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CASE 12.960

FRIENDLY SETTLEMENT REPORT

RONALD JARED MARTINEZ ET AL.
HONDURAS

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I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On September 15, 2004, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “IACHR”) received a petition submitted by José Roberto Martínez (hereinafter “the petitioner”), on behalf of the children Ronald Jared Martínez Velásquez and Marlón Fabricio Hernández Fúnez (hereinafter “the alleged victims”), alleging the international responsibility of the State of Honduras (hereinafter “Honduras,” “State” or “Honduran State”) for the alleged violations of the rights enshrined in the American Convention on Human Rights (hereinafter “American Convention” or “Convention”), derived from the alleged excessive use of force by members of the Army and the National Police, as well as the subsequent failure to investigate and punish the alleged perpetrators.

2. In particular, the petition alleged that due to the presumed abuse of power by the police and officers of the National Army, the child Ronald Jared Martínez had acquired a physical disability (irreversible paraplegia). It was also pointed out that, although the agents of the Honduran State themselves had been directly responsible for the facts, the case would continue to go unpunished.

3. On July 21, 2011, the Commission issued Admissibility Report No. 56/14, in which it declared the petition admissible and as well as its competence to examine the claim presented by the petitioner regarding the alleged violation of the rights enshrined in Articles 5 (Right to humane treatment), 8 (Judicial guarantees), 19 (Rights of the child), and 25 (Judicial protection) of the Convention, in accordance with its Article 1(1) (Obligation to respect and guarantee).

4. On September 22, 2020, the parties signed a friendly settlement agreement. Subsequently, on June 30, 2021, the State sent the means of verification of compliance with the agreement and requested the Commission’s homologation. This information was brought to the petitioner’s attention, and no observations or additional information was submitted in this regard.

5. In this friendly settlement report, as established in Article 49 of the Convention and Article 40(5) of the Commission’s Rules of Procedure, a review of the facts alleged by the petitioners is made and the friendly settlement agreement signed on September 22, 2020, by the petitioners and representatives of the Honduran State is transcribed. Likewise, the agreement signed by the parties is approved and the publication of this report in the Annual Report to the General Assembly of the Organization of American States is agreed.

II. THE FACTS ALLEGED

6. According to the petitioners’ allegations, on July 20, 2002, Mr. José Roberto Martínez was driving a car with his son Ronald Jared Martínez Velásquez and the son of a neighbor, Marlón Fabricio Hernández Fúnez, aged ten and five years, respectively. Because the petitioner drove his vehicle in the opposite direction, members of a patrol allegedly composed of a National Police officer and five Army officers fired six shots, hitting the petitioner’s vehicle with five 5.56 millimeter-caliber bullets in the rear and one bullet of the same caliber in the right door window.

7. According to the information provided by the petitioner, he was arrested and taken to the Jutiapa police station. Because of the injuries inflicted on the children in the shooting, they were transferred to Atlántida Integrado Hospital. Concerning Ronald Jared Martínez, the petitioner reported that he was “seriously wounded by a projectile that lacerated his colon, right kidney, lumbar vertebrae [...] and affected his spinal cord,” which left him permanently disabled. As for the boy Marlón Fabricio Hernández Fúnez, he was wounded “in the abdomen by a projectile, which left him with a temporary disability of twenty-one days”. The information provided by the petitioner also indicates that, at the Atlántida Integrado Hospital, a complaint was filed against one of the army officers involved in the events.

8. In addition, regarding the exhaustion of domestic remedies, the petitioner alleged that although the State agents were responsible for shooting the alleged victims, they were still free.

9. In addition, the petitioner indicated that from the date on which the events occurred - which, in addition to causing his son’s permanent disability, had caused severe expenses and economic losses for his family - the State had not provided his family with any monetary assistance, except for the donation of 15,000 lempiras made by the First Lady. In addition, the petitioner indicated that one of his greatest difficulties was that he was unable to send his son to school because he did not have the necessary resources to transport him.

III. FRIENDLY SETTLEMENT

10. On September 22, 2022, the parties signed a friendly settlement agreement. The text of the friendly settlement agreement submitted to the IACHR is included below:

FRIENDLY SETTLEMENT AGREEMENT IACHR CASE 12.960 - Honduras

FRIENDLY SETTLEMENT AGREEMENT OF IACHR CASE 12.972 concerning Ronald Jared Martínez and family and Marlon Fabricio Hernández Fúnez, entered into, on one hand, the State of Honduras, duly represented by Dr. LIDIA ESTELA CARDONA PADILLA, in her capacity as the Republic’s Attorney General, appointed by Legislative Decree No. 70-2018, published on July 27, 2018, duly authorized for this act by Executive Agreement No. CG-02-2020 dated February 14, 2020, in which it is recorded that she is empowered to enter into this act, with the express power to compromise; and on the other hand, Attorney SEIDA MARGOTH RIVERA FLORES, who acts in her capacity as Legal Representative of Mr. JOSE ROBERTO MARTINEZ RAUDALES and Mrs. MARTA ELENA VELASQUEZ BARDALES, according to the general power of attorney No. 139 of November 28, 2014, granted in this city before the Notary Osman Tosta Guevara’s office; which is entered into with the knowledge and consent of the INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR), in accordance with the provisions of Articles 48, numeral 1 paragraph f) and 49 of the American Convention on Human Rights regarding the friendly settlement of the case in reference.

