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REPORT No. 91/19

Case 13.017 C

FRIENDLY SETTLEMENT REPORT

**RELATIVES OF THE VICTIMS OF THE MILITARY
DICTATORSHIP, OCTOBER 1968 TO DECEMBER 1989
PANAMA**

Electronically approved by the Commission on June 25 2019.

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FRIENDLY SETTLEMENT REPORT
RELATIVES OF THE VICTIMS OF THE MILITARY DICTATORSHIP,
OCTOBER 1968 TO DECEMBER 1989.
PANAMA
JUNE 25, 2019¹

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On October 23, 2003, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission," "the Commission," or "the IACHR") received a petition presented by Alberto Santiago Almaza Henríquez, General Director of the Office on Follow-up to the Objectives of the Truth Commission, and Jacinto González Rodríguez, member of the legal team of the Office on Follow-up to the Objectives of the Truth Commission, in representation of the Héctor Gallego Committee of Murdered and Disappeared Relatives of Panama (COFADEPA-HG for its name in Spanish) and the Committee of the Relatives of the Disappeared of Chiriquí (COFADECHI for its name in Spanish) (hereinafter "the petitioners") on behalf of the relatives of victims of the military dictatorship that was in place in Panama between 1968 and 1989, against the Republic of Panama (hereinafter the "Panamanian State," "Panama," or the "State"). The petitioner alleges that, in the context of violence and abuse of power that prevailed during the military dictatorship in place in Panama from October 11, 1968, through December 20, 1989, 109 people (hereinafter "the alleged victims") were the victims of extrajudicial executions or forced disappearances allegedly at the hands of members of State security forces.

2. The petitioners alleged that the State of Panama violated articles 4 (right to life), 5 (humane treatment), and 7 (right to personal liberty), enshrined in the American Convention on Human Rights (hereinafter the "Convention" or the "American Convention"), to the detriment of the alleged victims. They also allege that the State was responsible for the violation of Article I (right to life, liberty, and personal security) of the American Declaration of the Rights and Duties of Man (hereinafter "the American Declaration"), as well as articles I, III, and XI of the Inter-American Convention on Forced Disappearance of Persons. Regarding admissibility requirements, they argued that their petition was admissible because in the cases in which domestic remedies had not been exhausted, the exceptions established in Article 31(2) of the Rules of Procedure of the Inter-American Commission on Human Rights (hereinafter "the Rules of Procedure") were applicable.

3. On October 27, 2015, the IACHR issued Admissibility Report 68/15. In its report, the IACHR concluded that it had competence to examine the alleged violation of the following articles: a) 3 (right to recognition of juridical personality), 4 (right to life), 5 (right to humane treatment), 7 (right to personal liberty), 8 (fair trial), and 25 (judicial protection) of the American Convention, in conjunction with the obligations established in articles 1(1) and 2 of the Convention, to the detriment of the 39 alleged victims presumably disappeared; b) I, III, and XI of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of the 39 allegedly disappeared victims; c) 19 (rights of the child) of the American Convention, to the detriment of the two minor children allegedly disappeared; d) I, XXV and XXVI of the American Declaration, to the detriment of the 28 alleged victims allegedly executed prior to June 1978; e) 4 (right to life), 5 (right to humane treatment), 7 (right to personal liberty), 8 (fair trial), and 25 (judicial protection) of the Convention to the detriment of the 39 alleged victims allegedly executed after June 1978; f) 19 (rights of the child) of the American Convention to the detriment of the minor child allegedly executed extrajudicially; g) 5 (right to personal integrity), 8 (fair trial), and 25 (judicial protection) of the American Convention, in conjunction with the obligations established in Articles 1(1) and 2 of that instrument; and h) XVIII of the American Declaration, to the detriment of the families of all of the 106 alleged victims.

¹ Commissioner Esmeralda Arosemena de Troitiño, of Panamanian nationality, did not participate in the discussion and decision on this case, pursuant to Article 17(2)(a) of the Rules of Procedure of the IACHR.

