

REPORT No. 84/11
CASE 12.532
FRIENDLY SETTLEMENT
ARGENTINA
INMATES OF THE PENITENTIARIES OF MENDOZA
July 21, 2011

I. SUMMARY

1. On May 29, 2003, the Inter-American Commission on Human Rights (hereinafter “the Commission” or the “IACHR”) received a petition lodged by 200 inmates of Cell Block 8 of the Penitentiary of Mendoza alleging responsibility of the Republic of Argentina¹ (hereinafter, “the State” or “the State of Argentina”) for violation of the right of the inmates to their physical integrity, health and life. On October 26, 2004, another petition signed by the inmates of Cell Block 6 of the Penitentiary was received through the Ombudsman for Human Rights. On July 21, 2004, the Commission received a request for precautionary measures in the instant matter via e-mail on behalf of the inmates who are housed in the Penitentiary of the Province of Mendoza and its facilities, alleging the violation by the State of Articles 4, 5 (6), and 1(1) of the American Convention on Human Rights (hereinafter, “the Convention” or “the American Convention”). The original hardcopy request and annexes were forwarded to the Commission on July 28, 2004. On this occasion, the inmates were represented by Attorneys-at-Law Alfredo Ramón Guevara, Diego Jorge Lavado, Pablo Gabriel Salinas, Carlos Eduardo Varela Álvarez and Alfredo Ramón Guevara Escayola. The precautionary measures being sought in this case involved aspects of an urgent nature as well as requests of a broader scope, which warranted their being handled within the individual petition system. The Commission decided to entertain the aspects relating to risks of irreparable harm or physical integrity through the precautionary measures and, then, provisional measures procedures; and to deal with the other aspects of the request as a petition.

2. During the course of internal processing of the petitions, exercising its authority as provided in Article 29(1)(d) of the current Rules of Procedure, the Commission proceeded to join and process, in a single case file, the original petitions and the aspects pertaining to the request for precautionary measures that were more properly handled as a petition. After examining the information that was submitted, the inmates of the Penitentiary of Mendoza and the Gustavo Andre de Lavalle Unit and their respective representatives, were identified as “the petitioners.” The IACHR notes that as of today’s date, since the beginning of the proceedings, communications have only been received from attorneys Alfredo Ramón Guevara, Diego Jorge Lavado, Pablo Gabriel Salinas, Carlos Eduardo Varela Álvarez and Alfredo Ramón Guevara Escayola, who represent all of the inmates of Penitentiary of Mendoza and the Gustavo Andre Lavalle Unit. Said request was registered under the number 1231/04.²

3. On October 13, 2005, the IACHR approved Report 70/05. In the Report, the Commission found that it was competent to entertain the petition pertaining to the alleged violations of the right to life, humane treatment and health, provided in Article 4 and 5 of the American Convention, with regard to the conditions of detention of the inmates of the Penitentiary of Mendoza and the Gustavo Andre de Lavalle Unit. It ruled that it would examine whether or not there may be a violation of Article 1, 2, 7 and 25 of the Convention relating to the State’s obligations to safeguard personal liberty, respect rights, undertake to adopt provisions of domestic law and ensure that competent authorities enforce any remedies when granted.

¹ Argentina has been a party to the American Convention since September 5, 1984, when it deposited the relevant instrument of ratification.

² Originally, the petition identified the inmates of Cell Block 8 of the Penitentiary of Mendoza as petitioners, and several of them signed the petition. Subsequently, the request for precautionary measures arrived in the name of all of the inmates of the Penitentiary of Mendoza and the Gustavo Andre de Lavalle Unit. When the Commission joined the petitions, it identified the inmates of the Penitentiary of Mendoza and the Gustavo Andre de Lavalle Unit as the alleged victims.

4. The parties signed a friendly settlement agreement on August 27, 2007, which both ratified before the IACHR in October of that same year, as part of the proceedings of the 130th Regular Session of the Commission.

5. Pursuant to Article 49 of the Convention and Article 40(5) of the Rules of Procedure of the Commission, this friendly settlement report provides a summary of the facts of the case as alleged by the petitioning party. Thereafter, the friendly settlement agreement entered into by the parties is transcribed verbatim. Lastly, the Commission issues its decision to approve the agreement signed by the parties and publish this report.

II. PROCEEDINGS BEFORE THE IACHR

6. The IACHR issued Admissibility Report 70/05 for petition 1231/04, on October 13, 2005 and assigned it case number 12.532. The petitioners were notified of said Report on November 21, 2005, at which time the IACHR placed itself at the disposal of the parties to reach a friendly settlement. The report was forwarded to the State on that same date. On October 17, 2005, a hearing was held during the 123rd Regular Session of the IACHR, at which time a way forward was agreed to and memorialized in a working agreement, in order to begin a friendly settlement process. On December 27, 2005, the petitioners proposed some points to help move the friendly settlement procedure forward.

7. On June 19 and 20, 2006, the petitioners requested the case to be processed, in light of the fact that no response had been received from the State. On September 19, the petitioners submitted remarks on the merits. On December 5, 2006, a working meeting was held in the context of an *in situ* visit of the Country Rapporteur for Argentina. On December 12, the petitioners submitted new information.

8. The State requested an extension on February 6, 2007. On March 5, the State made known its willingness to move forward in the friendly settlement procedure. In a communication dated May 8, 2007, the petitioners requested the IACHR to issue the report, while providing information on new facts. The State reported on June 13 that it had agreed with the petitioners to resume dialogue in order to achieve a friendly settlement. The petitioners submitted additional information on June 25 and July 31, 2007. The State submitted additional information on June 13, 2007.

9. The petitioners requested precautionary measures on April 10, 2007, on behalf of Pablo Salinas, his spouse and children. On April 16, the IACHR requested information from the State. On April 30, the petitioners expanded their request to include Diego Lavados, Alfredo Guevara and Carlos Varela and their respective family groups. On May 4, the IACHR requested new information from the State. The State provided information on May 11, 2007. The IACHR did not grant the precautionary measures.

10. On October 12, 2007, a friendly settlement agreement, signed by the parties on August 28 of that same year, was ratified before the IACHR.

11. The petitioners submitted new information on the following dates: September 15 and 26; December 13 and 29, 2007; January 24 and 30; February 1 and 29; and August 22, 2008.

12. The State submitted additional information on September 29 and, on November 16, it reported that Decree 2740 had been issued on October 12, 2007 approving the Friendly Settlement Agreement and annexes thereto. It requested extensions on March 12, June 20 and December 5, 2008.

