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REPORT No. 85/23
CASE 13.888
REPORT ON FRIENDLY SETTLEMENT

DIEGO PABLO PAREDES
ARGENTINA

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I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On October 5, 2010, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition filed by Diego Pablo Paredes (hereinafter "alleged victim"), with the legal representation of Elena Carmen Moreno and Myriam Carsen (hereinafter "the petitioners"), alleging the international responsibility of the Republic of Argentina (hereinafter "Argentina" or "the State"), for violation of the human rights set forth in Articles 8 (judicial guarantees), 24 (equality before the law), and 25 (judicial protection) of the American Convention on Human Rights (hereinafter "Convention" or "American Convention"), in conjunction with Article 1(1) (obligation to respect rights) of the same instrument, to the detriment of Diego Pablo Paredes, derived from the violations to due process and the rejection of his request for economic reparation, as a result of his forced exile, filed within the framework of Law No. 24.043.

2. On December 6, 2019, the Commission issued Admissibility Report No. 193/19, in which it declared the petition admissible and its competence to hear the claim filed by the petitioners regarding the alleged violation of the rights enshrined in Articles 8 (judicial guarantees), 24 (equality before the law), and 25 (judicial protection), of the American Convention in conjunction with the obligation established in Article 1 (1) of the same instrument, to the detriment of Diego Pablo Paredes.

3. On February 15, 2022, the Commission notified the parties of the start of the friendly settlement process, which resulted in the signing of a friendly settlement agreement (FSA) on February 23, 2022. On October 6, 2022, the State informed of the issuance of Executive Decree No. 673/2022 approving the friendly settlement agreement and requested the corresponding approval from the Commission and publication of the agreement. For their part, on November 23, 2022, the petitioners requested the Commission the corresponding approval, as established in the FSA. Likewise, on April 17, 2023, the State provided proof of approval of the ministerial resolution that was the object of the friendly settlement.

4. Pursuant to Articles 49 of the American Convention and 40 (5) of the Rules of Procedure of the Commission, this friendly settlement report includes a summary of the facts alleged by the petitioners and a transcription of friendly settlement agreement signed on February 23, 2022, by the petitioners and representatives of the Argentine State. Likewise, the agreement signed between the parties is approved and it is agreed that this report will be published in the Annual Report to the General Assembly of the Organization of American States.

II. THE FACTS ALLEGED

5. According to the petition, the alleged victim, Diego Paredes, belongs to a family who was forced into exile to preserve their life and liberty.¹ A child then, he was forced to live in exile from December 4, 1978, to December 10, 1984, with his stepfather, Ángel Pérez, his mother, Berta Paredes, and his brother, Alejandro Pérez Paredes. The petitioners explain that the alleged victim's stepfather was a union member — the records clerk of the Association of State Workers (*Asociación de Trabajadores del Estado*) in the city of Ramos Mejía, province of Buenos Aires— and worked at Hospital Posadas. They indicate that in 1976, on being accused of subversion, the stepfather was dismissed from his job. They explain that, consequently, the family was subjected to house searches by the state security forces. They assert that this, along with the military takeover of Hospital Paredes and the numerous detentions of hospital staff, forced the family into internal displacement until due to new attempts by state agents to locate his stepfather, the family had to exile in

¹ The petitioners allege violations regarding reparations proceedings.

December 1978. According to the records, the family members were granted refugee status on July 2, 1979, by the United Nations High Commissioner for Refugees Office in Spain and by the government of Spain on October 1 that year.