4. In December 2018, the Commission was informed that the parties had begun bilateral negotiations of a friendly settlement agreement. Additionally, the parties reported that between 2003 and 2005, a Truth Commission was operating in Panama, and that in 2010, it established a roundtable for reconciliation with the participation of the State and organizations of the relatives of victims.

5. On February 12, 2019, the parties held a working meeting in Bolivia in the framework of the 171st Period of Sessions of the Commission, facilitated by Commissioner Flávia Piovesan in her capacity as Country Rapporteur. Later, on May 23, 2019, the parties held a working meeting facilitated by the Country Rapporteur during which they signed a friendly settlement agreement (hereinafter the "FSA" or "agreement") regarding the 15 victims represented by the organization COFADECHI.

6. On June 20, 2019, the parties forwarded to the IACHR a communication indicating the approval of the FSA by the Cabinet Council through Cabinet Decree No. 16 of June 11, 2019, published in the Official Gazette Digital No 28794-A of Wednesday June 12, 2019 and No. 29794-B, as well as the proof of its publication in the Official Gazette, and requested its approval.

7. Regarding this, it should be noted that the Panamanian State is in the advanced stages of friendly settlement negotiations regarding the other victims, and that this approval report covers only the 15 victims and 66 relatives who signed this FSA.

8. Pursuant to the provisions of Article 49 of the Convention and Article 40(5) of the Rules of Procedure of the Commission, this friendly settlement report will include an overview of the facts alleged by the petitioner and the text of the friendly settlement agreement, as signed on May 23, 2019 by the petitioner and the representatives of the Panamanian State. Likewise, the agreement signed by the parties is approved, along with the publication of this report in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

II. ALLEGED FACTS

9. The petitioners alleged the forced disappearance and extrajudicial execution in Panama of 109 persons between October 1968 and December 1989. According to their allegation, these violations were committed by officials of the military regime, under the general policy instituted by the military government of eliminating the opposition.

10. The petitioners alleged that during the dictatorship, officials of the National Guard dissolved the National Assembly and named a Provisional Government Junta, which was run by the military. They also alleged that over that period, political activity was essentially suppressed by a harsh military regime that engaged in the persecution and arbitrary, systematic detention of those who opposed the dictatorial government. Specifically, they alleged that a plan of repression was conducted against community leaders, student movements, and supporters of the Civic Front [Frente Cívico] who did not support the military government, and that this repression manifested itself in many acts of violence which, it is alleged, was the reason for the increase in the number of armed clashes, incarcerations and deaths in unexplained circumstances that occurred during this period.

11. Within this context of violence and abuse of power, the petitioners alleged violations of the fundamental rights of 109 persons. For each alleged victim, the petitioners described the particular facts of the rights violations that were documented by the Truth Commission, and detailed the judicial activity that took place in connection with those facts. They also described the profile of the victims, saying that they were young people at the time of their death or disappearance, and most of them came from low-income social groups.

12. According to the petitioners, 39 people were the victims of forced disappearances, two of which were perpetrated against children. In addition, they alleged that 70 people were allegedly the victims of extrajudicial executions, one of which was an attack on the life of a girl. All these violations were allegedly attributable to members of the Panamanian Army.

13. Regarding exhaustion of domestic remedies, the petitioners stated that in 103 of the 109 cases,² the facts were presented to the pertinent authorities between 1970 and 2003. They stated that most of the cases remained at the preliminary investigation stage, some for more than 36 years at the time the petition was presented, or else the accused were acquitted. They also stated that of all the above-mentioned proceedings, only six judgments had been handed down, encompassing 14 of the cases presented by the petitioners, since one judgment convicted those responsible for the extrajudicial execution of nine alleged victims identified by the petitioners. Of the remaining five judgments to convict, two were judgments in default.³ With regard to the remaining 89 cases, the petitioners reported that 33 were at the pre-trial investigation stage, and that appeals had been filed in 11 of them, but not yet decided. Eight cases had been closed, and three had been barred by the statute of limitations. The court authorities had decided for the dismissal in 26 cases. Five acquittals had been decided; in one case, those allegedly responsible had been pardoned, and in two cases, the files could not be found.

