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CASE 14.802

REPORT ON FRIENDLY SETTLEMENT

JOSÉ ALIRIO CAÑAS MORALES AND FAMILY
COLOMBIA

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REPORT No. 164/24
CASE 14.802
FRIENDLY SETTLEMENT
JOSÉ ALIRIO CAÑAS MORALES Y FAMILIA
COLOMBIA¹
OCTOBER 24, 2024

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On July 12, 2012, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a petition filed by Oscar Darío Villegas Posada (hereinafter “the petitioner” or “the petitioning party”), alleging the international responsibility of the Republic of Colombia (hereinafter “the State” or “the Colombian State” or “Colombia”) for violating the human rights set forth in Articles I (right to life, liberty and personal security), XI (right to the preservation of health and to well-being) and XVIII (right to a fair trial) of the American Declaration of the Rights and Duties of Man (hereinafter “the American Declaration”) and Articles 5 (right to humane treatment), 8 (right to a fair trial), 11 (honor and dignity), 22 (freedom of movement and residence) and 25 (right to judicial protection) of the American Convention on Human Rights, (hereinafter “Convention” or “American Convention”), for the death of José Alirio Cañas Morales in the course of an anti-kidnapping security operation; for the lack of criminal investigation of what happened; and for the refusal of the contentious-administrative courts to declare the Nation responsible for his death.

2. On December 1, 2021, the Commission issued Admissibility Report No. 366/21, in which it found the petition admissible and declared it had jurisdiction to hear the claim submitted by the petitioner regarding the alleged violation of the rights contained in Articles 4 (life), 5 (humane treatment), 8 (fair trial) and 25 (judicial protection) of the American Convention, in accordance with Article 1.1 (obligation to respect rights).

3. On April 11, 2024, the parties signed a memorandum of understanding to pursue a friendly settlement in this case, along with a timetable. In the following months, the parties held bilateral meetings to analyze the reparation measures to be included in the friendly settlement agreement (hereinafter “FSA”), which materialized with the signing of said instrument on May 22, 2024, in the city of Bogotá D.C. Subsequently, on June 26, 2024, the parties submitted a joint report on progress implementing the FSA and requested approval by the IACHR.

4. This friendly settlement report, pursuant to Article 49 of the Convention and Article 40.5 of the Rules of Procedure of the Commission, contains a summary of the facts alleged by the petitioner and a transcription of the friendly settlement agreement signed by the petitioner and representatives of the Colombian State, on May 22, 2024. Likewise, the agreement signed between the parties is approved and it is agreed that this report will be published in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

II. THE FACTS ALLEGED

5. According to the petitioner, Mr. Cañas, apparently on his own and without being associated with any criminal group or organization, allegedly kidnapped his father's former employer and demanded a sum of money from the latter's relatives in exchange for his release, thus committing the crime of kidnapping for ransom as defined in the Colombian Penal Code.

¹ Pursuant to 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.

6. The petitioner indicated that the kidnapped citizen's relatives announced they would pay the ransom the following day, September 30, 1997. According to the petition, at the time the money was to be paid, the National Police, the National Army, and the Administrative Department of Security deployed more than fifty agents of the GAULA group in a joint operation against Mr. Cañas, and it was alleged that during this operation Mr. Cañas was killed by gunfire. According to the petitioner, despite surrounding the area where the exchange took place, with no possibility of escape, they unnecessarily used their firearms, causing the immediate death of young Cañas. In the petitioner's opinion, this constituted undue, unjust, and arbitrary use of service weapons by the agents who participated in the kidnapped victim's rescue operation. In this regard, the petitioner cited various pieces of evidence presented before the contentious-administrative court that, in his opinion, demonstrate that Mr. Cañas did not pose a danger to the state security forces who took his life, since he was preparing to flee and was not shooting at them with the weapon he was carrying.

