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File Number(s):	Report No. 53/06; Petition 10.205
Session:	Hundred Twenty-Fourth Session (27 February – 17 March 2006)
Title/Style of Cause:	German Enrique Guerra Achuri v. Colombia
Doc. Type:	Decision
Decided by:	President: Evelio Fernandez Arevalos; First Vice-President: Paulo Sergio Pinheiro; Second Vice-President: Florentin Melendez; Commissioners: Clare K. Roberts, Freddy Gutierrez, Paolo G. Carozza, Victor E. Abramovich.
Dated:	16 March 2006
Citation:	Guerra Achuri v. Colombia, Petition 10.205, Inter-Am. C.H.R., Report No. 53/06, OEA/Ser.L/V/II.127, doc. 4 rev. 1 (2006)
Represented by:	APPLICANT: the Inter-Ecclesiastical Commission for Justice and Peace
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I. SUMMARY

1. On June 30, 1988, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a petition alleging that the State of Colombia (hereinafter “the State” or “the Colombian State”) had violated the rights protected under articles 1, 5, 8 and 25 of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”), to the detriment of Germán Enrique Guerra Achuri. The petition asserted that the alleged victim had been permanently disabled as a result of an attack purportedly perpetrated by military troops on the farm labor camp at the “La Perla” ranch in the department of Antioquia, Colombia. Mr. Guerra Achuri was represented by the Inter-Ecclesiastical Commission for Justice and Peace [Comisión Intereclesial de Justicia y Paz] (hereinafter “the petitioners”).

2. At a working meeting held on March 8, 2006, during the IACHR’s 124th regular session, the parties agreed upon the terms of a friendly settlement. On that same date, the parties entered into a formal commitment by signing an agreement, and requested that the Commission approve its terms.

3. Through this friendly settlement report, adopted pursuant to Article 49 of the American Convention, the IACHR summarizes the facts denounced and the agreement reached, and decides to publish that agreement.

II. PROCESSING WITH THE COMMISSION

4. The Commission processed the petition on July 8, 1988, classifying it as number 10,205 in accordance with the Regulations in effect until April 30, 2001. On that same day, the pertinent parts of the case were forwarded to the State, which was given 90 days in which to present its observations. The State submitted its response in communications dated September 5 and October 20, 1988. On March 29, 1989, the Commission requested additional information on the case in question, which the State provided via a communication dated August 4, 1989. In a communication dated July 30, 1990, the State provided further information. On January 11, 1991, the Commission asked the petitioners to provide additional information.

5. On June 25, 1991, the Commission asked that the State supply more information concerning the status of the investigations being conducted on the domestic front. The State supplied the requested information via a communication dated September 26, 1991, which was then forwarded to the petitioners for their comments. In a communication dated June 8, 1993, the IACHR requested more information from the petitioners. On January 24, 1994, the Commission repeated its request seeking information from the petitioners. On November 12, 1996, the IACHR asked the State to provide additional information.

6. On March 31, 1997, the Commission informed the parties of its interest in initiating a friendly settlement procedure and placed itself at their disposal with a view to facilitating that friendly settlement. By a communication dated May 19, 1998, the State presented information in connection with the case in question. That information was then forwarded to the petitioners for their comments. By a communication dated March 14, 2000, the Commission reiterated its willingness to initiate a friendly settlement procedure. In a communication dated June 14, 2000, the State replied that it was making the appropriate institutional inquiries regarding the possibility of seeking a friendly settlement of the matter. On August 22, 2000, the petitioners presented additional information on the case, which was transmitted to the State for comment. On December 29, 2000, the State expressed its willingness to move forward with a friendly settlement procedure in the case. By a communication dated February 7, 2001, the petitioners presented their comments regarding the proposal to move forward with a friendly settlement procedure. Those observations were then forwarded to the State. By a communication dated April 16, 2001, the State presented additional information and repeated its willingness to initiate a friendly settlement procedure in the present case. That information was sent to the petitioners for comment.

7. In February 2006, the petitioners asked that a working meeting be held on the present case. By a communication dated February 8, 2006, the IACHR summoned the parties to a working meeting during its 124th regular session, to explore the possibility of reaching a friendly settlement of the matter. On March 8, 2006, during the working meeting, the parties formalized a friendly settlement agreement and requested that the IACHR approve its terms.

III. THE FACTS

8. The petition stated that at the time of the events in this case, Mr. Germán Guerra was working –along with 20 other people- in livestock and lumbering jobs on the “La Perla” ranch in the department of Antioquia. The petition alleged that on Sunday, February 8, 1988, at approximately 2:30 a.m., the National Army launched an armed attack on the farm worker camp

where the workers were located. As a result of that incursion, Mr. Guerra was shot in the left leg. Two other workers were also shot.

9. The petition asserted that in the wake of the attack, Army troops burst into the farm workers' sleeping quarters. Ordering them to lie facedown, the soldiers searched the farm workers, while shouting at them "guerrilleros bandoleros" [bandit guerrillas] and kicking them. The petition alleged that at 7:00 a.m. the workers were taken away by truck, arriving at the municipality of Remedios around midday. There, the wounded farm workers were finally treated at a clinic, thanks to the Mayor's intervention. The petition alleged that as a result of these events, and despite the treatment received, Mr. Guerra lost his left leg and was permanently disabled.

