

TECHNICAL INFORMATION SHEET
CASE N° 12.059 ALEJANDRA LAPACÓ
FRIENDLY SETTLEMENT REPORT N° 21/00
TOTAL COMPLIANCE
(ARGENTINA)

I. SUMMARY OF THE CASE

Victim (s): Alejandra Lapacó

Petitioners (s): Carmen Aguiar de Lapacó, *Abuelas de Plaza de Mayo* ["Grandmothers of Plaza de Mayo], the Permanent Assembly of Human Rights (APDH), the Center for Legal and Social Studies (CELS), the Center for International Law and Justice (CEJIL), *Familiares de Detenidos Desaparecidos por Razones Políticas* ["Relatives of Disappeared Persons Detained for Political Reasons"], the Argentine League for Human Rights (MEDH), *Madres de la Plaza de Mayo* ["Mothers of Plaza de Mayo—Founding Line"], Ecumenical Movement for Human Rights, and the Peace and Justice Service (SERPAJ)

State: Argentina

Admissibility Report No.: 70/99, published on May 4, 1999.

Report on the Friendly Settlement Agreement No.: 21/00, published on February 29, 2000

Related Rapporteurship: N/A

Topics: Fair Trial/Right to Judicial Protection

Facts: On October 7, 1998, the Inter-American Commission received a petition filed by Carmen Aguiar de Lapacó (hereinafter, "the petitioner" or "petitioning party"), against the State of Argentina (hereinafter, "the State") complaining of events which allegedly occurred on March 16, 1977, at Mrs. Lapacó's home in the Capital City, when twelve armed men broke into her house and took Alejandra Lapacó, Marcelo Butti Arana, Alejandro Aguiar and Mrs. Lapacó to a detention center called *Club Atlético*. It was here where Mrs. Lapacó saw her daughter for the last time. On March 19 of that same year Mrs. Lapacó and her nephew Alejandro Aguiar were released. During the subsequent years, Mrs. Lapacó made a number of attempts to find her daughter, without success. On October 7, 1989, a pardon was granted in favor of those who were prosecuted because of the events in the *Club Atlético*.

In 1983, following the restoration of democracy, the executive branch set up the National Commission on the Disappearance of Persons (hereinafter the "CONADEP"), which in the report called NEVER AGAIN, revealed the existence of numerous clandestine detention centers, including the so-called " Club Atlético", where Alejandra Lapacó was detained. The petitioners indicated that "although Conadep conducted an extensive investigation, it did not reconstruct the individual histories of every disappeared detainee" and, in that sense, was unable to discover what happened to Alejandra Lapacó. Thus, to this day, Mrs. Lapacó does not know the final fate of her daughter or the whereabouts of her remains.

On the other hand, on May 12, 1995, Mrs. Lapacó requested that the Federal Court of Appeals issue a written communication to the Headquarters of the Army Chief of Staff to send all existing information regarding the ultimate fate of individuals detained in that center, in accordance with her right to know the truth of these events. The Chamber decided to admit the request, but the Military Headquarters in question did not have the information, and the Chamber also indicated

that it was unable to send official communications to other military bodies as this exceeded its jurisdictional legal faculties.

Rights Declared Admissible: The Commission concluded that it was competent to hear the present case and that the petition was admissible under Articles 8 (right to a fair trial) and 25 (right to judicial protection).

II. PROCEDURAL ACTIVITY

1. The Commission declared the case admissible in its May 4, 1990, Report No.70/90, approved during its 103rd period of ordinary sessions, and placed itself at the parties' disposal in order to reach a friendly settlement based on the respect for the rights enshrined in the Convention and invited the parties to decide on this course of action.

2. On November 15, 1999, the parties signed a friendly settlement agreement. On February 29, 2000, the IACHR approved the friendly settlement agreement signed by the parties in Report No.21/00.