7. The petitioner also provided extensive substantive arguments of why he considers that this allegedly disproportionate use of force violated the rights, according to the Convention, invoked in his petition, particularly the right to life and to humane treatment. According to the petition, in the petitioner's opinion, the security forces disregarded those rights *"by depriving young José Alirio Cañas Morales of his life, who, although he was engaged in an illegal activity, deserved that the Colombian State respect his life, and therefore, as a result of the operation, proceed to his capture and subsequent transfer to the competent Colombian authorities, so that a proceeding could be initiated in which his due process of law and right to a fair trial and to present a defense would be respected."* The petitioner also invoked the rights to health, honor and dignity, and freedom of movement, without providing arguments to support their alleged violation.

8. Both the petitioner and the State agree in stating that no separate criminal investigation was opened into the death of Mr. Cañas; but rather that his death was investigated preliminarily as part of the criminal investigation into the crime of kidnapping he had committed. According to what was indicated in the petition, in fact, the Specialized GAULA Prosecutor's Office No. 54 in Antioquia opened preliminary investigation No. 24.632 into the crime of extortionate kidnapping. By resolution of August 14, 2003, the Prosecutor's Office, through the Chief Prosecutor of the Specialized Prosecutors' Unit in Medellín, decided to suspend the investigation, considering, among other factors that it had not been possible to collect evidence to identify those responsible for the death of Mr. Cañas, as perpetrators or accomplices. Therefore, according to the petitioner, to date none of the state security agents who participated in the anti-kidnapping operation in question have been investigated, tried, or punished, nor have the criminal justice authorities established whether there was excessive use of force.

9. The petitioner also mentioned another preliminary investigation, apparently carried out by the Prosecutor's Office, but he did not specify the conduct that was investigated. The petitioner said in *"the investigation carried out by the Prosecutor's Office by order dated August 14, 2003, with preliminary investigation No. 183, the investigating Prosecutor decided on August 14, 2003, within case No. 488, to suspend the preliminary investigation, since it has not been possible to establish the identity of the accused."* "No copies of the corresponding decisions or data have been provided that could have made these investigations part of the of the case."

10. In his additional observations, the petitioner alleged that the domestic criminal proceedings were not effective in establishing whether there had been excessive use of force by state security agents, because the investigation ended up being suspended and would have been conducted as part of the criminal kidnapping proceeding:

[M]ore than a finding of criminal or administrative responsibility, a real and comprehensive inquiry should have been sought to establish whether the homicide of José Alirio Cañas by members of the GAULA belonging to the National Police, was justified, or if there had been disproportionate use of force and unnecessary deprivation of life. The criminal proceeding was ineffective in protecting the rights of the victim and the claimants under the Convention.

11. According to the petition, Mr. Cañas's next of kin filed a direct-reparations lawsuit with the contentious-administrative court, seeking a declarative ruling that the State was responsible for his death. The

lawsuit was filed on September 29, 1999. The petition states that the Sixth Chamber of Decision of the Administrative Court of Antioquia issued a trial-court ruling dated December 12, 2011, denying the claim, finding that state security agents had used legitimate force, given the circumstances in which Mr. Cañas died: committing the crime of extortionate kidnapping while armed.

12. The petition stated that the petitioner had filed an appeal against this ruling that was rejected as inadmissible by the Sixth Chamber of Decision in its order dated March 5, 2012, on the grounds that the amount of the claim made appeal inadmissible. According to the allegations, in response to this denial, on March 12, 2012, the petitioner filed an action to reverse and an appeal of complaint. In a decision dated May 4, 2012, the Sixth Chamber denied reversal and the appeal of complaint was elevated to the Council of State for decision. With this denial by the trial court, the petitioner claimed that the right of Mr. Cañas' next of kin to have the case decided by more than one instance had been violated. Thus, Mr. Cañas next of kin had been denied access to an effective remedy that would allow them to know the truth of what had happened and to punish those responsible.

III. FRIENDLY SETTLEMENT

13. On May 22, 2024, in the city of Bogotá D.C., the parties entered into a friendly settlement agreement, the text of which provides the following:

FRIENDLY SETTLEMENT AGREEMENT CASE 14.802 JOSÉ ALIRIO CAÑAS MORALES Y FAMILIA.