14. Lastly, they alleged that, despite the fact that court judgments had been issued in some of the cases, a structural situation of impunity exists in Panama vis-a-vis the crimes committed during the military dictatorship. This situation, in the petitioners' view, was the result of the manipulation of the justice system by those responsible for the State terrorism. In this regard, they stated that this alleged impunity was consolidated by using procedural mechanisms such as invoking expiration of the statute of limitations on criminal proceedings, and denial of justice, which became quite clear in the proceedings brought by the families of the victims.

III. FRIENDLY SETTLEMENT.

15. On May 23, 2019, the parties signed a friendly settlement agreement with support from Commissioner Flávia Piovesan in her capacity as Country Rapporteur, to the benefit of 15 victims and 66 of their relatives. The following is the text of the friendly settlement submitted to the IACHR on May 23, 2019:

CASE 13.017 C
RELATIVES OF THE VICTIMS OF THE MILITARY DICTATORSHIP, OCTOBER 1968 TO
DECEMBER 1989.
FRIENDLY SETTLEMENT AGREEMENT
BETWEEN THE ASSOCIATION KNOWN AS THE COMMITTEE OF THE MURDERED AND
DISAPPEARED RELATIVES OF CHIRIQUI (COFADECHI) AND THE PANAMANIAN STATE.

The Republic of Panama sends its best regards to the Honorable Inter-American Commission on Human Rights and takes this opportunity to address the Friendly Settlement Process that the governments of the Republic of Panama is pursuing with the Association known as the **Committee of the Murdered and Disappeared Relatives of Chiriquí**, an organization registered in the Public Registry of the Republic of Panama under liquidation registry number 1402121680 as a nonprofit legal entity under Notarized Record 1085 of the Office of the First Notary of the Chiriquí Circuit, hereinafter **COFADECHI**, pursuant to Article 40 of the Rules of Procedure of the Inter-American Commission on Human Rights.

The Panamanian State is pleased to inform the Honorable Commission that, on consent by both parties on May 17, 2019, the friendly settlement process between the Republic of Panama and **COFADECHI** has satisfactorily come to a conclusion with the commitment from the State

² According to the petition, no judicial proceedings were held in the cases of the following alleged victims: Javier Sánchez, disappeared in 1969; Carlos Milar González Caballero, disappeared in 1969; Marta Morán Jiménez, disappeared in 1989; Leopoldo Rafael Allen Serracín, executed in 1969; Walter Sandiñas Iguini, executed in 1970; and Tomás Rojas Hinestroza, executed in 1979.

³ The petitioners indicate that the five remaining cases in which sentences were issued were: the execution of Father Nicolás Johannes Van Kleef Filcz: a judgment in 1992 sentenced the accused, Olmedo Espinoza Espinoza, to 16 years in prison, which was upheld by the Supreme Court of Justice; the forced disappearance of Father Jesús Héctor Gallego Herrera in 1993: a jury of conscious sentenced three military officers to 15 years in prison; the execution of Daniel Simóné Hernández: a sentence was handed down in absentia in 1995; the execution of Hugo Spadafora Franco: a sentence handed down by the Superior Court of the Third Judicial District, Chiriquí; the execution of Yito Barrante Méndez: a sentence issued in absentia.

that is based on respect for the human rights enshrined in the American Convention on Human Rights, the American Declaration, and other applicable elements, such as the case law of the Inter-American Court on the subject.

The Minister of Foreign Affairs, **HER EXCELLENCY ISABEL DE SAINT MALO DE ALVARADO**, will present this agreement to the Council of the Cabinet, which has the authority, based on Article 200 subparagraph 4 of the Political Constitution, to “resolve with the President of the Republic to settle or submit to arbitration any litigation to which the State is party, for which approval by the Attorney General of the Nation is required...”