13. On January 9, 2009, the State reported that the Senate had enacted Law 7.930, authorizing the Executive Branch of Government to set up an *Ad Hoc* Tribunal in order to determine the appropriate amount of compensation under the framework of Decree No. 2740/07. In this brief, the State requested the IACHR to issue the Friendly Settlement Report.

14. The State filed for an extension on February 9, 2009. It submitted additional information on implementation of the agreement on March 11, 2009, and requested the IACHR to issue the Friendly Settlement Report.

15. On December 21, 2009, the petitioners reported non-compliance in setting up the Arbitration Tribunal. On January 27, 2010, both the State and the petitioners requested the IACHR to issue the Friendly Settlement Report. The petitioners submitted a communication on February 18, 2010 requesting postponement of the issuing of the report as a result of new events unfolding at the Penitentiaries. The State provided information on June 4 and requested the IACHR to issue the report.

16. During the 140th Regular Session of the IACHR, a working meeting was convened in order to follow up on compliance with the friendly settlement agreement, which was attended only by the State. The State provided information regarding compliance on October 28, 2010, which was duly forwarded to the petitioners. On December 14, 2010, the petitioners reported that they were "notified of the award issued by the Ad Hoc Arbitration Tribunal" and agreed with it. They requested the IACHR to issue the Report pursuant to Article 49 of the American Convention. Confirmation of receipt of said communication was provided to them on January 28, 2011. On February 2, 2011, the petitioners reported further incidents of torture at San Felipe Prison. On April 27, 2011, the petitioners were requested to submit a copy of the judgment of arbitral award. On May 12, 2011, a communication was received from the petitioners following up on its request for approval of the agreement. On May 27, 2011, the State reported on the creation of the "Provincial Commission for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment" under a Law approved by the Province on March 22, 2011 and enacted on April 15, 2011. On June 16, the State submitted a copy of the Arbitral Judgment.

Precautionary and Provisional Measures

17. Because of the connection between the petition and the request for precautionary and, subsequently, provisional measures, this section briefly outlines the processing of the urgent measures that were adopted. In light of the request for precautionary measures received by the Commission on July 28, 2004 and registered under the number 923-04, the IACHR decided, on August 3, 2004, to request the State, in consultation with the petitioners, to adopt precautionary measures in order to:

- a) ensure the proper safety conditions required to safeguard the lives and humane treatment of the inmates;
- b) segregate inmates in preventative detention awaiting trial from convicted inmates; and
- c) ensure adequate conditions of hygiene and health, including access to sanitation facilities and showers.

18. During the time that the precautionary measures were in effect, the Commission received 26 letters, signed by 227 inmates of the Provincial Penitentiary, according to whom the prevailing conditions at the prison had not improved. In fact, it came to the attention of the Commission that, while the measure was fully in force on August 28, 2004, another inmate died, and on October 14, 2004, an inmate was seriously wounded and required hospitalization.

19. In view of the failure to make any progress regarding conditions of safety at the Penitentiary of Mendoza, on October 14, 2004, the Commission requested the Inter-American Court of Human Rights to order the State of Argentina:

- a) to adopt without delay any measures of security and control that may be necessary to preserve the lives and humane treatment of persons imprisoned at the Penitentiary of Mendoza and the Gustavo Andre de Lavalle Unit, as well as any persons who may enter these correctional centers, including employees and officials who provide services at these sites;

b) to immediately adopt measures to separate defendants undergoing judicial proceedings from convicted inmates, in keeping with enforceable requirements under standards of international law on the subject matter;

c) to conduct serious, comprehensive and streamlined investigations into the acts of violence occurring inside the Penitentiary of Mendoza and the Gustavo Andre Unit; identify those responsible and impose the appropriate punishment, as a means of preventing further acts of violence from recurring;

d) to submit to the consideration of the Court, within a reasonable time period, a plan for the relocation of the excess number of inmates housed at the Penitentiary of Mendoza and the Gustavo Andre Unit, so the number of inmates there does not exceed the maximum capacity of the facility and meets staffing needs, while making sure that this does not cause a new problem of overcrowding at other prison facilities; and

e) proceed, within a reasonable period of time, to repair the facilities of the Penitentiary of Mendoza and the Gustavo Andre Unit in order to create the minimum conditions of sanitation, space and dignity necessary to house the inmates.

20. The provisional measures were in effect until November 26, 2010, when the Court decided to lift them.

III. THE FACTS

21. The petitioners claimed that the State is responsible for violations of their right to life, health and humane treatment, inasmuch as approximately 2,400 of them were allegedly being housed in a prison with a maximum capacity of 600 inmates, where 4 to 5 inmates were living in a single 3 by 2 square-meter cell. They also alleged that they lack toilets, showers, enough food and adequate medical care.

22. The petitioners additionally noted that up to four people are housed in single cells, which are no larger than 2 square-meters in dimension, contain a single bed, have no natural light and, in which no fresh air enters from outside the premises. They reported that, many times, confinement time in such conditions is as long as twenty hours per day, with only a total of four non-continuous hours permitted outside of the cell. They claimed that inmates must relieve themselves into a nylon bag without any privacy inside of their cell in front of the rest of their cellmates. They further alleged that they lack water to bathe with and must resort to using a hose for washing and that many of them suffer scabies and other diseases as a result of unsanitary conditions.

23. The petitioners stated for the record that both detained defendants awaiting completion of their trial and convicted inmates are at constant risk of serious assaults on their physical integrity and lives, as is apparent in repeated acts of violence resulting in a number of serious injuries and deaths. Specifically, they denounce in the petition that over the course of 2004, for example, at least 11 inmates died and an undetermined number of inmates were injured in circumstances that remain unclear.

24. The petitioners alleged that the conditions of detention in this department of the penitentiary systematically fail to fulfill the function and purposes of imprisonment because such conditions fail to provide treatment aimed at social re-adaptation and to satisfy safety requirements within the Penitentiary.

25. Furthermore, they charged that they had no access to medical treatment and that inmates cut themselves in order to gain such access, but that one way or another, the necessary material or medical resources for minimum treatment were simply not available. The petitioners reported that most of the inmates cannot gain access to any type of job or re-socialization chores, nor can they attend school or religious services, and that convicted inmates are not segregated from detainees awaiting completion of judicial proceedings.

26. They noted that the penitentiary Management allows the so-called “special corps” of the Mendoza Police Department, which is made up of hooded individuals, to enter the premises at will, leading attack dogs in order to intimidate and hurt the inmates.

27. The petitioners reported that they have been filing complaints on an ongoing basis with the courts by means of *habeas corpus* actions for unjustifiably worsening conditions of detention, only to see the court-ordered remedies being disobeyed by the provincial government.

