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## **REPORT No. 159/24**

### **CASE 13.892**

REPORT ON FRIENDLY SETTLEMENT

DENYS DEL CARMEN OLIVERA DE MONTES AND FAMILY  
COLOMBIA

Approved electronically by the Commission on October 24, 2024.

**Cite as:** IACHR, Report No. 159/24, Case 13.892, Friendly Settlement, Denys del Carmen Olivera de Montes and family, Colombia, October 24, 2024.

**REPORT No. 159/24**  
**CASE 13.892**  
FRIENDLY SETTLEMENT  
DENYS DEL CARMEN OLIVERA DE MONTES AND FAMILY  
COLOMBIA<sup>1</sup>  
OCTOBER 24, 2024

**I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS**

1. On April 22, 2009, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition filed by Antonio José Contreras Hernández, on behalf of the family of Denys del Carmen Olivera de Montes, whose representation was later assumed by Francisco Javier Herrera Sánchez (hereinafter "the petitioner" or "the petitioning party"). The complaint alleged the international responsibility of the Republic of Colombia (hereinafter "Colombia" or "the State"), for the violation of the human rights enshrined in Articles 4 (life), 5 (humane treatment), 8 (fair trial), 17 (rights of the family), 22 (movement and residence), and 25 (judicial protection) of the American Convention on Human Rights (hereinafter "American Convention" or "Convention"), in conjunction to Article 1.1 (obligation to respect rights) of the same instrument, as a result of the failure to investigate the murder of Denys del Carmen Olivera, Juan José Montes Balasnoa, and Piedad Montes Olivera, as well as the forced displacement of their families, which resulted in the failure to identify, prosecute, and punish those responsible.

2. On August 13, 2019, the Commission issued Admissibility Report No. 212/19, in which it found the petition admissible and declared its competence to hear the claim presented by the petitioning party with respect to the alleged violation of the rights enshrined in Articles 4 (life), 5 (humane treatment), 8 (fair trial), 17 (rights of the family), 22 (movement and residence), 25 (judicial protection), and 26 (economic, social, and cultural rights) of the American Convention in conjunction with the obligation established in Article 1.1 (obligation to respect rights) and Article 2 (domestic legal effects).

3. On May 9, 2022, the parties signed a memorandum of understanding to seek a friendly settlement in the instant case, together with a work schedule to move forward with the negotiations. In the following months, the parties held bilateral meetings in order to analyze the reparation measures to be included in the friendly settlement agreement (hereinafter "FSA"), which resulted in the signing of said instrument on September 26, 2023, in the city of Bogotá. On December 6, 2023, the parties submitted a joint report on the progress made in the implementation of the FSA and requested the IACHR to approve it.

4. Pursuant to Articles 49 of the American Convention and 40(5) of the Rules of Procedure of the Commission, this friendly settlement report contains a summary of the facts alleged by the petitioning party and a transcription of the friendly settlement agreement signed on September 26, 2023 by the petitioning party and representatives of the Colombian State. Likewise, the agreement signed between the parties is approved and it is agreed that this report will be published in the Annual Report to the General Assembly of the Organization of American States.

**II. THE FACTS ALLEGED**

5. The petitioner claimed that in 1996, paramilitary groups of the United Self-defense Forces of Colombia (hereinafter "AUC") took over several parts of the town of Ovejas, department of Sucre. According to him, these groups often entered towns of the region searching for members or possible collaborators of the Revolutionary Armed Forces of Colombia ("FARC").

6. By way of context, he indicated that from 1996 to 2008 more than 276 violent murders were committed in the same region and neighboring towns. He asserted that these deaths were due to the lack of

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<sup>1</sup> In accordance with Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the discussion or decision on this case.

police and military officers in the region since 1996, meaning that the State failed to fulfill its duty to protect the lives of people in that region. He affirms that locals specifically requested the Police and the Army to adopt preventive measures regarding the takeover by armed groups but were unsuccessful.

7. He claimed that on November 2, 1998, in the rural area called La Recta, Denys del Carmen Olivera and Juan José Montes Balsanoa, a married couple, and their daughter Piedad Montes Olivera, aged 23, (hereinafter “the alleged victims”) were made to stop and get off their private vehicle, and shot dead.

8. The petitioner argued that the actions of the AUC and the lack of state protection in that place compelled the alleged victims’ relatives to leave their homes and personal effects and to forcedly move to different places in the cities of Ovejas and Sincelejos. He indicated that these paramilitary groups claimed that as the relatives aided the FARC, they would suffer the same fate of the alleged victims.

