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REPORT No. 274/23
CASE 14.887
REPORT ON FRIENDLY SETTLEMENT

BLANCA RUTH SÁNCHEZ DE FRANCO Y FAMILIA
COLOMBIA

Approved electronically by the Commission on November 30, 2023.

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FRIENDLY SETTLEMENT
BLANCA RUTH SÁNCHEZ DE FRANCO AND FAMILY
COLOMBIA¹
NOVEMBER 30, 2023

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On August 2, 2011, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition presented by Mrs. Blanca Ruth Sánchez de Franco, (hereinafter "the petitioner" "the petitioning party" and "alleged victim") alleging the international responsibility of the Republic of Colombia (hereinafter "State" or "Colombian State" or "Colombia"), for the violation of the human rights set forth in Articles 11 (right to privacy) and 24 (right to equal protection) of the American Convention on Human Rights (hereinafter "Convention", "American Convention" or "ACHR"), the lack of investigation of the threatening events that caused the displacement of the victim and her family members and the lack of compensation for the loss of her home.

2. On February 9, 2022, the Commission issued Admissibility Report 12/22, in which it declared the petition admissible and declared its competence to hear the claim presented by the petitioner regarding the alleged violation of the rights contained in Articles 5 (right to humane treatment), 8 (right to a fair trial), and 25 (right to judicial protection) in accordance with Articles 1(1) and 2 of the American Convention.

3. On March 9, 2023, the parties signed a memorandum of understanding for the pursuit of a friendly settlement in which they agreed on a negotiation schedule that materialized with the signing of a friendly settlement agreement (hereinafter "FSA" or "agreement") on May 18, 2023, within the framework of the public act of recognition of international responsibility in the city of Bogotá D.C. Subsequently, on September 13, 2023, the parties submitted a joint report on the progress in the implementation of the FSA and requested the IACHR to homologate it.

4. In this friendly settlement report, in accordance with the provisions of Article 49 of the Convention and Article 40(5) of the Commission's Rules of Procedure, a summary of the facts alleged in the petition is provided and the friendly settlement agreement, signed on May 18, 2023, by the petitioning party and representatives of the Colombian State, is transcribed. Likewise, the agreement signed between the parties is approved and it is agreed that this report will be published in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

II. THE FACTS ALLEGED

5. Mrs. Blanca Ruth Sánchez de Franco, petitioner and alleged victim, alleged the international responsibility of the Colombian State for the displacement suffered by her and her family due to acts committed by armed groups in Colombia, including threats against her and her family, the failure to investigate said acts, and the lack of compensation for the loss of her home.

6. The petitioner stated that the house she owned, where she and her family lived, was located in the municipality of San Vicente, department of Antioquia. She said that on October 15, 2001, as a result of massacres and murders that occurred near her home, together with threats against her and her family, she and her family were forced to leave their home. She stated that on December 3, 2001, as a result of said forced displacement, she was included in the Sole Registry of Attention to the Displaced Population (SRADP) and as of the date of inclusion, she received economic support for housing and maintenance on a quarterly basis. She states that as of May 19, 2011, the State reduced the amount of the assistance.

¹ In accordance with Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the discussion or decision on this case.

7. The petitioner indicated that massacres and murders near her home were frequent and that, prior to abandoning her home, individuals in military uniforms shot at peasants who were traveling on a bus that was passing a hundred meters from her home. In relation to the acts of violence described, she maintained that said individuals gave her two hours to leave her home, threatening her and her family with execution if she did not do so. The petitioner stated that the events occurred were reported to the police of San Vicente; however, she affirmed that at no time did the authorities carry out the pertinent investigations. She alleged that the police officers made fun of her situation, which is why she was unable to file the corresponding complaint.

8. She explained that the economic assistance she received as a result of the forced displacement she suffered was granted by the Presidential Agency for Social Action and International Cooperation (Acción Social) and that these resources, as head of household, were used to support the household and her family. The petitioner alleged that despite various requests to the corresponding authorities, the State has not granted her any assistance or compensation for the loss of her home, thus violating her rights to equality and human dignity, to the detriment of her and her family members.