In this regard, we are pleased to present the document finalizing this friendly settlement arrangement and the clauses agreed-upon, taking as a reference the standards on reparations for damages developed by the inter-American human rights system:

1. Pecuniary damage.

Entails a loss of, or detriment to, the income of the victims [and their relatives, where applicable], the expenses incurred as a result of the events, and the pecuniary consequences that may have a cause-effect link with the events in the case. Therefore, as applicable, the compensation amount shall be set with the aim of compensating for the financial impacts of the violations declared. This amount is divided into indirect damages and loss of future earnings.

a. Indirect damages.

The indirect damages include harm to or material destruction of property, independent of other effects to wealth or of any other nature, that may result from the act causing it and includes the value of the property destroyed, the expenditures made to obtain information on the whereabouts of the victims, and any additional costs that the violation committed may have caused to victims and their family members.

The Inter-American Court has found in prior cases that pecuniary damages include the various expenditures made by relatives to discover the whereabouts of the victim in response to a cover-up of what happened and a refusal by authorities to investigate the facts. These expenditures include visits to government institutions and expenditures on transportation, lodging, and other things.

In this case, the relatives of the victims organized into the association known as the Committee of the Murdered and Disappeared Relatives of Chiriquí **COFADECHI** have consistently made tremendous efforts in attempting to locate the remains of their disappeared relatives, and toward this, the families filed the corresponding complaints with the National Investigations Department (DENI), which existed at the time.

Complaints were filed over the course of more than 50 years, as noted in the various case files from the different prosecutor’s offices of the province of Chiriquí and other provinces. In some cases, the deaths and disappearances of some of the victims have been established, representing violations of their rights to life, as enshrined in Article 19 of the Constitution of 1946, Article 1 of the American Declaration of the Rights and Duties of Man, and Article 3 of the Universal Declaration of Human Rights, with the latter being a case of crimes against humanity, given the violent deaths and disappearance of the victims.

b. Loss of future earnings.

Loss of future earnings is recognized as financial damages suffered as a direct results of the violation—that is, the earnings lost or the reduction in future wealth.

The Final Report of the Truth Commission of Panama, (“La verdad os hará libres” - Panamá: Comisión de la Verdad, 2002, 219 p. ISBN 9962-8837-0-9) presents the stories of the victims, including the testimony of how many productive men and women were tortured, mistreated, executed, and disappeared, all of whom had their corresponding work and activities that enabled them to support their families.

2. Non-pecuniary Damages.

According to the Inter-American Court of Human Rights, non-pecuniary damage may include distress and suffering caused directly to the victims or their relatives, tampering with individual core values, and changes of a non-pecuniary nature in the living conditions of the victims or their families.

In the case of victims of death and forced disappearance, it is assumed that the victim suffered extreme anguish prior to being executed by members of the military dictatorship, and in the case of the members of **COFADECHI**, the disappearance and death of their relatives caused and continued to cause the families to experience anguish, uncertainty, desperation, powerlessness, and frustration. Additionally, 50 years later, some of those responsible for the deaths and disappearances have been found, brought to justice, and sentenced. But some of the individuals accused remain fugitives for crimes against humanity, increasing the suffering of the victims’ families.

Other aspects have affected the relatives, who on one hand, have not been able to mourn the possible deaths of their disappeared family members, causing, even years later, instability and pain for the relatives of the victim; and on the other hand, the lack of a location where the remains of the victims are laid to rest keeps the families mired in uncertainty as to their whereabouts.