9. He affirmed that on the same date of the facts, the relatives filed a complaint with the National Police in Ovejas and Public Prosecutor’s Office No. 9 in Corozal. However, he asserted that the officials at these bodies refrained from cooperating in the removal of the bodies claiming fear of reprisal from illegal groups. He alleged that the relatives, having found the alleged victims’ bodies on the road, they themselves—without legal support—proceeded to remove the bodies and take them to the morgue in the town of Ovejas.

10. The petitioner further claimed that Ovejas Ombudsman’s Office certified the alleged victims’ death but did not undertake an investigation. He claimed that the relatives filed a request for information with the Attorney General’s Office. According to him, on December 14, 1999, the said body replied that it would initiate proceedings; yet no proceedings have been held so far. He added that on December 24, 2008, he lodged a request for information with the Police in Ovejas to access a copy of the complaint filed on November 2, 1998. He alleged that on December 25, 2008, Police informed him that there was no record of the case.

11. The petitioner submitted that on May 24, 1999, Public Prosecutor’s Office No. 9 in Corozal suspended the investigation as the deadline for the preliminary investigation was due without anyone having been found guilty of the facts; that it decided to close the criminal investigation accordingly. Allegedly, in 1999 and 2006, he repeatedly asked the Prosecutor’s Office for information on the case. He claimed that on December 29, 2009, he lodged a request for information with the Prosecutor’s Office for Human Rights in Cartagena to obtain a copy of all the documents concerning the investigations undertaken and information on the judicial inquiries and their results. However, on April 28, 2010, the said body notified him that in the database of the Prosecutor’s Office Legal Information System, there was no record of any investigation into the facts.

12. He also stated that on November 2, 2000, he filed a direct claim for damages in the contentious administrative jurisdiction, which Sucre Administrative Court rejected on February 21, 2008. The court argued that the State could not be held responsible for damage because while the unlawful damage allegedly entailing responsibility was proven, the said failure to fulfill an obligation was unproven. The court added that given the evident state of war in the country since then, Police was not obliged to be present everywhere. He submitted that he filed an appeal before the same court. On April 17, 2008, the court ruled to dismiss the appeal because of its low amount of damages. He indicated that, therefore, he lodged an appeal, which the Administrative Court in Sucre dismissed on May 29, 2008. The decision was notified on June 4, 2008. He asserted that he requested copies of the proceedings in order to file a complaint before the State Council.

13. The petitioner alleged while decades have passed, none of the persons responsible for the facts have been identified, investigated, or punished, which reveals judicial inaction and authorities’ delay.

### **III. FRIENDLY SETTLEMENT**

14. On September 26, 2023, the parties signed a friendly settlement agreement, the text of which provides as follows:

**FRIENDLY SETTLEMENT AGREEMENT**  
**CASE No. 13,892 DENYS DEL CARMEN OLIVERA DE MONTES AND FAMILY<sup>2</sup>**

On September 26, 2023 in the city of Bogotá D.C., a meeting was held between, on the one hand, Ana María Ordóñez Puentes, Director of International Legal Defense of the National Agency for the Legal Defense of the State, acting on behalf of the Colombian State, hereinafter "the Colombian State", and on the other hand, Francisco Javier Herrera Sánchez, acting on behalf of the victims, hereinafter "the representative of the victims", jointly referred to as "the parties", who have decided to enter into this Friendly Settlement Agreement in Case No. 13,892 Denys del Carmen Olivera de Montes and family, pending before the Inter-American Commission on Human Rights.

**PART ONE: CONCEPTS**

**IACHR or Inter-American Commission:** Inter-American Commission on Human Rights.

**Moral damages:** Injurious effects of the facts of the case that are not of economic or proprietary nature, which manifest through pain, affliction, sadness, distress, and anxiety for the victims.

**Non-material damage:** Includes both the suffering and affliction caused to the victims, the impairment of values of great importance to the persons concerned, as well as alterations, of a non-pecuniary nature, in the living conditions of the victim or his family.<sup>3</sup>

**State or Colombian State:** In accordance with Public International Law, the State is understood to be the party that has agreed to abide by the American Convention on Human Rights, hereinafter the "American Convention" or "ACHR".

**The Petitioning Party:** Attorney Francisco Javier Herrera Sánchez.

**Measures of satisfaction:** Non-pecuniary measures intended to ensure the recovery of the victims from the harm caused to them.<sup>4</sup>

**Parties:** State of Colombia, family members of Denys del Carmen Olivera, Juan José Montes Balasnoa, and Piedad Montes Olivera and the representative of the victims.