III. FRIENDLY SETTLEMENT

9. On May 18, 2023, in the city of Bogotá D.C., the parties entered into a friendly settlement agreement, the text of which establishes the following:

FRIENDLY SETTLEMENT AGREEMENT CASE 14.887 BLANCA RUTH SÁNCHEZ DE FRANCO AND FAMILY

On May 18, 2023, in the city of Bogotá D.C., within the framework of the visit of the Inter-American Commission on Human Rights to Colombia, Martha Lucía Zamora Ávila, General Director of the National Agency for the Legal Defense of the State, acting with due authorization on behalf and in representation of the Colombian State, hereinafter the "State" or the "Colombian State," and Mrs. Blanca Ruth Sánchez de Franco on behalf of herself and her family, hereinafter "the petitioner," met and decided to sign this Friendly Settlement Agreement in the framework of Case 14.887 Blanca Ruth Sánchez de Franco and Family, pending before the Inter-American Commission on Human Rights.

FIRST PART: CONCEPTS

For the purposes of this Agreement, the following definitions shall apply:

IACHR or Inter-American Commission: Inter-American Commission on Human Rights.

Moral damage: Injurious effects of the facts of the case that are not of an economic or patrimonial nature, which are manifested through pain, affliction, sadness, distress and anxiety of the victims.

Material damage: Refers to the detriment or violation of the economic rights of the victims and their next of kin as a result of the damage suffered by them. It is made up of the income lost and the expenses incurred and proven as a result of the harmful event².

Inmaterial damage: includes both the suffering and affliction caused to the victims, the impairment of values that are very significant for the persons, as well as the alterations, of a non-pecuniary nature, in the living conditions of the victim or his/her family.³

² I/A Court H.R., Case of Serrano Cruz Sisters v. El Salvador. Merits, Reparations and Costs. Judgment of March 1, 2005. Series C No. 120, par. 150.

³ I/A Court H.R., Case of Caesar v. Trinidad and Tobago. Merits, Reparations and Costs. Judgment of March 11, 2005. Series C No. 123, par. 125.

State or State of Colombia: In accordance with International Public Law, it shall be understood that the signatory subject of the American Convention on Human Rights, hereinafter the “American Convention” or “ACHR” is the Colombian State.

Satisfaction measures: Non-pecuniary measures that aim to ensure the victims' recovery from the harm caused to them⁴.

Parties: State of Colombia, Blanca Ruth Sánchez de Franco and family.

Acknowledgement of responsibility: Acceptance of the facts and omissions attributed to the State and that lead to human rights violations according to international human rights law.

Comprehensive reparation: All measures that objectively and symbolically restore, as far as possible, the victim to the state prior to the commission of the harm.

Representative of the victims: Liliana Lizarazo Flórez and Gustavo Arley Trejos.

Friendly Settlement: Alternative dispute resolution mechanism used for peaceful and consensual settlement before the IACHR.

Victim: Blanca Ruth Sánchez de Franco and family

SECOND PART: BACKGROUND

1. On August 2, 2011, the Inter-American Commission received a petition lodged by Mrs. Blanca Ruth Sánchez de Franco, on her own behalf and on behalf of Bertulio Franco Castaño, William Alonso Franco Sánchez, Giovany Alberto Franco Sánchez, Ángela Patricia Franco Sánchez, Yurany Andrea Franco Sánchez, and Kevin Alexander Franco Sánchez for the forced displacement that occurred on October 15, 2001, in the municipality of San Vicente, Antioquia.

2. The facts of the case refer to the forced displacement suffered by Mrs. Blanca Ruth Sanchez and her family. According to what was mentioned in the proceedings, the victim resided in a house she owned in the municipality of San Vicente, Antioquia. On October 15, 2001, they were forced to leave their home as a result of violence near their home and direct threats against the family.

3. According to the petitioners, the facts were reported to the police of the municipality of San Vicente. However, they stated that the authorities did not take the situation seriously and did not receive the complaint. Thus, in its admissibility report, the IACHR considered that the authorities of the municipality had refused to investigate the facts reported.

4. These facts, as reported by the Directorate of Support to the Investigation and Analysis against Organized Crime (DAIACCO) are registered in the Justice and Peace Information System - folder No. 446520 assigned to Prosecutor's Office 73 assigned to DAIACCO as they are facts attributable to subversive groups. The investigation is in the documentation and verification phase.

5. On March 9, 2023, a Memorandum of Understanding for the Search for a Friendly Agreement was signed.

6. In the following months, joint meetings were held between the parties in order to analyze the reparation measures to be included in the Friendly Settlement Agreement that was signed on this date.

⁴ Some examples of this type of measures are: public knowledge of the truth and acts of atonement.