28. The petition states that both the United Nations Working Group on Arbitrary Detention and Amnesty International have investigated the situation, expressed deep concern over how serious it is, and submitted recommendations to the government.

29. Among their submissions during the proceedings before the IACHR, the petitioners attached several press clips regarding the Provincial Penitentiary and the issue of safety therein. According to these press reports, during the time of these proceedings, several riots, deaths and injuries, as well as cases of tuberculosis and other contagious diseases and a fire that left several people dead, have occurred at the Penitentiary.

30. The State noted that the instant petition deals with the same issues as the petition, which gave rise to the request for precautionary and provisional measures.

IV. FRIENDLY SETTLEMENT

31. On October 12, 2007, the petitioner and representatives of the Republic of Argentina signed the friendly settlement agreement before the IACHR, setting forth the following text:

FRIENDLY SETTLEMENT AGREEMENT

The parties to Case N° 12.532 of the registry of the Inter-American Commission on Human Rights – Inmates of the Penitentiaries of Mendoza – the petitioners, represented at this meeting by Dr. Carlos Varela Álvarez, and the Government of Argentina, as a State party to the American Convention on Human Rights, hereinafter “the Convention”, acting under the express mandate of Article 99 section 11 and Article 126 of the National Constitution of Argentina, and as provided under Article 28 of the Convention, represented at this proceeding by the Sub-Secretary for Penitentiary Affairs of the National Ministry of Justice and Human Rights, Dr. Federico Horacio Ramos; by the National Director of International Affairs of the Secretariat for Human Rights of the Nation, Dr. Andrea Gladys Gualde; and by the Advisor to the Office of the Minister of Foreign Relations, International Trade and Worship, Dr. Jorge Nelson Cardozo, are honored to inform the Illustrious Inter-American Commission on Human Rights that a friendly settlement agreement on the petition has been reached, the content of which is set forth hereunder, requesting that, in view of the consensus reached, it be accepted and that the consequent report be adopted as provided by Article 49 of the Convention, in accordance with the terms and conditions specified in this document.

I.- Responsibility of the Province of Mendoza in the Case

1. By means of the agreement signed in the city of Mendoza on August 28, 2007, the Government of the Province of Mendoza has declared that “...in view of the evidence that exists regarding the facts that triggered the request for the adoption of precautionary measures issued by the Inter-American Commission on Human Rights on the date of August 3, 2004, and the subsequent provisional measures issued by the Inter-American Court of Human Rights on the date of November 22, 2004, in the “case of the Penitentiaries of Mendoza”, and after considering the conclusions at which the Illustrious Inter-American Commission arrived in admissibility report No 70/05 regarding the case referenced in the previous paragraph, in which it held that the case “...is admissible pursuant to Article 46 and 47 of the American Convention, with regard to alleged violations of the right to life, humane treatment and health, as set forth in Articles 4 and 5 of the American Convention, in reference to the conditions of detention of the inmates of the penitentiary of Mendoza” as well as with regard to “...possible application of Article 1, 2, 7 and 25 of the Convention in connection with

the obligation of the State of Argentina to ensure personal liberty, respect rights, adopt provisions of domestic law and ensure that the competent authorities enforce any remedy when granted” and other compelling evidence that was introduced during the friendly settlement procedure, particularly as of implementation of the cooperation agreement, whereby the National Ministry of Justice and Human Rights dispatched an inspection team to conduct a field inspection, the Government of the Province of Mendoza agrees that there is sufficient evidence to attribute objective responsibility to the Province of Mendoza in the case, and therefore has decided to accept responsibility for the facts and the legal consequences thereof, pursuant to the conclusions of the Inter-American Commission of Human Rights as cited above.”

2. Mindful of the foregoing, and in view of the international nature of the above-recognized human rights violations, which took place under the jurisdiction of the Province of Mendoza, the Government of the Republic of Argentina states that it has no objection to endorsing said recognition in the international sphere in its status as a State party to the Convention and in accordance with the constitutional provisions in the above-cited paragraph, requesting the Illustrious Commission to hereby consider as recognized the acts of violation taking place in said jurisdiction as set forth in section 1.

II.- Measures of Pecuniary Reparation:

The Government of the Republic of Argentina and the Petitioners request the Illustrious Inter-American Commission to accept the commitments taken on by the Government of the Province of Mendoza through the agreement cited in section 1.1, relating to the measures of pecuniary reparation which appear hereunder verbatim:

"1. The parties agree to create an “ad-hoc” Arbitration Tribunal, in order for it do determine the amount of pecuniary reparation owed to the victims involved in the case, in accordance with the rights for which a violation has been recognized in section 1 of this agreement, in keeping with any international standards that may be applicable.

2. The Tribunal shall be composed of three independent experts, of recognized authority on the subject of human rights and of the highest moral standing, one appointed by the petitioners, the second nominated by the State, and the third nominated by the two experts who were nominated by the parties. The Tribunal must be fully appointed, no later than 30 days following ratification by the legislature of the Provincial Executive Decree, whereby this agreement is approved.

3. The procedure to be followed shall be defined by mutual agreement between the parties, the content of which shall be entered into a written record, a copy of which shall be filed with the Inter-American Commission on Human Rights through the Ministry of Foreign Relations, International Trade and Worship. The parties shall appoint, for this purpose, a representative to participate in the deliberations on the procedure.

4. The arbitration decision shall be final and unappealable. It should include the amount and form of pecuniary reparation agreed upon, the beneficiaries thereof, and the determination of any costs and fees that may be appropriate in both proceedings held before the international body and arbitration body, and must be submitted to the Inter-American Commission on Human Rights in the context of the follow-up on agreement compliance, in order to verify that it has conformed to applicable international standards. The amounts recognized in the award decision shall not be subject to attachment and shall be exempt from payment of any existing or future tax, levy or fee.

5. The petitioners undertake to drop any civil actions brought before local courts with respect to persons who benefit from the reparation determined by the ad-hoc Arbitration Tribunal, and definitively and irrevocably waive any right to bring any other claim of a pecuniary nature against the Provincial State and/or against the National State with regard to the instant case.”