On May 22, 2024, in the city of Bogotá D.C., Jhon Jairo Camargo Motta, (Acting) Director of the National Agency for the Legal Defense of the State, acting on behalf of the Colombian State, hereinafter referred to as “the Colombian State,” on the other hand, attorney Juan David Villegas Mora, acting in this process as proxy for the petitioner, Doctor Oscar Darío Villegas Posada, acting on behalf of the victims, collectively referred to as “the parties,” met and signed this Friendly Settlement Agreement in Case No. 14.802, José Alirio Cañas Morales and family, underway before the Inter-American Commission on Human Rights.

PART ONE: DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply:

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

Moral damages: Injurious effects of the facts of the case that are not financial or property-related, which are manifested through the pain, affliction, distress, sadness, grief, and anxiety of the victims.

Material damages: This includes loss of or detriment to the victim’s income, the expenses incurred because of the facts, and the pecuniary consequences that have a causal nexus to the facts of the case.²

Non-pecuniary damages: Include both the suffering and distress caused to the victims, the impairment of values that are very significant to individuals, as well as the non-pecuniary disruption of the living conditions of the victim and their family.³

² I/A Court H.R., Case of Serrano Cruz Sisters v. El Salvador, (Merits, Reparations and Costs). Judgment of March 1, 2005. Series C No. 120, para. 150.

³ 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, para. 125.

State or Colombian State: In accordance with International Public Law, this shall be understood to be the signatory subject to the American Convention on Human Rights, hereinafter “American Convention” or “ACHR.”

Measures of satisfaction: Non-pecuniary measures the purpose of which is recovery from the harm that has been caused to them.⁴

Parties: The Colombian State, the proxy, and the victim’s next of kin.

Acknowledgment of responsibility: Admission of the facts and the human rights violations attributed to the State.

Comprehensive reparation: All those measures that objectively and symbolically restore the victim to the state he or she was in prior to the commission of the harm.

Petitioner: attorney Juan David Villegas Mora, acting as proxy on behalf of the victims for the present act.

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

Victims: Maria Dilia Morales Franco (Mother), Argemiro Cañas Gallo (Father), Juan Diego Cañas Morales (Brother), Blanca Rubi Cañas Morales (Sister), Kenny Maryori Cañas Morales (foster sister) y Octavio Morales Toro (Grandfather) y Celia Inés Franco Rivera (Grandmother) of the direct victim.

PART TWO: BACKGROUND

1. On July 12, 2012, Argemiro Cañas Gallo, Juan Diego Cañas Morales, Octavio Morales Toro, María Dilia Morales Franco, Celia Inés Franco Rivera, Blanca Rubi Cañas Morales and Kenny Maryori Cañas Morales filed a petition before the Inter-American Commission on Human Rights, requesting a finding of international responsibility of the Colombian State for the death of José Alirio Cañas Morales on September 30, 1997 in the municipality of Guarne, Antioquia, in the context of an anti-kidnapping security operation, as well as for the lack of investigation into what happened and for the contentious-administrative judges’ decision not to declare the Nation responsible for his death.⁵

2. According to Admissibility Report No. 366/21 of the Inter-American Commission on Human Rights (hereinafter, -IACHR-), Mr. Cañas kidnapped his father's former employer and demanded a sum of money from the latter’s relatives in exchange for his release, thus committing the crime of kidnapping for ransom as defined in the Colombian Penal Code, apparently on his own and without being associated with any criminal group or organization.⁶

3. On September 30, 1997, Mrs. Yolanda Urrea Aguilar filed complaint No. 105 with the Judicial Police Investigative Unit within GAULA Antioquia regarding the kidnapping of her husband, Gonzalo Aguilar Gómez, at the La Clara farm in the municipality of Guarne, Antioquia. Based on Mrs. Yolanda's complaint, the Specialized GAULA Prosecutor's Office No. 54 in Antioquia, by resolution of September 30, 1997, decided to open preliminary investigation No. 183 and commissioned the Judicial Police Investigative Unit within GAULA Antioquia to carry out intelligence and operational work aimed at securing the release of the kidnapped

⁴. Such measures include, for example, public knowledge of the truth and acts of reparation.

⁵. IACHR, Report No. 366/21. Petition 1311-12. Admissibility Report. José Alirio Cañas Morales and relatives. Colombia. December 1, 2021, para 1.

