

REPORT No. 160/10
PETITION 242-03
FRIENDLY SETTLEMENT
INOCENCIA LUCA DE PEGORARO *ET AL.*
ARGENTINA
November 1, 2010

I. SUMMARY

1. On March 31, 2003, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the IACHR") received a petition submitted by Estela Barnes de Carlotto and Rosa Tarlovsky de Roisinblit, President and Vice President of the Association of Grandmothers of the Plaza de Mayo (*Asociación de Abuelas de Plaza de Mayo*), (hereinafter "the petitioners"). The petition alleges that the Republic of Argentina (hereinafter "the State" or "the State of Argentina") violated Articles 5, 8, 17, and 25 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), due to the decision issued by the Supreme Court of Justice of the Nation on September 30, 2003 overturning the decision that ordered compulsory expert blood tests of the alleged granddaughter of the victims, ending the possibility of an investigation into crimes associated with the disappearance of Susana Pegoraro and Raul Santiago Bauer.

2. The petitioners maintain that on June 18, 1977, Susana Pegoraro, who was five months pregnant at the time and the daughter of Inocencia Pegoraro, was arrested and taken to the Clandestine Detention Center that operated during the military dictatorship at the Naval Mechanics School (ESMA). According to the testimony of Inocencia Luca Pegoraro, Susana Pegoraro gave birth to a daughter inside the detention's facilities. The petitioners state that, in 1999, Inocencia Luca Pegoraro and Angélica Chimeno de Bauer became complainants and initiated a court proceeding, denouncing the abduction of their granddaughter, who they identified as Evelin Vásquez Ferra. Initially, the Federal National Court for Criminal and Correctional Matters No. 1 ordered expert testing to establish the identity of Evelin Vásquez Ferra. However, when this testing was challenged, the procedure was finally determined by the Supreme Court as not being mandatory because it felt that the testing was complementary for the purposes of the process given that the adoptive parents, Policarpo Luis Vásquez and Ana María Ferra, had confessed that Evelin Vásquez Ferra was not their biological child. The court also felt that mandatory testing violated the latter's right to privacy. The petitioners alleged that the ruling of the Supreme Court of Justice of the Nation closed the door to possible investigation into the disappearance of Susana Pegoraro and Raúl Santiago Bauer as well as the identification of Evelin Vásquez Ferra.

3. The State informed the Commission that it would not make any observations regarding the complaint filed by the petitioners and indicated, with its first submission, its willingness to enter into discussions to explore a friendly settlement between the parties.

4. This friendly settlement report, as established in Article 49 of the Convention and in Article 40(5) of the Commission's Rules of Procedure, summarizes the facts alleged by the petitioner. In addition, it transcribes the friendly settlement agreement signed on September 11, 2009 by Estela Barnes de Carlotto and Rosa Tarlovsky de Roisinblit, as petitioners in their respective roles as President and Vice President of the Association of Grandmothers of the Plaza de Mayo, and for the other party (representing the Government of the Argentina Republic) by the Under-Secretary for the Protection of Human Rights, Dr. Luis Hipólito Alen, and the General Director for Human Rights, Dr. Silvia Fernández de Gurumendi. Finally, the agreement signed between the parties is approved and the parties agree to the publication of this report.

II. PROCESSING BY THE COMMISSION

5. On August 31, 2005, processing began on the petition with respect to the alleged violations of Articles 5, 8, 17, and 25 of the American Convention on Human Rights. Pursuant to the provisions of Article 30 of its Rules of Procedure, the IACHR allowed the State two months to submit its observations. In communications dated June 21, 2007 and September 19, 2007, the petitioners indicated to the IACHR their interest in initiating a friendly settlement process.

6. The petitioners also submitted written communications to the IACHR on June 21, 2007 and February 3, 2010.

7. The State submitted written communications on February 27 and April 5, 2006; August 15, August 30, and September 19, 2007; and March 23 and July 28, 2010.