3. The parties held working meetings during the 104th period of sessions.

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

Agreement Clause	Status of Compliance
<p>1. RIGHT TO THE TRUTH: The Argentine Government accepts and guarantees the right to the truth, which involves the exhaustion of all means to obtain information on the whereabouts of the disappeared persons. It is an obligation of means, not of results, which is valid as long as the results are not achieved, not subject to prescription. This right is specifically recognized in relation to the disappearance of Alejandra Lapacó</p>	<p style="text-align: center;">TOTAL</p> <p>On December 21, 2010, 16 of the defendants were convicted and 1 was acquitted. In this case, Alejandra Lapacó's illegitimate deprivation of liberty was proven, where she was tortured, and her enforced disappearance up to this date, since the fate of her body has not yet been determined.</p> <p>For this reason, on January 11, 2011, the petitioner indicated that the State has made significant progress in complying with the recommendation to guarantee the right to the truth for the victim's next of kin</p>
<p>2. EXCLUSIVE JURISDICTION OF THE FEDERAL COURTS: The Argentine Government shall adopt the necessary laws to ensure that the national federal criminal and correctional courts throughout the country have exclusive jurisdiction in all cases to determine the truth regarding the fate of persons who disappeared prior to</p>	<p style="text-align: center;">TOTAL</p> <p>On August 31, 2000, the State sent to the IACHR the draft Bill, called the "Truth Law" that was under consideration before the</p>

<p>December 10, 1983, with the sole exception of cases involving kidnapping of minors and theft of identity, which shall continue on the basis of their status</p>	<p>National Congress and whose Article 11 expressly establishes the jurisdiction of federal justice.</p> <p>Therefore, this part of the agreement is totally complied with.</p>
<p>3. SPECIAL ASSISTING PROSECUTORS: The Argentine Government shall arrange for the Office of the Attorney General to assign an ad hoc group of prosecutors, consisting of at least two, to act as third parties, without displacing the regular officials, in all cases involving inquiries into the truth and the fate of disappeared persons. In this way, there will be a specialized search and interpretation of data and better centralization and circulation of information among the various cases.</p>	<p style="text-align: center;">TOTAL</p> <p>On August 31, 2000, the State forwarded the resolution of the National Procurator's Office of April of that same year, which set up a commission within the General Prosecutor's Office and Services to the Community of the Attorney General's Office, whose purpose was to collaborate with the investigations carried out by the Prosecutors regarding cases involving investigations into the truth of the facts related to human rights violations, which occurred between 1976 and 1983.</p> <p>The petitioner states that in March 2007, the National Procurator General's Office created the "Prosecutor's Unit for Cases Coordination and Follow-up for Human Rights Violations committed during State Terrorism". This Unit seeks to promote actions aimed at accelerating the investigation of reopened cases and ensuring due process.</p> <p>For this reason, the petitioner indicated on January 11, 2011, that this part of the agreement was fulfilled.</p>

IV. LEVEL OF COMPLIANCE OF THE CASE

4. In its Report 21/00, the Commission decided to monitor compliance with the State's undertakings.

5. On January 11, 2011, the petitioners transmitted information to the IACHR summarizing the level of compliance with the three measures agreed by the State of Argentina in the friendly settlement agreement. It expressly indicated that in its view, the State had complied with the agreed measures and therefore requested that the case be closed and ceased its monitoring.

V. INDIVIDUAL AND STRUCTURAL OUTCOME OF THE CASE

A. Individual outcomes of the Case:

- The State reported the conviction of 16 police agents for Miss. Alejandra Lapacó's enforced disappearance and torture.

B. Structural outcomes of the Case:

- A special Investigation Commission was set up regarding the events occurred between 1976 and 1983 as a result of the military dictatorship in the context of the search for truth, as well as a special Unit with the General Procurator's Office which guarantees due process in every case.

- A draft bill – entitled "Truth Law" - was introduced and was under consideration with the National Congress. Its Clause number 11 expressly establishes federal jurisdiction over investigations in relation to disappeared individuals before December 10, 1983.