⁶. *Id.* para 2.

individual and gathering all evidence necessary for complete identification of the perpetrators of the crime.

4. The Report further states that:

*“The kidnapped citizen’s relatives announced that they would pay the ransom the following day, September 30, 1997. At the time the money was to be paid, the National Police, the National Army, and the Administrative Department of Security deployed more than 50 agents of the GAULA group in a joint operation against Mr. Cañas. According to the petitioner, despite having surrounded the area where the exchange took place, with no possibility of escape, they unnecessarily used their firearms, causing the immediate death of young Cañas. In the petitioner’s opinion, this constituted undue, unjust, and arbitrary use of service weapons by the agents who participated in the kidnapped victim’s rescue operation. In this regard, the petitioner cited various pieces of evidence presented to the contentious-administrative court, which in his opinion demonstrate that Mr. Cañas did not pose a danger to the state security forces who took his life, since he was preparing to flee and was not shooting at them with the weapon he was carrying.”*⁷

5. Pursuant to the record for the removal of the body, dated September 30, 1997, the regional Prosecutor No. 54, accompanied by an officer with judicial police powers, removed the body and conducted the necessary evidentiary tests. Subsequently, the body of Mr. Cañas was sent to the morgue.⁸

6. According to the Report, due to the events that occurred, “the Specialized GAULA Prosecutor’s Office No. 54 in Antioquia opened preliminary investigation No. 24.632 into the crime of extortionate kidnapping. By resolution of August 14, 2003, the Prosecutor’s Office, through the Chief Prosecutor of the Specialized Prosecutor’s Unit of Medellín, decided to suspend the investigation, considering among other factors that it had not been possible to collect evidence to identify those responsible for the death of Mr. Cañas, either as perpetrators or accomplices. Therefore, according to the petitioner, to this date none of the state security agents who participated in the anti-kidnapping operation in question have been investigated, tried, or punished, nor have the criminal justice authorities established whether there was excessive use of force.”⁹

i. Domestic legal remedies

7. According to the Admissibility Report, Mr. Cañas’ next of kin, filed a claim for direct reparations on September 29, 1999, seeking to have the Nation ruled to be responsible for what happened in the case.

8. In this regard, through a first instance ruling dated December 12, 2011, issued by the Administrative Court of Antioquia - Sixth Chamber of Decision, the claim was denied, the court finding that the state security agents had used legitimate force, given the circumstances in which Mr. Cañas died: committing the crime of extortionate kidnapping while armed.”¹⁰

9. The petitioners appealed this ruling. By order of March 5, 2012, the Administrative Court of Antioquia - Sixth Chamber, rejected the appeal as inadmissible, stating that the amount claimed made the appeal inadmissible.

10. In response to this denial, on March 12, 2012, the petitioner filed an action to reverse and an appeal of complaint. By order of May 4, 2012, the aforementioned court upheld the

⁷ *Id.* para. 2.

⁸ Record for the removal of the body, dated September 30, 1997.

⁹ *Id.* para 5.

¹⁰ *Id.* para 8.

order issued on March 5, 2012. The court also ordered the issuance of a few copies of the proceedings for filing the appeal of complaint before the Council of State.

11. According to the information provided by the Council of State¹¹, on June 15, 2012, the petitioner filed the appeal of complaint before the Council of State, which was adjudicated by order of June 12, 2013. The Council of State deemed the appeal filed by the petitioner against the ruling of December 12, 2012¹² to have been improperly denied, and therefore granted the appeal and requested that the case file be sent.

12. The Council of State also reported that on October 7, 2013, the appeal was accepted for review of the ruling of December 12, 2012.

13. Subsequently, by a decision dated May 30, 2019, the State Council - Third Section, decided to uphold the ruling of first instance, thus putting a definitive end to the action for direct reparation before the contentious-administrative jurisdiction.

ii. Proceedings before the IACHR

14. As stated, on July 12, 2012, the petitioners filed a petition before the IACHR, requesting a finding of international responsibility of the Colombian State for the death of Mr. José Alirio Cañas Morales.