6. The petitioners sustain that, because of the exile suffered, the alleged victim requested on October 12, 2005, the benefit established under Law No. 24.043 before the Ministry of Justice, which was dismissed by Resolution No. 197 on February 1, 2008. They indicate that the administrative authority recognized that the alleged victim was living abroad in a forced exile but concluded that, following Opinion No. 146-06 of the Treasury Attorney General, under whose interpretation of the scope of Law No 24.043 Mr. Paredes was not entitled to compensation. They allege that on February 20, 2008, Mr. Paredes lodged an appeal before the National Federal Court of Appeals for Contentious Administrative Matters (*Cámara Nacional de Apelaciones en lo Contencioso Administrativo*) claiming, among other points, that the resolution was overtly at variance with the jurisprudence of the Supreme Court of Justice ("Supreme Court" or "CSJN") and the decisions on several applications regarding situations of exile not preceded by deprivation of liberty.

7. The petitioners affirm that on April 14, 2009, the National Federal Court of Appeals confirmed the resolution issued by the Ministry, on the grounds that the alleged victim's exile had to be understood as a case of voluntary exile and that there was no proof of his residence abroad, for the UNHCR certificate was insufficient. On May 21, 2009, Mr. Paredes filed an extraordinary federal appeal before the Supreme Court alleging the importance of determining the validity and scope of the provisions of Law No. 24.043, the unconstitutional and arbitrary nature of the resolution, and the violation of the right of defense and the principle of equal protection of the law. Although on October 8, 2009, the Supreme Court granted the extraordinary federal appeal, on March 23, 2010, the same court declared that the remedy had been granted wrongly as it did not meet the requirement on the number of lines per page established in rule 4/2007. The petitioners were notified on April 7, 2010. They explain that before the court heard the appeal, the alleged victim tried to file the same brief but with a different page layout; that, however, the court dismissed it, preventing him from amending the document.

8. The petitioners point out that the Supreme Court of Justice validated this irregular proceeding by omission by not considering the extraordinary appeal due to layout problems. Finally, they allege that several times the State itself (by the Executive and the Judicial branches) has recognized exile as a form of restriction of liberty included in the grounds foreseen in Law No. 24.043, even in the face of the same facts as in the cases concerning the alleged victim's mother, Berta Paredes, his siblings Alejandro Pérez Paredes and Julia Pérez Paredes, and his stepfather, Angel Paredes.

III. FRIENDLY SETTLEMENT

9. On February 23, 2022, the parties signed a friendly settlement agreement, which states the following:

FRIENDLY SETTLEMENT AGREEMENT

The parties in Case n° 13.888 of the registry of the Inter-American Commission on Human Rights (hereinafter "IACHR" or the "Inter-American Commission"): the petitioner, Diego Pablo Paredes, with his legal counsel Dr. Elena Carmen Moreno and the sponsorship of Dr. Myriam Carsen, and the Republic of Argentina, as a State party to the American Convention on Human Rights (hereinafter the "American Convention"), acting under the express mandate of Article 99.11, represented by the Undersecretary for International Human Rights Protection and Liaison and the National Director of International Legal Affairs in Human Rights Matters of the National Human Rights Secretariat, Dr. Andrea Pochak and Dr. Gabriela Kletzel, respectively; and the Director of International Human Rights Litigation of the Ministry of Foreign Affairs, International Trade and Worship of the Nation, Dr. A. Javier Salgado, have the honor to inform the IACHR that they have reached a friendly settlement agreement in the case, the contents of which are set forth below.

I. Background

On October 5, 2010, Diego Pablo Paredes filed a petition before the Inter-American Commission for violation of Articles 8 (judicial guarantees), 24 (equality before the law), and 25 (judicial protection) of the American Convention, in conjunction with Article 1.1 of the same instrument.

In his complaint, the petitioner states that Ángel Pérez, the petitioner's stepfather, was the Recording Clerk of the State Workers' Association of Ramos Mejía, Province of Buenos Aires, and that because of his union militancy, his family were victims of persecution and raids by the security forces during the last civil-military dictatorship.

He indicates that for this reason they were forced to move within the Argentine State, until December 4, 1978, when they managed to travel to Spain, where UNHCR recognized their refugee status.