I. FIRST: BACKGROUND

The Inter-American Commission on Human Rights received a petition submitted by Mr. Jorge (Sic) Roberto Martínez, on September 15, 2004, in which he alleged the international responsibility of the Honduran State, to the detriment of the children Ronald Jared Martínez Velásquez and Mario Fabricio Hernández Fúnez, due to the alleged violations of rights enshrined in the American Convention on Human Rights, arising from the presumed excessive use of force by members of the Army and the National Police, as well as the subsequent failure to investigate and punish the alleged perpetrators.

The Inter-American Commission on Human Rights (IACHR), in its admissibility report 56/14 dated July 21, 2014, stated in its operative part: *DECIDES: 1.- To declare the present case admissible with respect to the alleged violations of the rights contemplated in Articles 5, 8, 19 and 25 of the American Convention, in connection with Articles 1.1 of said instrument, in detriment of Ronald Jared Martínez Velásquez, José Roberto Martínez, and Marln Fabricio*

Hernández Fúnez.

II. SECOND: GENERAL

As a consequence of the willingness expressed by the parties to reach a friendly solution in the case at hand, the State undertakes to comply with the present agreement in accordance with the following parameters:

- a. Scope: It refers specifically to the excessive use of force by State agents in detriment of Ronald Jared Martínez Velásquez, José Roberto Martínez, and Marlon Fabricio Hernández Fúnez.
- b. Nature: To settle by friendly means insofar as it corresponds to the petitioners under the present agreement, through compensation and without this implying any recognition by the State of either the facts or the rights invoked in the framework of the proceeding underway before the Inter-American Commission on Human Rights.
- c. Modality: Friendly settlement regulated by Articles 48(1)(f) and 49 of the American Convention on Human Rights and Article 40 of its Rules of Procedure.
- d. Determination of the beneficiaries: By express agreement between the parties, the beneficiaries of this agreement are Ronald Jared Martínez Velásquez, José Roberto Martínez, and Marlon Fabricio Hernández Fúnez.
- e. Economic reparation: The parties agreed to establish a compensation amount that satisfies the claims of Ronald Jared Martínez Velásquez, José Roberto Martínez, and Marlon Fabricio Hernández Fúnez.

III. THIRD: JURISDICTION OF THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

Honduras has been a State party to the American Convention on Human Rights since August 9, 1977, and recognized the contentious jurisdiction of the Inter-American Court of Human Rights on September 9, 1981.

IV. FOURTH: AGREEMENT BETWEEN THE PARTIES

In the framework of the friendly settlement process carried out between the petitioners and the State of Honduras, with the intervention of the IACHR, the parties have reached a satisfactory agreement for the resolution of this case.

To cover economic reparations, the State of Honduras undertakes to verify payment in the manner proposed by the petitioners during the negotiation stage through the Office of the Republic's Attorney General, which will initiate the relevant procedures before the Secretariat of State in the Office of Finance, as soon as this friendly settlement agreement is signed. The corresponding payment procedures must be fully completed no later than one year after the signing, under the terms agreed upon in this friendly settlement agreement.

This agreement will be managed under the responsibility of the corresponding State entities or secretariats; the Office of the Republic's Attorney-General will coordinate and follow up the actions necessary for its implementation.

For their part, the petitioners undertake to accompany the stages of execution of this agreement and cooperate with it to become effective.

V. FIFTH: THE VALIDITY OF THE PRESENT FRIENDLY SETTLEMENT AGREEMENT

Throughout the proceedings, the parties maintained a space for dialogue to explore the possibility of reaching a friendly settlement agreement within the framework of the provisions of article 48 of the American Convention on Human Rights.

VI. SIXTH: SATISFACTION OF THE PETITIONERS

The petitioner considers that compliance with the financial commitments undertaken through this friendly settlement agreement implies satisfaction of its claims in the case of Ronald Jared Martínez and his family, and Marlon Fabricio Hernández Fúnez (IACHR Case No. 12.960).

The State of Honduras and the petitioners acknowledge and accept as the amount to be compensated the sum of [XXX]¹, distributed as follows:

BENEFICIARY	CONCEPT	AMOUNT
José Roberto Martínez Raudales	Compensation for damages and restitution of expenses caused by the injuries of his son Ronald Jared Martínez Velásquez.	[XXX]
Ronald Jared Martinez Velasquez	Indemnification	[XXX]
Marlon Fabricio Hernández Fúnez	Indemnification	[XXX]
	TOTAL AMOUNT DUE	[XXX]

The amount as set forth above shall be made in a single payment to the beneficiaries of this agreement.

VII. SEVENTH: METHOD OF PAYMENT OF FINANCIAL REPARATION

Following the request made by the petitioners that the amount offered to be made in a single payment, the State undertakes to pay the amount indicated above, through the Office of the Republic's Attorney General, in a single payment no later than one year after the signing of this agreement and includes the full amount of the financial compensation agreed upon, and therefore, with the payment thereof, the State of Honduras is completely released from any indemnification for the alleged facts and any subsequent claim.

