

TECHNICAL INFORMATION SHEET
CASE 12.374 JORGE ENRIQUE PATIÑO PALACIOS
FRIENDLY SETTLEMENT REPORT No. 85/20
TOTAL COMPLIANCE
(PARAGUAY)

I. SUMMARY OF THE CASE

Victim (s): Jorge Enrique Patiño Palacios

Petitioner (s): Cesar Patiño Mignone and Alba Palacios de Patiño

State: Paraguay

Start date of negotiations: N/A

Date of signing of FSA: January 30, 2012

Admissibility Report N°: 8/10 published on

Report on Friendly Settlement Agreement N°: 85/20 published on June 1, 2020

Estimated length of negotiation phase: 8 years and 6 months

Associated Rapporteurship: N/A

Topics: Fair trial rights / Investigation and due diligence / Judicial protection

Facts: On February 26, 2001, the Inter-American Commission on Human Rights received a petition filed by César Patiño Mignone and Alba Palacios de Patiño, alleging international responsibility of the Republic of Paraguay, for violation of the human rights enshrined in Articles 8 (fair trial), and 25 (judicial protection), in connection with Article 1 (obligation to respect rights) of the American Convention on Human Rights (hereinafter, “Convention” or “American Convention”), to the detriment of their son, Jorge Enrique Patiño Palacios, 20 years of age at the time, who died from a gunshot allegedly fired by civilians, and subsequent failure to investigate and punish those responsible stemming from irregularities in the investigation into the facts by police agents as well as judicial authorities.

Rights declared admissible / Rights alleged: The IACHR decided to declare the petition admissible for the alleged violation of Articles 8 (fair trial rights) and 25 (judicial protection) as set forth in the American Convention.

II. PROCEDURAL ACTIVITY

1. On January 30, 2012, the parties signed a friendly settlement agreement.
2. On June 1, 2020, the Commission approved the agreement signed by the parties, by means of Report No. 85/17.

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

Clause of the Agreement	Status of Implementation
<p>FIRST CLAUSE: RECOGNITION OF RESPONSIBILITY The Paraguayan State recognizes its international responsibility in case 12.374, “Jorge Enrique Patiño Palacios”, which is about the death of the young man Jorge Enrique Patiño Palacios, on October 24, 1994- for the violation of due process and fair trial rights enshrined in Articles 8 and 25 of the American Convention. In the case brought because of the death of Jorge Enrique Patiño Palacios, the State did not conduct investigations in keeping with due diligence standards. It also exceeded a reasonable time for the investigation, which was tantamount to unwarranted delay as a consequence of not abiding by the time period expressly provided for in the Code of Criminal Procedure of the Republic of Paraguay, and the reluctance to prosecute, as is noted in the successive attenuating circumstances, which are not expressly set forth in the procedural law, and are on record in the case proceedings at all the levels of the administration of justice. This had an impact on establishing appropriate responsibility for the acts proven in the respective judicial case proceedings file and were a violation of international legal instruments, which the Paraguayan State undertook to respect.</p>	<p>Declarative clause</p>
<p>SECOND CLAUSE: WAIVER OF ANY FORM OF MONETARY REPARATION The family members of Jorge Enrique Patiño Palacios formally waive the right to collect any monetary reparation.</p>	<p>Declarative clause</p>
<p>THIRD CLAUSE: GUARANTEES OF NON-REPETITION Case N° 12.374, “Jorge Enrique Patiño Palacios” exposes the lack of diligence in the conduct of the authorities in charge of the investigation into the punishable acts in processing the case brought before Paraguayan Justice: For this purpose, as a guarantee of non-repetition of the crimes as they were reported in the case, institutional capacity of the State agencies that perform these duties must be strengthened, and in that regard the State accepts the following commitment: 1. The Paraguayan State undertakes to request on a semiannual basis, through the Supreme Court of Justice, reports on the status of the proceedings of the cases of all courts in the country, in order to verify strict compliance with the time periods and deadlines established in procedural laws, and in the event that violations of these principles are observed, to apply the corresponding sanctions and, according to the seriousness of the incident, to file a report with the Magistrates’ Trial Jury, and it must report on this, until there is full compliance with the other clauses of the Agreement.</p>	<p>Total¹</p>
<p>2. Implement, within a period of one year counted from the date of the signing of the instant friendly settlement agreement, for the Magistrates of the Criminal Jurisdiction, the members of the Public Prosecutor’s Office and the Department of Criminal Investigation, a course or seminar on international due diligence standards in investigations, the gathering and weighing of</p>	<p>Total²</p>

¹ 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>.