**Acknowledgement of responsibility:** Admission of the acts and omissions attributed to the State that violate one or more of its obligations under international human rights law.

**Comprehensive reparation:** All those measures that objectively and symbolically restore the victim to the state prior to the infliction of the damage.

**Friendly Settlement:** Alternative dispute resolution mechanism used for peaceful and consensual settlement before the Inter-American Commission.

**Victims:** Family of Denys del Carmen Olivera, Juan José Montes Balasnoa, and Piedad Montes Olivera.

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<sup>2</sup> On September 18, 2024, the parties sent a joint note correcting the surname of Mr. Juan José Montes Balasnoa, who, due to a material error, had been included with the surname Balsanoa in the original FSA. Therefore, the IACHR corrects it in this report at the request of the parties and for the relevant purposes.

<sup>3</sup> I/A Court H.R. Case of Caesar v. Trinidad and Tobago, Merits, Reparations and Costs, Judgment of March 11, 2005. Series C No. 123, paragraph 125.

<sup>4</sup>Examples of such measures include public disclosure of the truth and acts of redress.

## PART TWO: PRELIMINARY CONSIDERATIONS

1. On April 22, 2009, the Inter-American Commission on Human Rights received a petition initially filed by attorney Antonio José Contreras Hernández. Currently, the representative of the victims is Dr. Francisco Javier Herrera Sánchez.

2. In the initial petition it was mentioned by way of context that between 1996 and 2008 there were multiple homicides in various areas of the municipality of Ovejas, Sucre, and surrounding municipalities. It was stated that these occurred due to the absence of police and military authorities. It was stated that the local residents requested the Police and Armed Forces to adopt preventative measures in light of the intervention of armed groups, without receiving any response.

3. The petition alleged that on November 2, 1998, in the rural area known as La Recta, husband and wife Juan José Montes Balasnoa and Denys del Carmen Olivera, as well as their daughter Piedad Montes Olivera, were stopped and forced to get out of their vehicle. Subsequently, all three were shot and killed.

4. The initial petition states that due to the actions of the United Self-Defense Forces of Colombia (AUC) and the lack of government protection in the area where the events occurred, the family members of the alleged victims were forced to abandon their homes and belongings and were forcibly displaced.

5. Regarding the background of the case, the initial petition indicates that on the day of the events, the family filed a complaint with the National Police of the municipality of Ovejas-Sucre and with the Ninth Sectional Prosecutor's Office of Corozal. However, it stated that the officers from these entities refrained from coordinating the removal of the bodies, so the family took the bodies to the morgue of the Municipality of Ovejas.

6. The petitioning party alleges that decades have passed without the State having investigated, identified, or punished those responsible for these events. In this regard, the Ninth Sectional Prosecutor's Office of Corozal initiated an investigation under file number 801. Investigators were unable to identify the alleged perpetrators and participants in the murders, so on May 28, 1999, the investigation was closed. However, according to information from the Prosecutor's Office, the case file was not found in the archive of Corozal - Sucre, thus, as of 2014, a reconstruction of the case file was ordered.

7. The Third Delegated Prosecutor's Office before the Criminal Court of the Specialized Circuit of Sincelejo decided, by means of a Resolution dated December 13, 2021, not to initiate the criminal investigation, since the statute of limitations had expired.

8. On the other hand, according to records No. 66221, 650169, 698066, 651170, 308932, and 698062, folder No. 66221, from the Justice and Peace Information System, the 144th Specialized Prosecutor's Office reporting to 12th Prosecutor's Office assigned to the Court of Barranquilla is assigned to investigate the case in said jurisdiction.

9. The 144th Specialized Prosecutor's Office reported that on August 25, 2014, the facts were attributed to the defendant Salvatore Mancuso Gómez, who accepted them as pertaining to his chain of command (*por línea de mando*). However, in subsequent informal proceedings (*diligencias de versión libre*), the former members of the Montes de María Bloc of the AUC stated that they had no knowledge of the murders.

10. On November 2, 2000, the family of the victims filed a claim for direct reparation before the jurisdiction of the administrative courts (*jurisdicción contenciosa administrativa*), which was registered under file No. 70001233100020000143800. On February 21, 2008, the

Court denied the claims on the grounds that there was no evidence to hold the State liable for the damage caused. An appeal was filed against this decision, but was denied on April 17, 2008, on the grounds that it was a sole instance proceeding.

