

TECHNICAL INFORMATION SHEET
PETITION 477-05 X AND FAMILY MEMBERS
FRIENDLY SETTLEMENT REPORT N° 82/08
TOTAL COMPLIANCE
(COLOMBIA)

I. SUMMARY OF THE CASE

Victim (s): X and family

Petitioner (s): José Luis Viveros Abisambra, Nicolás Muñoz Gómez and Diego Fernando Posada Grajales, members of the organization “Indemnizaciones Estatales”

State: Colombia

Report on Friendly Settlement Agreement No.: **82/08** published on October 30, 2008

Related Rapporteurship: Rapporteurship on the Rights of Women

Topics: Humane Treatment/ personal liberty/ judicial guarantees/ right to privacy/ freedom of movement and residence

Facts: According to the petitioners’ allegations, Ms. X and a male friend went out for an aerobic workout in the area of the Atanasio Girardot Stadium near the “El Pesebre” Military Base.

Afterwards, as they began to return home, they were intercepted by three members of the Colombian National Army, in uniform and with their faces covered, who forced them to climb the wire fence surrounding the “El Pesebre” Military Base and to enter the territory under their control. At the Military Base, the petitioners alleged that the ranking sergeant in charge forced by threats Ms. X and her friend to engage in sex.

Then, the Sergeant ordered his subordinates to get a photographic camera and forced Ms. X to adopt certain positions assisted by the other soldiers with the objective of photographing her in the process. The petitioners claim that the sergeant forced Ms. X’s friend to masturbate and then forced her to have sex with him while placing the barrel of his rifle in her mouth. During the rape, Ms. X was able to pull down the scarf covering the Sergeant’s face. Once the rape had finished, and before allowing Ms. X and her friend to go free, the soldiers threatened to implicate them as participants in an attempt against the military if they revealed what had taken place.

Although the sexual aggressor was criminally punished, the petitioners maintain that the State has failed to investigate or punish the other two individuals who participated in the attacks against her.

Rights Alleged: The petitioners allege the responsibility of the State of Colombia for violation of the rights protected by Articles 5 (right to personal integrity), 7 (right to personal liberty), 8 (right to a fair trial), 10 (right to compensation), 11 (right to privacy) and 22 (freedom of movement and residence) of the American Convention on Human Rights in connection with Article 1.1 of the same international instrument, as well as Articles I, V, VII, XI, XVIII and XXVI of the American Declaration of the Rights and Duties of Man.

II. PROCEDURAL ACTIVITY

1. On July 19, 2007, during the IACHR's 128th Ordinary Period of Sessions, the parties signed a friendly settlement agreement.

2. On October 30, 2008, the IACHR approved the friendly settlement agreement signed by the parties in Report No.82/08.

III. ANALYSIS OF COMPLIANCE WITH THE CLAUSES OF THE FRIENDLY SETTLEMENT AGREEMENT

Agreement Clause	Status of Compliance
1. With regard to compensation, the State agrees to apply Law 288 of 1996, for providing reparation for moral and material damages and for damages to life suffered by Ms. X, Mrs. [...], mother of the victim, and by Messrs. [...] and [...], brothers of the victim, as a result of the incidents that took place on September 11 and 12, 2001, near the "El Pesebre" Military Base in Medellin. Fulfillment of this commitment will depend on the formal approval of this agreement by the Inter-American Commission on Human Rights.	Total¹
2. The State agrees to send Ms. X a letter repudiating the incidents that occurred and agrees to adopt measures to ensure non-repetition in the future. This will be a private letter in order to maintain Ms. X's identity strictly confidential.	Total²
3. The State agrees to pay for a full education program at the Metropolitan Technological Institute (Instituto Tecnológico Metropolitano). In the event that Ms. X is not interested in this offer, the State will provide her with a grant of \$30.000.000 Colombian pesos to be administered for the sole purpose of financing her education.	Total³
4. The State agrees to provide Ms. X with medical and psychological care through the Ministry of Social Protection and the appropriate public entities.	Total⁴
5. The parties agree to jointly seek additional measures to provide integral reparation to Ms. X, Mrs. [...], mother of the victim, and Messrs. [...] and [...], brothers of the victim.	Total⁵
6. With regard to justice, the State agrees to: A) The Office of the Attorney General of Colombia to review the decision leading to the closing of the investigation with the purpose of reopening it, guaranteeing the full participation of the victim in order to clarify the incidents and to prosecute and punish all the individuals who were responsible for the incidents that took place. B) If necessary, for the parties to jointly seek legal formulas that would allow the effective exercise of the right to justice.	Total⁶

¹ See IACHR, Annual Report 2010, Chapter II, Section D: Status of Compliance with Recommendations of the IACHR, paras. 339-344.

² See IACHR, Report No. 82/08, Petition 477-05, X and family members, Colombia, October 30, 2009.

³ See IACHR, Report No. 82/08, Petition 477-05, X and family members, Colombia, October 30, 2009.

⁴ See IACHR, Report No. 82/08, Petition 477-05, X and family members, Colombia, October 30, 2009.

⁵ See IACHR, Annual Report 2010, Chapter II, Section D: Status of Compliance with Recommendations of the IACHR, paras. 339-344.

⁶ See IACHR, Annual Report 2010, Chapter II, Section D: Status of Compliance with Recommendations of the IACHR, paras. 339-344.

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared full compliance with the case and ceased monitoring the friendly settlement agreement in its Annual Report 2010.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State delivered the apology letter to the victim through the petitioners.
- The State has provided psychological treatment to the victim and her family members through a CERFAMI Shelters program.
- The victim opted for the grant of \$30.000.000 Colombian pesos to be used solely for her academic training. She has been admitted to the Public Accounting Program of the Business Administration School of the University of San Buenaventura in Medellín.
- The State, through Resolution No. 5109 of September 25, 2009, ordered the deposit of the amount established by way of financial compensation in a petitioners' current account.

B. Structural outcomes of the Case:

- The State, through the appropriate bodies, organized a forum on gender violence at the IV Army Brigade in Medellín, which at the time the incidents took place, had jurisdiction over the “El Pesebre” Battalion, the location where the incidents occurred. The event was attended by 68 members of the Security Services, including Army Officers, NCO’s, soldiers and legal counselors.
- On October 6, 2009, the Fourth Criminal Court of the Specialized Circuit of Medellín handed down an early conviction against two individuals to 84 months in prison.