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File Number(s):	Report No. 109/01; Case 11.632
Session:	Hundred and Thirteenth Regular Session (9 – 17 October and 12 – 16 November 2001)
Title/Style of Cause:	Vidal Segrua Hurtado v. Ecuador
Doc. Type:	Decision
Decided by:	President: Claudio Grossman; First Vice-President: Juan E. Mendez; Second Vice-President: Marta Altolaguirre; Commissioners: Helio Bicudo, Robert K. Goldman, Peter Laurie. Commissioner Julio Prado Vallejo, of Ecuadorian nationality, did not participate in the discussion of this case, in keeping with Article 17 of the Commission's Rules of Procedure.
Dated:	11 October 2001
Citation:	Segrua Hurtado v. Ecuador, Case 11.632, Inter-Am. C.H.R., Report No. 109/01, OEA/Ser./L/V/II.114, doc. 5 rev. (2001)
Represented by:	APPLICANT: the Comision Ecumenica de Derechos Humanos
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I. SUMMARY

1. On May 8, 1993, the corpse of Vidal Segura Hurtado, 23 years of age, was found in the Las Lomas sector, along the road that runs along the outskirts of the city of Guayaquil (“vía perimetral”). His body showed signs of torture and three gunshot wounds in the forehead. According to data provided by María Hurtado, at that time her son had faced persecution and death threats by a member of the National Police. On November 8, 1994, the Comisión Ecuménica de Derechos Humanos (“CEDHU”) (hereinafter “the petitioner”) filed a petition before the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) against the Republic of Ecuador (hereinafter “the State”) in which it alleged violations of the following rights protected by the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”): the right to life (Article 4), the right to a fair trial (Article 8), the right to humane treatment (Article 5), the right to personal liberty (Article 7), and the right to judicial protection (Article 25), in violation of the obligations set forth at Article 1(1), to the detriment of Mr. Vidal Segura Hurtado.

2. It is suspected that the death of Vidal Segura Hurtado was related to Operation “Whip” (Operación “Látigo”), a police operation begun in 1992-1993 by the Government and carried out by the Deputy Secretary of the Police, Gen. Guido Núñez, who came to occupy the post of General Commander of the Police; the purpose was to fight crime. The day of the events in

question, there was extensive press coverage reporting that 34 criminals had appeared dead along the same road (known as the “vía perimetral”).

3. On August 5, 1996, the Government of Ecuador answered the facts alleged by the petitioner. In that communication, it only attached documents recording the police work done, in which it is indicated that on April 4, 1993, at approximately 11 a.m., police agents Luis Miguel Cárdenas Carpio and Ricardo Enríquez Guzmán, on duty at checkpoint N° 57 located at the intersection of Leonidas Plaza and Rosendo Avilés streets, became aware of the presence of Vidal Segura Hurtado, who, inebriated, was pressuring the owner of a store facing the checkpoint to hand over a bottle of liquor. The police recognized him because an accusation had been lodged against Vidal Segura Hurtado in the juvenile court (Tribunal de Menores) for assault and robbery; accordingly, they tried to detain him. Nonetheless, Vidal Segura Hurtado fled, and the police followed him along Rosendo Avilés street, and saw him enter the home of attorney Anabell Yagual. The police followed him and entered the attorney’s house, for which she lodged a complaint with the Fourth District of the Police against the above-named police agents. According to María Hurtado, the police, once they learned a complaint had been lodged against them by attorney Yagual, sought to take reprisals against her son. Regarding these acts, according to the police report, the police involved were not responsible, and they reaffirmed that Vidal Segura Hurtado was a criminal with several cases pending against him.

4. The parties reached a friendly settlement in this case on August 15, 2001. This report briefly sets forth the facts and the text of the agreement reached, in keeping with Article 49 of the Convention.

II. THE FACTS

5. On April 8, 1993, at 2:00 a.m., police agent Ricardo Enríquez and eight more agents, in civilian dress and heavily armed, broke the door at the home of Vidal Segura Hurtado and entered, without the constitutionally-required search warrant. When the police had searched all the rooms without finding him, police agent Rodríguez exclaimed, “... tell that black man to take care of himself, we’re going to turn him around, he saved himself, because if he had been here right now, he’d be a dead man, because we were going to apply to him the rule according to which you shoot at those who flee [ley de fuga]....”

6. In the face of this illegal persecution by the two above-mentioned police agents, according to María Hurtado, Vidal Segura Hurtado went to live at his grandmother’s house for a few days. Yet the persecution continued, since the two police agents sought him out, as they said that they had been sent subpoenas by attorney Yagual, and that they were going to take revenge on Vidal Segura Hurtado by killing him. Later, the police detained a friend of Vidal Segura Hurtado at the prison known as Penitenciaría del Litoral, to have the friend reveal his whereabouts, which he did. Thereafter, the police went to remove Vidal Segura Hurtado from the home where he was hiding, and they detained him, beating him terribly, leading the people of the neighborhood to tell the police not to beat him, that they too were their mothers’s sons, to which the police answered, as appears in the complaint, “this guy is a dead man, we were looking for him a few days ago, he should have been dead a while ago...”; the police placed Vidal Segura Hurtado in a vehicle and exclaimed, “this is another who’s going to the

perimetral.” Police agent Ricardo Enríquez told someone in the neighborhood that Vidal Segura Hurtado’s corpse was at the National Police morgue. And according to the complaint, the corpse had signs of torture, and three gunshot wounds to the head.