III. Measures of non-pecuniary reparation

The Government of the Republic of Argentina requests the Illustrious Inter-American Commission to accept the commitments undertaken by the Government of the Province of Mendoza through the agreement cited above in section 1.1, relating to measures of non-pecuniary reparation which are copied verbatim hereunder:

1. Normative measures:

a) Introduce a bill before the Legislature of the Province of Mendoza to create a local prevention agency within the framework of the Optional Protocol of the Convention against Torture and other Cruel Inhumane and Degrading Treatment or Punishment, and take the necessary steps to achieve the approval thereof. Said agency shall meet the standards of independence and autonomy prescribed in said Protocol, and should eventually be adapted in a timely fashion to meet the established criteria, when the corresponding national mechanism is approved. A period of 90 days from the date of the signing of this document has been set for this purpose;

b) Introduce a bill before the Legislature of the Province of Mendoza to create the office of the Human Rights Ombudsman of Mendoza, whose responsibility shall be the defense of the human rights of the entire population (right to health, education, security, development, a healthy environment, freedom of information and communication, of consumer and users, etc.) and take the necessary steps to achieve the approval thereof.

c) Introduce a bill before the Legislature of the Province of Mendoza, within a maximum period of 90 days, to create an office of a Special Prosecutor to benefit persons deprived of liberty, and take the necessary steps to achieve the approval thereof.

d) Introduce a bill before the Legislature of the Province of Mendoza, within a maximum period of 90 days, to create a government Office of the Public Defender to litigate before chambers of criminal sentence execution of the courts, and to take the necessary steps to achieve the approval thereof.

e) Take any measures that may be necessary to change the hierarchical level of the Office of Coordination for Human Rights of the Ministry of the Interior elevating it to a Directorate or Sub-Secretariat.

2. Other Measures of Satisfaction:

a) The Government of the Province of Mendoza shall take the necessary measures, within a maximum period of 90 days, to post a notice of the measures requested by the IACHR and the IA Court of Human Rights regarding the prisons of Mendoza, which shall be placed at the entrance to the Provincial Penitentiary, as a reminder;

b) The Government of the Province of Mendoza undertakes to carry out, within the scope of its authority, all necessary measures for the continuation of the investigations into all of the human rights violations that gave rise to the provisional measures issued by the Inter-American Court of Human Rights. A report on the outcome of said measures, as well as measures taken to determine responsibility emanating from said violations, shall be submitted by the Government of the Province of Mendoza within the framework of follow-up on agreement compliance. The media shall disseminate the outcome of said investigations.

C. Plan of Action and Budget

1. The Government of the Province of Mendoza undertakes to draw up, in conjunction with the National State and the petitioners, within a maximum period of 90 days, a Plan of Action on Penitentiary Policy to aid in setting short, medium and long-term public policies with an appropriate budget to make implementation possible. Said plan shall include, at a minimum, the following points:

a) Indicate measures that shall be implemented for the assistance and custody of young adults deprived of their liberty in the Province of Mendoza by staff specially trained for these duties. Additionally, every member of that population must be ensured education, recreation and access to cultural and athletic activities, adequate medical/psychological assistance and other measures geared towards adequate social integration and job placement;

b) In light of the conditions of detention of the inmates at the penitentiaries of Mendoza, request administrative and judicial authorities to review the disciplinary files or reports of the Criminological Technical Agency and the Correctional Council, which affect implementation of the

benefits set forth in the Rules on the Progressive Application of Punishments. Additionally, the operation of the Criminological Technical Agency and the Correctional Council should be scrutinized in order to optimize their performance;

- c) Improve the health-care service of the Provincial Penitentiary in collaboration with the Ministry of Health and make the necessary investments for effective provision of the service to every person deprived of liberty;
- d) Ensure access to a job for all inmates in the Prisons of Mendoza who should so request one;
- e) Ensure access and adequate service at the Courts of Criminal Sentence Execution, for all persons who have a legitimate interest in the Execution of the Punishment of the inmates in the Prisons of Mendoza. Especially, unimpeded access for attorneys who can freely examine the records of the proceedings being heard in said courts;
- f) Endeavor to provide adequate training and professional instruction to Penitentiary Staff.

D. Ratification and dissemination:

Let the record reflect that this agreement shall be approved by Decree of the Executive Branch of Government of the Province of Mendoza, and subsequently submitted for ratification by the legislature. After said formalities are completed, the Government of the Province of Mendoza undertakes to submit this agreement to the Ministry of Foreign Relations, International Trade and Worship, for evaluation and ratification thereof at the seat of the international body, thus requesting it be submitted to the Inter-American Commission on Human Rights for the purposes provided by Article 49 of the American Convention on Human Rights.

Moreover, the parties agree to ensure the confidentiality of the terms and conditions agreed to herein until such time as the National State ratifies the instant agreement by forwarding it to the Illustrious Inter-American Commission of Human Rights as provided in the previous paragraph.

Notwithstanding, the Government of the Province of Mendoza and the petitioners agree that the report produced by the Monitoring Commission should be disseminated in two provincial circulation newspapers and one national circulation newspaper.

Lastly, the parties agree to keep open a space of dialogue and to set up a Monitoring Commission in order to follow-up on compliance with the commitments taken on under this agreement, including the normative and other measures agreed upon, in which framework the parties may propose other measures of action that could aid in better fulfilling the purpose and objective of the instant agreement.”

IV. Final Request

The Government of the Republic of Argentina and the Petitioners sign the instant agreement into effect, state their full agreement with its content and scope, appreciate the good will displayed by each other during the friendly settlement procedure. Additionally, and in light of the provisions of section II.D of the agreement to which reference is made in section L1, approved by Decree of the Executive Branch of the Province of Mendoza N° 2740/07 dated October 12, 2007, the record hereby reflects that the instant agreement is signed ad-referendum to ratification of said decree by the Legislative Branch of the Province, and to completion of the required formalities in the sphere of the National Executive Branch. Once that has taken place, the parties agree that, through the Ministry of Foreign Relations, International Trade and Worship, the Illustrious Inter-American Commission on Human Rights is formally requested to approve the instant agreement and adopt the report pursuant to Article 49 of the American Convention on Human Rights.

Washington, DC, October 12, 2007.

