

TECHNICAL INFORMATION SHEET
PETITION 687-11 GABRIELA BLAS BLAS HER DAUGHTER C.B.B.
FRIENDLY SETTLEMENT REPORT No. [138/18](#)
TOTAL COMPLIANCE
(CHILE)

I. SUMMARY OF THE CASE

Victim(s): Gabriela Blas Blas and Daughter C.B.B.

Petitioner(s): Nancy Yanez, Camila Maturana, Corporación Humanas Centro Regional de Derechos Humanos y Justicia de Género, and Observatorio de los Derechos de los Pueblos Indígenas
State Chile

Start of negotiations: November 25, 2014

Date FSA Signed: June 11, 2016

Report on Friendly Settlement Agreement: [No. 138/18](#), published on November 21, 2018

Estimated duration of the negotiation phase: 4 years

Associated Rapporteurship(s): Office of the Rapporteur on the Rights of Indigenous Peoples, Office of the Rapporteur on the Rights of Women, Office of the Rapporteur on the Rights of the Child

Topics: Indigenous peoples/ Children and adolescents/ Women/ Intercultural perspective/ Police violence/ Arbitrary or illegal detention/ Persons deprived of their liberty/ Family separation /Adoption, guardianship and custody procedure/ Social reintegration

Facts: The petitioners alleged that between July 18 and 23, 2007, Gabriela Blas Blas, along with her son D.E.B., aged 3 years and 11 months at the time, both members of the Aymara indigenous community, were tending their flocks in the commune of General Lagos. After they had finished work and were returning home, the boy got lost. Gabriela Blas Blas looked for him until nightfall but was unable to locate him. The following day, the victim reported her son's disappearance to the police (*Carabineros de Chile*); the state authorities, however, focused on holding Gabriela Blas Blas criminally responsible for the alleged facts. They subjected her to torture and cruel, inhuman, and degrading treatment to extract a confession, as a result of which she was convicted and sentenced to 10 years in prison for abandoning her son and causing his death. The petitioners allege that while Gabriela Blas Blas was being arbitrarily held in detention, she was prevented from seeing her other two children, C.B.B. and R.B.B., as a result of which her minor daughter C.B.B. was given up for international adoption, by means of an allegedly irregular procedure.

Rights allegedly violated: The petitioners alleged that the State of Chile bears international responsibility for violations of Article 1(1) (obligation to respect rights), Article 2 (domestic legal effects), Article 5 (right to humane treatment), Article 7 (right to personal liberty), Article 8(1) (right to a fair trial), Article 17 (rights of the family), Article 19 (rights of the child), Article 24 (right to equal protection), Article 25 (right to judicial protection), and Article 26 (progressive development) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), and for violations of Articles 7 (a) and (b), 8, 9, and 26 of the Convention of Belem do Para.

II. PROCEDURAL ACTIVITY

1. On June 11, 2016, within the framework of a working meeting organized by the Commission, the parties signed a friendly settlement agreement.

