

REPORT No. 90/10¹
CASE 12.642
FRIENDLY SETTLEMENT
JOSÉ IVÁN CORREA ARÉVALO
MEXICO
July 15, 2010

I. SUMMARY

1. On May 6, 2002, the Inter-American Commission on Human Rights (hereinafter “Inter-American Commission”, “Comission” or “IACHR”) received a petition submitted by Juan Ignacio Correa López and the *Comisión Mexicana de Defensa y Promoción de los Derechos Humanos A.C.* (CMDPDH) (hereinafter “the petitioners”) against the State of Mexico (hereinafter the “State” or the “Mexican State”). The petition alleges the responsibility of the Mexican State for the death of the child José Iván Correa Arévalo (hereinafter, the “alleged victim”) as well as the failure to carry out an investigation and punish those responsible for those acts.

2. The petitioners argue that the Mexican State is responsible for alleged violations of the rights protected in Articles 4 (right to life), 8 (right to a fair trial), 17 (rights of the family), 19 (rights of the child), and 25 (right to judicial protection) of the American Convention on Human Rights (hereinafter, the “Convention” or “American Convention”) in connection with Articles 1(1) and 2 of that international instrument to the detriment of the alleged victim and his father, Juan Ignacio Correa López. The petitioners also claim that the State committed a violation of the right enshrined in Article XII (right to education) of the American Declaration of the Rights and Duties of Man (hereinafter the “American Declaration”),² to the detriment of José Iván Correa Arévalo.

3. On October 16, 2007, the IACHR approved Admissibility Report No 83/07 and declared the petition admissible with respect to the alleged violations of the rights protected in Articles 8 and 25 of the American Convention in connection with Article 1(1) of said international instrument. It also declared inadmissible the submissions on alleged violation of Articles 2, 4, 17, and 19 of the Convention.

4. On October 24, 2008, at the 133rd Regular Period of Session of the IACHR, the parties signed an agreement in “Memorandum of Working Meeting, Case 12.642, José Iván Correa Arévalo,”³ in which they established specific commitments to be met by the State.

5. This friendly settlement report, as established by Article 49 of the Convention and Article 40.5 of the Commission’s Rules of Procedure, summarizes the facts alleged by the petitioners and the friendly settlement reached. Having reviewed the agreement’s consistency with the principles of the

¹ Commissioner José de Jesús Orozco Henríquez, a Mexican national, did not participate in the discussion or decision of the present case, in accordance with Article 17.2.a of the Rules of Procedure of the IACHR.

² In the Admissibility Report No 83/07 it was stated that the petitioners alleged a violation of the right to education protected in Article 13 of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights, “Protocolo de San Salvador”. However, what they argued was a violation of Article XII of the American Declaration, as noted in the instant report.

³ The parties recognized said document as a friendly settlement agreement. In this regard, see “Working Meeting Minute, Friendly Settlement 12.642, Juan Ignacio Correa López” signed in Tuxtla Gutiérrez on February 19, 2009, which says, “In accordance with the commitments adopted in the Memorandum of Working Meeting held on October 24, 2008;” “Statement of recognition of State responsibility for the events in which the young man José Iván Correa Arévalo lost his life in 1991 in the city of Tuxtla Gutiérrez, Chiapas,” which said, “This ceremony of recognition of responsibility is held done in accordance with the friendly settlement agreement in Case 12.642 before the Inter-American Commission on Human Rights”; “Governor of Chiapas recognizes and publicly apologizes for human rights violations,” Press release of the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C., which states, “the progress in the case at the international level prompted negotiations between the Mexican State, the victim’s family, and their representatives, which led to a friendly settlement agreement;” “Record of Working Meeting, Case 12.642, José Iván Correa Arévalo, March 21, 2009,” which document was signed at the 134th Regular Session of the IACHR, in which it says that “the parties acknowledge the fulfillment of this friendly settlement.”

American Convention, as well as their compliance, the Commission resolves to notify the parties, make this report public, and include it in its Annual Report to the General Assembly of the Organization of American States.