8. On February 3, 2010, the IACHR received a document from the petitioners containing the Friendly Settlement Agreement signed on September 11, 2009 by Estela Barnes de Carlotto, Mrs. Rosa T. de Roisinblit, and representatives of the State of Argentina. Attached to that communication is the Official Bulletin of November 27, 2009 in which the following laws were published: 26.548, regarding section 2(1) (b) of the Friendly Settlement Agreement; 26.549 regarding section 2(1) (a); and 26.550 regarding section 2(2)(a) of the Friendly Settlement Agreement. In addition, the Official Bulletin of October 2, 2009 published Decree No. 679/2009 of the Ministry of Justice and Human Rights regarding section 2(4)(a) of the Friendly Settlement Agreement. The Official Bulletin of November 20, 2009 published Decree No. 1800/2009 approving the Friendly Settlement Agreement signed on September 11, 2009. Resolution No. 1229/09 of the Ministry of Justice, Security, and Human Rights was published on April 27, 2009 regarding section 2(2)(b) of the Friendly Settlement Agreement. The same communication submitted to the IACHR a letter from Mrs. Inocencia Luca de Pegoraro, indicating her consent to the Friendly Settlement Agreement, in accordance with Art. 40.5 of the IACHR Rules of Procedure as well as a letter from Mrs. Angélica Chimeno de Bauer indicating her consent to the Friendly Settlement Agreement, in accordance with Art. 40.5 of the IACHR Rules of Procedure.

III. FACTS

9. The petitioners allege that in 1999, Inocencia Luca de Pegoraro and Angélica Chimeno de Bauer, acting as complainants, submitted a complaint against Policarpo Luis Vásquez and Ana María Ferrá for the abduction of their granddaughter.

10. The petitioners stated that at trial the accused confessed that Evelin Karina Vásquez Ferrá was not their biological child but they also denied having knowledge of her origins. They indicated that due to the confession of the alleged parents of Evelin Karina Vásquez Ferrá, the judge of the Federal National Court for Criminal and Correctional Matters No. 1 ordered that a blood sample be taken from Evelin Karina Vásquez Ferrá in order to determine her identity through DNA analysis at the National Genetic Data Bank, indicating that in the hypothetical case that she did not give her consent, the testing could be done with the assistance of law enforcement.

11. The petitioners stated that Evelin Karina Vásquez Ferrá opposed this measure, explaining that she did not want the DNA sample to be used as evidence against Policarpo Vásquez and Ana María Ferrá. In this regard, the official public defender and legal representative of Evelin Vásquez Ferrá filed actions asking the court to reconsider its ruling or allow an appeal regarding the expert testing. The first was rejected and the appeal was granted.

12. The complainant's representative submitted a brief asking that Evelin Karina Vásquez Ferrá be allowed a prudent amount of time to decide for herself when she wanted to do the testing voluntarily.

13. In addition to rejecting the petition for reconsideration and granting the appeal, the judge revoked the mandatory nature of the blood test that had been ordered by the Judge of the Federal National Court for Criminal and Correctional Matters No.1.

14. In this regard, the complainant and the Prosecutor filed an appeal. The complainant also asked for nullification of the order because she felt that the opinion of the judge had been issued in response to what had been indicated by Evelin Vásquez Ferrá, who was not a party to the case. They also argued that the official defender acted illegitimately because he was performing his duties without the consent of the Senate.

15. On March 24, 2001, the Chamber decided to declare as follows: 1) that the appeal filed by the official defender of the accused was granted in error; 2) to reject the objections filed by the complainant; 3) to confirm provision I of the resolution on retaining all the identifying documentation that the authorities had granted at the appropriate moment to Evelin Vásquez Ferrá; 4) to confirm provision II of the resolution ordering the paternity testing; 5) to revoke provision V of the order, invalidating through an opposite ruling the mandatory nature of the blood analysis ordered and upholding the order of the Judge of the Federal National Court for Criminal and Correctional Matters No.1.

16. Mrs. Vásquez Ferrá's representative filed an extraordinary appeal. On September 30, 2003, the Supreme Court of Justice decided to declare the extraordinary appeal admissible.

17. The arguments on which the judge based the finding of admissibility of the appeal were as follows: regarding the biological testimony, the judge determined that in order to conclude the existence of the crime that led to the case, the Court did not find it necessary to conduct a biological examination of Evelin Karina Vásquez Ferrá, because she did not give her consent and Mrs. Ferrá and Mr. Policarpo Vásquez confessed that they were not her biological parents. The Court also indicated that it is not possible to force an adult to have a biological examination on a compulsory basis, and established that she has the right to refuse to have items of evidence extracted from her to the detriment of those whose protection is authorized under federal law (as in the case of her adoptive parents). The Court concluded that the measures ordered in the appealed decision regarding the documentation identifying Evelin Vásquez Ferrá and the forcible taking of blood samples were contrary to law and should be revoked.