² IACHR, Report No. 85/20, Case 12.374. Friendly Settlement. Jorge Enrique Patiño Palacios. Paraguay. June 1, 2020. <http://www.oas.org/en/iachr/decisions/2020/pysa12374en.pdf>

<p>forensic evidence in the framework of specialized courses on State responsibility for negligence or mala praxis of its judicial bodies, which is to be implemented throughout the Republic of Paraguay.</p> <p>Both in the announcement of these courses or seminars and during the courses themselves, express reference will be made to the instant Friendly Settlement Agreement, and it will be noted that the requirement to do so is related to recognition by the State of responsibility in the instant case.</p> <p>The announcements shall be issued jointly between the Judiciary and the Public Prosecutor's Office.</p>	
<p>3. The competent Judicial Authorities shall issue within the scope of their powers and competence the necessary legal instruments to establish the procedures that must be observed to guarantee the chain of custody of evidence and proof, that is gathered, obtained, produced or received, in the framework of the criminal case, and the punishments for failure to abide by the procedures.</p>	Total³
<p>FOURTH CLAUSE: MEASURE OF SATISFACTION</p> <p>For the purposes of honoring the memory of the young man Jorge Enrique Patiño Palacios, the State undertakes to name after the victim, within the period of three months as of the signing of the instant agreement, a hearing room in the Palace of Justice and at the "Ñemity Center for Pedagogical Engagement ("Centro de Convivencia Pedagógica Ñemity") of the Secretariat for Children and Adolescents, an institution that is used to provide education and health care to abandoned children and adolescents located in Reducto San Lorenzo.</p>	Total⁴
<p>FIFTH CLAUSE: TERMS AND CONDITIONS OF INTERNATIONAL RECOGNITION</p> <p>The State undertakes to publish the full text of the Friendly Settlement Agreement on the website portal of the Ministry of Foreign Affairs and the Judiciary, with an announcement on the webpage of the Office of the President of the Republic, and keep it posted for a period of one year. Once full compliance is attained, the text will be published in the Official Gazette. Once the instant Friendly Settlement Agreement has been fully implemented, the corresponding report of the Inter-American Commission on Human Rights, pursuant to the provisions of Article 49 of the American Convention on Human Rights, will be published in the Official Bulletin of the State (Official Gazette) and the Internet web Portal of the Judiciary and of the Ministry of Foreign Affairs.</p>	Total⁵

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.

³ 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>.

⁴ IACHR, Report No. 85/20, Case 12.374. Friendly Settlement. Jorge Enrique Patiño Palacios. Paraguay. June 1, 2020. <http://www.oas.org/en/iachr/decisions/2020/pysa12374en.pdf>

⁵ 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>.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- For the purposes of honoring the memory of the young man Jorge Enrique Patiño Palacios, the State has named after the victim a hearing room in the Palace of Justice and the “Centro de Convivencia Pedagógica Ñemity” of the Secretariat of Children and Adolescents, which is used for providing education and health care to abandoned children and adolescents located in Reducto San Lorenzo.

B. Structural outcomes of the case

- The State trained the Magistrates of the Criminal Jurisdiction, the members of the Office of the Public Prosecutor and the Department of Criminal Investigation, gave a course or seminar about international due diligence standards in investigations, gathering and weighing of forensic evidence in the framework of specialized courses on State responsibility for negligence or mala praxis of its judicial bodies.
- The friendly settlement agreement entered into with the petitioners was posted on the webpage of both the Ministry of Foreign Affairs and the Judiciary, as well as in the Official Bulletin of the State.
- The “Protocol of Intervention in the management and custody of evidence. Legal compilation in force in 2020” was drawn up jointly with the petitioners and was approved by the Supreme Court of Justice, the Office of the Attorney General, and the Ministry of the Interior.
- The Prosecutor General of the State issued Resolution No. 1181 whereby it resolved “*to approve the mainstreaming of legal instruments provided by the Office of the Attorney General to the Protocol of intervention in the management and custody of evidence*” and ordered the dissemination of the protocol to all agencies of the Office of the Attorney General for its enforcement.
- The Headquarters of the National Police, which reports to the Ministry of the Interior, issued Resolution No. 355 “Whereby the Protocol of intervention in the management and custody of evidence is approved and incorporated.”