3. Payment of pecuniary Reparations.

The parties recognize the technical actuarial expert witness reports prepared by Mr. Marcelo Araúz Moreno, economist, license number 265 and Certified Public Accountant number 0633-2009, delivered at the request of the Ministry of the Economy and Finance on April 13, 2019, regarding the damages suffered by the relatives of the victims of the military dictatorship, those being the following individuals:

1. Julio Mario Villarreal de las Casas
2. José Manuel Morantes Madrid
3. Everett Clayton Kimble Guerra
4. Ariosto González Gómez
5. Cruz Mojica Flórez
6. Candelario Torres Sánchez
7. Julio Alberto Samudio Silvera
8. Luis Antonio Quiróz Morales
9. Cecilio Fuentes Justavino
10. Diego Villarreal Serrano
11. Alonso Sabin Castillo
12. Edwin Eredio Amaya
13. Marta Morán Jiménez
14. Félix Antonio Serrano Rodríguez
15. Carlos Efraín Guzmán Baúles

In ANNEX A of this Agreement, the parties include a list of relatives of the victims recognized by the parties in connection with Case 13.017 C "Relatives of the Victims of the Dictatorship

of Panama of October 1968 to December 1989," which they consider to be consistent with the Final Report of the Truth Commission of Panama. The parties view Annex A as an integral part of this friendly settlement agreement.

Through the Ministry of the Economy and Finance, the State commits to reviewing the aforementioned actuarial expert witness reports to determine if they comply with the procedures established by the Ministry of the Economy and Finance and Panamanian legislation on compensation in cases involving human rights and crimes against humanity.

The State shall designate the Ministry of Economy and Finance as the entity in charge—on behalf of the Republic of Panama—of diligently and on a timely basis executing the procedures for payout of the aforementioned financial obligations, **without collecting the corresponding income tax**, as established as a precedent and commitment by the State in Article 7 of Cabinet Decree 42 of November 13, 2012, published in Official Gazette 27164-A of Thursday, November 15, 2012.

The petitioners definitively and irrevocably renounce the opportunity to bring any other pecuniary claim against the National State in connection with this case.

4. Measures of satisfaction and guarantees of non-repetition.

This section covers compliance with the second reparations modality of nonpecuniary damages to which the Court's case law refers. Due to its nature, it cannot be financial. Rather, its purpose must be to dignify the victims of the facts, while at the same time guaranteeing that human rights violations are not repeated in the future.

According to the Inter-American Court of Human Rights, this involves measures of satisfaction that seek to redress non-pecuniary damages that are not pecuniary in nature, as well as measures with a public scope or impact. In the same regard, the Court has also established that these measures are to address "other injurious effects of the facts, which are not financial nor pertaining to the estate, and which could be redressed by acts carried out by the authorities, including investigation and punishment of those responsible and which vindicate the memory of the victim, provide consolation to his relatives and signify official reproof of the human rights violations that took place, and that involve a commitment to non-recidivism of facts such as those of the instant case."

4.1. Public statement on the facts.

The State commits to making a public statement of Apology and Recognition of International Responsibility to accept and take responsibility, as the State, for the facts that took place. During this act, the State commits to publicly asking forgiveness of the **COFADECHI** relatives for the facts reported to the Inter-American Commission on Human Right.

The act will be carried out in the province of Chiriquí and in the presence of State authorities, COFADECHI relatives, and the COFADEPA relatives who wish to participate.

The State likewise commits to publishing a public statement in a newspaper with national circulation and in the Official Gazette; it also commits to delivering a copy of this statement to each of the petitioners named in the Friendly Settlement Agreement, **COFADECHI** members.

4.2. Investigate and punish those responsible.

The parties declare and recognize the progress made and the positive balance of the State's actions to investigate and convict in the following cases:

- a. Everett Clayton Kimble (case N°CV-D-049-01) with a criminal conviction from the Supreme Court of Justice.
- b. Edwin Eredio Amaya (case N°CV-D-007-01) with a criminal conviction from the Second Criminal Chamber of the Second Higher Prosecutorial District of the First Judicial District.
- c. Julio Mario Villarreal De las Casas (case N°CV-D-102-01) with a criminal conviction for crimes against human life, handed down by the Higher Court of the Third Judicial District of Chiriquí on September 19, 2012, as well as subsequent judgments of the Supreme Court of Justice from its Second Criminal Chamber of August 31 and November 27, 2015.
- d. José Manuel Morantes Madrid (case N°CV-D-066-01) with a criminal conviction for crimes against human life, handed down by the Higher Court of the Third Judicial District of Chiriquí on September 19, 2012, as well as subsequent judgments of the Supreme Court of Justice from its Second Criminal Chamber of August 31 and November 27, 2015.