18. On June 14, 2007, the Criminal and Correctional Chamber of the Federal Capital ordered that the investigation continue in order to "ascertain the essential points of the proceeding that have been neglected [...] such as the criminal liability of those who had acted in the Clandestine Detention Center with respect to the days prior to the captivity and captivity of the daughter of Susana Pegoraro," adding that "although it was determined that the accused took possession of a minor, who as stated in the indictment, could be Evelin Vásquez Ferrá, that point has not yet been determined with certainty given the opposition of Evelin Vásquez Ferrá to having blood taken from her to conduct the histocompatibility studies." As a result, the Chamber indicated that this obstacle should be overcome through other evidentiary methods in order to determine what might have finally happened to the daughter of Susana Pegoraro.

19. The petitioners indicated that following the order issued by the Chamber, the judge responsible for the investigation ordered a search of the residence of Evelin Karina Vásquez Ferrá in order to extract genetic material from her personal effects.

20. On February 12, 2008, the personal effects seized from Evelin Vásquez Ferrá were sent to the National Genetic Data Bank, where the DNA of the relatives of the disappeared is located.

21. On April 22, 2008, the National Genetic Data Bank informed the judge that "Mr. Rubén Santiago Bauer (allegedly disappeared father) and Susana Beatriz Pegoraro (allegedly disappeared mother) had a 99993% probability of having been the biological parents" as determined from a sample taken from a toothbrush seized from the residence of Evelin Karina Vásquez Ferrá.

22. Based on the above, on July 13, 2008, the judge declared void the birth record of Evelin Vázquez Ferra in the Civil Status and Capacity Registry of the Federal Capital recording the birth of Evelin Karina Vázquez Ferrá as the daughter of Policarpo Vázquez and Ana María Ferra and ordered that she be reentered in the Registry as Evelin Karina Bauer Pegoraro, daughter of Susana Beatriz Pegoraro and Rubén Santiago Bauer, born on October 29, 1977. This decision was not questioned by Evelin Karina.

23. In addition, the Judge ordered that a signed statement be taken from and ordered the prosecution of Jorge Luis Magnacco, the physician accused of having attended the delivery of Susana Pegoraro and of having participated in the abduction of her daughter.

24. The petitioners asked that the State of Argentina be declared responsible for the violation or rights established in Articles 5, 8, 17, and 25 of the American Convention on Human Rights.

IV. FRIENDLY SETTLEMENT

25. On September 11, 2009, the petitioners Estela Barnes de Carlotto and Rosa Tarlovsky de Roisinblit, in their respective positions as President and Vice President of the Association of Grandmothers of the Plaza de Mayo, and the Government of the Republic of Argentina, represented by the Under-Secretary for the Protection of Human Rights, Dr. Luis Hipólito Alén, and the General Director for Human Rights, Dr. Silvia Fernández de Gurumendi, signed the following agreement:

FRIENDLY SETTLEMENT AGREEMENT

The parties in Petition 242/03 in the registry of the Inter-American Commission on Human Rights, Estela Barnes de Carlotto and Rosa Tarlovsky de Roisinblit, in their capacity as petitioners and as President and Vice-President, respectively, of the Association of Grandmothers of the Plaza de Mayo, and the Government of the Republic of Argentina, in its capacity as a State Party to the American Convention on Human Rights, hereinafter "the Convention," acting by express mandate of Articles 99(11), represented by the Under-Secretary for the Protection of Human Rights of the Secretariat of Human Rights of the Ministry of Justice, Security, and Human Rights, Dr. Luis Hipólito Alén, and the General Director of Human Rights of the Ministry of Foreign Relations, International Trade, and Worship, Dr. Silvia Fernández de Gurumendi, are honored to report to the distinguished Inter-American Commission on Human Rights that they have reached a friendly settlement solution to the petition, the content of which is developed below. Based on the consensus reached, they request that the agreement be accepted and that the report provided in Article 49 of the Convention be adopted.

1. DESCRIPTION OF THE FACTS.

The petition, submitted by the Association of Grandmothers of the Plaza de Mayo, alleges violations by the State of Argentina of Articles 5, 8, 17, and 25 of the American Convention on Human Rights, as a result of the decision handed down by the Supreme Court of Justice of the Nation on September 30, 2003 in the proceedings "Vázquez Ferrá, Evelin Karina, motion for appeal."