II. PROCEEDINGS BEFORE THE IACHR

6. On October 16, 2007, the IACHR adopted Admissibility Report No 83/07 and declared the petition admissible with respect to the alleged violations of the rights protected in Articles 8 and 25 of the American Convention in connection with Article 1(1) of said international instrument. That report was sent to the parties in a communication dated October 24, 2007, in which the IACHR placed itself at the disposal of the parties to reach a friendly settlement of the matter, in accordance with Article 48.1.f of the American Convention and Article 40 of its Rules of Procedure. On January 22 and 24, 2008, respectively, Mexico and the petitioners informed the Commission about the start of talks aimed at reaching a friendly settlement of the instant case.

7. The IACHR received information from the petitioners on August 27, 2008, concerning progress in the friendly settlement negotiations. Similarly, the Mexican State transmitted information in that regard on February 25, 2009.

8. The parties also held two working meetings before the IACHR: one on October 24, 2008, at its 133rd Regular Period of Sessions, and the other on March 21, 2009, in the framework of the 134th Regular Period of Sessions. At the meeting held before the IACHR on October 24, 2008, the parties signed a memorandum which contained specific undertakings to be performed by the State. At the meeting held before the IACHR on March 21, 2009, the parties acknowledged the fulfillment of the friendly settlement and agreed to continue to monitor two points contained in the memorandum of October 24, 2008.

III. THE FACTS

9. According to the petitioners, José Iván Correa Arévalo, a 17-year-old student, died on May 28, 1991, as a result of the impact to his head from a firearm projectile. They maintained that the killing of the alleged victim –which reportedly had to do with his position as an independent student leader– was not diligently investigated by the Mexican authorities and that those responsible for his death were never convicted.

10. In particular, the petitioners argued that on May 27, 1991 –the day before he died– José Iván had had a dispute over a strike with another student leader at the *Colegio de Bachilleres Plantel 01* (COBACH) in the city of Tuxtla Gutiérrez. They said that as a result of that dispute that student had threatened to kill José Iván Correa.

11. They held that the following day, May 28, 1991, whilst in the company of three other COBACH students José Ivan sustained a fatal bullet wound. As to the circumstances in which this is said to have occurred, the petitioners argued that, regardless of what the three above-mentioned youths said in their statements to the effect that Correa Arévalo had taken his own life by shooting himself in the temple after having consumed alcoholic beverages, they were the persons responsible for the death of the alleged victim. They added, however, that the latter had been protected by the government authorities in Chiapas at the time on account of the family ties that linked one of the alleged culprits in the homicide to the then-Secretary of Government of the State of Chiapas.

12. They said that, as a result, the facts were not properly investigated by the relevant authorities. In particular, they claimed that Preliminary Inquiry 2062/ZC/91 carried out by the Office of the Attorney General for the State of Chiapas was not diligently pursued and was fraught with serious irregularities.

13. In this regard, they held that despite the existence of evidence that contradicted the version of the incident given by those allegedly responsible for the homicide, the line of investigation

followed by the authorities concerned centered on the suicide theory.⁴ They also claimed a failure to carry out investigations to collect evidence, or the delayed or tardy performance thereof, which, according to the petitioners, was essential to elucidate the alleged facts.⁵

14. They reported that in 1991 the investigation was ordered closed for no apparent reason and that at the insistence of the alleged victim's father it was reopened in 1993; that the judicial file had gone missing on several occasions and that records of judicial proceedings that were a part thereof had disappeared.

15. In sum, the petitioners argued that the investigation carried out by the Office of the Attorney General of the State of Chiapas had been conducted without due diligence and that, despite all the years that had passed, Mexican justice had not managed to determine the motives for the murder of the alleged victim or punish those responsible.

