

**TECHNICAL INFORMATION SHEET**  
**PETITION 1339/07 TITO GUIDO GALLEGOS GALLEGOS**  
**REPORT ON FRIENDLY SETTLEMENT Nº 70/16**  
**TOTAL COMPLIANCE**  
**(PERU)**

**I. SUMMARY OF THE CASE**

**Victim (s):** Tito Guido Gallegos Gallegos  
**Petitioner (s):** Tito Guido Gallegos Gallegos  
**State:** Peru  
**Report on Friendly Settlement Agreement.:** 70/16, published November 30, 2016  
**Related Rappporteurship:** N/A  
**Topics:** Judicial officials/ Non-confirmed Judges/ Due process/ guarantees of judicial protection

**Facts:** This case involves violations of due process in detriment of the victim, who after seven years of working as a judge was subjected to a process of evaluation and ratification of his position in which his rights were allegedly violated and his non confirmation as a judge [with the title *Vocal de Superior*] of the Superior Court of Justice of Puno was decided in an arbitrary and unfounded procedure, as a result he was definitively removed from his position.

**Rights Alleged:** The petitioner alleged the international responsibility of the State for violations of the rights enshrined in Articles 8 (right to a fair trial) and 25 (right to judicial protection) of the American Convention on Human Rights, in conjunction with Articles 1.1 (obligation to respect rights) and 2 (domestic legal effects) of said treaty.

**II. PROCEDURAL ACTIVITY**

1. On October 26, 2016, the parties signed a friendly settlement agreement.
2. On November 30, 2016, the Commission approved the friendly settlement agreement in Report No.70/16.

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

Clause of Agreement	Status of Compliance
<p><b>FIRST CLAUSE. – Recognition of Responsibility.</b> The State recognizes that the process of confirmation of judges and prosecutors, as carried out before the entry into force on December 1, 2005, of the Code of Constitutional Procedure (Law No. 28237), while in keeping with the interpretation of the applicable provisions made by the relevant mechanisms, did not incorporate certain guarantees of Effective Procedural Protection, particularly the requirement of a reasoned resolution, which must be observed in any type of procedure, in light of what is stated in the Constitution of Peru, the human rights treaties binding on</p>	<p><b>Declarative Clause</b></p>

<p>the Peruvian State, the binding case-law in this regard from the Inter-American Court of Human Rights, as well as the Constitutional Court.</p>	
<p><b>SECOND CLAUSE. - Effects of the Recognition of Responsibility.</b>                  In keeping with what is stated in the First Clause of this Agreement, both parties consider that it is according with the law, pursuant to the international human rights provisions that are binding on the Peruvian State, and in keeping with what is established in the Constitution of Peru, that the National Council of the Judiciary set aside the resolutions that declared the non-confirmation of the judge appearing in this friendly settlement. Accordingly, the judge recovers his condition as such for the following purposes:</p>	<p><b>Declarative Clause</b></p>
<p><b><u>2.1 Rehabilitation of titles by the National Council of the Judiciary.</u></b>                  The National Council of the Judiciary will restore the corresponding title within 15 working days of the approval, by the Inter-American Commission on Human Rights, of this friendly settlement agreement.</p>	<p><b>Total<sup>1</sup></b></p>
<p><b><u>2.2 Reinstatement in the Judicial Branch.</u></b>                  The Judicial Branch shall order the reinstatement of the judge who signs this Agreement to his original position within 15 (fifteen) days following the restoration of the title. If his original position is not available, at the request of the judge he shall be reinstated in a vacant position of the same level in the same or another judicial district.                  In this case, said judge shall have the first option to return to his original position as soon as the respective vacancy occurs.                  The reinstatement shall be carried out so long as there is no legal impediment whatsoever, verification of which shall be entrusted to the Judicial Branch.</p>	<p><b>Total<sup>2</sup></b></p>
<p><b><u>2.3. Other Rights of the Reinstated Judge.</u></b>  <b>2.3.1 Recognition of time of service.</b>                  The Peruvian State, through the Judicial Branch, undertakes to recognize the time of service not worked counted from the date of the Resolution of non-confirmation, for the purposes of calculating his time of service and retirement under Peruvian law. If is it necessary, for carrying out this Friendly Settlement Agreement, that the judge be transferred to another judicial district, the seniority of services rendered shall be recognized, for all purposes, in the new district.</p>	<p><b>Total<sup>3</sup></b></p>
<p><b>2.3.2. Social Security Contributions</b>                  The social security contribution, under domestic law (Decree Law No. 19990, Decree Law No. 20530 and Law 25897), is to be made by the worker, thus in the instant case it should be the petitioner who signs this agreement who will be responsible for the social security contributions for the years of service rendered.</p>	<p><b>Declarative Clause</b></p>

<sup>1</sup> See IACHR, Annual Report 2018, Chapter II, Section G: Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, Follow-up sheets.

<sup>2</sup> See IACHR, Annual Report 2018, Chapter II, Section G: Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, Follow-up sheets.

<sup>3</sup> See IACHR, Annual Report 2018, Chapter II, Section G: Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, Follow-up sheets.

<p><b><u>2.4. New Process of Evaluation and Confirmation.</u></b></p> <p>Once the judge mentioned in this agreement has been reinstated by the Judicial Branch, the National Council of the Judiciary shall proceed to undertake a new comprehensive evaluation and confirmation. This new procedure will be carried out in keeping with the due process guarantees provided for in constitutional provisions and principles (Articles 139 and 154 of the Constitution of Peru), the American Convention on Human Rights, and the binding case law handed down by the Inter-American Court of Human Rights and the Constitutional Court.</p> <p>For those purposes, the National Council of the Judiciary has adapted its Rules of Procedure to the corresponding normative provisions that guarantee due process in according to the national and international provisions and the constitutional principles.</p>	<p><b>Total<sup>4</sup></b></p>
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#### **IV. LEVEL OF COMPLIANCE OF THE CASE**

3. The Commission declared total compliance with the case and ceased monitoring the friendly settlement agreement in its Annual Report 2018.

#### **V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE**

##### **A. Individual outcomes of the case**

- The State restored the title of the Judge;
- The State reinstated the Judge in his position;
- The State acknowledged the time of service not worked;
- The State submitted the Judge to new proceedings which duly confirmed him.

<sup>4</sup> See IACHR, Annual Report 2018, Chapter II, Section G: Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR, Follow-up sheets.