The decision of the nation's Highest Court renders without effect the order to perform blood tests on Evelin Vázquez Ferrá with the warning that it would be done with the assistance of the police should she not give her consent.

a) Domestic judicial proceeding. The judicial investigation.

In 1999, Inocencia Leca de Pegoraro and Angélica Chimeno de Bauer filed a complaint against Policarpo Luis Vázquez and Ana María Ferrá for the alleged commission of the crimes provided in Arts. 139(2), 146, 292, and 293 of the Penal Code, with respect to the abduction of their granddaughter, daughter of Susana Beatriz Pegoraro, after the latter had been kidnapped by agents of the State on June 18, 1977 when she was five and a half months pregnant, and later gave birth at the clandestine detention center of the Naval Mechanics School (ESMA).

In the context of the signed statements made by the accused, both confessed that Evelin Karina was not their daughter, but they denied knowledge of her origins. As a result, the judge in charge of the investigation ordered that a blood sample be obtained from Evelin in order to determine her identity through DNA analysis at the National Genetic Data Base. However, Evelin was opposed to that measure – and specifically to the idea that evidence for charging Vázquez y Ferrá would be obtained from her – and the case reached the Supreme Court of Justice of the Nation.

The decision of the Supreme Court of Justice of the Nation

In its decision, the Court invoked the “complementary” nature of the disputed method for obtaining evidence, given that Vázquez and Ferrá had already confessed to the crime. In addition, the judges on the highest court interpreted by analogy the procedural rules that prohibit children from making statements against their parents and establish that concealing a person suspected of a crime is not punishable when the “concealer” has strong emotional ties with that person (Arts. 278 and 279 of the Code of Criminal Procedures and Art. 279(3) of the Penal Code) and concluded that Evelin’s right to privacy could be affected if the measure were carried out (Art. 19 of the National Constitution).

b) International processing:

Submission to the Inter-American Commission on Human Rights.

After the Court’s ruling, the petitioners filed with the Commission in their capacity as President and Vice President of the Association of Grandmothers of the Plaza de Mayo (an organization to which Evelin’s grandmothers, Inocencia Luca Pegoraro and Angélica Chimeno de Bauer, belong). There they maintained that “the decision of the Court closes (...) the possibility of investigating the crimes committed in the Republic of Argentina involving the disappearance of minors, the purpose of which is to restore their identity” and that in the specific case of Evelin her rights had not been reestablished, since her identity had not been determined.

On February 21, 2007, the State suggested to the petitioners that a friendly settlement process be initiated. On June 6, 2007, the petitioners agreed to begin conversations to arrive at a friendly settlement.

c) Subsequent processing in the domestic courts:-

Parallel to the above, the domestic judicial process continued. Thus, the Federal Criminal and Correctional Chamber of the Federal Capital intervened in the case and on June 14, 2007 ordered that the investigation proceed in order to determine the essential points of the procedure that had been neglected “such as the criminal liability of those who had acted in the clandestine detention center that operated at the Naval Mechanics School in the days prior to and following the birth in captivity of the daughter of Susana Pegoraro,” adding that “although an essential aspect of the complaint was determined, i.e., that the accused took possession of minor who, as stated in the indictment, could potentially be Evelin Vázquez Ferrá, that point has not yet been determined with certainty in view of the Evelin’s opposition to having blood taken in order to perform histocompatibility studies.” As a result, the Chamber indicated that “nonetheless, the judge should overcome this obstacle through other methods of taking evidence, so as to determine what might finally have happened to the daughter of Susana Pegoraro.”

Based on the above, the judge in charge of the investigation ordered a search of Evelin Karina’s residence in order to gather some of her personal belongings and obtain genetic material from them. The search was conducted on February 12, 2008 and the items collected were submitted to the National Genetic Data Bank, where the DNA of the relatives of the disappeared is kept. On April 22, 2008 the National Genetic Data Bank informed the judge that “BAUER, Rubén Santiago (alleged disappeared father) and PEGORARO, Susana Beatriz (alleged disappeared mother) have a 99.99993% probability of having been the biological parents” of the person who used the toothbrush seized in the search of the aforementioned residence.

Based on this, on July 13, 2008 the Judge declared void the entry in the Registry of Civil Status and Capacity of Persons of the Federal Capital on the birth of Evelin as daughter of Policarpo Vázquez and Ana María Ferrá, and ordered that she be entered with the name Evelin Karina Bauer

Pegoraro, daughter of Susana Beatriz Pegoraro and Rubén Santiago Bauer, born on October 29, 1977. That measure was not questioned by Evelin.