III. PROCESSING BEFORE THE COMMISSION

7. The Commission received the complaint in this case on November 8, 1994. On August 5, 1996, the Government of Ecuador answered the complaint. On November 25, 1996, CEDHU was sent a copy of the information provided by the Government of Ecuador. CEDHU sent its response to the Commission on January 23, 1997, in which it basically affirmed that as of that date the Government had not given a truthful account of the facts as to what happened to Vidal Segura Hurtado on April 4, 1993, and that based on the information provided by the Government it was concluded that the police had nothing to do with the matter, and that it could be considered that private persons may have been involved. Nonetheless, according to CEDHU, the Government had done nothing to investigate the death of Vidal Segura Hurtado or to find the guilty persons.

8. On March 5, 1999, the Commission placed itself at the disposal of the parties to pursue a friendly settlement. On October 19, 1999, the petitioner agreed to pursue a friendly settlement; it was signed on August 15, 2001, in the presence of Commissioner Marta Altolaquirre, member of the IACHR and rapporteur for Ecuador, who had traveled to Quito to facilitate the agreement. The parties asked the Commission to ratify this friendly settlement agreement in its entirety, and to supervise its implementation.

IV. THE FRIENDLY SETTLEMENT AGREEMENT

9. The friendly settlement agreement signed by the parties reads as follows:

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.

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 Mrs. María Almizar Hurtado Villa, mother, and Mr. Nelson Segura Preciado, father of Mr. Vidal

Segura Hurtado (deceased), 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 41 of the Rules of Procedure 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. For the first party, 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. For the second party Mrs. María Almizar Hurtado Villa, with citizen identification number 090492558-3, mother of Mr. Vidal Segura Hurtado, deceased, which is attached hereto as a qualifying document.

III. STATE RESPONSIBILITY AND ACCEPTANCE

The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mr. Vidal Segura Hurtado, recognized in Article 4 (right to life), Article 8 (right to a fair trial), Article 5 (right to humane treatment), Article 7 (right to personal liberty), and Article 25 (right to judicial protection), in relation to the general obligation contained in Article 1(1) of the American Convention on Human Rights and other international instruments, considering that the violations were committed by State agents, which could not be disproved by the State, giving rise to State responsibility.

Given the above, the Ecuadorian State accepts the facts in case N° 11.632 before the Inter-American Commission on Human Rights and undertakes the necessary reparative 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 N° 1 and in force since August 11, 1998, is awarding Mrs. María Almizar Hurtado Villa, with citizen identification number 090492558-3, mother of Mr. Vidal Segura Hurtado (deceased), a one-time compensatory payment in the amount of thirty thousand US dollars (US\$ 30,000), to be paid from the National Budget.

This compensation covers the consequential damages, loss of income, and moral damages suffered by Mr. Vidal Segura Hurtado, as well as any other claims that Mrs. María Almizar Hurtado Villa and Mr. Nelson Segura Preciado, the parents of Mr. Vidal Segura Hurtado (deceased), or their family members, may have 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 Attorney General will notify the Ministry of Economy and Finance, for it to carry out this obligation.

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 State Attorney General, the competent judicial organs, and public agencies or private institutions to contribute legal evidence to determine the liability of those persons. If admissible, the prosecution 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 and firm 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.

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. Vidal Segura Hurtado 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 standards in the American Convention on Human Rights and other international human rights instruments.

This friendly settlement is entered into based on respect for the human rights enshrined in the American Convention on Human Rights and other international human rights instruments and on the policy of the Government of Ecuador to respect and protect human rights.

X. NOTIFICATION AND CONFIRMATION

Mrs. María Almizar Hurtado Villa 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 end the dispute before the Inter-American Commission on Human Rights on the international responsibility of the State for violating the rights of Mr. Vidal Segura Hurtado.

V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

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

VI. CONCLUSIONS

11. The Commission values the signing of a friendly settlement agreement in the terms of the American Convention, on which the State and petitioner reached agreement.

12. The IACHR will continue to monitor compliance with the commitment assumed by Ecuador regarding the proceedings to be brought against the persons implicated in the events alleged.

13. The IACHR ratifies that the option of friendly settlement provided for in the American Convention makes it possible to terminate individual cases in a non-contentious manner, and has proven, in cases regarding several countries, to be an important procedure for resolving alleged violations that can be used by both parties (petitioner and State).

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To certify compliance by the State with the payment of US\$ 30,000 to the petitioner in this case as compensation.
2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.
3. To continue to monitor and supervise compliance with each and every one of the points of 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 make this report public and include it in its Annual Report to the OAS General Assembly.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., October 11, 2001. (Signed): Claudio Grossman, President; Juan E. Méndez, First Vice-President; Marta Altolaguirre, Second Vice-President; Commissioners Hélio Bicudo, Robert K. Goldman, and Peter Laurie.