IV. FRIENDLY SETTLEMENT

16. On October 24, 2008, at a working meeting held during the 133rd Regular Period of Sessions of the IACHR, the parties signed the following document:⁶

⁴ In particular, the petitioners referred to the results of various forensics tests, to wit: i) The Red Cross prosecutorial certification of May 28, 1991, which does not establish that the alleged victim had alcohol on his breath; ii) the autopsy of May 29, 1991, which indicated that there were no signs of alcohol in the alleged victim's liver and that the apparent cause of his death was homicide; iii) the negative results of the three Harrison tests and the Walter test, which are forensic chemical-reaction tests for the use of firearms that were performed on the hands and clothing of the alleged victim, respectively. They also pointed to the absence of evidence by which to presume that the gunshot was a contact wound and argued that there were contradictions in the statements given by the youths who were with the alleged victim when he died.

⁵ In this regard, the petitioners say that the three individuals who reportedly were with Correa Arévalo at the time of his death did not have forensic chemical-reaction tests for the use of firearms carried out on them until two days after the incident.

⁶ The memorandum was signed by Commissioner Florentín Meléndez for the IACHR; Gilberto Monzón Velasco (Criminal Prosecutor for the Ministry of Justice of the State of Chiapas) for the State of Chiapas; Minister Alejandro Negrín (Director General for Human Rights and Democracy) for the Ministry of Foreign Affairs of Mexico; and Juan Ignacio Correa López and Mario A. Solórzano Betancourt (Comisión Mexicana de Defensa y Promoción de los Derechos Humanos) for the beneficiaries.

MEMORANDUM OF WORKING MEETING
CASE 12.642
JOSÉ IVÁN CORREA ARÉVALO
OCTOBER 24, 2008

In the framework of a working meeting held in connection with Case 12.642, José Iván Correa Arévalo, during the 133rd Regular Period of Sessions of the IACHR, the parties agreed the following:

1. The Mexican State, through the Ministry of Justice of the State of Chiapas, undertakes to proceed with the investigation in a diligent and exhaustive manner and to open new lines of inquiry in order to ensure the prompt clarification of the truth surrounding the homicide of José Iván Correa Arévalo. In the course of the investigation, working panels will be held between the agents in charge of same and the coadjutors, in order comprehensively to review the case file.
2. The Mexican State, through the Ministry of Justice of the State of Chiapas, undertakes to hold a public act of recognition of responsibility and public apology for the failure of the authorities to conduct a diligent investigation into the homicide of José Iván Correa Arévalo. This public recognition and apology shall be published in the newspapers with the widest circulation in the State of Chiapas. The petitioners undertake to submit a draft text of public recognition of responsibility and apology within 15 days counted from today's date. The draft shall be analyzed by the authorities of the State of Chiapas within 15 days of its receipt. The final text shall be agreed by the parties. In response to the request of the petitioners that the above public ceremony be presided over by the head of the executive branch of the State of Chiapas, the Ministry of Justice undertakes to present that request to said authority, and failing that, agrees that the head of the Ministry of Justice shall preside over the ceremony. The parties shall agree on a date for holding the public ceremony, endeavoring to ensure, if at all possible, the presence of Commissioner Florentín Meléndez, Rapporteur for Mexico. In agreeing on the aforesaid ceremony the parties state that the possibility exists of signing a friendly settlement agreement in this case.
3. The Mexican State, through the Ministry of Justice of the State of Chiapas, undertakes to offer psychological treatment to Mr. Juan Ignacio Correa López and to include him and his family in the Seguro Popular Health Care Program, as agreed in the Minute of the Working Meeting signed in the State of Chiapas on October 8, 2008.
4. The Mexican State, through the Ministry of Justice of the State of Chiapas, undertakes to include Mr. Juan Ignacio Correa López in the Social Assistance Housing Program under the terms of the Minute of the Working Meeting signed in the State of Chiapas on October 8, 2008.
5. The Mexican State, through the Ministry of Justice of the State of Chiapas, undertakes to include Mr. Juan Ignacio Correa López in the Economic Recovery Program of the State of Chiapas for the purpose of obtaining a business loan. The Ministry of Justice of the State of Chiapas undertakes to arrange, as necessary, the repayment of the loan and its nonreimbursement on behalf of the petitioner.
6. The Mexican State, through the Ministry of Justice of the State of Chiapas, undertakes to grant compensation for material damages and emotional distress to Mr. Juan Ignacio Correa López in the total amount of \$600.000 pesos (six hundred thousand Mexican pesos) clear, free, and unencumbered.
7. The Mexican State, through the Ministry of Justice of the State of Chiapas, undertakes to make arrangements with the Municipality of Tuxtla Gutiérrez in the State of Chiapas to have the street where José Iván Correa Arévalo was deprived of his life named after him; or, failing that, to make arrangements with the relevant education authority for a commemorative plaque recording the facts in the instant case to be put up at *Colegio de Bachilleres Plantel 01 (COBACH)*, which José Iván Correa Arévalo attended.