11. By Report No. 212/19 of August 13, 2019, the Inter-American Commission on Human Rights found the petition admissible with respect to the alleged violation of the rights to life, humane treatment, fair trial, family protection, movement and residence, judicial protection, and economic, social, and cultural rights, enshrined in Articles 4, 5, 8, 17, 22, 25 and 26 respectively, in connection to Articles 1.1. and 2 of the American Convention.

12. The State expressed its intention to initiate a process of friendly settlement, and on May 9, 2022, the parties signed a Memorandum of Understanding for the Search for a Friendly Settlement Agreement

### **PART THREE: BENEFICIARIES**

The Colombian State recognizes the following persons as victims in this agreement:

<b>Name</b>	<b>Identity document</b>	<b>Relationship</b>
Amparo del Carmen Montes Olivera	(...)	Daughter of Juan José Montes Balasnoa and Denys Olivera de Montes
Juan José Montes Olivera	(...)	Son of Juan José Montes Balasnoa and Denys Olivera de Montes
Bernarda Berena Montes Olivera	(...)	Daughter of Juan José Montes Balasnoa and Denys Olivera de Montes
Jarold David Montes Olivera	(...)	Son of Juan José Montes Balasnoa and Denys Olivera de Montes
Astolfo Nain Montes Olivera	(...)	Son of Juan José Montes Balasnoa and Denys Olivera de Montes
Libia del Socorro Olivera de Perez	(...)	Sister of Denys Olivera, aunt of Piedad Montes Olivera, and sister-in-law of Juan José Montes Balasnoa
Prudencia María Olivera de Perez	(...)	Sister of Denys Olivera, aunt of Piedad Montes Olivera, and sister-in-law of Juan José Montes Balasnoa
María Auxiliadora Olivera Paniza	(...)	Sister of Denys Olivera, aunt of Piedad Montes Olivera, and sister-in-law of Juan José Montes Balasnoa
Marlene Isabel Olivera de Estrada	(...)	Sister of Denys Olivera, aunt of Piedad Montes Olivera, and sister-in-law

		of Juan José Montes Balasnoa
Cenaida Isabel Mendivil de Perez	(...)	Sister of Denys Olivera, aunt of Piedad Montes Olivera, and sister-in-law of Juan José Montes Balasnoa
Ronny Manuel Salcedo Monterroza	(...)	Spouse of Piedad Montes Olivera
Silvio José Salcedo Montes	(...)	Son of Piedad Montes Olivera

By signing this Friendly Settlement Agreement, the petitioners hereby attest that the persons listed above are the family members of Denys del Carmen Olivera, Juan José Montes Balasnoa, and Piedad Montes Olivera, with legal standing and interested in pursuing this proceeding. These individuals: i) were alive at the time of the facts;<sup>5</sup> and ii) are alive at the time of signature of this document.

Therefore, after the signing of the Friendly Settlement Agreement, the parties agree that no new beneficiaries will be included.

#### **PART FOUR: ACKNOWLEDGMENT OF RESPONSIBILITY**

The Colombian State is responsible for the failure to fulfill its duty to guarantee the right to life, contained in Article 4(1) of the American Convention, in connection to Articles 1(1), 8, and 25 of the same instrument, to the detriment of Denys del Carmen Olivera, Juan José Montes Balasnoa, and Piedad Montes Olivera.

Likewise, the Colombian State is responsible for failure to fulfill its duty to safeguard, with respect to the violation of the right to humane treatment (Article 5(1)), fair trial (Article 8(1)) and judicial protection (Article 25(1)), established in the American Convention, in connection to Article 1(1) of the same instrument, to the detriment of the family of Denys del Carmen Olivera de Montes, Juan José Montes Balasnoa, and Piedad Montes Olivera, listed in the third clause of this agreement.

#### **PART FIVE: MEASURES OF SATISFACTION**

The Colombian State agrees to adopt the following measures of satisfaction:

##### **I. Ceremony for the Acknowledgment of Responsibility:**

The Colombian State will hold a Ceremony for the Acknowledgement of Responsibility, with the participation of the family members of Denys del Carmen Olivera, Juan José Montes Balasnoa, and Piedad Montes Olivera and their representative. The event shall be consistent with the acknowledgment of responsibility set forth in this Agreement.

The National Agency for the Legal Defense of the State shall be responsible for performing this measure.

