately \$ 854,495.59 (eight hundred fifty-four thousand four hundred ninety and five dollars and fifty-nine cents US dollars) was disbursed as financial compensation in favor of the 58 beneficiaries of the FSA⁶. Taking into consideration the elements of information described above; the Commission considers that clauses 6 and 7 of the friendly settlement agreement are fully complied with and so it declares it so.

23. The Commission notes with satisfaction that through full compliance with the friendly settlement agreements related to this Homologation Report and with Reports No. 105/19 (Case 12.961 A, Bolívar Salgado Welban, et al.); No. 101/19 (Case 12.961 C, Marcial Coello Medina, et al.), No. 104/19 (Case 12.961 D, Jorge Enrique Valladares Argueñal et al.), And No. 20/20 (Case 12.961 F, Miguel Ángel Chinchilla Erazo et al.), the State has complied with repairing a total of 227 beneficiaries of the original case 12,961 (Juan González et al.). Consequently, the IACHR highly values the efforts made by both parties during the negotiations related to these matters to reach the friendly settlements that are compatible with the object and purpose of the Convention.

24. Lastly, the Commission considers that the rest of the content of the agreement is declarative in nature, so that the IACHR would not be responsible for monitoring compliance.

25. For the foregoing reasons, the IACHR declares that the friendly settlement agreement has been fully complied with.

V. CONCLUSIONS

1. Based on the foregoing considerations, and pursuant to the procedure set out in Articles 48(1) (f) and 49 of the American Convention. The Commission wishes to reiterate its profound appreciation for the efforts made by the parties and its satisfaction that a friendly settlement was reached in the instant case, based on respect for human rights and compatible with the object and purpose of the American Convention.

2. In light of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the friendly settlement agreement signed by the parties on June 12, 2019, as well as the Addendum to the FSA, dated December 3, 2019, and the Memorandum of Understanding of September 10, 2020.

2. To declare the full compliance with the friendly settlement agreement according to this report's analysis.

3. To publish this report and include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on March 20, 2021. (Signed): Antonia Urrejola, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay, Esmeralda E. Arosemena Bernal de Troitiño, Edgar Stuardo Ralón Orellana, and Joel Hernández García, Members of the Commission.

⁶ The conversions to dollars are based on a free search in Google converter available in the market on February 12, 2021.