The beneficiaries must prove their identity before the Attorney General's Office through the respective document for such purposes.

If the petitioners are deceased as of the date of execution of this agreement, the next of kin must present the corresponding legal documentation, accrediting the corresponding declaration of heirs, so that the Office of the Attorney General of the Republic may subsequently proceed to make the payment.

The amount provided includes in its entirety any damage alleged to have been caused to the petitioners and their next of kin, and therefore, with the payment of the reparation contained in this agreement, the State of Honduras is released from any compensation for the facts as well as from any present or future claim that may arise from this agreement; it is also agreed

¹ The Commission reserves the amounts of financial compensation agreed in accordance with the provisions of clause nine of the friendly settlement agreement.

that the liability of the State of Honduras for any compensation is extinguished, either judicially or internationally.

VIII. EIGHTH: COMPLIANCE MONITORING

The State of Honduras shall inform the IACHR of its compliance with this agreement and submit the corresponding information.

IX. NINTH: CONFIDENTIALITY

The parties undertake to keep the amount of the financial compensation and the personal data of the petitioners strictly confidential.

X. TENTH: CONFORMITY OF THE PARTIES

The parties express their full conformity and satisfaction, irrevocably and immediately, with the agreements reached and embodied in this document. Consequently, the petitioners waive any action that may arise from this case.

Under the consensus reached, the parties undertake to submit a joint or separate request to the IACHR so that the IACHR may proceed to the homologation and closure and finally adopt the report contemplated in Article 49 of the American Convention on Human Rights. At that time, it will acquire full legal force.

XI. ELEVENTH: VALIDITY

This agreement is effective as of the date of signature and shall terminate upon payment of the agreed compensation.

Signed in Tegucigalpa, M.D.C., on the twenty-second (22) day of September of the year two thousand and twenty (2020).

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

11. The IACHR reiterates that under Articles 48(1)(f) and 49 of the American Convention, the purpose of this procedure is to “reach a friendly settlement of the matter based on respect for the human rights recognized in the Convention. The acceptance to carry out this procedure expresses the good faith of the State to comply with the purposes and objectives of the Convention under the principle *pacta sunt servanda*, by which the States must comply in good faith with the obligations assumed in the treaties². It also wishes to reiterate that the friendly settlement procedure in the Convention allows for the termination of individual cases in a non-contentious manner and has proven, in cases involving several countries, to offer an important vehicle for settlement, which both parties can use.

12. The Inter-American Commission has closely followed the development of the friendly settlement reached in this case and appreciates the efforts made by both parties during the negotiation of the agreement to reach this friendly settlement, which is compatible with the object and purpose of the Convention.

13. The IACHR notes that, in accordance with the provisions of the tenth clause of the friendly settlement agreement, the parties agreed to jointly or separately request the Commission to issue the report contemplated in Article 49 of the American Convention. Given the request made by the State on June 30, 2021, it is incumbent upon the Commission at this time to assess the content of and compliance with the friendly settlement agreement.

² 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 and must be performed by them in good faith.*

14. In this regard, the Commission notes that the agreement establishes a single enforcement measure, in the sixth clause, referring to the payment of economic compensation in favor of the beneficiaries, namely Ronald Jared Martínez Velásquez, José Roberto Martínez, and Marlon Fabricio Hernández.

15. Concerning compliance with that measure, on June 30, 2021, the Honduran State submitted a report on the disbursements made and provided the means of verification in the form of copies of the checks disbursed and the minutes of delivery of the compensation duly signed by the three beneficiaries of the agreement according to the amounts of the financial compensation indicated in the friendly settlement agreement. This information was made available to the petitioning party, and no observations or additional information was submitted in this regard. Therefore, considering the information provided by the State, the Commission considers that this aspect of the agreement has been fully complied and so it declares it so.

16. On the other hand, the Commission considers that the rest of the content of the friendly settlement agreement is of a declaratory nature and, therefore, not subject to monitoring.

17. Finally, the Commission considers that the agreement has been fully complied and so it declares it so. Consequently, the Commission orders the cessation of follow-up and the closure of this matter.

V. CONCLUSIONS

1. Based on the previous considerations and according to the procedure provided for 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 with the achievement of a friendly settlement in the instant case, based on respect for human rights and compatible with the object and purpose of the American Convention.

2. By virtue of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS DECIDES:

1. To approve the terms of the friendly settlement agreement signed by the parties on September 22, 2020.

2. To declare the sixth clause of the friendly settlement agreement to be fully complied, pursuant to the analysis included in this report.

3. To declare the friendly settlement agreement signed between the parties on September 22, 2020, to be fully complied, pursuant to the analysis included in this report, and, in this regard, order the cessation of the monitoring and closure of the case.

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

Approved by the Inter-American Commission on Human Rights on October 5, 2021. (Signed): Antonia Urrejola, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Esmeralda E. Arosemena Bernal de Troitiño; Edgar Stuardo Ralon Orellana, y Joel Hernández García Members of the Commission.