In addition, the judge ordered that a written statement be taken from Jorge Luis Magnacco, the physician who attended the birth of Evelin and participated in her abduction, who was subsequently prosecuted.

II. THE FRIENDLY SETTLEMENT.

Once the content of the petition was evaluated, the Secretariat of Human Rights recommended, in DAI opinion No. 32/05, “promoting a dialogue with the authors of the petition in order to evaluate under what circumstances a friendly settlement agreement could be drawn up, considering the institutional difficulties inherent in the case, but also the desire of the National Executive Branch to explore the options in this regard.”

As a result, on February 22, 2006, the Ministry of Foreign Affairs informed the distinguished Commission of the State of Argentina’s desire to open up the opportunity for discussions exploring the possibility of a friendly settlement.

On June 6, 2007, the petitioner informed the distinguished Commission that is agreed to initiate the proposed process of discussion. The Commission informed the parties on June 25, 2007 that it had decided “...to make itself available to the parties with a view to achieving a friendly settlement of the matter.”

From this common perspective, the parties decide to formalize this friendly settlement agreement, agreeing to adopt the following measures and work plan, which is submitted for the consideration of the distinguished Commission, asking for its approval in accordance with the provisions of Article 49 of the American Convention on Human Rights.

1. Recognition of facts. Adoption of measures

The Government of the Argentine Republic recognizes the facts presented in Petition 242/03 of the registry of the Inter-American Commission on Human Rights. In this regard, and without prejudice to the legal debate that emerges regarding the collision of legally protected assets presented by the case and the decision adopted by the Supreme Court of Justice of the Nation, the State agrees with the petitioner on the need to adopt suitable measures that could effectively contribute to obtaining justice in those cases in which it is necessary to identify persons using scientific methods that require that samples be obtained.

2. Non-monetary reparation measures.

2.1. On the right to identity

a. The National Executive Branch of the Argentine Republic agrees to send the Honorable Congress of the Nation a bill on establishing a procedure for obtaining DNA samples that protects the rights of those involved and effectively investigates and adjudicates the abduction of children during the military dictatorship.

b. The National Executive Branch of the Argentine Republic agrees to send to the Honorable Congress of the Nation a bill to amend the legislation governing the operation of the National Genetic Data Bank in order to adapt it to scientific advances in this area.

2.2. On the right of access to justice

a. The National Executive Branch of the Argentine Republic agrees to send to the Honorable Congress of the Nation a bill to more effectively guarantee the judicial participation of victims –understanding as such persons allegedly kidnapped and their legitimate family members – and intermediate associations set up to defend their rights in proceedings investigating the kidnapping of children.

b. The National Executive Branch of the Argentine Republic agrees to adopt, within a reasonable period of time, the measures necessary to optimize and expand on the

implementation of Resolution No. 1229/09 of the Ministry of Justice, Security, and Human Rights.

c. The National Executive Branch of the Argentine Republic agrees to work on adopting measures to optimize the use of the power conferred upon it by Art. 27 of Law No. 24.946 (Organic Law of the Attorney General's Office) in order to propose that the Attorney General: 1) issue general instructions to prosecutors urging them to be present at residential searches conducted in cases in which the kidnapping of children is being investigated; and 2) design and execute a Special Investigation Plan on the kidnapping of children during the military dictatorship in order to optimize the resolution of cases, providing special prosecutors for the purpose in jurisdictions where the number of cases being processed justifies this.

2.3. On the training of judicial actors

a. The National Executive Branch of the Argentine Republic agrees to work on adopting measures associated with the use of the power conferred on it by Art. 27 of Law No. 24.946 (Organic Law of the Attorney General's Office) in order to propose that the Attorney General provide training for prosecutors and other employees of the Attorney General's Office in the appropriate handling of the victims of these serious crimes.

b. The National Executive Branch of the Argentine Republic agrees to urge the Council of the Judiciary of the Nation to plan training courses for judges, functionaries, and employees of the Judicial Branch in the appropriate handling of the victims of these serious crimes (see. Art. 7(11) of Law No. 24.937, o.t. Art. 3 of Law No. 26.080).