THIRD: VICTIMS AND POTENTIAL BENEFICIARIES

The Colombian State recognizes the following persons as victims of this agreement:

NAME	ID
Blanca Ruth Sánchez de Franco	[...]
Bertulio Franco Castaño (RIP) ⁵	[...]
William Alonso Franco Sánchez	[...]
Giovany Alberto Franco Sánchez	[...]
Ángela Patricia Franco Sánchez	[...]
Yurany Andrea Franco Sánchez	[...]
Kevin Alexander Franco Sánchez	[...]

The victims who will benefit from this Friendly Settlement Agreement will be those who were alive at the time of the victimizing event⁶.

FOURTH: ACKNOWLEDGEMENT OF RESPONSIBILITY

The Colombian State recognizes its international responsibility by omission, for the violation of the right to humane treatment (Article 5(1)), in relation to the right to a fair trial (Article 8(1)) and to judicial protection (Article 25(1)) established in the American Convention on Human Rights, in relation to the general obligation to respect rights (Article 1(1) of the same instrument), to the detriment of Mrs. Blanca Ruth Sánchez de Franco and her family, due to the lack of diligence in the investigation of the events that occurred, which resulted in the absence of identification, prosecution and punishment of the perpetrators of the forced displacement.

FIFTH: SATISFACTION MEASURES

The Colombian State undertakes to carry out the following measures of satisfaction:

I. Act of acknowledgement of responsibility

The Colombian State shall carry out a Public Act of Acknowledgement of Responsibility, on May 18, 2023, within the framework of the conversations on amicable solutions in Colombia, with the participation of Mrs. Blanca Ruth Sánchez de Franco and one of her daughters, it shall be presided over by Dr. Martha Lucía Zamora Ávila, General Director of the National Agency of Legal Defense of the State and shall be carried out in accordance with the terms of the acknowledgement of responsibility set forth in this Agreement.

This measure shall be in charge of the National Agency for the Legal Defense of the State.

II. Publication of the Article 49 report

The Colombian State shall publish the pertinent sections of the friendly settlement report, once it has been approved by the Inter-American Commission, on the web page of the National Agency for the Legal Defense of the State, for a period of six (6) months.

⁵ In which case, the amounts to be recognized by virtue of the economic compensation under Law 288 of 1996, will be recognized to the beneficiaries according to the succession presented for that purpose.

⁶ The aforementioned based on the jurisprudence of the Inter-American Court of Human Rights. See, I/A Court H.R., Case of the Afro-descendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2013. Series C No. 270, par. 425.

SIXTH PART: HEALTH AND REHABILITATION MEASURES

The Ministry of Health and Social Protection, in exercise of the powers described in Decree Law 4107 of 2011, shall coordinate, the health rehabilitation measures constituting medical, psychological and psychosocial care through the General Social Security Health System and its members, as well as the Psychosocial Care and Comprehensive Health Program for Victims - PAPSIVI, so as to ensure adequate, timely and priority treatment and for as long as necessary (according to medical criteria), in accordance with the legal provisions on the matter.

In providing psychological treatment and psychosocial care, the particular circumstances and needs of each person should be considered, so that they are provided with family and individual treatment, according to what is agreed with each of them and after an individual assessment, based on respect for autonomy and voluntary access.

For a comprehensive health care, access is guaranteed in conditions of opportunity and quality to the medicines and treatments required (including physical and mental health) to the beneficiaries of the measures, in accordance with the provisions governing the SGSSS, while they will have a differential attention by virtue of their status as victims.

These measures will be implemented as of the signing of the friendly settlement agreement.⁷

SEVENTH PART: COMPENSATION MEASURES

The State undertakes to initiate the process of Law 288 of 1996 "Whereby instruments are established for the compensation of damages to victims of human rights violations pursuant to the provisions of certain international human rights bodies". The procedure will begin once this Friendly Settlement Agreement is homologated through the issuance of the Report of Article 49 of the American Convention, with the purpose of repairing the damages caused to the beneficiaries included in the third clause of this agreement as a consequence of the affectations generated by the facts of the present case.

The National Agency for the Legal Defense of the State shall be the entity in charge of the proceedings under Law 288 of 1996.

For the purposes of the indemnification of damages and their verification, the criteria and amounts recognized by the current jurisprudence of the Council of State shall be used.

EIGHT PART⁸: HOMOLOGATION AND FOLLOW-UP

The parties request the Inter-American Commission the homologation of this Agreement and its follow-up.

This Agreement having been read and the parties being aware of its scope and legal content, it is signed on May 18, 2023.

⁷ Ministry of Health and Social Protection. Official letter of July 14, 2022. No. 202216101379281.

