

TECHNICAL INFORMATION SHEET
PETITION 1516-08 JUAN FIGUEROA ACOSTA
FRIENDLY SETTLEMENT REPORT No. 123/18
TOTAL COMPLIANCE
(PERÚ)

I. SUMMARY OF THE CASE

Victim (s): Juan Figueroa Acosta

Petitioner (s): Patricia Figueroa Valderrama, Mayra Figueroa Valderrama, and Juan Figueroa Acosta

State: Peru

Date of start of the negotiations: August 20, 2017

Date of signature of the FSA: April 25, 2018

Friendly Settlement Agreement Report: N°: 123/18, published on October 16, 2018

Estimated duration of the negotiation phase: 1 year

Related Rapporteurship: Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights

Topics: Equitable and satisfactory working conditions / Economic, Social, Cultural, and Environmental Rights

Facts: In October 1996, Juan Figueroa Acosta was appointed Senior Member of the Judicial District of the Amazonas and was President of said Court in 1997 and 1998. In 2003, he, together with 24 other judges and 18 prosecutors, was called to a proceeding of ratification in office, in accordance with Article 154, para. 2 of the Political Constitution of Peru, according to which every seven years the National Council of Judges must decide whether or not to ratify judges and prosecutors; those not ratified are immediately and definitively removed from their position and may not be reinstated in the judiciary. The constitutional rule establishes that the ratification process is independent of disciplinary measures and is not subject to judicial review.

On February 7, 2004, Mr. Juan Figueroa Acosta's non-ratification came formally into effect, without grounds, and despite his having had a clean service record, without sanctions or a criminal history and with a record of no procedural backlog. Even though he knew that there were no available remedies, he filed a writ of *amparo* that was rejected in April 2005 on the grounds of lack of evidence of the violation of a constitutional right. After this denial, he appealed to the Third Civil Chamber of the Superior Court of Justice of Lima, which upheld the first instance decision. Finally, in a decision of the Constitutional Court on November 13, 2007, the claim filed by the alleged victim was found to be without merit, on the grounds that according to existing precedents, the National Council of Judges did not have to provide grounds for its ratifications or non-ratifications, and that therefore the alleged victim's rights had not been violated.

Alleged rights: The petitioners allege violation of the rights contained in Articles 8 (judicial guarantees) and 25 (judicial protection) of the American Convention on Human Rights (hereinafter "the Convention" or the "American Convention"), considered together with Articles 1 and 2 of said instrument.

II. PROCEDURAL ACTIVITY

1. The IACHR published the approval report on October 16, 2018 and August 7, 2020.
2. The IACHR requested updated information from the parties on July 12, 2019 2019 and October 13, 2020.
3. The petitioners have not presented updated information since the approval of the friendly settlement agreement.

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

Agreement Clause	Status of Compliance
<p>FIRST CLAUSE ACKNOWLEDGMENT OF RESPONSIBILITY BY THE PERUVIAN STATE The State acknowledges that the process of ratification of judges and prosecutors, as carried out before the entry into force of the Constitutional Procedural Code (Law No. 28237) on December 1, 2004, although in accordance with the interpretation of the applicable rules made by the pertinent instances, failed to incorporate certain guarantees of effective procedural protection, particularly the requirement of a reasoned decision, which must be observed in all types of proceedings. This, in light of the provisions of the Political Constitution of Peru, the human rights treaties binding the Peruvian State, the applicable case law on the subject from the Inter-American Court of Human Rights, as well as from the Constitutional Court.</p>	<p>Declarative Clause</p>
<p>SECOND CLAUSE EFFECTS OF ACKNOWLEDGEMENT OF RESPONSIBILITY In accordance with the provisions of the First Clause of this Agreement and by virtue of international human rights standards binding the Peruvian State, and in accordance with the provisions of the Political Constitution of Peru, both parties consider that it is in accordance with the law that the National Council of Judges should annul the resolutions declaring the non-ratification of the judge included in the present friendly settlement. Consequently, the judge should regain his position as such with the following effects:</p>	<p>Total¹</p>
<p>1.1. Restoration of Title The National Council of Judges will restore the corresponding title within fifteen business days counted from the formalization by the Inter-American Commission on Human Rights of this friendly settlement agreement.</p>	<p>Total²</p>

¹ See IACHR, IACHR Report No. 123/18, Petition 1516/08. Friendly Settlement. Juan Figueroa Acosta. Peru. October 16, 2018.

² See IACHR, 2020 Annual Report, Chapter II, Section F. Negotiation and Implementation of Friendly Settlement Agreements.

<p>1.2 Recognition of Service The Peruvian State, through the Judicial Branch, undertakes to acknowledge the period of service during which the petitioner did not exercise his functions, as from the date of the Resolution of non-ratification, for the purposes of calculating his length of service and retirement in accordance with Peruvian law.</p>	Total³
<p>1.3 Pension contributions According to domestic law—Decree-Law No. 19990, Decree-Law No. 20530, and Law 25897—the worker is responsible for the pension contribution and therefore in this case the petitioner signatory to this agreement will undertake payment of the pension contributions for the recognized years of service.</p>	Total⁴

IV. LEVEL OF COMPLIANCE OF THE CASE

4. The Commission declared full compliance with the case and ceased monitoring the friendly settlement agreement in the 2020 Annual Report.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State recognized its responsibility for the events that occurred.
- The State recognized the time of service not worked, counting from the date of the non-ratification resolution, for the purposes of computing his length of service and pension. The State reinstated the title of Vocal of the Superior Court of the Judicial District of Amazonas, granted in favor of Juan Figueroa Acosta (now Superior Judge of the Superior Court of Justice of Amazonas).

³ See IACHR, Annual Report 2019, Chapter II, Section G. Friendly Settlements, Available at: <http://www.oas.org/es/cidh/docs/annual/2019/docs/IA2019cap2-es.pdf>

⁴ See IACHR, Annual Report 2019, Chapter II, Section G. Friendly Settlements, Available at: <http://www.oas.org/es/cidh/docs/annual/2019/docs/IA2019cap2-es.pdf>