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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 95/00; Case 11.445
Session:	Hundred and Eighth Regular Session (2 – 20 October 2000)
Title/Style of Cause:	Angelo Javier Ruales Paredes v. Ecuador
Doc. Type:	Decision
Decided by:	Chairman: Helio Bicudo; First Vice-Chairman: Claudio Grossman; Second Vice-Chairman: Juan Mendez; Commissioners: Marta Altolaguirre, Robert K. Goldman, Peter Laurie Dr. Julio Prado Vallejo, an Ecuadorian national, did not participate in the discussion of the case, pursuant to Article 19 of the Commission's Regulations.
Dated:	5 October 2000
Citation:	Ruales Paredes v. Ecuador, Case 11.445, Inter-Am. C.H.R., Report No. 95/00, OEA/Ser.L/V/II.111, doc. 20, rev. (2000)

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I. SUMMARY

1. On November 8, 1994, Angelo Ruales Paredes (hereinafter "the petitioner") lodged a petition with the Inter-American Commission on Human Rights (hereinafter "the Commission" or the "IACHR") against the Republic of Ecuador (hereinafter "the State") denouncing the violation of the following rights enshrined in the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"): the right to humane treatment (Article 5), personal liberty (Article 7), a fair trial (Article 8), and judicial protection (Article 25), in violation of the obligations in Article 1(1) to the detriment of the petitioner.

2. On June 11, 1999, the parties reached a friendly settlement in this case. This report presents a brief account of the facts and the text of the settlement agreement, pursuant to Article 49 of the Convention.

II. FACTS

3. At 8:00 p.m. on July 3, 1993, the petitioner, 21 years of age, was detained by Agent Palacios near the coliseum in Ibarra, province of Imababura, where he was caught stealing accessories from the vehicle of the Provincial Chief of the Crime Investigation Office (OID) of Ibarra, Lieutenant Colonel Raúl Ruiz. Lieutenant Colonel Ruiz ordered that the petitioner be investigated, and the latter was brought in to the Ibarra police station.

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4. At the station, the petitioner was tortured during interrogation. He was forced to remain in a tripod position and to flex, and was submerged in a pool. He was also sprayed with gas and pulled by the genitals with his shoelace. Police health personnel had to suture the resulting wound.

5. In the days following his detention, the petitioner, writing on cigarette paper, made known his injury and his lack of communication with his family. The petitioner's family sent a physician to examine him; however, the physician was not allowed to see him. The situation became public knowledge, and an investigation of the torture was launched. The police officers accused of torturing him are Rafael Lahuasi, Luis Ernesto Cocha, and Fernando Delgado. These officers admitted to the judge that they subjected the petitioner to acts of physical aggression.

6. The petitioner requested that the events be investigated and the perpetrators punished. He also said that even though Article 145 of the Penal Code of the Police punishes offenders who commit torture with six to nine years in prison, the accused officers were detained for merely six months and then returned to duty.

III. PROCESSING BY THE COMMISSION

7. On November 8, 1994, the Commission received the petition for this case, which was opened on March 13, 1995. Processing of the case proceeded in keeping with the Commission's Regulations.

8. On January 7, 1999, the Commission invited the parties to engage in friendly settlement procedure, and on January 30, 1999 the petitioner accepted that proposal. The Commission Rapporteur at that time, Dr. Carlos Ayala Corao, traveled to Ecuador to facilitate the procedure. The friendly settlement agreement was signed on June 11, 1999.

IV. FRIENDLY SETTLEMENT

9. The Friendly Settlement Agreement signed by the parties and the IACHR Rapporteur reads as follows:

FRIENDLY SETTLEMENT AGREEMENT

I. BACKGROUND

The Ecuadorian State, through the Office of the Attorney General, with a view to promoting and protecting human rights and given the great importance of the full observance of human rights at this time for the international image of our country, as the foundation of a just, dignified, democratic, and representative society, has decided to take a new course in the evolution of human rights in Ecuador.

The Office of the Attorney General has initiated conversations with all persons who have been victims of human rights violations, aimed at reaching friendly settlement agreements to provide reparations for the damages caused.

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The Ecuadorian State, in strict compliance with the obligations it acquired upon signing the American Convention on Human Rights and other international human rights law instruments, is aware that any violation of an international obligation that has caused damages triggers the duty to make adequate reparations--monetary reparations and criminal punishment of the perpetrators being the most just and equitable form. Therefore the Office of the Attorney General and Mr. Angelo Ruales Paredes, each of their own right, have reached a friendly settlement, pursuant to the provisions of Articles 48(1)(f) and 49 of the American Convention on Human Rights and Article 45 of the Regulations of the Inter-American Commission on Human Rights.

II. THE PARTIES

The following persons were present at the signing of this Friendly Settlement Agreement:

a. Dr. Ramón Jiménez Carbo, Attorney General of the State, as indicated in his appointment and certificate of office, which are attached as qualifying documents;
b. Mr. Angelo Javier Ruales Paredes, citizenship document No. 100205510-9; a copy of that document is also attached as a qualifying document.

III. STATE RESPONSIBILITY AND ACCEPTANCE

The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mr. Angelo Javier Ruales Paredes enshrined in Article 5 (right to humane treatment), Article 7 (right to personal liberty), Article 8 (a fair trial), Article 25 (judicial protection), and the general obligation set forth in Article 1(1) of the American Convention on Human Rights and other international instruments, since the violations were committed by State agents and could not be disproved by the State, thus giving rise to State responsibility.

Given the above, the Ecuadorian State accepts the facts in case No. 11.445 before the Inter-American Commission on Human Rights and undertakes the necessary reparatory steps to compensate the victims, or their successors, for the damages caused by those violations.