2. On November 21, 2018, the Commission approved the friendly settlement agreement in Report No.138/18.

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

Clause of the Agreement	Status of Implementation
1. Acknowledgment of responsibility by the Chilean State	
<p>Organization of a public ceremony to acknowledge the State's responsibility for the serious human rights violations suffered by Mrs. Gabriela Blas Blas, to be defined in conjunction with the petitioner.</p> <p>Said event shall be attended by high-ranking officials of the State, by Mrs. Gabriela Blas Blas's guests, and by organizations that work for women's human rights and the human rights of indigenous peoples.</p> <p>The responsibility acknowledgment ceremony shall be held during 2016, subject to the prior agreement of the authorities and the petitioner.</p>	Total¹
2. Elimination of Gabriela Blas Blas's criminal record	
<p>a) The State of Chile agrees to expunge all records of the conviction handed down against Mrs. Gabriela Blas Blas in the General Register of Convictions of the Civil Registry and Identification Service. To that end, the State agrees to amend Supreme Decree 64 of 1960, expanding the discretionary powers of the Director of the Civil Registry and Identification Service to allow the elimination of judicial records related to international human rights judgments or homologated friendly settlement agreements to which the State of Chile is a party.</p>	Total²
<p>b) Once the homologation of this Friendly Settlement Agreement by the Commission is obtained, the Civil Registry and Identification Service shall proceed to expunge Mrs. Gabriela Blas Blas's criminal record within no more than six months. The signing and processing of the supreme decree amending Supreme Decree 64 of 1960 shall take place before the conclusion of the homologation report.</p>	Total³
3. Provision of means of subsistence for Gabriela Blas Blas	
<p>Granting of a life-time ex gratia pension to Gabriela Blas Blas, equal to two times the minimum monthly wage, and specifically providing that the award shall not constitute disqualification from applying for and/or receiving any other benefit or grant financed by public funds or from pursuing any paid activity.</p> <p>This ex gratia pension was granted by Supreme Decree No. 1,046 on August 11, 2015, with payments starting in October 2015.</p>	Total⁴
4. Adequate housing for Gabriela Blas Blas	
<p>Granting of ownership of a dwelling to Gabriela Blas Blas in the city of Arica, the location and characteristics of which shall be suited to her needs, for which purpose Gabriela Blas Blas shall be consulted regarding her preferences.</p>	Total⁵

¹ Report No. 138/18, Petition 687-11, Gabriela Blas Blas and her Daughter C.B.B., Chile, November 21, 2018, available at <http://www.oas.org/en/iachr/decisions/2018/CHSA687-11EN.pdf>

² Report No. 138/18, Petition 687-11, Gabriela Blas Blas and her Daughter C.B.B., Chile, November 21, 2018, available at <http://www.oas.org/en/iachr/decisions/2018/CHSA687-11EN.pdf>

³ See IACHR, *Annual Report 2022*, Chapter II, Section C. Advances and regressions on negotiation and Implementation of Friendly Settlement Agreements. Available at: https://www.oas.org/en/iachr/docs/annual/2022/Chapters/4-IA2022_Cap_2_EN.pdf

⁴ Report No. 138/18, Petition 687-11, Gabriela Blas Blas and her Daughter C.B.B., Chile, November 21, 2018, available at <http://www.oas.org/en/iachr/decisions/2018/CHSA687-11EN.pdf>

⁵ Report No. 138/18, Petition 687-11, Gabriela Blas Blas and her Daughter C.B.B., Chile, November 21, 2018, available at <http://www.oas.org/en/iachr/decisions/2018/CHSA687-11EN.pdf>

<p>The State agrees to materially present Mrs. Gabriela Blas Blas with the dwelling assigned by means of Resolution No. 891 of the Housing and Urban Development Service of September 1, 2014.</p> <p>Regardless of the foregoing, the State agrees to provide Mrs. Gabriela Blas Blas with a temporary housing solution, as soon as possible, in the city of Arica, for the time necessary until the material presentation of the definitive dwelling referred to in the previous paragraph.</p>	
<p>5. Include in the adoption proceedings of the child C.B.B. background information on the processing of the petition before the Commission, together with post-adoption information about the child, and take steps to reestablish ties with Mrs. Gabriela Blas Blas and her family</p>	
<p>a) Convey to the Receiving State full information on Mrs. Gabriela Blas Blas's case and the circumstances surrounding the adoption of the child C.B.B., in order to place in context, the request for information and other special measures that will be presented to the Receiving State as detailed below. The information sent to the Receiving State shall include, at least, the complaint before the Inter-American Commission on Human Rights, the request for precautionary measures, and full background information on this Friendly Settlement Agreement.</p>	<p>Total⁶</p>
<p>b) Ask the Receiving State, that in the event that the child C.B.B. chooses to request information on her biological origin upon reaching adulthood, to provide her with full information on Mrs. Gabriela Blas Blas's case and the circumstances surrounding her adoption. To that end, the Receiving State will be asked to include the following information in the corresponding dossier: the complaint lodged with the Commission, the request for precautionary measures, the background information of this Friendly Settlement Agreement, and the homologation report to be issued in due course by the Commission.</p>	<p>Total⁷</p>
<p>c) In consideration of the best interests of the child and of her right to a family and an identity, to ask the Receiving State to send the background of the complaint lodged with the Commission, the request for precautionary measures, the background of this Friendly Settlement Agreement, and the court records of the proceedings dealing with the admissibility of the child C.B.B.'s adoption to the adoptive parents of the child C.B.B., safeguarding their privacy and keeping their identities confidential, so they may at a later date assess the possibility of informing the child of those facts and analyze the feasibility of reestablishing ties with her birth mother, before the child reaches majority. Should the adoptive parents agree to reestablish those ties, the State of Chile shall undertake to provide psychosocial assistance to all parties involved in that process in Chile.</p>	<p>Total⁸</p>
<p>d) Safeguarding the privacy of the child and of her adoptive family and keeping their identities confidential, the Receiving State shall be asked to provide post-adoption information on the child C.B.B., covering her psychosocial condition, adaptation, health, and development, and to convey that information to the birth mother. The State of Chile further commits to hand over all the background information sent by</p>	<p>Total⁹</p>