Annex I to the Agreement of August 28, 2007

Deaths at the Penitentiary of Mendoza, which are the subject of claims

- 01) ANDRADA MOLFA, Mario Guillermo: Deceased on May 1, 2004 by suffocation at Granja Penal. Ministry of Justice and Security Administrative File No 4249- P-04. Criminal Case: No: 106032, 106045 and 106054 Third Chamber of the Investigating Magistrate. Civil Claim: No 163.375 of the First Civil Chamber of Mendoza. Plaintiff: Cándida Graciela MOLFA (mother)
- 02) FALCON PORRAS, José Alejo: Deceased on May 1, 2004 by suffocation at Granja Penal. Ministry of Justice and Security Administrative File No 4349- P-04. Criminal Case: No: 106032, 106045 and 106054 Third Chamber of the Investigating Magistrate. Civil Claim: No 163.375 of the First Civil Chamber of Mendoza. Plaintiff: Alicia Cruz FALCON (sister).
- 03) GUALPA, Javier Antonio: Deceased on May 1, 2004 by suffocation at Granja Penal. Ministry of Justice and Security Administrative File No 4349- P-04. Criminal Case: No: 106032, 106045 and 106054 Third Chamber of the Investigating Magistrate. Civil Claim: No 163.375 of the First Civil Chamber of Mendoza. Plaintiff: Norma Lila GUALPA (mother).
- 04) REALES REYNOSO, Sergio Darío: Deceased on May 1, 2004 by suffocation at Granja Penal. Ministry of Justice and Security Administrative File No 4349- P-04. Criminal Case: No: 106032, 106045 and 106054 Third Chamber of the Investigating Magistrate. Civil Claim: No 163.375 of the First Civil Chamber of Mendoza. Plaintiff: Rosa Aurelia REINOSO (mother).
- 05) VILLAROEL MURÜA, Carlos Marcelo: Deceased on May 1, 2004 by suffocation at Granja Penal. Ministry of Justice and Security Administrative File No 4349- P-04. Criminal Case: No: 106032, 106045 and 106054 Third Chamber of the Investigating Magistrate. Civil Claim: No 163.375 of the First Civil Chamber of Mendoza. Plaintiff: Manuel VILLAROEL (father).
- 06) SAEZ, Ramón Pedro: Deceased at Lagomaggiore hospital on June 4, 2004, after being hospitalized for one month for burns sustained in the fire at Granja Penal de Lavalle. Criminal Case: No: 106032, 106045 and 106054 Third Chamber of the Investigating Magistrate. Civil Claim: No 163.566, of the First Civil Chamber of Mendoza. Plaintiffs: Rosa Antonia SAEZ (mother); Julio César SAEZ (son); Tomás Agustín SAEZ (son); Ramón Emiliano SAEZ (son).
- 07) CASTRO IRAZOQUE, Ángel Patricio: Murdered on September 27, 2004 with puncture-cutting implements. Ministry of Justice and Security Administrative File No 1403- P-04. Criminal Case: Indictment No: 4759/04, 6th Police Precinct, Second Chamber of the Investigating Magistrate. Civil Claim: No 97.524 of the Tenth Civil Chamber of Mendoza. Plaintiff: María Argentina IRAZOQUE (mother) and Heriberto Dionisio CASTRO (father).
- 08) CAMARGO QUIROGA, Alejandro Ceferino: Murdered on October 30, 2004 with puncture-cutting implements inside of cell block No 11 of the Provincial Penitentiary. Ministry of Justice and Security Administrative File No 2818-P-04, Criminal Case: Indictment No. 6397/04, 6th Police Precinct, no. P-78757/04, Fourth Chamber of the Investigating Magistrate, Civil Case No. 15.2460, Eleventh Civil Chamber of Mendoza. Plaintiff: Teresa QUIROGA (Madre).
- 09) SALINAS ARES, Sergio Norberto: Murdered on December 4, 2004 with puncture-cutting implements and cut up into pieces inside Cell Block No. 7. Criminal Case Third Chamber of Criminal Matters of Mendoza. Civil Case: No. 115.187, Thirteenth Civil Chamber of Mendoza. Plaintiffs: Norberto Ángel SALINAS and Julia Rosario ARES.
- 10) CAMARGO QUIROGA Marcelo Javier: Wounded on November 21, 2004, with puncture-cutting implements in Cell Block 13 of the Provincial Penitentiary and passed away at the Lagomaggiore hospital on October 30, 2004. Criminal Case: No. P-84858-04, Office of the General Secretariat NN, Civil Case: 152,460, Eleventh Civil Chamber of Mendoza; Plaintiffs: Mónica Beatriz LUCERO on behalf of his minor daughter Priscila Abigail CAMARGO LUCERO and Teresa QUIROGA (mother).-
- 11) Luis CUELLAR VASQUEZ Murdered on March 17, 2005. Criminal Case: Prosecutors Unit for Complex Crimes. Civil Case: 21,5519, 20th Civil Chamber of Mendoza. Plaintiff: Ella Brualia VASQUEZ (mother).

12) GOMEZ GONZALEZ, Gerardo: (39 year old): Murdered and mutilated on June 17, 2006. Criminal Case: 159801, Prosecutors Unit for Complex Crimes. Civil Case: n° 110,752, 12th Civil Chamber of Mendoza. Plaintiffs: Not recognized minor son, filiation under examination.

13) FERRANTI LUCERO, Diego Ceferino (32 years of age): Murdered and mutilated on June 17, 2006. Criminal Case: P- 59801, Prosecutors Unit for Complex Crimes. Civil Case: n° 82,744, 7th Civil Chamber of Mendoza. Plaintiffs: Mirta Yolanda LUCERO (mother) and a minor son without legal representation.

14) HERNANDEZ ALVARADO, Héctor Gustavo: After becoming intoxicated on "Chimichuqui", he died from lack of medical care inside of the Penitentiary of Mendoza in September of 2006, Criminal Case: P- 107889, Prosecutors Unit for Complex Crimes. Civil Case: Plaintiff: ESPINOSA, Vanesa.

15) MINATI, Federico Alberto (22 years of age): Murdered on February 1, 2006 inside of Cell Block 13 of the Provincial Penitentiary, with puncture-cutting implements. Criminal Case: P- 794.6106, Prosecutors Unit for Complex Crimes. Civil Case: Plaintiffs: Víctor Hugo MINATI (brother), Andrea Silva MINATI (sister), Lorena Mónica MINATI (sister), Gustavo MINATI and Daniel Orlando SUAREZ (stepbrothers).

16) MANRIQUE FLORES, Sergio Alberto (28 years of age): Murdered on March 12, 2007, with puncture-cutting implements inside of Cell Block 10 of the Penitentiary of Mendoza. Criminal Case: n° 20031107, of the Prosecutors Unit for Complex Crimes, "F.c RIVAS SOSA, Mario Alberto". Civil Case: Plaintiffs: Marina ABREGO, on behalf of their minor children Marcelo Ezequiel ABREGO (filiation), Priscila Daiana ABREGO (filiation); Sheila Milagros Nicol ABREGO (filiation) Matías Emanuel MANRIQUE, Sara Nieves Flores (mother) y Miguel Ángel MANRIQUE (father).

17) CESAR NICOLAS VIDELA FERNANDEZ: Was murdered on December 8, 2006, inside of Cell Block 4 of the Penitentiary by a stabbing in his back. Criminal Case: P- 131268106, Prosecutors Unit for Complex Crimes. Civil Case: Plaintiffs: Ricardo VIDELA (father) and Stella Maris FERNANDEZ.