4.3. Monument to memorialize those murdered and disappeared

The State commits to replace the plaque of the obelisk located in the Municipal Plaza of Volcán, Chiriquí province, which was built to memorialize those murdered and disappeared during the military dictatorship in Panama.

5. Timeline for execution.

Once the actuarial studies indicated in part three of this agreement have been reviewed, the State commits to comply with paying the pecuniary reparations to each of the beneficiaries of **COFADECHI** within a period of time that is both brief and fair for the relatives of the victims. Likewise, the State commits to comply with its other obligations under this friendly settlement agreement within this same period of time.

6. Approval, follow-up.

The parties asked the Inter-American Commission on Human Rights to issue its approval once this agreement is signed. Once this agreement is signed, the parties will present the Friendly Settlement document to the Inter-American Commission on Human Rights for approval and publication, pursuant to the provisions of Article 49 of the American Convention on Human Rights and 40(5) of the Rules of Procedure of the Inter-American Commission on Human Rights.

The parties asked the Inter-American Commission on Human Rights to continue following up on the other points that remain pending compliance subsequent to the issuance of the approval report by requesting compliance reports and by holding regular meetings with the parties every two months.

7. Publication and conclusion of the agreement.

Compliance and conclusion of the preceding before the Inter-American Commission on Human Rights shall be verified and accepted as concluded with the issuance of a Cabinet Decree, published in the Official Gazette of the Republic of Panama, indicating that the Friendly Settlement Agreement between the parties has been substantively complied with, or at least that there is unmistakable evidence that execution of compliance with financial reparations for pecuniary and nonpecuniary damages caused to the victims and to the petitioners and beneficiaries has begun, and that the State is willing to comply with the commitments made herein.

8. Oversight and compliance.

This agreement and compliance with it will be overseen by the Inter-American Commission on Human Rights, which reserves its authority to continue processing the case should circumstances require.

ANNEX A
CASE 13.017 C RELATIVES OF THE VICTIMS OF THE MILITARY DICTATORSHIP, OCTOBER 1968
TO DECEMBER 1989.
List of victims and their relatives

N°	Victim name	Number of case before the Truth Commission of Panama	Name of relative of the victim	Relationship to the victim	N°
1	Julio Mario Villarreal De Las Casas	CV-D-102-01	Julio Mario Villarreal Castillo	Son/Petitioner	1
2	José Manuel Morantes Madrid	CV-D-066-01	Edgar Morantes	Son/Petitioner	2
			Edis Vda. de Morantes	Widow	3
			Ricardo Adolfo Morantes Araúz	Son	4
			José Manuel Morantes Araúz	Son	5
3	Everett Clayton Kimble Guerra	CV-D-049-01	Mary Ann Kimble Guerra	Sister/Petitioner	6
			Christie Carrol Murgas Bernal	Daughter	7
4	Ariosto González Gómez	CV-A-032-01	Arelys Gonzalez	Daughter/Petitioner	8
			Yenis Gonzalez Gonzalez	daughter	9
			Reina Gonzalez Gonzalez	daughter	10
			Daisy Gonzalez Gonzalez	daughter	11
			Ariosto Gonzalez Gonzalez	son	12
			Sonia Gonzalez Gonzalez	daughter	13
			Marleny Gonzalez Gonzalez	daughter	14
			Sixto Gonzalez Gonzalez	son	15
			Ediorgina Gonzalez Gonzalez	daughter	16
			Ismenia Gonzalez Gonzalez	daughter	17
			Jose Antonio González González	Grandson	18
Ida Lineth Lasso González	Granddaughter	19			
5	Cruz Mojica Florez	CV-A-060-01	Arnulfo Mojica	Son/Petitioner	20
			Colombia Mojica	Daughter	21
			Ubaldo Mojica	Son	22