<sup>5</sup> The foregoing, in accordance with the jurisprudence of the Inter-American Court of Human Rights. See I/A Court H.R., Case of the Afro-descendant communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia. (Preliminary Objections, Merits, Reparations, and Costs). Judgment of November 20, 2013. Series C No. 270 par. 425.



## **II. PRESERVATION, CUSTODY, AND CONSERVATION OF THE FRIENDLY SETTLEMENT AGREEMENT**

The Human Rights Archive Directorate of the National Center of Historical Remembrance commits to the following:<sup>6</sup>

1. Keep a copy of the case file corresponding to the Friendly Settlement Agreement with reference to Case C.13.892 Denys del Carmen Olivera de Montes and family, sent by the National Agency for the Legal Defense of the State with the following delivery conditions:

a. The case file is an integral digital copy of the Friendly Settlement Agreement with reference to Case C-13.892 Denys del Carmen Olivera de Montes and family.

b. The file shall contain clear information as to how it is constituted, i.e., size, number of pages, megabytes or gigabytes, as applicable.

c. The submitting entity verifies that the information provided is open to the public.

d. The submitting entity states that the personal data contained in the information provided was collected in accordance with the Colombian personal data privacy requirements of Law 1581 of 2012. Likewise, the Human Rights Archive Directorate of the National Center of Historical Remembrance is required to comply with Law 1581 of 2012 on the protection of Personal Data (Habeas Data) in Colombia, regulated by Decree 1377 of 2013.

e. In the event of containing confidential data protected by law, together with the information delivered, the sender and holder of the information shall deliver the report granting confidentiality and expressly stating the legal basis for classifying the information as such, as well as the number of years the information is reserved.

f. A record of the data collection must be prepared that certifies the entry of the case file to the Human Rights Archive of the CNMH.

2. The file must be preserved, guarded, and kept in digital media within an information system corresponding to the virtual platform of the Human Rights Archive to guarantee its access and disclosure for the general public and victims in particular, in order to contribute to guaranteeing the rights of truth, justice, reparation and non-repetition.

2.1. The information classified as public will be made available immediately to the Virtual Archive, while information of a confidential or classified nature will be restricted. Access to the latter will be granted once the restrictions expire; immediately for family members in accordance with the current legislation; or anonymously to other users, also in accordance with the current legislation in Colombia on access to information.

2.2. To this end, the submitting entity authorizes the Human Rights Archive Directorate of the National Center of Historical Memory to use the information for the preparation of various artworks and communicational and educational pieces without it thereby acquiring any ownership rights or other benefits. Users who use the source must explicitly reference it in their documents, products, and communications.

3. Steps must be taken to make the file available for consultation to other departments of the National Center of Historical Remembrance that may require it, to carry out the "investigation on the facts that gave rise to this Agreement and the preparation of a report

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<sup>6</sup> National Center of Historical Remembrance, official communication No. 202302080693-1 of February 8, 2023.



based on the same", including the information deemed confidential, making the corresponding requests.

### **III. REMEMBRANCE**

The Colombian State, through the National Agency for the Legal Defense of the State and the National Center of Historical Remembrance, will conduct three (3) roundtable discussions with the representative of the victims, with the objective of jointly developing a record of the steps that led to this agreement.

The National Agency for the Legal Defense of the State shall be responsible for performing this measure.

### **IV. COMMEMORATIVE PLAQUE**

At the ceremony for the Acknowledgment of Responsibility, the Colombian State will present the family members with a plaque in memory of Denys del Carmen Olivera, Juan José Montes Balasnoa, and Piedad Montes Olivera. The words on the commemorative plaque shall be agreed with the family members and their representative.

The National Agency for the Legal Defense of the State shall be responsible for performing this measure, as part of the measures of symbolic reparation.

### **PART SIX: HEALTH MEASURE**

The Ministry of Health and Social Protection will implement health rehabilitation measures consisting of medical, psychological, and psychosocial care through the General Social Security Health System (SGSSS) and the Psychosocial and Integral Health Care Program for Victims (PAPSIVI).

Adequate, timely, and priority treatment will be guaranteed to those persons who require and request it, and for as long as necessary. The psychological treatment and psychosocial care provided must take into account the particular circumstances and needs of each person, so that family and individual treatment is provided, as agreed with each person and after an individual assessment.