The parties recognize the mutual efforts of the authorities, both federal and of the current administration of the State of Chiapas, and, in particular, of Mr. Juan Ignacio Correa López, to reach the instant accommodation and the resolution of the case through a friendly settlement agreement. Mr. Correa López is especially grateful for the attention given and measures adopted to investigate and solve this case by Mr. Juan Sabines Guerrero, Governor of the State of Chiapas.

17. Subsequently, on February 19, 2009, the parties held a meeting in the city of Tuxtla Gutiérrez, Chiapas. On that occasion, they drew up for the record a memorandum of the following:⁷ i) the Office of the Attorney General indicated that the investigation to clarify the facts was ongoing and reported on the creation of a working panel to report to the IACHR every six months on progress made in that regard; ii) the parties agreed on the date, time, and place for holding the public act of recognition of responsibility and public apology; iii) the representatives of the State submitted a draft text of recognition of responsibility and pledged to publish it once consensus was reached on its wording; iv) the Office of the Attorney General provided information on the arrangements made to provide psychological treatment to Juan Ignacio Correa López and to include both him and his family in the Seguro Popular Health Care Program; v) the Ministry of the Interior provided information on the steps taken to include Mr. Correa López in the Social Assistance Housing Program and the Economic Recovery Program of the Ministry of Social Development; and, vi) the petitioners expressed their consent that a plaque be put up in the library of the COBACH in memory of José Iván Correa Arévalo, rather than naming the street where the incident occurred after him. In addition the Government of Chiapas paid Mr. Correa López the previously agreed compensation for material damages and emotional distress.

18. The parties signed a working meeting memorandum on March 21, 2009, at the meeting held during the 134th Regular Period of Sessions of the IACHR,⁸ in which they acknowledged “the fulfillment of the instant friendly settlement and agreed to continue to monitor points 1 and 4 of the agreement contained in the memorandum of the working meeting of October 24, 2008[.]”

V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

19. The IACHR reiterates that, under Articles 48(1)(f) and 49 of the Convention, this procedure has the objective of “reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.” The acceptance of this procedure expresses the good faith of the State to satisfy the purposes and objectives of the Convention, by virtue of the principle of *pacta sunt servanda*, whereby States must in good faith honor the obligations they assume in treaties. The IACHR also wishes to point out that, with the friendly settlement procedure provided for in the Convention, individual cases can be settled in a non-contentious manner. In cases involving a number of countries, the friendly settlement procedure has proven to be a useful vehicle that both parties can utilize to arrive at a solution.

20. The IACHR received information about different steps taken by the Mexican State in order to comply with the obligations adopted in the above-transcribed memorandum.

21. Specifically, the Commission notes that the Mexican State recognized the existence of human rights violations committed against the family of the alleged victim. The public act of recognition of responsibility and public apology was held March 5, 2009, in the city of Tuxtla Gutiérrez, and was

⁷ Minute of Working Meeting of February 19, 2009, signed by: i) for the petitioners: María Sirvent Bravo-Ahuja and Juan Ignacio Correa López; ii) for the Mexican Ministry of Foreign Affairs: José Ignacio Martín del Campo C.; iii) for the Office of the Attorney General of the Republic: Carlos Garduño Salinas and Liliana Pérez de la Rosa; iv) for the General Secretary of Government: Carlos Enriquez Martínez Vázquez and Claudia Elena Gordillo Cruz; and, v) for the Office of the Attorney General of the State of Chiapas, Gilberto Monzón Velasco and Alba Guadalupe Cruz Sánchez.