10. According to information in the case file, the investigation into the injuries caused to Germán Enrique Guerra was conducted by the military criminal justice system. This investigation concluded on November 3, 1993, when the Commandant of the Army's Tenth Brigade, based in Puerto Berrío, decided to declare the criminal case closed because the only suspect in the case had died. The records also show that on June 18, 1997, the National Bureau of Prosecution Offices assigned the National Human Rights Unit the job of investigating the crime of the wounds inflicted on Mr. Enrique Guerra.

IV. FRIENDLY SETTLEMENT

11. On March 8, 2006, during a working meeting at the Commission's headquarters, the parties formally expressed their intention to settle this case amicably and signed an agreement that reads as follows:

FRIENDLY SETTLEMENT AGREEMENT

IN CASE NO. 10,205 - GERMÁN ENRIQUE GUERRA ACHURI

At the headquarters of the Inter-American Commission on Human Rights in Washington D.C., on March 8, 2006, the Republic of Colombia, represented by Dr. Clara Inés Vargas Silva, Director of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs, and Dr. Luz Marina Gil García, Coordinator of the Inter-institutional Operating Group, duly authorized by the Permanent Inter-sectoral Commission on Human Rights and International Humanitarian Law, and Mr. Danilo Rueda of the Inter-Ecclesiastical Commission for Justice and Peace [Comisión Intereclesial de Justicia y Paz], representative of Mr. Germán Enrique Guerra Achuri and petitioner, agreed to sign the present friendly settlement agreement in case 10,205, pending with the Inter-American Commission on Human Rights. The terms of the agreement are as follows:

1. On the matter of reparations, the State undertakes to enforce Law 288 of 1996, to make reparations for the pecuniary and non-pecuniary damages sustained by Mr. Germán Enrique Guerra Achuri as a consequence of the events that occurred on February 8, 1988, in the encampment of the farm workers at "La Perla" ranch in the municipality of Remedios,

Antioquia. Fulfillment of this commitment will be contingent upon approval of the terms of this agreement by the Honorable Inter-American Commission on Human Rights.

2. On the matter of justice, the Government undertakes to submit a request to the Office of the Attorney General of the Nation requesting that in the exercise of its authority, it file an action seeking review of the January 23, 1995 ruling of the Military Criminal Court (Case File No. 4137 – 113859 – 337 of the Superior Military Tribunal). The Inter-Ecclesiastical Commission for Justice and Peace pledges to provide, within 30 days of the approval of the terms of this Agreement, the arguments that, in its judgment, will support the petition that the Government has pledged to make of the Office of the Attorney General regarding an action for review.

3. As for monitoring the agreement, the parties undertake to keep the Honorable Inter-American Commission on Human Rights informed of the progress made and the results achieved in complying with the terms of the present agreement.

V. COMPATIBILITY OF THE AGREEMENT WITH THE OBJECT AND PURPOSE OF THE AMERICAN CONVENTION AND THE OBLIGATION TO COMPLY

12. The friendly settlement procedure contemplated in articles 48(1)(f) and 49 of the American Convention makes it possible for individual cases to be settled in a non-contentious manner. In previous cases, involving different countries, it has proved to be an important vehicle by which the two parties were able to reach a settlement. The IACHR points out that the purpose of this procedure in the present case is to reach “a friendly settlement of the matter on the basis of respect for the human rights recognized in the Convention” and that the agreement reached between the parties is fully compatible with the obligations emanating from the American Convention. Acceptance of the commitments undertaken with this agreement is an expression of the State’s willingness to carry out the purposes and objectives of the Convention by virtue of the principle of *pacta sunt servanda*, by which States must carry out the obligations they assume in treaties in good faith.

13. The Commission wishes to express its gratitude for the efforts made by the Republic of Colombia and by the petitioners to arrive at a friendly settlement in the present matter. The Commission also appreciates the importance of the measures that the State has pledged to undertake to recognize the rights of Mr. Germán Enrique Guerra Achuri. The Commission will be attentive and will monitor compliance with the terms of the friendly settlement agreement approved through the present report.

VI. CONCLUSIONS

14. Based on the foregoing considerations and under the procedure provided for in Articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts made by the parties and its satisfaction that a friendly settlement has been reached in the instant case and that it is consistent with the object and purpose of the American Convention.

15. By virtue of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the friendly settlement agreement reached in the present case.
2. To continue to monitor and oversee compliance with each of the points in the friendly settlement agreement and, in that context, the parties will inform periodically to the IACHR of measures taken to comply with the present friendly settlement agreement.
3. To make this report public 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., on the 16th day of March 2006. (Signed): Evelio Fernández Arévalos, President; Paulo Sérgio Pinheiro, First Vice President; Florentín Meléndez, Second Vice President; Clare K. Roberts, Freddy Gutiérrez, Paolo G. Carozza and Víctor E. Abramovich, Commissioners.