18) VIDELA FERNANDEZ, Ricardo. David: Was found hanging in his cell of Unit 1.1 of the Penitentiary on June 21, 2005. Criminal Case: P-468241051A, Prosecutor's Unit, n° 1 of the Capital. Civil Case: Plaintiffs: Ricardo VIDELA (father) and Stella Maris FERNANDEZ,

ANNEX II to the Agreement of August 28, 2007

Persons Injured at the Penitentiary of Mendoza filing claims

1) **RUARTE SORIA, Diego Hernán:** Seriously injured on March 16, 2004, along with Esteban Apolinario GARCIA CONTRERAS (he subsequently passed away) and was transferred to Lagomaggiore Hospital due to the complexity of his injuries. Criminal Case: n° P-19773104, Titled "F.c/NN p/ Av. Homicidio de GARCIA CONTRERA, Esteban Apolinario", 10th Chamber of the Investigating Magistrate. Civil Case: no153.117, of the 11th Civil Chamber of Mendoza. Plaintiffs: As a result of the death subsequent to the filing of civil claim, Maria Isabel SORIA (mother) is the claimant, as his heir.

2) **HERRERÍA Jose Edmundo:** Seriously injured on June 6, 2003, with a puncture-cutting implement in the thorax when was housed in Cell Block 9 of the Provincial Penitentiary. Criminal Case n° 178.693/1: case titled: "F.c/ PEREZ, Julio; DIAZ, Mauricio; BARROSO, Sergio y CANTO/Italo p/Lesiones Graves a Edmundo José HERRERIA" in the First Chamber of the Investigating Magistrate of the Province. Civil Case: n° .83.541, titled "HERRERIA, Jose Edmundo CIPROVINCIA DE -MENDOZA S/ Daños y Perjuicios. Damages sought: \$ 40.000.

3) **VERA FUNES Miguel Gustavo:** Seriously injured on December 12, 2005, with puncture-cutting implements at Penitentiary Unit n° 4, Granja Penal de Gustavo André Lavalle. Criminal Case: Proceeding N° P-92.931105 of the Office of the Prosecutor of Investigating Magistrate N° 18 –Prosecutors Complex Crimes Unit. Civil Case: 70% disability.

4) **GUIRALDES ECHEGARAI, Sergio Héctor:** Seriously injured on October 3, 2006 inside of the Penitentiary, with a "chuza" [makeshift knife] to the face. He was transferred to

Lagomaggiore Hospital and then to Central Hospital where he was diagnosed with meningitis and was kept in the hospital until December 28 of that same year. Criminal Case: Civil Case.

5) VILLAREAL DOMINGUEZ, José Lucas. Entered the Penitentiary on April 7, 2007 and was raped on April 10 and 11, that same day he was seriously injured with a puncturing implement, loosing his sight in the left eye. Criminal Case: Complaint at Prosecutors Unit No 1 of the Capital of Mendoza.

6) ORELLANO SILVA, Vicente Raúl: Because of an infection, a probe was placed in his bladder, and due to deficient medical care, his urethra sustained necrosis since it was in that state for 14 months. In July of 2006, he was injured with a puncturing implement in one of his eyes injuring his brain and causing an infection. Criminal Case:

Civil Case:

7) MOLINA VALDEZ, Hernán Adrián: Was deprived of his liberty in September of 2003 until July 5, 2007, when he was released. He was diagnosed with alopecia (a disease of the skin), as a psychosomatic manifestation from the conditions of his detention, according to reports from prison psychologists, which appear in case n° 7067-F of the First Criminal Chamber. Initially, he was denied conditional release due to a minor punishment he received in February of 2006, which was vacated a year later by Judge Eduardo Mthus, based on the argument that his right to a defense and due process had been violated. His release was finally granted in July of 2007.

8) IDEME BASAEZ: Inmate who sustained serious injuries when he fell from scaffolding while performing repair duties of inside the Penitentiary.

V. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

32. The IACHR reiterates that, pursuant to Articles 48(1)(f) and 49 of the Convention, the aim of this procedure is "to reach a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention." Accepting to engage in this procedure expresses the good faith of the State to serve the purposes and objectives of the Convention in keeping with the principle of *pacta sunt servanda*. The Commission also wishes to reiterate that the friendly settlement procedure set forth in the Convention provides a means to dispose of cases in a non-contentious way and has proven, in cases involving a number of countries, to offer an important and effective instrument, which can be used by both parties, to reach a settlement.

33. In this instance, the IACHR notes that the parties have agreed to several measures of reparation, and both parties have requested the IACHR to rule on the friendly settlement agreement. Based on the information submitted to it, the IACHR notes that the agreement has been implemented as follows:

Measures of Pecuniary Reparation:

The parties agree to set up an "ad-hoc" Arbitration Tribunal, to determine the amount of pecuniary reparation owed to the victims involved in the case:

34. The agreement was approved by means of Decree No. 2740, in which State responsibility was recognized and the Law ratifying the agreement was approved on September 16, 2008 and published on October 17, 2008. In keeping with the aforementioned agreement, the Ad-Hoc Tribunal was created on December 15, 2008. Said Tribunal issued its arbitral award judgment on November 29, 2010.

35. The arbitral award judgment examines the issue of the amount of reparation owed to each victim listed in the annexes of the agreement. The Tribunal recalls the framework of its legal authority in light of the State's recognition of responsibility "in the cases of violent deaths and serious assaults on personal integrity for not having ensured the minimum conditions of security, custody and

humane treatment of the inmates...". As a preliminary matter, it responds to the petitioners' request to include in the examination "possible indemnification for the causes that originated the deprivation of liberty, the delay in the investigations and in responding to the transfer regarding this arbitral proceeding, medical malpractice and legal expenses incurred for local law suits." The Tribunal rules that, regarding expenses, it will only address the proceedings before the IACHR and before itself [the Arbitral Tribunal], and also that it is not admissible to examine alleged procedural irregularities beyond the arbitrary deaths, or the delay in the arbitral procedure. It finds that "in conclusion, this arbitral award judgment shall examine the facts that were the basis for this proceeding, only to the extent that they have a bearing on the determination of the amounts. Therefore, its pronouncement shall focus on the determination of the pecuniary reparation stemming from the breach, by action or omission, on the part of the State, of the obligations of security, custody and protection of personal integrity, of the persons deprived of liberty under its exclusive jurisdiction to the extent set forth in the preceding recitals of law, and of the consequences stemming from such breaches as bringing about arbitrary deaths or serious violations of the personal integrity of the inmates [...]." Pursuant to the foregoing, it examined the 6 deaths (numbered 1 to 6 in the agreement), which took place at the prison of Lavalle as a result of the fire occurring on May 1, 2004, and set a total amount of \$601,000 USD. It additionally set the amount of \$1,413,000 USD to be paid by the State in the 10 cases of persons (7 to 18 in the agreement) who died at the penitentiary located in Boulogne Sur Mer. In the 8 cases of persons who sustained injuries at the different centers, it set an amount of \$202,000 USD. As costs and fees, it ordered the payment of \$100,000 USD, and \$18,000 in remuneration to the arbitrators.