2.4. Regarding the task force

a. The National Executive Branch of the Argentine Republic agrees to establish specific mechanisms to facilitate the correction of national, provincial, and municipal public and private documentation and records of anyone whose identity was changed during the military dictatorship, in order to promote the restoration of identity.

b. The parties agree to hold periodic working meetings, in the Foreign Ministry, for purposes of evaluating progress made with the measures agreed to herein.

c. The Government of the Argentine Republic agrees to facilitate the activities of the task force, and provide it with technical support and the use of facilities as needed to develop its tasks, agreeing to report periodically to the Inter-American Commission on Human Rights.

2.5. On publicity

The Government of the Argentine Republic agrees to publicize this agreement in the Official Bulletin of the Argentine Republic and in the newspapers "Clarín," "La Nación," and "Página 12," once it is approved by the Inter-American Commission on Human Rights in accordance with the provisions of Article 49 of the American Convention on Human Rights.

III. PETITION.

The Government of the Argentine Republic and the Petitioners celebrate the signing of this agreement, indicate their full agreement with its content and scope, and share their appreciation for the good will evidenced in the negotiating process. In this respect, it is noted that this agreement should be formalized through the approval by Decree of the National Executive Branch, at which time the Inter-American Commission on Human Rights will be asked to ratify the friendly settlement agreement reached by adopting the report indicated in Article 49 of the American Convention on Human Rights.

Buenos Aires, September 11, 2009

26. On September 11, 2009, the President of the Argentine Republic sent to the National Congress three bills pursuant to the resolution made as reparations without monetary measures, namely sections 2.(1) (a), 2.(1)(b), and 2.(2).(a).

V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

27. The IACHR reiterates that in accordance with Articles 48(1)(f) and 49 of the Convention, the purpose of this procedure is to “reach a friendly settlement of the matter on the basis of respect for the human rights recognized in the Convention.” The agreement to carry out this process is an expression of the State’s good faith and intent to comply with the purposes and objectives of the Convention, in accordance with the principle of *pacta sunt servanda*. The Commission also wishes to reiterate that the friendly settlement procedure provided in the Convention allows for the conclusion of individual cases on a non-adversarial basis and has been shown in cases involving various countries to offer an important and effective tool for resolution that can be used by both parties.

28. In addition, the Commission notes that the bills issued pursuant to sections 2 (1) (a), 2(1) (b), and 2(2) (a) of the friendly settlement agreement were approved by the National Congress on November 18, 2009 and published on November 27, 2009.

29. With respect to section 2(4) (a), on September 29, 2009, the Ministry of Justice and Human Rights, through Resolution No. 679/2009, published in the Official Bulletin on October 2, 2009, created the “Documentary Regularization Unit for the victims of human rights violations in the context of state terrorism actions,” in order to facilitate correction of public and private documentation and records of anyone whose identity was changed during the military dictatorship.

30. Regarding section 2(2) (b), on October 19, 2009 the “Judicial Assistance Group” was established under Resolution No. 1229-1209 of the Ministry of Justice and Human Rights.

31. Regarding sections 2(3)(a) 2(2) (c), the IACHR received information according to which meetings were held between the petitioners and the General State Prosecutor, Dr. Héctor Masquelet, in which they asked the Executive Branch to urge the Council of the Judiciary to conduct training courses in order to comply with section 2.3.b. In addition, the petitioners have met with representatives of the General Prosecutor’s Office and the Council of the Judiciary to discuss these same issues.

32. In addition, on November 19, 2009, the President of the Argentine Republic approved the friendly settlement through Decree 1800/2009 published on November 20, 2009.

33. The Inter-American Commission has closely followed the development of the friendly settlement achieved in this case and values highly the efforts made by the parties to reach this resolution. Accordingly, it declares that the agreement is compatible with the intent and purpose of the Convention.

VI. CONCLUSIONS

34. Based on the preceding consideration and pursuant to the procedure provided in Articles 48(1)(f) and 49 of the American Convention, the Commission wishes to reiterate its profound appreciation for the efforts made by the parties and its satisfaction with the achievement of the friendly settlement agreement in the instant case based on the intent and purpose of the American Convention.

35. By virtue of the considerations and conclusions presented 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 September 11, 2009.

2. To continue monitoring and supervising each and every one of the points in the friendly settlement agreement that are pending compliance and thus reminds the parties of their agreement to periodically inform the IACHR regarding compliance with this friendly settlement agreement.

3. To publish this report 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 November 1st, 2010. (Signed): Felipe González, President; Dinah Shelton, Second Vice-President; Luz Patricia Mejía Guerrero, María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, Members of the Commission.