

TECHNICAL INFORMATION SHEET
CASE 12.238 MYRIAM LARREA PINTADO
REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 46/06
ARCHIVE
(ECUADOR)

I. SUMMARY OF THE CASE

Victim(s): Myriam Larrea Pintado

Petitioner(s): Ahorristas Estafados en Acción (Defrauded Savings Depositors in Action), Miriam Larrea Pintado

State: Ecuador

Beginning of the negotiation date: June 8, 2005

FSA signature date: September 20, 2005

Report on Friendly Settlement Agreement No. 46/06, published on March 15, 2006

Report on Admissibility No. 8/05, published on February 23, 2005

Estimated length of the negotiation phase: 1 year

Rapporteurship involved: Persons Deprived of Liberty/[Rights of] Women

Topics: Rights of women/persons deprived of liberty/investigation/right to humane treatment/personal liberty/a fair trial/judicial protection

Facts: The IACHR received a petition on December 7, 1998, in which the petitioners alleged that Miriam Larrea Pintado had been held in pretrial detention for one year, five months, and twenty-five days, between November 11, 1992, and May 6, 1994. She was arrested pursuant to a pretrial detention order issued against her by the Fourth Criminal Judge of Pichincha on November 11, 1992. On that day, said Judge formally charged Ms. Larrea Pintado with fraudulent transfer of assets. While the criminal proceedings were underway, the petitioner filed a writ of habeas corpus with the Supreme Court of Justice, and on May 6, 1994, the Court's Presiding Judge ordered her release. The criminal trial against Ms. Larrea Pintado for said offense began on August 16, 1993, and concluded on October 31, 1994, with an acquittal. The acquittal was upheld by the Third Chamber of the Superior Court of Quito on March 20, 1996, and again by the Second Chamber of the Supreme Court on February 4, 1997.

Rights declared admissible: The Commission concluded that it was competent to hear the case and the petition was admissible in keeping with Articles 8 (fair trial) and 25 (right to judicial protection) of the American Convention on Human Rights, in connection with Articles 1(1) and 2 thereof. [The Commission decided to:] notify the parties of the report, order its publication, and include it in its Annual Report to the OAS General Assembly.

II. PROCEDURAL ACTIVITY

1. On September 20, 2005, the parties signed the friendly settlement agreement.
2. On March 15, 2006, the Commission approved the friendly settlement agreement by report No. 46/06.

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

Agreement clause	State of compliance
<p>III. STATE RESPONSIBILITY</p> <p>The Ecuadorian state acknowledges its responsibility for having violated the human rights of Ms. Myriam Genoveva Larrea Pintado, provided for by article 8 (Right to a Fair Trial) and article 25 (Judicial Protection), both in connection with the general obligation of compliance provided for by Art. 1.1 of the American Convention on Human Rights, and by other international instruments. Said violations were committed by State agents; the State has not been able to refute these facts, which have therefore, in turn, given rise to its responsibility to society.</p> <p>With this background, the Ecuadorian State does not contest the facts that constitute Case No. 12.238, currently being processed before the Inter-American Commission on Human Rights, and undertakes the obligation to provide the necessary measures of reparation in order to compensate for the damages caused to the victim of said violations.</p>	Declarative
<p>IV. COMPENSATION</p> <p>The Ecuadorian State, acting through its Attorney General as its sole legal representative, pursuant to Art. 215 of the Constitution of the Republic of Ecuador, issued in the Official Register, No. 1, in force and effect since August 11, 1998, hereby pays Ms. Myrian [sic] Genoveva Larrea Pintado a one-time compensation in the sum of two hundred seventy-five thousand United States dollars (US 275,000.00) to be charged to the General Budget of the State. [...]</p>	Total¹
<p>V. PUNISHMENT OF THOSE RESPONSIBLE</p> <p>The Ecuadorian State will initiate the actions necessary for the institution of both civil and criminal proceedings against, and the administrative sanctions of, those persons who, in carrying out state duties, or using their public authority are assumed to have participated in the alleged violation.</p> <p>The Office of the Attorney General of the State will turn over all the necessary documentation to the Office of the Public Prosecutor in order to commence the investigations for the punishment of those found responsible for said violation. Likewise, it will request both the competent organs of the Judiciary and public or private organizations to provide legally grounded information that will lead towards the establishment of said persons' responsibility, should it arise. Should these trials be warranted, they shall be carried out in observance of the constitutional and legal order of the Ecuadorian State.</p>	Partial²
<p>VI. OTHER REPARATIONS</p> <p>The Ecuadorian State undertakes the commitment to erase from the</p>	Total³

¹ Report No. 46/06, Case 12.238, Myriam Larrea Pintado, March 15, 2006.

² See IACHR, Annual Report 2020, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2020/Chapters/IA2020cap2-en.pdf>

³ See IACHR, Annual Report 2020, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2020/Chapters/IA2020cap2-en.pdf>

Registry of Criminal Records, and from any other type of public or reserved registry, the name of Myrian [sic] Genoveva Larrea Pintado.	
In addition, the Ecuadorian State undertakes the commitment to publish the text of clause III of this Friendly Settlement Agreement in the daily newspaper of the widest circulation. In this publication Ms. Myrian [sic] Genoveva Larrea Pintado's gratitude towards doctors Germánico Maya and Alejandro Ponce Villacís, attorneys and counsellors of Ms. Myrian [sic] Genoveva Larrea Pintado.	Total⁴
In addition, the Ecuadorian State undertakes the commitment, through the Office of the Attorney General of the State, to fashion a plaque with the name of Myrian [sic] Genoveva Larrea Pintado, which will record the responsibility of the Ecuadorian State, in accordance with number III of this agreement. The plaque shall be unveiled in an auditorium or another similar room of the <i>Superintendencia de Bancos</i> [Office of Banking Supervision].	Noncompliance⁵

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission noted that the petitioners did not submit up-to-date information since 2013. Moreover, The Commission noted that, since the FSA was published, the Commission has been conducting follow-up on compliance with the clauses agreed upon by the parties in Chapter II G of the Annual Report to the OAS General Assembly. As part of this follow-up, the petitioning party was requested updated information each year, granting them a reasonable period of time to submit the information they deem necessary.

4. Based on the foregoing and taking into consideration that the petitioners did not submit the comprehensive report as requested by the IACHR on February 11, 2020 and noting the unjustified procedural inactivity of the petitioners, which constitutes a serious indication of disinterest in follow-up on the FSA, the Commission decided to archive the case in accordance with Articles 42 and 48 of its Rules of Procedure, cease follow-up on compliance with the friendly settlement agreement and archive the matter noting on the record in its Annual Report to the General Assembly of the Organization of American States that the friendly settlement agreement has been partially implemented.

5. Consequently, the Commission decided to cease follow-up on the friendly settlement agreement and archive the matter.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State paid financial compensation, as set forth under the agreement.
- The State published clause III of the friendly settlement agreement, as agreed.
- The State expunged the criminal record of the petitioner from the Register of Criminal Records.

⁴ See IACHR, Annual Report 2020, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2020/Chapters/IA2020cap2-en.pdf>

⁵ See IACHR, Annual Report 2020, Chapter II, Section G. Friendly Settlements. Available at: <http://www.oas.org/en/iachr/docs/annual/2020/Chapters/IA2020cap2-en.pdf>