⁸ This document was signed for the petitioners by Juan Carlos Gutiérrez and Mario Solórzano of the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos; and for the Mexican State by Alejandro Negrín, Minister, Director General for Human Rights and Democracy of the Ministry of Foreign Affairs of Mexico, and Gilberto Monzón Velasco, Criminal Prosecutor for the Ministry of Justice of the State of Chiapas.

support.¹⁷ Furthermore, Mexico indicated that through the General Secretary of Government, an official letter was sent to the Minister for Social Development –SEDESOC– so that said agency might arrange the inclusion of Mr. Juan Ignacio Correa López in one of the Economic Recovery Programs that SEDESOC implements.¹⁸

26. Although no information has been furnished indicating that the services mentioned in the foregoing paragraph have actually been provided, the Commission understands that the petitioners consider the commitments adopted by the State of Mexico in that regard to have been met. That conclusion is surmised from the memorandum of the working meeting held at the headquarters of the IACHR on March 21, 2009, in which “both parties acknowledge[d] the fulfillment of the instant friendly settlement and agreed to continue to monitor points 1 and 4 of the agreement contained in the memorandum of the working meeting of October 24, 2008,”¹⁹ insofar as the exceptions expressly mentioned do not concern the commitments analyzed in the preceding paragraph.

27. The Inter-American Commission has closely monitored the development of the friendly settlement arrived at in the present case and greatly values the efforts that both parties made to reach this settlement, which is compatible with the object and purpose of the Convention.

28. Nonetheless, the IACHR takes note of the commitments adopted by the State which, according to information contained in the record, are still pending fulfillment: i) Inclusion of Mr. Juan Ignacio Correa López in the Social Assistance Housing Program; and, ii) clarification of the truth surrounding the homicide of José Iván Correa Arévalo by carrying out a diligent and exhaustive investigation.²⁰

29. Finally, the Commission finds it apt to mention what Mr. Juan Ignacio Correa López, the father of José Iván Correa Arévalo, said in a note sent to the IACHR in the instant case: “A humanitarian and decorous solution was finally reached after almost 18 years of battling, in which the main thing is that the name of [his] dear son was dignified.”

¹⁷ As is set down for the record in paragraph three of the Minute of the Working Meeting signed on February 19, 2009, at 15:30 hours.

¹⁸ As is set down for the record in paragraph five of the Minute of the Working Meeting signed on February 19, 2009, at 15:30 hours.

¹⁹ Memorandum of Working Meeting, Case 12.642, José Iván Correa Arévalo, March 21, 2009.

²⁰ As is set down for the record in Memorandum of Working Meeting, Case 12.642, José Iván Correa Arévalo, March 21, 2009.

VI. CONCLUSIONS

30. Based on the foregoing considerations and the procedure provided for in Articles 48(1)(f) and 49 of the American Convention, the Commission would like to reiterate its profound appreciation of the efforts made by the parties and its satisfaction that a friendly settlement has been arrived at in the present case in accordance with the object and purpose of the American Convention.

31. Based on the considerations and conclusions contained in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To approve the terms of the friendly settlement agreement signed by the parties on October 24, 2008.

2. To urge the State to adopt the necessary measures to fulfill the commitments pending, in particular the obligation to conduct a diligent and exhaustive investigation in order to ensure the prompt clarification of the truth surrounding the homicide of José Iván Correa Arévalo.

3. To continue to supervise compliance with each and every point of the agreement signed and, to that end, to remind the parties of their commitment to regularly inform the IACHR as to its compliance.

4. To make the present report public and include it in its Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 15th day of the month of July 2010. (Signed: Felipe González, President; Paulo Sérgio Pinheiro, Vice-President; Dinah Shelton, Second Vice-President; Luz Patricia Mejía Guerrero, María Siliva Guillén, and Rodrigo Escobar Gil, Members of the Commission).