For access to comprehensive health care, the beneficiaries of the measures are guaranteed timely and quality access to the medicines and treatments required (including physical and mental health care), in accordance with the provisions governing the SGSSS, in addition to receiving priority and specialized care based on their status as victims. The aforementioned care will give special attention to the situation of Mrs. Bernarda Berena Montes Olivera and ensure that continuous, timely, and high quality mental health care is available to her.

These measures will be implemented upon the signature of the friendly settlement agreement.<sup>7</sup>

### **PART SEVEN: GUARANTEES OF NON REPETITION**

The National Agency for the Legal Defense of the State shall inform the family members, through their representative, and the Inter-American Commission on Human Rights of the trainings on human rights related to the judicial functions, conducted to the Ministry of National Defense and the Prosecutor's Office during the years 2023 and 2024.

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<sup>7</sup> Ministry of Health and Social Protection, official communication No. 202216101215031 of June 21, 2022.

#### **PART EIGHT: FINANCIAL COMPENSATION**

The State shall proceed with the application of Law 288 of 1996, with the purpose of compensating the non-material and material damages that may be proven in favor of the victims recognized in clause three of this friendly settlement agreement. For these purposes, the criteria and amounts recognized by the existing national case law shall be applied.

In the event that any victim has been compensated through the administrative courts and/or has been a beneficiary of administrative reparations, the amounts that have been recognized therein shall be discounted from the financial compensation granted in accordance with the procedure provided herein in order to avoid double or excessive compensation.

Likewise, for the purpose of the compensation of damages, the evidence used shall be in accordance with relevant procedural norms of Colombia.

#### **PART NINE: PUBLICATION OF THE ARTICLE 49 REPORT**

The Colombian State shall publish the relevant sections of the friendly settlement report, once it is approved by the Inter-American Commission, on the website of the National Agency for the Legal Defense of the State, for a period of six (6) months.

#### **PART TEN: CONFIDENTIALITY**

The content of this Friendly Settlement Agreement is confidential and may not be published or distributed by any media or means of communication until it is approved by the Inter-American Commission on Human Rights through the issuance of the Report referred to in Article 49 of the American Convention on Human Rights.

#### **PART ELEVEN:<sup>8</sup> APPROVAL AND FOLLOW-UP**

The parties ask the Inter-American Commission the approval of this agreement and its follow-up.

Having been read, and the parties being aware of its scope and legal content, this Agreement is signed on September 26, 2023.

#### **IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE**

15. The IACHR reiterates that in accordance with 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 pursue this process expresses the good faith of the State to comply with the purposes and objectives of the Convention pursuant to the principle of *pacta sunt servanda*, by which States must comply with the obligations assumed in the treaties in good faith.<sup>9</sup> It also wishes to reiterate that the friendly settlement procedure set forth in the Convention allows for conclusion of individual cases in a non-contentious manner, and has proven, in cases involving a variety of countries, to provide an important vehicle for resolution that can be used by both parties.

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

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<sup>8</sup> The original FSA listed this clause as part ten. However, the Commission understands that this is a material error and adjusts the numbering accordingly in order to assist in its monitoring.

<sup>9</sup> 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.*

17. In accordance with the clause eleven of the agreement signed by the parties, whereby they requested the Commission to approve the friendly settlement agreement pursuant to Article 49 of the American Convention, and taking into consideration the joint request by the parties of December 6, 2023 to move forward in this regard, it is appropriate at this time to assess compliance with the commitments set forth therein.

18. The Inter-American Commission considers that clauses one (Definitions), two (Preliminary considerations), three (Beneficiaries), four (Acknowledgment of Responsibility), and ten (Confidentiality) of the agreement are of a declarative nature. Therefore, there is no need to supervise compliance with these terms. In this regard, the Commission values clause four, in which the Colombian State recognizes its international responsibility for the failure to guarantee the right to life, contained in Article 4(1) of the American Convention, in connection to Articles 1(1), 8, and 25 of the same instrument, to the detriment of Denys del Carmen Olivera, Juan José Montes Balasnoa, and Piedad Montes Olivera. It also values the State's recognition of its international responsibility for failing to provide guarantees to prevent violation of the right to humane treatment (Article 5(1)), fair trial (Article 8(1)), and judicial protection (Article 25(1)), established in the American Convention, in connection to Article 1(1) of the same instrument, to the detriment of the family of Denys del Carmen Olivera de Montes, Juan José Montes Balasnoa, and Piedad Montes Olivera.