36. In addition to establishing the particular circumstances of each victim, the arbitral award judgment establishes that "the violations of the human rights that are the basis for the intervention of this Arbitral Tribunal have been committed in the context of severe failures of the provincial penitentiary system of Mendoza. And that while said context has not been a basis of assessment for final determination of agreed pecuniary damages, inasmuch as that they lack punitive purposes, we must urge the state to consider it [the context], in order to effectively ensure the rights of persons deprived of liberty.

Measures of Non Pecuniary Reparation

Normative Measures:

Introduce a bill before the Legislature of the Province of Mendoza to create a local prevention agency within the framework of the Optional Protocol of the Convention against Torture and other Cruel Inhumane and Degrading Treatment or Punishment, and take the necessary steps to achieve the approval thereof.

Introduce a bill before the Legislature of the Province of Mendoza, within a maximum period of 90 days, to create an office of a Special Prosecutor to benefit persons deprived of liberty, and take the necessary steps to achieve the approval thereof.

37. The State reported that it introduced a bill before the provincial legislature that joins these two points of the agreement in proposing the creation of an external body, "extra power" of control over the conditions of detention of persons deprived of liberty, presided over by the Prosecutor for Penitentiaries and composed of NGOs with expertise in the field of human rights. It reported in order to achieve approval of the bill, in 2009 and 2010, the Ministry of Government, Justice and Human Rights appeared before a number of committees of the Provincial Legislature of Mendoza and attended workshops on enforcement of the Optional Protocol.

38. The State reports that on April 15, 2011, Law 8.279 was enacted, which orders the creation of the Provincial Mechanism for the Prevention of Torture and other Cruel, Inhuman and Degrading Treatment. Said Law was published in the Official Gazette on Monday May 16, 2011.

39. The petitioners note that the condition pertaining to the special prosecutor for persons deprived of liberty has not been fulfilled.

Introduce a bill before the Legislature of the Province of Mendoza to create the office of the Human Rights Ombudsman of Mendoza.

40. The State reports that said bill has been introduced and notes that in order to achieve the approval thereof, in 2009 and 2010, the Ministry of Government, Justice and Human Rights appeared before a number of committees of the Provincial Legislature of Mendoza and attended workshops on enforcement of the Optional Protocol.

41. The petitioners report that this requirement has not been fulfilled.

Introduce a bill before the Legislature of the Province of Mendoza, within a maximum period of 90 days, to create a government Office of the Public Defender to litigate before the chambers of criminal sentence execution of the courts, and to take the necessary steps to achieve the approval thereof.

42. The State reports that the creation of these offices of the public defender is found under the Organic Law of Public Prosecution, number 8008, recently approved and the purpose of which is the defense and representation of those convicted under final sentence in judicial and administrative proceedings regarding the rules of progressive application of punishments and conditions of detention in general. In performing this function, they will have the duty to periodically interview their defendants, informing them about the proceedings in their case. Government-appointed defenders will have the same duty with regard to defendants. It is noted that a defender has been appointed for the Almafuerite Prison and the defender will be appointed for the Boulogne Sur Mer prison.

43. No information is available regarding the appointment of defenders for the Penitentiary centers of Mendoza and Gustavo Andre.

Take any measures that may be necessary to change the hierarchical level of the Office of Coordination for Human Rights of the Ministry of the Interior elevating it to a Directorate or Sub-Secretariat.

44. The State reports that this was fulfilled by means of Executive Decree No.186 on January 29, 2008.

Other Measures of Satisfaction:

The Government of the Province of Mendoza shall take the necessary measures, within a maximum period of 90 days, to post a notice of the measures requested by the IACHR and the IA Court of Human Rights regarding the prisons of Mendoza, which shall be placed at the entrance to the Provincial Penitentiary, as a reminder.

45. The State reports that said notice has been posted at the entrance to Penitentiary Complex No. 1, Boulogne Sur Mer.

The Government of the Province of Mendoza undertakes to carry out, within the scope of its authority, all necessary measures for the continuation of investigations into all of the human rights violations that gave rise to the provisional measures issued by the Inter-American Court of Human Rights. A report on the outcome of said measures, as well as measures taken to determine responsibility emanating from said violations, shall be submitted by the Government of the Province of Mendoza within the framework of follow-up on agreement compliance. The media shall disseminate the outcome of said investigations.

46. The petitioners report that no progress has been made in this regard and that those responsible in most of the cases have gone unpunished.

Plan of Action and Budget

The Government of the Province of Mendoza undertakes to draw up, in conjunction with the National State and the petitioners, within a maximum period of 90 days, a Plan of Action on Penitentiary Policy to aid in setting short, medium and long-term public policies with an appropriate budget to make implementation possible. Said plan shall include, at a minimum, the following points:

47. The State reports that under an agreement entered into on April 16, 2010, the Provincial Government and the petitioners settled on a schedule for completion of implementation of the Plan of Action on penitentiary policy. As part of this endeavor, and based on the plan of action drafted by the petitioners, the first meeting was held in June of 2010, wherein the provincial government submitted to the petitioners a plan of action on penitentiaries encompassing short, medium and long-term measures. The State notes that it is awaiting remarks from the petitioners with regard to the plan.

Indicate measures that shall be implemented for the assistance and custody of young adults deprived of their liberty in the Province by staff specially trained for these duties. Additionally, every member of that population must be ensured education, recreation and access to cultural and athletic activities, adequate medical/psychological assistance and other measures geared towards adequate social integration and job placement.

48. The State indicates that all levels of formal education are offered at the San Felipe Complex, to wit, Basic General Adult Education under CEBA [Alternative Basic Education Center] No 3-122, Polytechnical instruction under CENS [Secondary Level Education Center] No 3-494 and Higher Education through joint implementation with the National University of Cuyo. There are a total of 170 students enrolled. Additionally, art and recreation workshops are offered on subjects such as cinema, debating, music, murals, theater, yoga, etc. Job training courses include Carpentry and Electricians and enrolment totals 44 students.

49. The petitioners allege that further incidents of torture by penitentiary staff have been reported in 2011 at the San Felipe Complex.