Due to these circumstances, Mr. Paredes filed a request with the Ministry of Justice and Human Rights for the granting of the benefit established by Law n° 24.043, which was rejected. The petitioner stated before the IACHR that the administrative authority duly acknowledged that the alleged victim was abroad in forced exile, but considered that, in accordance with the decision of the Treasury Prosecutor of the Nation (*Procurador del Tesoro de la Nación*) in Opinion No. 146-06, exile not preceded by deprivation of liberty should not be compensated, since it was not included in the provisions of the aforementioned law. His claim was also rejected in court.

On January 9, 2017, the IACHR referred the original petition to the Argentine State.

On December 6, 2019, the Commission adopted Admissibility Report n°. 193/19. Therein, it declared the complaint admissible with respect to Articles 8, 24, and 25 of the American Convention in conjunction with Article 1.1 of the same instrument.

On August 6, 2020, the Minister of Justice and Human Rights of the Nation instructed the areas involved in the processing of applications for the benefit established by Law n° 24.043 to apply the new doctrine set forth by the Office of the Treasury Prosecutor of the Nation in Opinion No. IF-2020-36200344-APN-PTN. Consequently, the National Directorate of International Legal Affairs in Human Rights Matters of the National Secretariat of Human Rights consulted the Directorate of Management of Reparatory Policies to determine whether the criteria currently in effect would allow the petitioner's claim to be recognized as a situation of exile.

Following its affirmative response, a dialogue was initiated with the petitioner in which the request for reparation was limited to the expeditious granting of the benefit duly requested, without any other claim for reparation of an economic nature, or reparation of any other kind.

The State considers that Mr. Diego Pablo Paredes was a victim of political persecution by the civil-military dictatorship that devastated the Argentine Republic between March 24, 1976, and December 10, 1983. Bearing this in mind, in line with Opinion IF-2022-08499600-APN-SSPYEIDH#MJ of the National Secretariat of Human Rights and in compliance with its international human rights obligations, the Argentine State understands that the petitioner has the right to be adequately compensated for the violations suffered.

II. Measures to be adopted

1. The parties agree that pecuniary reparation will be granted in accordance with the framework provided by Law n° 24.043, considering for this purpose the entire length of time during which Mr. Diego Pablo Paredes remained in forced exile, according to opinion IF-2022-08499600-APN-SSPYEIDH#MJ. That is, from December 4, 1978 to October 28, 1983.

2. The Argentine State undertakes that, within three (3) months as of the publication in the Official Gazette of the Argentine Republic of the Decree of the National Executive Branch approving this agreement, it will issue the ministerial resolution granting the reparation benefit provided established by Law n° 24.043, without additional costs or expenses. The amount of the reparation will be calculated as of the date of the issuance of the aforementioned ministerial resolution.

3. The State also undertakes to comply with the term established in Article 30 of the rules of Chapter V of Law n° 25.344, as set forth in Executive Decree No. 1116/2000.

4. Once the petitioner submits to the National Administration of Social Security [ANSES *in Spanish*] a true copy of the alleged victim's national identity document and the correctly completed form (PS.6.298) requesting the benefit established in Law n° 26.913, as well as signs the affidavit attached as an annex, the Argentine State commits to issue the corresponding resolution within three (3) months.

5. Upon payment of the reparation established in section II.2 of this agreement, the petitioner definitively and irrevocably waives the right to initiate any other pecuniary claim against the State in connection to the facts that gave rise to the instant case.

III. Signature *ad referendum*

The parties state that this agreement shall be approved by a Decree of the National Executive Branch.

The Government of the Argentine Republic and the petitioning party welcome the signing of this agreement, express their full conformity with its content and scope, mutually appreciate the goodwill shown, and agree that, once the Decree of the National Executive Branch is published in the Official Gazette of the Argentine Republic, the Inter-American Commission on Human Rights will be requested, through the Ministry of Foreign Affairs, International Trade and Worship, to adopt the report referred to in Article 49 of the American Convention on Human Rights, at which point the agreement will acquire full legal force.