⁶ Report No. 138/18, Petition 687-11, Gabriela Blas Blas and her Daughter C.B.B., Chile, November 21, 2018, available at <http://www.oas.org/en/iachr/decisions/2018/CHSA687-11EN.pdf>

⁷ See IACHR, Annual Report 2020, Chapter II, Section F. Negotiation and Implementation of Friendly Settlement Agreements. Available at: www.oas.org/en/iachr/docs/annual/2020/Chapters/IA2020cap2-en.pdf

⁸ Report No. 138/18, Petition 687-11, Gabriela Blas Blas and her Daughter C.B.B., Chile, November 21, 2018, available at <http://www.oas.org/en/iachr/decisions/2018/CHSA687-11EN.pdf>

⁹ Report No. 138/18, Petition 687-11, Gabriela Blas Blas and her Daughter C.B.B., Chile, November 21, 2018, available at <http://www.oas.org/en/iachr/decisions/2018/CHSA687-11EN.pdf>

<p>the Receiving State to date, while protecting the privacy of the child and her adoptive family and keeping their identities confidential.</p>	
<p>e) The State of Chile also commits to include the complaint lodged with the Commission, the request for precautionary measures, the background of this Friendly Settlement Agreement, the court records of the proceedings dealing with the susceptibility of the child C.B.B. to adoption, and the homologation report to be issued in due course by the Commission in C.B.B.'s adoption case file currently held in the general archive of the Civil Registry and Identification Service, should the child choose to request information on her biological origins upon reaching the age of adulthood.</p>	<p>Total¹⁰</p>
<p>6. Guarantees of non-repetition</p>	
<p>The State commits to:</p> <p>Develop a nationwide training program for members of the judiciary, the Public Prosecution Service, the Public Criminal Defense Office, the Legal Assistance Corporation, the Carabineros of Chile, the Investigations Police, the Gendarmerie of Chile, and the National Children's Service, covering the topics of indigenous women's human rights and access to justice. This program will focus on compliance with international equality and nondiscrimination obligations, indigenous women's human rights, access to justice, the special protection due to indigenous children, and the enforcement of the relevant legal standards as defined by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights and set out in documents including the Commission's report "Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application. Updates from 2011 to 2014" and the report "The Right of Boys and Girls to a Family. Alternative Care. Ending Institutionalization in the Americas" (OEA/Ser. /V/ II. Doc. 54113, October 17, 2013). The training program is to be designed during the second half of 2016, for implementation to begin in the second half of 2017; subsequently, reports on its deployment will be sent to the Commission.</p>	<p>Total¹¹</p>
<p>Establish, in the second half of 2016, in conjunction with the petitioners, a Working Panel, coordinated by the Ministry of Justice and Human Rights, to develop a series of comments and proposals on a bill to amend current Law No. 19.620, which sets provisions governing the adoption of minors, in order to incorporate the principle of inter-culturalism into adoption processes. That panel will assess and consult with the competent public agencies regarding the feasibility of submitting the proposal to an indigenous consultation procedure in compliance with ILO Convention 169.</p>	<p>Total¹²</p>

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 2023 Annual Report.