50. The petitioners report overcrowding at the Boulogne Sur Mer Complex and at Almafuerte and note that violent deaths have occurred at both facilities. They claim that the construction plan to cure the problem of lack of space at the Boulogne Sur Mer facilities has not been honored (They report that on October 21, 2009, the Administrative Chamber of the Supreme Court of Justice issued a deadline of 60 days to the Government of Mendoza to draft an annual and comprehensive work plan to include repairs and replacement of all facilities of the prison of Boulogne Sur Mer).

In light of the conditions of detention of the inmates at the penitentiaries of Mendoza, request administrative and judicial authorities to review the disciplinary files or reports of the Criminological Technical Agency and the Correctional Council, which affect implementation of the benefits set forth in the Rules on the Progressive Application of Punishments. Additionally, the operation of the Criminological Technical Agency and the Correctional Council should be scrutinized in order to optimize their performance;

51. The State indicates that as of the beginning of 2008, the Technical Criminological Agency has changed the evaluation criteria, establishing guidelines that are more flexible and more in line with the reality of the penitentiaries of the province, thus achieving a considerable increase in positive assessments, which has enabled greater access of inmates to the benefits set forth in Law 24.660 (on the execution of sentences depriving persons of liberty). It also notes that the evaluation criteria of the Correctional Council have been changed pursuant to the criteria established in the Provincial Penitentiary Service.

Improve the health-care service of the Provincial Penitentiary in collaboration with the Ministry of Health and make the necessary investments for effective provision of the service to every person deprived of liberty.

52. The State reports that the health division of the San Felipe Complex provides 24-hour service through duty shifts, in addition to weekly check-ups. Assistance is provided through the Interdisciplinary Board of Young Adults, made up of professionals from different disciplines. A psychosocial division was also created. It further notes that construction of bakery, kitchen and work-therapy and maintenance workshop facilities, and a new mini-hospital has been completed.

53. The State indicates that 23 health-care professionals were added to the staff in 2009 and another 13 joined in 2010. Medical care is provided in a way that allows for efficient medical, dental and psychiatric examination on a biweekly basis. When the need for urgent care arises, the inmate is immediately taken to the doctors' offices of the Health Division for care and treatment. A system of hard-copy medical charts was implemented to make it possible to identify any pathological conditions and work has begun on a digital medical history system. An agreement was signed with the El Sauce Hospital to expand the number of inmates it houses. Additionally, progress has been made in putting a vaccination system into place. The psychological assistance unit is manned from 8:00 AM until 6:00 PM and has staff on call for emergencies outside of those hours. A program dealing with addiction is also in place to aid inmates with this type of problem. One hundred percent of the medical charts are reportedly completed, according to the State.

54. No information is available regarding the Gustavo Andre center and the Penitentiary.

d) Ensure access to a job for all inmates in the Prisons of Mendoza who should so request one;

55. The State reports that there was an increase in positions at the San Felipe Complex and the Gustavo Andre Lavalle Correctional Farm.

e) Ensure access and adequate service at the Courts of Criminal Sentence Execution, for all persons who have a legitimate interest in the Execution of the Punishment of the inmates in the Prisons of Mendoza. Especially, unimpeded access for attorneys who can freely examine the records of the proceedings being heard in said courts;

56. The inmates of San Felipe and Boulogne Sur Mer are under the responsibility of a sentence execution judge. A new judgeship was created under Law 7240/05, to which a woman judge has already been assigned.

f) Attempt to provide adequate training and professional instruction to Penitentiary Staff.

57. The State reports that the Organic Law No. 7.976 of the Provincial Penitentiary Service requires the professionalization of the senior penitentiary officials, which will trigger an increase in training and professionalization of staff members who intend to be promoted on the penitentiary-management career path. The Area of Education and Training for penitentiary staff was created. Plans are being drawn up for a second stage creating the Penitentiary University Institute.

58. Regarding the Gustavo Andre and Boulogne Sur Mer complexes, which are under provisional measures, the State notes that in 2008, a total of 338 penitentiary officers were appointed; additionally, a system of promotion and re-ranking of staff was created; efforts are being made in the area of training and on the Regulations of the Constitutional Organic Law. The process of segregation of convicted inmates from defendants in custody awaiting completion of their trial is ongoing.

Lastly, the parties agree to keep open a space of dialogue and to set up a Monitoring Commission in order to follow-up on compliance with the commitments taken on under this agreement, including the normative and other measures agreed upon, in which

framework the parties may propose other measures of action that could aid in better fulfilling the purpose and objective of the instant agreement.

59. The petitioners report that the Monitoring Commission has not been created.

60. As has been noted above, both the proceeding, which culminated in the arbitral judgment, and the decision on pecuniary reparation in the case, which was handed down on May 19, 2011, have been brought to the attention of the Commission. The IACHR finds that the arbitral judgment is consistent with applicable international standards. The Commission wishes to express its recognition to the Arbitral Tribunal for the careful work it has displayed in the arbitration proceeding and the judgment it has issued, and wishes once again to recognize the good faith and will of the parties to this case, whose commitment has made it possible to take significant steps forward. The Commission welcomes the arbitral judgment as an important contribution to the settlement of the instant case, and looks forward to receiving periodical updated information from the parties on compliance with the terms of pecuniary reparation, as well as on the other measures of non-pecuniary reparation set forth in the judgment of arbitral award.

61. The preceding information stands as proof that the agreement has been significantly honored, as provided by the American Convention. The IACHR greatly appreciates the efforts displayed by both parties to achieve and implement the agreement. The Commission finds that said agreement is compatible with the object and purpose of the Convention.

VI. CONCLUSIONS

62. Based on the foregoing considerations and in accordance with the procedure set forth in Article 48(1) (f) and 49 of the American Convention, the Commission wishes to reiterate its satisfaction for the efforts put forth by the parties and for achievement of the friendly settlement agreement in the instant case based on the object and purpose of the American Convention.

63. 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 signed by the parties on August 28 and ratified before the IACHR on October 12, 2007 and to continue to monitor the points pending fulfillment, with special emphasis on the conditions of detention of the inmates of the Penitentiaries and the investigation of the facts reported in the petition.

2. To recognize the Arbitral Award issued by the Ad-Hoc Arbitral Tribunal on May 19, 2011 in this case; to declare that the award is consistent with international standards, and to follow-up on compliance with the measures of pecuniary and non-pecuniary reparation therein.

3. To publish this report and include it in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 21st day of July 2011. (Signed): Dinah Shelton, President; José de Jesús Orozco Henríquez, First Vice-President; Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero, and María Silvia Guillén, Commissioners.