			Amalia Mojica	Daughter	23
			Gabriel Mojica	Son	24
			Carmen Cecilia Mojica Pitti de Vargas	Daughter	25
			Cruz Mojica	Daughter	26
			Erodita Mojica	Daughter	27
6	Candelario Torres Sánchez	CV-A-095-01	Olivia Torres Gómez	Daughter/Petitioner	28
			Candelario Torres Gómez	Son	29
			Hilda Torres Gómez de Santos	Daughter	30
			Xiomara Idced Torres Gómez	Daughter	31
			Rodolfo Torres Gómez	Son	32
			Esther María Aguilar Gómez	Daughter	33
7	Julio Alberto Samudio Silvera	CV-D-091-01	Ladie Esther Samudio de Aguirre	Sister/Petitioner	34
			Liliana Isabel Samudio Parra	Daughter	35
			Ana Julia Samudio Parra	Daughter	36
8	Luis Antonio Quiroz Morales	CV-D-077-01	Ricardo Santiago Morales	Brother/Petitioner	37
			Javier Morales	Brother	38
			Eduina Ríos Morales	Sister	39
			Santiago Montilla Morales	Brother	40
			Roberto Santamaría	Brother	41
9	Cecilio Fuentes Justavino	CV-D-096-01	Denis Trejos Fuentes	Brother/Petitioner	42
			Anel Trejos Fuentes	Brother	43
			Donard Tejos Fuentes	Brother	44
10	Diego Villarreal Serrano	CV-A-102-01	Claudia Villarreal	Son	45
			Diego Villarreal	Daughter	46
			Nubia Gisela Pitti	Widow/Petitioner	47
11	Alonso Sabin Castillo	CV- D-084-01	Aramus Sabin	Brother/Petitioner	48
			Dora Eneida Sabin Castillo	Sister	49
			Delfina Margarita Sabin Castillo	Sister	50
			Lucas Francisco Sabin Castillo	Brother	51
13	Edwin Eredio Amaya	CV-D-007-01	Lesbia Aminta Amaya Amaya de Singh	Sister/Petitioner	52
			Olindo Heriberto Amaya Amaya	Brother	53
			Eneida Amaya Bravo	Sister	54

			Eina Migdalia Amaya Bravo	Sister	55
14	Marta Morán Jiménez	CV-D-065-01	Valentín Gordón Morán	Son	56
			Humberta Gordón Morán	Daughter	57
			Daniel Ángel Morán Gordón	Nephew, petitioner	58
15	Félix Antonio Serrano Rodríguez	CV-D-089-01	Bolívar Augusto Serrano Rodríguez	Brother, petitioner	59
			Stella del Carmen Serrano Rodríguez	Sister	60
			Graciela Serrano Rodríguez	Sister	61
			Rossana Serrano Rodríguez	Sister	62
			Joshué Antonio Serrano Hubbard	Son	63
16	Carlos Efraín Guzmán Baules	CV-A-044-01	Adriana Guzmán Lee de Bonilla	Daughter	64
			Carlos Efraín Guzmán Lee	Son, petitioner	65
			Xenia Arritola Hurtado	Wife	66

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

16. The IACHR reiterates that, pursuant to articles 48(1)(f) and 49 of the American Convention, the purpose of this procedure is “reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.” Acceptance to pursue this process is an expression by the State of good faith to comply with the aims and objectives of the Convention pursuant to the principle of *pacta sunt servanda*, under which States must comply with the obligations assumed under treaties in good faith.⁴ It also wishes to reiterate that the friendly settlement procedure set forth in the Convention allows for conclusion of individual cases in a non-adversarial manner, and has been demonstrated in cases involving a variety of countries to provide an important vehicle for resolution that can be used by both parties.