Three identical copies were signed in the Autonomous City of Buenos Aires, on February 23, 2022.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

10. The IACHR reiterates that, in accordance with 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 to pursue this process expresses the good faith of the State to comply with the purposes and objectives of the Convention pursuant to the principle of *pacta sunt servanda*, by which States must comply with the obligations assumed in the treaties in good faith.² It also wishes to reiterate that the friendly settlement procedure set forth in the Convention allows for conclusion of individual cases in a non-contentious manner, and has proven, in cases involving a variety of countries, to provide an important vehicle for resolution that can be used by both parties.

11. The Inter-American Commission has closely monitored the development of the friendly settlement reached in this case and appreciates the efforts made by both parties during the negotiations to reach this friendly settlement, which is compatible with the object and purpose of the Convention.

12. In accordance with Clause III of the agreement, and in view of the State's confirmation on October 6, 2022, regarding the issuance of Decree No. 673/2022 of the National Executive Branch approving the FSA, as well as the request of the petitioning party of November 23, 2022, to move forward with its approval, it is appropriate at this time to assess compliance with the commitments established in this instrument.

13. With regard to clause II.2, on the issuance of the ministerial resolution granting the reparation benefit established by Law No. 24.043, the Commission notes that on April 17, 2023, the State reported that on January 19, 2023, the Minister of Justice and Human Rights of the Nation issued Resolution RESOL-2023-92-APN-MJ, whereby it granted Diego Pablo Paredes the benefit provided for in Law No. 24.043, establishing the number of days eligible for compensation and the corresponding compensatory amount. This information was brought to the attention of the petitioner. Therefore, the Commission considers, and hereby declares, that

² 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.*

clause II. 2 on the issuance of the ministerial resolution to grant the reparation in favor of Mr. Paredes has been fully complied with and so declares it.

14. On the other hand, regarding clauses II.1 (payment of pecuniary reparation), II.3 (term), and II.4 (resolution under Law No. 26.913) of the friendly settlement agreement, the Commission considers, and hereby declares, that compliance is still pending. Therefore, the Commission considers, and hereby declares, that the friendly settlement agreement has a partial level of compliance. In this respect, the Commission will continue to monitor the implementation of the FSA until full compliance is achieved.

15. Finally, the Commission considers that the rest of the contents of the agreement are of a declarative nature, and therefore, do not fall under its supervision.

V. CONCLUSIONS

1. Based on the foregoing and in keeping with 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 this case, based on respect for human rights and consistent with the object and purpose of the American Convention.

2. Based on the considerations and conclusions contained 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 February 23, 2022.

2. To declare clause II.2 (issuance of ministerial resolution of Law No. 24.093) of the friendly settlement agreement fully complied with, according to the analysis contained in this report.

3. To declare clauses II.1 (payment of pecuniary reparation), II.3 (term), and II.4 (resolution under Law No. 26.913) of the friendly settlement agreement pending compliance, according to the analysis contained in this report.

4. To declare that the friendly settlement agreement has a level of partial compliance, according to the analysis contained in this report.

5. To continue to monitor compliance with clauses II.1 (payment of pecuniary reparation), II.3 (term), and II.4 (resolution under Law No. 26.913) of the friendly settlement agreement, according to the analysis contained in this report. To this end, to remind the parties of their commitment to report periodically to the IACHR on their compliance.

6. To publish the present report and include it in its Annual Report to the General Assembly of the OAS.

Approved by the Inter-American Commission on Human Rights on June 21, 2023. (Signed): Margarette May Macaulay, President; Esmeralda E. Arosemena de Troitiño, First Vice President; Roberta Clarke, Second Vice President; Joel Hernández García; Julissa Mantilla Falcón; Edgardo Stuardo Ralón Orellana y Carlos Bernal Pulido, Commissioners.