19. With respect to section I of clause five, concerning the holding of a ceremony for the acknowledgment of responsibility, as jointly informed by the parties, the act was held on November 2, 2023, at Finca la Esperanza, in the municipality of Los Palmitos, department of Sucre. The parties reported that there was consistent and fluent communication between the State and the petitioning party. The parties agreed on every detail for the fulfillment of the measure, such as the date, time, agenda, and logistics required for its execution. The parties provided a copy of the invitation extended to the petitioning party and family members to participate in the act of acknowledgment of responsibility, in which the family members of the victims participated both virtually and in person.

20. Similarly, the parties reported on the content of the agreed agenda for the ceremony, which included an opening session and installation, the national anthem of Colombia, the screening of a commemorative video, and the reading of a poem written by Mrs. Denys del Carmen Olivera Montes, as well as remarks by Mr. Astolfo Nain Montes Olivera, son of Denys del Carmen Olivera and Juan José Montes Balasnoa, and by Mrs. Rossette Elena María de Contreras, on behalf of petitioner Francisco Javier Herrera Sánchez. Afterwards, the Regional Public Defender of Sucre also made a speech in honor of the victims of the case. Finally, a song was sung and the ceremony closed by Mr. Juan Carlos Perez Olivera.

21. Speaking on behalf of the State was the Director of International Legal Defense of the National Agency for the Legal Defense of the State. He asked for forgiveness from the victims and their families for what happened, and acknowledged the State's responsibility under the terms established in the friendly settlement agreement signed between the parties, stating the following:

[...]

Today marks the 25th anniversary of the death of Mrs. Denys del Carmen Olivera, Mr. Juan José Montes Balasnoa, and Mrs. Piedad Montes Olivera, who were murdered by members of paramilitary groups operating in this region. I am moved, and at the same time honored to be able to join you today to commemorate their memory. [...]

Twenty-five years ago, this family that is with us today, did not obtain the assistance they needed from the state authorities when they were informed of these murders. As a result, several of the family members had to carry the lifeless bodies of their loved ones by hand and by their own means, facing risks to their own lives entailed in returning alone to the scene of the events. A situation that no Colombian man or woman should ever have had to live or witness.

The efficient determination of the truth within the framework of the State's obligation to investigate a violent death should have been carried out with due diligence from the first

moment it became aware of the murders. It was the State's responsibility to carry out all the necessary actions to reach the truth of what happened and to punish those responsible, within a reasonable time. [...]

Thus, 25 years have passed without the family having had the right to truth and justice for the murders of Mrs. Denys del Carmen Olivera, Mr. Juan José Montes Balasnoa, and Mrs. Piedad Montes Olivera.

It is for this reason that, in the name and on behalf of the Colombian State and in my capacity as Director General of the National Agency for the Legal Defense of the State, I recognize the international responsibility of the State for failing in its duty to guarantee the right to life, contained in Article 4(1) of the American Convention on Human Rights, in conjunction with Articles 1(1) (duty to guarantee), 8 (fair trial), and 25 (judicial protection) of the same instrument, to the detriment of Mrs. Denys del Carmen Olivera, Mr. Juan José Montes Balasnoa, and Mrs. Piedad Montes Olivera.

The aforementioned due to the fact that these homicides occurred within a generalized context of violence that was present in this area of the country at the time of the facts and, in particular, due to the lack of an adequate and diligent investigation.

Likewise, I recognize the responsibility of the State for failing in its duty to provide guarantees against the violation of the right to humane treatment (Article 5.1), fair trial (Article 8.1), and judicial protection (Article 25.1) of the American Convention on Human Rights, to the detriment of Amparo del Carmen, Juan José, Bernarda Berena, Jarold David, Astolfo Nain, Libia del Socorro, Prudencia María, María Auxiliadora, Marlene Isabel, Cenaida Isabel, Ronny Manuel, and Silvio José, beneficiaries of the Friendly Settlement Agreement.

This was the result of the lack of a complete and effective investigation that would have allowed the family to know the truth of what happened, and to judge and punish those responsible for these crimes. The failure to clarify the facts and punish those responsible caused greater pain and anxiety in a family already hurt by the loss of their loved ones.

I recognize the harm caused to the family of Denys del Carmen Olivera, Juan José Montes Balasnoa, and Piedad Montes Olivera. Therefore, in the name and on behalf of the State, I ask for their forgiveness and assure them that the State is fully committed and willing to redress the harm done, and to implement measures to ensure that these regrettable events are not repeated in our society.

[...].