¹⁰ See IACHR, Annual Report 2020, Chapter II, Section F. Negotiation and Implementation of Friendly Settlement Agreements. Available at: www.oas.org/en/iachr/docs/annual/2020/Chapters/IA2020cap2-en.pdf

¹¹ See IACHR, Annual Report 2023, Chapter II, Section C. Advances and regressions on negotiation and Implementation of Friendly Settlement Agreements. Available at: https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_2_ENG.PDF

¹² See IACHR, Annual Report 2023, Chapter II, Section C. Advances and regressions on negotiation and Implementation of Friendly Settlement Agreements. Available at: https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_2_ENG.PDF

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The Chilean State held an act of acknowledgment of responsibility.
- An ex gratia pension was established for Gabriela Blas Blas.
- A house was allocated to Gabriela Blas Blas in the city of Arica.
- Gabriela Blas Blas was given information on the fate of her daughter, which included documentation from reports following up on her adaptation in the new family, her physical and mental development, and her relations with her surroundings, major events, regular evaluations, and photographs of the girl.
- Background information on the international proceedings was included in the adoption case file held by the State's Civil Registry and Identification Service so that, should C.B.B. decide to seek information about her origins upon reaching majority, she will be able to learn where she came from and that her adoption arose from a violation of human rights and not from parental abandonment.
- The State incorporated information about her biological origins into the receiving State's record so that C.B.B. on coming of age, will have access to complete information on her origins and the violation of her human rights in the context of her adoption.
- The State introduced the complaint filed with the Commission, the request for precautionary measures, and the background documentation related to the Friendly Settlement Agreement into the judicial record of the adoption proceeding concerning the girl C.B.B. so that C.B.B., on coming of age, will have the complete information concerning her origins and the violation of her human rights in the context of her adoption.
- Mrs. Gabriela Blas Blas' criminal record related to the facts of the case was expunged.

B. Structural outcomes of the case

- Executive Decree No. 64 of 1960 was amended to include new grounds for extending the powers granted to the Director of the Civil Registry and Identification Service for eliminating criminal records in accordance with the international decisions adopted in the inter-American system.
- Two working meetings were held with the judiciary, the Public Criminal Defense Office, the Gendarmes of Chile (GENCHI), and the Public Prosecution Service, for the incorporation into their training activities of the topics addressed in the friendly settlement agreement reached in this case.
- On December 7, 2017, the Working Panel was set up, whose membership included an intercultural facilitator from the Public Criminal Defense Office, to develop comments and proposals on a bill to amend Law No. 19.620 on adoption of minors and incorporate the principle of inter culturalism in adoption processes.
- The Office of the Undersecretary of Human Rights, through its Promotion Division, provided training in human rights through its programs to 993 officials in 2018. As of September 21, 2019, that number had risen to 1,230.
- The first virtual course "Human Rights of Indigenous Women and special protection of Indigenous Children and Adolescents" was launched. It will last 20 hours and consists of four modules. The first session of the virtual course was attended by 300 officials from 10 institutions. As of the first half of 2023, 2,002 civil servants from six institutions nationwide had participated in the course, of whom 1,100 successfully passed the course. It is estimated that by December 2023, the course will have covered approximately 5,000 civil servants.
- The Judicial Academy incorporated the virtual course "*Native Peoples, Afro-descendant Tribal People and Access to Justice in Chile,*" which, as of July 2023, had been imparted to a total of 185 judicial officials.
- The Public Prosecutors' Office conducted mandatory training on access to justice and intersectionality, incorporating elements of gender, belonging to indigenous peoples, and the

rights of children and adolescents. The training targeted 80 civil servants at different levels in the institution.

- A Round table of Experts was formed to develop a proposal for the formulation of recommendations to the Bill that modifies the current Law No. 19.620, which establishes rules on the adoption of minors. The Expert Roundtable met on five occasions and identified seven critical issues on this matter. In addition, the technical report of the Working Panel on Interculturality and Adoption Processes was prepared, which contains proposed amendments to the bill to reform Law No. 19,620, as well as five proposals to solve the critical issues identified.