⁸ In the original FSA this clause was listed as the seventh clause, but the Commission understands that this is a material error and adjusts the numbering according to the corresponding sequence to facilitate its monitoring.

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.⁹ 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 followed the development of the friendly settlement reached in this case and appreciates 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.

12. In accordance with the agreement signed between the parties whereby they requested the Commission to homologate the friendly settlement agreement contemplated in Article 49 of the American Convention, and taking into consideration the parties' request of September 13, 2023 to move forward in this way, it is appropriate at this time to assess compliance with the commitments established in this instrument.

13. The Inter-American Commission considers that the first (concepts), second (background), third (beneficiaries), and fourth (acknowledgement of responsibility) clauses of the agreement are of a declarative nature, and therefore it is not appropriate to supervise their compliance. In this regard, the Commission values the fourth declarative clause, in which the Colombian State recognizes its international responsibility for the violation of Articles 5.1 (right to humane treatment), 8 (right to a fair trial) and 25 (right to judicial protection) of the American Convention in relation to Article 1. 1. of the same instrument (obligation to guarantee), to the detriment of Mrs. Blanca Ruth Sánchez de Franco and family.

14. In relation to paragraph (i), *act of acknowledgment of responsibility*, of the fifth clause on measures of satisfaction, as jointly reported by the parties, it was held on May 18, 2023 at 3:15 p.m., within the framework of the *“Conversations on Friendly Solutions in Colombia: A step closer to the victims”* at the Universidad Externado de Colombia. The parties reported the existence of a permanent and fluid communication between the State and the petitioners, with whom they agreed on each of the details for the fulfillment of the measure, such as the date, time, agenda and logistics required for its development. In this regard, the event was attended by Mrs. Blanca Ruth Sánchez de Franco, her daughter Yurany Andrea Franco Sánchez, her representative Dr. Adolfo Gutiérrez, as well as the National Agency for the Legal Defense of the State and the Commissioner and Rapporteur for Colombia, Joel Hernández García.

15. Likewise, the parties gave an account of the contents of the agenda agreed upon for the event, which included the signing of the friendly settlement agreement, an opening, the national anthem of Colombia and words by its representative, Mr. Adolfo Gutiérrez. The State's intervention was made by the ANDJE's Director of International Legal Defense, who asked for forgiveness from the victims and their families for what happened, and acknowledged the State's responsibility under the terms established in the friendly settlement agreement signed by the parties, stating the following:

[...]

In this space we deeply regret the events that have occurred and the serious consequences that have been generated for Mrs. Blanca Ruth Sanchez de Franco and her family. Likewise, with admiration I recognize the strength she has had to move her family forward and I hope that the comprehensive reparation measures that the State is implementing will contribute to mitigate the pain and contribute to the tranquility and well-being of her family.

⁹ 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.*

We are witnesses of the pain of leaving what you have built with so much effort to move to an unknown city, to build a new life. You have shown that only through resilience, tenacity, unity and strength you can fight hopelessness, disbelief and even nostalgia. The State recognizes that it had the obligation to investigate, prosecute and punish those responsible for violating the rights of Mrs. Blanca Ruth Sanchez de Franco and her children; it is precisely in recognition of the profound harm that the lack of investigation of the facts caused to Mrs. Blanca Ruth Sanchez and her children that today the Colombian State asks for your forgiveness through this public act of recognition of responsibility.

On December 13, 2011, Mrs. Blanca Ruth Sanchez denounced the fact by filling out the form that, for this purpose, the special justice and peace justice system had provided.

However, the processes carried out in justice and peace have a special nature and have the objective of unveiling macro contexts in which multiple crimes occurred during the Colombian armed conflict. The evidentiary difficulties prevented the clarification of the facts and the identification and individualization of the alleged perpetrators, which also hindered the right of victims to know the truth about what happened, to obtain effective reparation and to advance in their process of forgiveness.

The Colombian State recognizes that the right of access to the administration of justice is an essential prerequisite for the realization of rights and is one of the pillars that support the social and democratic rule of law model. The due administration of justice is a guarantee for the victims who have suffered from the violation of their rights, which must be comprehensively redressed through various measures aimed at the redignification of the person and the vindication of their rights.

Therefore, on behalf of the State of Colombia, I acknowledge the international responsibility for the violation of the rights to judicial guarantees and judicial protection recognized in the American Convention on Human Rights in relation to the general obligation to respect and guarantee established in the same instrument to the detriment of Mrs. Blanca Ruth Sánchez de Franco and her children.

