

**TECHNICAL INFORMATION SHEET**  
**CASE 12.957 LUIS BOLÍVAR HERNÁNDEZ PEÑAHERRERA**  
**FRIENDLY SETTLEMENT REPORT No. 167/18**  
**TOTAL COMPLIANCE**  
**(ECUADOR)**

**I. SUMMARY OF THE CASE**

**Victim(s):** Luis Bolívar Hernández Peñaherrera  
**Petitioner(s):** Luis Bolívar Hernández Peñaherrera and Íñigo Salvador Crepos  
**State:** Ecuador  
**Beginning of the negotiation date:** March 13, 2018  
**FSA signature date:** September 24, 2018  
**Report on Admissibility N°:** 53/14, published July 21, 2014  
**Report on Friendly Settlement Agreement N°:** 167/18, published December 21, 2018  
**Estimated length of the negotiation phase:** 9 months  
**Rapporteurship involved:** Special Rapporteur on Economic, Social, Cultural and Environmental Rights.  
**Topics:** Work under equitable and satisfactory conditions / Economic, Social, Cultural and Environmental Rights

**Facts:** Mr. Peñaherrera was an active member of the Land Force and had attained the rank of Colonel of the Joint Staff. Peñaherrera was highly decorated during his military career and was never sanctioned for military or other acts. Also, while he was Director of the Eloy Alfaro Military Academy this victim encouraged the inclusion of women in the Land Force by accepting the first female cadets (officer candidates) in October 1999, even though the Land Force and the armed forces in general had traditionally opposed the inclusion of women as officers; for that reason, the inclusion of women in the first cadet graduating class was strongly opposed by a group of generals. From the beginning of this initiative, his superiors had let him know “in different ways” their displeasure over his acceptance of women into the Land Force. Despite this, Peñaherrera continued to recruit female cadets. On June 21, 2001, the General Officer’s Council of the Land Force met to vote on colonels to be promoted. The next day the victim was informed that he was “not suitable” for a promotion. The petitioner argued that there was no explanation at all for this decision regarding his alleged unsuitability because he had fulfilled as the legal requirements to be promoted. Furthermore, he alleged that he was told unofficially that his error had been “to heavily promote the idea of letting women in.”

**Rights declared admissible:** The Commission concluded that it was competent to hear the instant case and the petition was admissible in keeping with the rights provided for under Articles 8 (right to a fair trial), 13 (freedom of thought and expression), 24 (right to equal protection), and 25 (right to judicial protection) in connection with Article 1.1 of the American Convention on Human Rights (“the American Convention”).

**II. PROCEDURAL ACTIVITY**

1. On September 24, 2018, the parties signed a friendly settlement agreement.
2. On December 21, 2018, the Commission approved the agreement signed by the parties, by means of Report No.167/18.

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

| Clause of the Agreement  | Status of Implementation  |
|--|---------------------------|
| <b>FOURTH: Responsibility of the State according to the articles admitted by the Inter-American Commission on Human Rights</b>   |                           |
| [...] it bears mention that the Ministry of Defense, in its Human Rights Technical Advisory Report submitted to the office of the Attorney General through memo No. MDN-MDN-2018-0542-OF of April 26, 2018, stated that “considering the importance of protecting the rights under discussion, the State must acknowledge its international responsibility for violation of the human rights set forth in Articles 8, 13, 24, and 25,” which is ratified through this agreement.   | <b>Declarative Clause</b> |
| <b>SEVENTH: FRIENDLY SETTLEMENT AGREEMENT</b>  |                           |
| <p>Following the negotiation process, as stated in the unnumbered letters to the Ministry of National Defense dated December 11 and 19, 2017, setting out the requests and positions of Luis Bolivar Hernandez Peñaherrera, and the counterproposal enclosed in Official Letter No. MDN-MDN-2018-0531-OF of April 23, 2018, from the Ministry of National Defense to Luis Bolivar Hernandez Peñaherrera, it was agreed that by executive decree, as prescribed in Article 25 of the Armed Forces Personnel Law, the President of the Republic will award Luis Bolivar Hernandez Peñaherrera the rank of brigadier general and in the same act order the military discharge of the beneficiary of this agreement.</p> <p>Likewise, following the negotiation process, the parties have agreed that the Ecuadorian State, through the institution responsible for the performance of friendly settlement agreements, shall take the necessary steps before the competent agencies, so that, upon his promotion to Brigadier General and discharge, Luis Bolivar Hernandez Peñaherrera may access the social security rights to which is rank entitles him.</p> | <b>Total<sup>1</sup></b>  |

**IV. LEVEL OF COMPLIANCE OF THE CASE**

3. The Commission declared full compliance with the case and the ceasing of the follow-up of the friendly settlement agreement in the 2021 Annual Report.

<sup>1</sup> See IACHR, Annual Report 2021, Chapter II, Section F: Progress and Setbacks in the Negotiation and Implementation of Friendly Settlement Agreements, Available at: <https://www.oas.org/es/cidh/docs/anual/2021/capitulos/IA2021cap2-es.pdf>.

**V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE**

**A. Individual outcomes of the case**

- The State has accepted responsibility for the events that occurred.
- The State granted Mr. Hernández Peñaherrera the rank of brigadier general and ordered his discharge from the military.
- Mr. Peñaherrera was able to access his military social security benefits.
- The State granted Mr. Hernández Peñaherrera a monthly pension of 3,175.38 or its equivalent (US \$171,590.56).