15. On December 1, 2021, the IACHR found the petition admissible by way of Report No. 366/21 for the alleged violation of the rights set forth in Articles 4, 5, 8 and 25 of the American Convention, in accordance with Article 1.1.

16. The victims’ representatives expressed their interest to initiate a friendly settlement process, and therefore, on April 3, 2024, the petitioner sent a proposal for comprehensive reparation measures to the National Agency for the Legal Defense of the State.

17. As a result of the foregoing, on April 11, 2024, the parties signed a Memorandum of Understanding to seek a friendly settlement.

18. Once the proposal for comprehensive reparation measures was received and analyzed, an inter-institutional dialogue led to agreement on the comprehensive reparation measures to be included and joint meetings were held between the parties to analyze the comprehensive reparation measures to be included in the friendly settlement agreement that is to be signed on this date.

PART THREE: BENEFICIARIES

The Colombian State recognizes the following persons, all of whom are Colombian citizens, as victims of this agreement:

Name	Relationship	Citizen ID card
Maria Dilia Morales Franco	Mother	(...)
Argemiro Cañas Gallo	Father	(...)
Juan Diego Cañas Morales	Brother	(...)
Blanca Rubí Cañas Morales	Sister	(...)

¹¹. State Council, Contentious-Administrative Court, Third Section, Certification of February 26, 2019, addressed to the National Agency for the Legal Defense of the State.

¹² The original FSA indicated that the date of the contested judgment was December 12, 2012, but through note No. 202410001091 of October 9, 2024, the State reported that this was a material error and requested that the date of paragraphs 11 and 12 of the FSA be adjusted, in accordance with the provisions of paragraph 8 of the same instrument, clarifying that the correct date is December 12, 2011. Therefore, the Commission takes note of the material error and corrects it in this report.

Kenny Maryori Cañas Morales	Foster sister	(...)
Octavio Morales Toro	Grandfather	(...)
Celia Inés Franco Rivera	Grandmother	(...)

Paragraph 1: The victims recognized in this friendly settlement agreement shall be granted benefits provided they are able to prove their blood relationship to the direct victim José Alirio Cañas Morales.

Paragraph 2: By signing this friendly settlement agreement, the petitioners declare that the persons listed above are José Alirio Cañas Morales' next of kin, have legal standing, and are interested parties in this process. These persons i) were alive when the events took place; and ii) are alive at the time of signing this document.¹³

Thus, after the signing of the friendly settlement agreement, no new beneficiaries will be included.

PART FOUR: ACKNOWLEDGMENT OF RESPONSIBILITY

The Colombian State acknowledges its international responsibility by omission for the violation of the rights to a fair trial (Article 8.1) and to judicial protection (Article 25.1) enshrined in the American Convention on Human Rights, with respect to the duty to ensure rights under Article 1.1 of the same instrument, to the detriment of José Alirio Cañas Morales' next of kin, due to the lack of investigation into the events that took place, which prevented their clarification and the punishment of those responsible.

PART FIVE: MEASURES OF SATISFACTION

The parties establish that under this agreement the following measures of satisfaction will be implemented:

I. Act of Recognition of Responsibility:

The Colombian State will hold a Public Act of Recognition of Responsibility, with the participation of the victims and their representative. The event will be conducted in person and in accordance with the acknowledgment of responsibility set forth in this agreement.

The National Agency for the Legal Defense of the State will be responsible for this measure. To finalize the event details, the family members and the representative will take part in a consultation process.

II. Publication of the Article 49 Report:

Once this agreement is approved by the Inter-American Commission, the Colombian State will publish the report under Article 49 of the ACHR, on the website of the National Agency for the Legal Defense of the State for a period of six months.

PART SIX: MEASURES OF JUSTICE

The Attorney General's Office, within the scope of its competencies and legal constraints, will review the investigations undertaken and will continue investigative actions if they are

¹³ This is consistent with the case law 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, para. 425.

determined to be viable, in accordance with the principles of due diligence. The Attorney General's Office will comply in a timely manner with the victims and their representative's requests, pursuant to substantive and procedural laws applicable to the guarantees of protection for the victims and parties in the proceedings.¹⁴

PART SEVEN: COMPENSATION MEASURES

The State undertakes to enforce Law 288 of 1996, to provide redress for the damages that may be proven to the victims recognized in the THIRD PART: Beneficiaries of this friendly settlement agreement. Regarding compensations, the criteria and amounts to be applied shall be those provided for by the jurisprudence in force.