22. The ceremony for the acknowledgement of responsibility was recorded on the YouTube channel of the National Agency for the Legal Defense of the State.<sup>10</sup> Consequently and bearing in mind the information provided jointly by the parties, the Commission considers, and hereby declares, that section I of clause five of the friendly settlement agreement, related to the act of acknowledgment of responsibility, has been met with full compliance.

23. With regards to section IV of clause five, regarding the delivery of a commemorative plaque, the parties indicated, in their joint report of December 6, 2023, that during the act of acknowledgment of responsibility held on November 2, 2023, the State delivered to the family a plaque in memory of Mrs. Denys del Carmen Olivera, Mr. Juan José Montes Balasnoa, and Mrs. Piedad Montes Olivera. They reported that the text of the plaque was previously agreed upon with the family members and their representative, and provided the respective photographs. In light of the above, based on the information provided by the parties, the

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<sup>10</sup> See, ANDJE, YouTube, Ceremony of Acknowledgement- Case No. 13.892, Denys del Carmen Olivera de Montes and their family: [Case No. 13.892, Denys del Carmen Olivera de Montes and her family members \(youtube.com\)](#).

Commission considers, and hereby declares, that with respect to this aspect of the agreement full compliance has been achieved.

24. With regards to section II (preservation, custody, and conservation measures of the friendly settlement agreement) and III (measure of remembrance) of clause five on satisfaction measures, as well as clause six (health measures), clause seven (guarantees of non-repetition), clause eight (financial compensation), and clause nine (publication of the Article 49 report) of the friendly settlement agreement, and bearing in mind the joint request of the parties to proceed with the approval of the agreement prior to their compliance, the Commission observes that said measures must be complied with after the publication of this report. Therefore, it considers, and hereby declares, that their compliance is still pending. In light of the above, the Commission awaits updated information from the parties on their execution subsequent to the approval of this report.

25. Based on the foregoing, the Commission concludes, and hereby declares, that section I (ceremony for the acknowledgment of responsibility), and IV (commemorative plaque) of clause five have been met with full compliance. On the other hand, the Commission considers, and hereby declares, that compliance is still pending with sections II (preservation, custody, and conservation measure) and III (measure of remembrance) of clause five on measures of satisfaction, as well as clauses six (health measures), seven (guarantees of non-repetition), eight (financial compensation), and nine (publication of the Article 49 report) of the friendly settlement agreement. Accordingly, the Commission considers, and hereby declares, that the friendly settlement agreement has been partially implemented. Finally, the Commission reiterates that the rest of the content of the agreement is of a declarative nature, and therefore does not require supervision.

## **V. CONCLUSIONS**

1. Based on the foregoing and in keeping with the procedure provided for in Articles 48(1)(f) and 49 of the American Convention, the Commission would like to reiterate its profound appreciation of the efforts made by the parties and its satisfaction that a friendly settlement has been arrived at in the present case on the basis of respect for human rights and consistent with the object and purpose of the American Convention.

2. Based on the considerations and conclusions contained in this report,

### **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

#### **DECIDES:**

1. To approve the terms of the friendly settlement agreement that the parties signed on September 26, 2023.

2. To declare full compliance with section I (ceremony for the acknowledgment of responsibility) and IV (commemorative plaque) of clause five of the friendly settlement agreement, as per the analysis contained in this report.

3. To declare that compliance with sections II (preservation, custody, and conservation measures of the friendly settlement agreement) and III (measure of remembrance) of clause five on satisfaction measures, as well as clauses six (health measures), seven (guarantees of non-repetition), eight (financial compensation) and nine (publication of the Article 49 report) of the friendly settlement agreement, is still pending, as per the analysis contained in this report.

4. To find that the friendly settlement agreement has met partial compliance, as per the analysis contained in this report.

5. To continue to monitor the commitments undertaken in sections II (preservation, custody, and conservation measures of the friendly settlement agreement), and III (measure of remembrance) of clause five on satisfaction measures, as well as monitoring of clause six (health measures), seven (guarantees of non-repetition), eight (financial compensation), and nine (publication of the Article 49 report) of the friendly settlement agreement, in accordance with the analysis contained in this report. To that end, to remind the parties of their commitment to report periodically to the IACHR on its implementation.

6. To publish this report and include it in its Annual Report to the General Assembly of the OAS.

Approved by the Inter-American Commission on Human Rights on the 24<sup>th</sup> day of the month of October, 2024. (Signed:) Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice President; Edgar Stuardo Ralón Orellana, Arif Bulkan, Andrea Pochak, and Gloria Monique de Mees, Commissioners.