17. The Inter-American Commission has closely followed the development of the friendly settlement reached in this case and highly values the efforts made by both parties during the negotiation to reach this friendly settlement, which is compatible with the objective and aims of the Convention.

18. The Commission observes that the parties provided an Annex A to the friendly settlement agreement, which contains a list of victims and their relatives, along with their corresponding personal information, and therefore declares that this Annex is an integral part of the agreement signed by the parties.

19. Pursuant to the provisions of clause 6 of the friendly settlement agreement, the parties agreed to ask the Commission to issue the report described in Article 49 of the American Convention once the friendly settlement agreement has been signed. This request was reiterated on June 20, 2019, in a brief in which the parties informed the IACHR that the FSA had been approved by the Cabinet Council and published in the Official Gazette. They therefore jointly asked the IACHR to move to approve it.

20. The Commission takes note of the commitments made by the State in clause 1 and 2, including the obligation to provide reparations to the victims, by recognizing the pecuniary damages, loss of future earnings, and nonpecuniary damages. It also takes note of the contents of clause 3 on payments of pecuniary reparations to the benefit of the 15 victims and their 66 relatives, recognized as such by the parties in Annex A of the friendly settlement agreement. It therefore finds that clauses 1, 2, and 3 remain pending compliance.

⁴ 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.*

21. Regarding clause 4 on measures of satisfaction and guarantees of non-repetition, as well as subclause 4(2) (Investigating and punishing those responsible), the Commission finds these clauses are declarative, and therefore oversight of their execution is not necessary.

22. Regarding clauses 4(1) (Public statement on the facts) and 4(3) (Monument to memorialize those murdered and disappeared), all related to measures of satisfaction and guarantees of non-repetition, the IACHR finds them to be pending compliance and will continue to follow up on them until full compliance is reached.

23. Regarding clause 5 of the agreement, on the Timeline for Execution, the Commission awaits the State's review of the actuarial studies to make the financial payments by the deadline established in that clause and urges the parties to keep it abreast of the progress toward implementing that clause. Based on this, the IACHR finds that the fifth clause of the agreement remains pending compliance and will continue following up on its implementation.

24. Regarding clauses 6 (Approval and follow-up), 7 (Publication and conclusion of the agreement), and 8 (Follow-up and compliance), the IACHR finds that they are declarative in nature.

25. The Commission observes that all the execution clauses of the friendly settlement agreement remain pending compliance and requests that the parties report to it on a timely basis on effective implementation of the agreement. The IACHR will continue to closely monitor the implementation of the obligations assumed in the agreement, applying the guidelines set forth in Article 49 of the Convention.

V. CONCLUSIONS

26. Based on the aforementioned considerations and by virtue of the procedure established 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 at the friendly settlement agreement reached in this case, based on respect for human rights and compatible with the object and purpose of the American Convention.

27. By virtue of the considerations and conclusions contained in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the agreement signed by the parties on May 23, 2019, as well as Annex A of the friendly settlement agreement.

2. To find that clauses 1 (Pecuniary damages), 2 (Nonpecuniary damages), 3 (Payment of pecuniary reparations), 4(1) (Public statement on the facts), 4(3) (Monument to memorialize those murdered and disappeared), and 5 (Timeline for execution) remain pending compliance.

3. To continue monitoring clauses 1, 2, 3, 4(1), 4(3), and 5 of the friendly settlement agreement until they have been fully complied with based on the analysis contained in this report. With this purpose, to remind the parties of their commitment to report regularly to the IACHR on compliance.

4. To make this report public and to include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on the 25 day of June 2019. (Signed): Joel Hernández, First Vice-President; Antonia Urrejola; Second Vice-President; Margarete May Maculay, Francisco José Eguiguren, Luis Ernesto Vargas, and Flavia Piovesan, Members of the Commission.