In the event of a victim who has been compensated through the contentious-administrative jurisdiction and/or is the beneficiary of administrative reparations, any amount recognized shall be deducted from the monetary compensation granted in accordance with the procedure provided herein to avoid duplicate or excessive compensation.

Also, for the purpose of compensations, any evidence that is susceptible to have value under to Colombian procedural rules will be considered.

PART EIGHT: APPROVAL AND FOLLOW-UP

The parties request the Inter-American Commission to approve and follow up on this agreement.

PART NINE: CONFIDENTIALITY

The content of this friendly settlement agreement is confidential and may not be published and/or disseminated by any means until this agreement is approved by the Inter-American Commission on Human Rights through the adoption of the corresponding report under Article 49 of the American Convention on Human Rights.

The parties having read this agreement and being aware of its scope and legal content, signed on it on May 22, 2024.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

14. The IACHR highlights 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.¹⁵ 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.

15. 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.

16. Pursuant to part eight of the agreement signed by the parties, whereby they requested that the Commission approved the friendly settlement agreement under Article 49 of the American Convention and

¹⁴ Attorney General's Office. Document No. 20241700042571 of Mayo 21, 2024.

¹⁵ 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.*

taking into account the joint request of the parties dated June 26, 2024, to proceed in this manner, it is appropriate at this time to assess compliance with the commitments set forth in the agreement.

17. The Inter-American Commission considers that agreement clauses part one (Definitions), part two (Background), part three (Beneficiaries) part four (Acknowledgement of Responsibility) and part nine (Confidentiality) are declaratory in nature, and therefore their compliance need not be supervised. The Commission values declaratory clause part four, in which the Colombian State acknowledges its international responsibility by omission for the violation of the rights to a fair trial (Article 8.1.) and to judicial protection (Article 25.1.) enshrined in the American Convention on Human Rights, with respect to the duty to ensure rights under Article 1.1 of the same instrument, to the detriment of José Alirio Cañas Morales' next of kin, due to the lack of investigation into the events that took place, which prevented their clarification and punishment of those responsible.

18. Regarding paragraph (I) of the fifth clause, on the act of acknowledgment of responsibility, as jointly reported by the parties, the event was held on June 12, 2024, at 2:00 p.m., at the *Museo Casa de la Memoria* in the city of Medellín. The parties reported ongoing communication between the State and the petitioners' representatives, who agreed on each detail about compliance with the measure. In this regard, the parties provided a copy of the invitations circulated for the event, photographs of the event, and the event program, which included the celebration of the Eucharist at closing. Those present in person included Mr. Argemiro Cañas Gallo, José Alirio's father; Mrs. María Dilia Morales Franco, José Alirio's mother; Mrs. Blanca Rubí Cañas Morales, José Alirio's sister; and young Kenny Maryori Cañas Morales, José Alirio's niece.

19. The parties also reported that during the act of acknowledgment of responsibility a celebration of life slideshow was displayed with photos of José Alirio Cañas Morales and his family throughout the years. A song the family remembers him by was playing in the background. Additionally, the parties provided the Youtube¹⁶ live stream event link to the National Agency for the Legal Defense of the State channel and noted that the agenda included remarks by Kenny Maryori Cañas Morales, José Alirio's niece, on behalf of the family, along with the statement by Juan David Villegas, who spoke in his capacity as the victims' representative.

20. According to the joint information provided by the parties, the Director of the National Agency for the Legal Defense of the State spoke on behalf of the State and acknowledged the international responsibility of the Colombian State under the terms established in the friendly settlement agreement, stating as follows:

[...]

Today I really want to make an appeal to humanity and compassion. We acknowledge that the judicial process in Colombia was insufficient. In fact, it was non-existent, given that the Prosecutor's Office never conducted an independent investigation into the unfortunate death of José Alirio. The signing of the memorandum of understanding to seek a friendly settlement on April 11, 2024, in Bogotá, as well as the signing of the friendly settlement agreement on May 22 of this year, are a crucial step toward achieving justice.