IV. COMPENSATION

In view of the foregoing, the Ecuadorian State, through the Attorney General, as the sole judicial representative of the Ecuadorian State, pursuant to Article 215 of the Constitution of Ecuador, enacted in Official Register No. 1 and in force since August 11, 1998, is awarding Mr. Angelo Javier Ruales Paredes lump-sum compensatory damages of fifteen thousand US dollars (US$15,000) or the equivalent in local currency, calculated at the exchange rate in effect at the time the payment is made, to be paid from the National Budget.

This compensation covers the consequential damages, loss of income, and moral damages suffered by Mr. Angelo Javier Ruales Paredes, as well as any other claims of Mr. Angelo Javier Ruales Paredes or his family members regarding the subject of this agreement, under domestic and international law, and is chargeable to the National Budget. To this end, the Office of the

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Attorney General will notify the Ministry of Finance, for it to carry out this obligation within 90 days of the signing of this document.

V. PUNISHMENT OF THE PERSONS RESPONSIBLE

The Ecuadorian State pledges to bring civil and criminal proceedings and pursue administrative sanctions against those persons who are alleged to have participated in the violation in the performance of State functions or under the color of public authority.

The Office of the Attorney General pledges to encourage the general prosecutor (Fiscal General del Estado), the competent judicial organs, and public agencies or private institutions to contribute legal evidence to determine the liability of those persons. If admissible, the action will be subject to the constitution and laws of the Ecuadorian State.

VI. RIGHT TO SEEK INDEMNITY

The Ecuadorian State reserves the right to seek indemnity, pursuant to Article 22 of the Constitution of the Republic of Ecuador, from those persons found responsible for human rights violations through a final judgment handed down by the country's courts or when administrative liability is found, in keeping with Article 8 of the American Convention on Human Rights.

VII. TAX EXEMPTION AND DELAY IN COMPLIANCE

The payment made by the Ecuadorian State to the other party to this agreement is not subject to any current or future taxes, except for the 1% tax on capital flows.

In the event that the State is delinquent for over three months from the date on which the agreement is signed, it must pay interest on the amount owed, corresponding to the current bank rate of the three largest banks in Ecuador for the duration of its delinquency.

VIII. REPORTING

The Ecuadorian State, through the Office of the Attorney General, agrees to report every three months to the Inter-American Commission on Human Rights on compliance with the obligations assumed by the State in this friendly settlement agreement.

In keeping with its consistent practice and obligations under the American Convention, the Inter-American Commission on Human Rights will oversee compliance with this agreement.

IX. LEGAL BASIS

The compensatory damages that the Ecuadorian State is awarding to Mr. Angelo Javier Ruales Paredes are provided for in Articles 22 and 24 of the Constitution of the Republic of Ecuador, for violation of the Constitution, other national laws, and the norms in the American Convention on Human Rights and other international human rights instruments.

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This friendly settlement is entered into on the basis of respect for the human rights enshrined in the American Convention on Human Rights and other international human rights instruments and of the Ecuadorian Government's policy of respect for and protection of human rights.

X. NOTIFICATION AND CONFIRMATION

Mr. Angelo Javier Ruales Paredes specifically authorizes the Attorney General to notify the Inter-American Commission on Human Rights of this Friendly Settlement Agreement, so that the Commission may confirm and ratify it in its entirety.

XI. ACCEPTANCE

The parties to this agreement freely and voluntarily express their conformity with and their acceptance of the content of the preceding clauses and state for the record that they hereby bring to a close the dispute before the Inter-American Commission on Human Rights over the international responsibility of the State for violating the rights of Mr. Angelo Javier Ruales Paredes.

V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

10. The Commission determined that the settlement agreement transcribed above is compatible with the provisions of Article 48(1)(f) of the American Convention.

11. On June 15, 1999, the Police District Court upheld on appeal the three-year prison sentence for officers Luis Ernesto Cocha Tulcán and Rafael Lahuasi Aldas for torture. Officer Fernando Delgado Arias was acquitted in 1997, when his involvement in the events investigated was disproved. In the second appeal on November 8, 1999, the Court of Justice of the National Police upheld all parts of the judgment being appealed and dismissed the officers from the National Police.

12. The State complied with one very important obligation–it punished the perpetrators--however it has yet to fulfill its commitment to compensate the petitioner.

VI. CONCLUSIONS

13. The Commission reiterates its appreciation to the Ecuadorian State for its willingness to resolve the case through compensatory measures, including measures needed to punish the perpetrators of the alleged violation. The IACHR also reiterates its appreciation to the petitioner for accepting the terms of this friendly settlement agreement.

14. The IACHR will continue to monitor compliance with Ecuador's commitment to pay compensatory damages, which it has not done to date.

15. The IACHR confirms that the friendly settlement mechanism set forth in the American Convention allows for a non-contentious end to individual cases and has proved, in cases

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involving different countries, to be an important vehicle for settling alleged violations that can be used by both parties (the petitioner and the State).

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

Decides:

1. To acknowledge that the State punished those responsible for the violation but has failed to pay the US$15,000 in compensation.
2. To urge the State to take the necessary steps to fulfill the pending commitment regarding payment of the compensation.
3. To continue to monitor and supervise compliance with the friendly settlement agreement and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed (by the State) under this friendly settlement.
4. To publish this report and include it in the Commission's Annual Report to the General Assembly of the OAS.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., October 5, 2000. (Signed) Hélio Bicudo, Chairman; Claudio Grossman, First Vice-Chairman; Juan Méndez, Second Vice-Chairman; Commissioners: Marta Altolaguirre, Robert K. Goldman, and Peter Laurie.