[...]

18. For his part, Commissioner Joel Hernández García, IACHR Rapporteur for Colombia, stated the following:

[...]

[...]

This is a very important moment for the Franco Sanchez family and, of course, for Blanca Ruth. I can imagine the enormous suffering you have endured from the moment you were forcibly displaced in your homeland, in San Vicente Antioquia, and this has been a pain that has accompanied you, your children, putting you in a situation of vulnerability for so many years. You have felt helplessness at not seeing the immediate response of the State to have prevented and remedied this situation. May this act of responsibility, the signing of the friendly settlement agreement and the apology that we have heard from the Director of the National Agency, allow you to close a stage in your lives and may you, as a family, get back on track.

May you be able, Mrs. Blanca Ruth, if you so wish, to return to San Vicente, Antioquia or settle anywhere in this generous land, because it is your right to live in peace, to live in tranquility, to live in security. We are well aware that this act, as several we have had throughout this

week, is inserted in a very complex context of internal armed conflict and that there are many people responsible, illegal groups, groups outside the law and even state actors who generated this climate of violence that has so marked the history of Colombia and of which you and your family have been victims.

But it also seems important for me to point out something, the world has followed the Colombian armed conflict with attention, in the Organization of American States to which this Commission belongs to has always been a reason for special attention and we have felt very proud, Americans, to have seen the beginning of a peace process since 2016, which has had its ups and downs, and has had its difficulties, but today, with acts such as the reconciliation of which we are witnesses, allows us to have a ray of hope for this country to finally reach total peace.

I would like to conclude with a vote of hope that the apothegm of your national anthem that says: "the horrible night has ceased" will finally become a reality, thank you very much.

[...]

19. The act of acknowledgment was registered in the YouTube web page of the National Agency for the Legal Defense of the State¹⁰. In view of the foregoing, and taking into consideration the elements of information described above, the Commission considers that paragraph (i) of clause five of the friendly settlement agreement, related to the act of acknowledgment of responsibility, has been fully complied with and so declares.

20. In relation to paragraph (ii) publication of the report of Article 49, clause five (satisfaction measures), as well as clause six (health and rehabilitation measures) and clause seven (compensation measures) of the friendly settlement agreement, and by virtue of the joint request of the parties to move forward with the homologation of the agreement prior to its execution, the Commission observes that said measures shall be complied with after the publication of this report, and therefore considers that they are pending compliance and so declares it. By virtue of the foregoing, the Commission would await updated information from the parties on their execution subsequent to the approval of this report.

21. Taking into account the foregoing, the Commission concludes that paragraph (i) of the act of acknowledgment of responsibility of the fifth clause has been fully complied with and so declares. Likewise, the Commission considers that paragraph (ii) publication of the Article 49 report, of the fifth clause, the sixth clause (health and rehabilitation measures) as well as the seventh clause (compensation measures) are pending compliance and so declares. Therefore, the Commission considers that the agreement has a level of partial compliance and so declares. Finally, the Commission considers that the rest of the content of the friendly settlement agreement is of a declarative nature and therefore does 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 would like to reiterate its profound appreciation of the efforts made by the parties and its satisfaction that a friendly settlement has been arrived at in the present case on the basis of 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,

¹⁰ See, ANDJE, YouTube, Act of Acknowledgement - Case 14.887 Blanca Ruth Sánchez de Franco and family: https://www.youtube.com/watch?v=UaX_zrXyacU

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the friendly settlement agreement signed by the parties on May 18, 2023.
2. To declare full compliance with item (i) (act of acknowledgment of responsibility) of the fifth clause of the friendly settlement agreement, according to the analysis contained in this report.
3. Declare clause (ii) (publication of the Article 49 report) of clause five, clause six (health and rehabilitation measures) and clause seven (compensation measures) of the friendly settlement agreement to be pending compliance, according to the analysis contained in this report.
4. To continue with the monitoring of the commitments assumed in paragraph (ii) publication of the report article 49 of the fifth clause, the sixth clause (health and rehabilitation measures) and the seventh clause (compensation measures) according to the analysis contained in this report. To this end, remind the parties of their commitment to report periodically to the IACHR on their compliance.
5. To 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 the 30th day of the month of November, 2023. (Signed:) Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, Vice President; Roberta Clarke, Second Vice President; Julissa Mantilla Falcón, Stuardo Ralón Orellana and José Luis Caballero Ochoa, Commissioners.