Today, 27 years later, the Cañas Morales family still feels José Alirio's absence and nothing [...] will be able to fill this void. To you, José Alirio's family, I want to say that your struggle has not been in vain. Your perseverance has led to the opening of a meaningful dialogue with the Colombian State, a dialogue that seeks not only redress for the damage suffered, but also to prevent others from going through the same pain. This friendly settlement process is a testament to your strength and love for José Alirio.

Acknowledging the victims' pain and taking measures to repair the damage is not only an act of justice, but an act of humanity. It is essential that all the agreed comprehensive reparation

¹⁶ See, ANDJE, YouTube, Ceremony of Acknowledgment – Case 14.802 José Alirio Cañas Morales, and family: [Case 14.802 José Alirio Cañas Morales, and family \(youtube.com\)](#).

measures be not only fully complied with, but also promptly carried out. These measures must seek not only to compensate for the pain, something is impossible to achieve, but also to ensure that this type of tragedy is not repeated.

The Colombian State understands the immense and profound pain the family has endured all these years. You have shown us that only through resilience, tenacity, unity, and strength one can overcome hopelessness, disbelief, and nostalgia. You have tried to rebuild your lives and pursue your dreams despite this loss. Today, while acknowledging the profound damage caused to the Cañas Morales family, [...] on behalf of the Colombian State I ask for forgiveness by way of this act. From the bottom of our heart, forgive us.

These words will never console your hearts, but they mark the beginning of a process of forgiveness and reconciliation. My appeal to you is that we embark on this journey toward reconciliation together, joining forces to build a country that is not insensitive to the pain of others.

In view of the foregoing and once again, on behalf of the Colombian State, I acknowledge international responsibility for the violation of the right to a fair trial and to judicial protection enshrined in the American Convention on Human Rights, with respect to the duty to ensure rights under the same instrument, to the detriment of José Alirio Cañas Morales' relatives.

[...]

21. Based on the information provided jointly by the parties, the Commission finds and hereby declares that paragraph (I) of the fifth clause of the friendly settlement agreement related to the act of acknowledgment of responsibility has been met with full compliance.

22. On the other hand, with regards to paragraph (II) of the fifth clause (publication of the Article 49 Report), as well as the sixth (measures of justice) and seventh (compensation measures) clauses of the agreement and in view of the parties' joint request to move forward with its homologation prior to its execution, the Commission notes that these measures must be complied with after the publication of this report, and therefore considers, and hereby declares, that they are pending compliance. Accordingly, the Commission will await an update from the parties on its implementation after the approval of this report.

23. Based on the foregoing, the Commission concludes and declares that paragraph (I) of the fifth clause (act of acknowledgment of responsibility) of the friendly settlement agreement has been fully complied with. The Commission also finds and declares that paragraph (II) of the fifth clause (publication of the Article 49 Report), as well as clauses six (measures of justice) and seven (compensation measures) of the friendly settlement agreement are pending compliance.

24. Lastly, the Commission reiterates that the remaining parts of the friendly settlement agreement are declaratory in nature, and therefore need not be supervised. Consequently, the Commission considers that the friendly settlement agreement has reached a level of partial compliance and will continue to supervise compliance of the aforementioned parts until they are fully implemented.

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 reasons 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 22, 2024.
2. To declare full compliance with paragraph (I) of the fifth clause (act of acknowledgement of responsibility) of the friendly settlement agreement, based on the analysis contained in this report.
3. To declare paragraph (II) of the fifth clause (publication of the Article 49 Report), the sixth clause (measures of justice), and the seventh clause (compensation measures) of the friendly settlement agreement to be pending compliance, based on the analysis contained in this report.
4. To continue supervising paragraph (II) of the fifth clause (publication of the Article 49 Report), the sixth clause (measures of justice), and the seventh clause (compensation measures) of the friendly settlement agreement until full compliance, according to the analysis contained in this report. To this end, to remind the parties of their commitment to report periodically to the IACHR on their compliance.
5. 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 24th 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.