

TECHNICAL INFORMATION SHEET
PETITION 242/03 INOCENCIA LUCA PEGORARO
FRIENDLY SETTLEMENT REPORT No.160/10
TOTAL COMPLIANCE
(ARGENTINA)

I. SUMMARY OF THE CASE

Victim(s): Inocencia Luca Pegoraro
Petitioner(s): Grandmothers of Plaza de Mayo, Estela Barnes de Carlotto
State: Argentina
Beginning of the negotiation date: June 06, 2007
FSA signature date: September 11, 2009
Friendly Settlement Agreement Report N°: 160/10, published on November 1, 2010
Estimated length of the negotiation phase: 3 years
Related Rapporteurship: Women's rights; rights of children and adolescents.
Topics: Children and adolescents/youth/arbitrary or illegal detention/ Sexual and reproductive rights/Forced disappearance/Investigation

Facts: The petitioners maintained that the State was responsible for the events that occurred on June 18, 1977, Susana Pegoraro, Inocencia Pegoraro's daughter, who was five months pregnant at the time was arrested and taken to the Clandestine Detention Center that operated during the military dictatorship at the Naval Mechanics School (ESMA). According to the testimony of Inocencia Luca Pegoraro, Susana Pegoraro gave birth to a daughter inside the detention's facilities. The petitioners state that, in 1999, Inocencia Luca Pegoraro and Angélica Chimeno de Bauer became complainants and initiated a court proceeding, denouncing the abduction of their granddaughter, who they identified as Evelin Vásquez Ferra. Initially, the Federal National Court for Criminal and Correctional Matters No. 1 ordered expert testing to establish the identity of Evelin Vásquez Ferra. However, when this testing was challenged, the procedure was finally determined by the Supreme Court as not being mandatory because it felt that the testing was complementary for the purposes of the process given that the adoptive parents, Policarpo Luis Vásquez and Ana María Ferra, had confessed that Evelin Vásquez Ferra was not their biological child. The court also felt that mandatory testing violated the latter's right to privacy. The petitioners alleged that the ruling of the Supreme Court of Justice of the Nation closed the door to possible investigation into the disappearance of Susana Pegoraro and Raúl Santiago Bauer as well as the identification of Evelin Vásquez Ferra.

Rights alleged: The petitioners alleged that the Argentine Republic violated Articles 5 (right to humane treatment), 8 (due process), 17 (right to protection of the family), and 25 (right to judicial protection) of the American Convention on Human Rights.

II. PROCEDURAL ACTIVITY

1. On September 11, 2009, the parties signed a friendly settlement agreement.
2. On November 1, 2010, the Commission approved the agreement signed by the parties, by means of Report No. 160/10.

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

Clause of the Agreement	Status of Implementation
1. Recognition of facts. Adoption of measures	Declarative clause
2. Non-monetary reparation measures	
2.1. On the right to identity a. The National Executive Branch of the Argentine Republic agrees to send the Honorable Congress of the Nation a bill on establishing a procedure for obtaining DNA samples that protects the rights of those involved and effectively investigates and adjudicates the abduction of children during the military dictatorship. b. The National Executive Branch of the Argentine Republic agrees to send to the Honorable Congress of the Nation a bill to amend the legislation governing the operation of the National Genetic Data Bank to adapt it to scientific advances in this area.	Total¹
2.2. On the right of access to justice a. The National Executive Branch of the Argentine Republic agrees to send to the Honorable Congress of the Nation a bill to guarantee the judicial participation of victims more effectively –understanding as such persons allegedly kidnapped and their legitimate family members – and intermediate associations set up to defend their rights in proceedings investigating the kidnapping of children.	Total²
b. The National Executive Branch of the Argentine Republic agrees to adopt, within a reasonable period, the measures necessary to optimize and expand on the implementation of Resolution No. 1229/09 of the Ministry of Justice, Security, and Human Rights.	Total³
c. The National Executive Branch of the Argentine Republic agrees to work on adopting measures to optimize the use of the power conferred upon it by Art. 27 of Law No. 24.946 (Organic Law of the Attorney General’s Office) in order to propose that the Attorney General: 1) issue general instructions to prosecutors urging them to be present at residential searches conducted in cases in which the kidnapping of children is being investigated; and 2) design and execute a Special Investigation Plan on the kidnapping of children during the military dictatorship in order to optimize the resolution of cases, providing special prosecutors for the purpose in jurisdictions where the number of cases being processed justifies this.	Total⁴
2.3. On the training of judicial actors	

¹ IACHR, Report N° 160/10, Petition 242-03. Friendly settlement. Inocencia Luca de Pegoraro et al. Argentina. Adopted on November 1, 2010.

² IACHR, Report N° 160/10, Petition 242-03. Friendly settlement. Inocencia Luca de Pegoraro et al. Argentina. Adopted on November 1, 2010.

³ IACHR, Report N° 160/10, Petition 242-03. Friendly settlement. Inocencia Luca de Pegoraro et al. Argentina. Adopted on November 1, 2010.

⁴ See IACHR, 2016 Annual Report, Chapter II, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 172-193.

a. The National Executive Branch of the Argentine Republic agrees to work on adopting measures associated with the use of the power conferred on it by Art. 27 of Law No. 24.946 (Organic Law of the Attorney General's Office) in order to propose that the Attorney General provide training for prosecutors and other employees of the Attorney General's Office in the appropriate handling of the victims of these serious crimes.	Total⁵
b. The National Executive Branch of the Argentine Republic agrees to urge the Council of the Judiciary of the Nation to plan training courses for judges, functionaries, and employees of the Judicial Branch in the appropriate handling of the victims of these serious crimes (see. Art. 7(11) of Law No. 24.937, o.t. Art. 3 of Law No. 26.080).	Total⁶
2.4. Regarding the task force a. The National Executive Branch of the Argentine Republic agrees to establish specific mechanisms to facilitate the correction of national, provincial, and municipal public and private documentation and records of anyone whose identity was changed during the military dictatorship, in order to promote the restoration of identity.	Total⁷
b. The parties agree to hold periodic working meetings, in the Foreign Ministry, for purposes of evaluating progress made with the measures agreed to herein.	Total⁸
c. The Government of the Argentine Republic agrees to facilitate the activities of the task force and provide it with technical support and the use of facilities as needed to develop its tasks, agreeing to report periodically to the Inter-American Commission on Human Rights.	
2.5. On publicity The Government of the Argentine Republic agrees to publicize this agreement in the Official Bulletin of the Argentine Republic and in the newspapers "Clarín," "La Nación," and "Página 12," once it is approved by the Inter-American Commission on Human Rights in accordance with the provisions of Article 49 of the American Convention on Human Rights.	Total⁹

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared full compliance with the case and the ceasing of the follow-up of the friendly settlement agreement in the 2021 Annual Report.

⁵ See IACHR, 2018 Annual Report, 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, Available at: <http://www.oas.org/es/cidh/docs/anual/2018/docs/IA2018cap.2-es.pdf>

⁶ See IACHR, Annual Report 2021, Chapter II, Section F: Progress and Setbacks in the Negotiation and Implementation of Friendly Settlement Agreements, Available at: <https://www.oas.org/es/cidh/docs/anual/2021/capitulos/IA2021cap2-es.pdf>.

⁷ IACHR, Report N° 160/10, Petition 242-03. Friendly settlement. Inocencia Luca de Pegoraro et al. Argentina. Adopted on November 1, 2010.

⁸ See IACHR, Annual Report 2020, Chapter II, Section F. Negotiation and Implementation of Friendly Settlement Agreements. Available at: <https://www.oas.org/es/cidh/docs/anual/2020/capitulos/IA2020cap2-es.pdf>

⁹ See IACHR, 2016 Annual Report, Chapter II, Section D. Status of compliance with Recommendations and Friendly Settlements in individual cases, paras. 172-193.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State acknowledged the facts of the case, as agreed.
- The State published the friendly settlement agreement, as agreed.

B. Structural outcomes of the case

- The "Unit for documentary regularization of victims of human rights violations in the context of terrorist actions of the State" was created.
- Procedures were created to obtain DNA samples to identify grandchildren abducted during the dictatorship.
- The "Judicial Assistance Group" was set up under Resolution No. 1229-1209 of the Ministry of Justice and Human Rights.
- Implementation of Resolution No. 1229/09 of the Ministry of Justice, Security, and Human Rights was optimized and expanded.
- A protocol was adopted for addressing cases involving child abduction during State terrorism.
- The "Dr. Fernando Ulloa" Center to Assist Victims of Human Rights Violations was established by the Secretariat for Human Rights of the Ministry of Justice and Human Rights of the Nation. It prepared a "Protocol for handling victims - witnesses in connection with judicial proceedings," written for judges, officials, and justice system operators involved in the judicial handling of witnesses and victims of State terrorism, as a guide to avoiding the revictimization of victims - witnesses.
- The Prosecutor General of the Nation approved a course designed by the above-mentioned Specialized Unit on the investigation of crimes of abduction of children during State terrorism.
- Training courses were conducted for government officials.
- Specific mechanisms were established to facilitate the correction of national, provincial, and municipal public and private documents and records relating any person whose identity was substituted during the military dictatorship, to assist the restitution of identity process.
- The State set up a working group with the participation of the petitioners, representatives of the National Council of the Judiciary, and the Secretariat for Human Rights, as agreed to in the FSA.
- The course "*Investigation in cases of child abduction during State terrorism*" of the Law School of the Judiciary Council was inaugurated.