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REPORT No. 215/20
CASE 10.441B
REPORT ON FRIENDLY SETTLEMENT

CARLOS HUMBERTO CABRERA RIVERA
GUATEMALA

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CARLOS HUMBERTO CABRERA RIVERA
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AUGUST 14, 2020¹

I. SUMMARY AND RELEVANT PROCEDURAL ASPECTS OF THE FRIENDLY SETTLEMENT PROCESS

1. On October 6, 1989, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “IACHR”) received a petition presented by the Guatemalan Human Rights Commission (hereinafter “the petitioners”), in which it claimed the international responsibility of Guatemala (hereinafter the “State” or “Guatemalan State” or “Guatemala”), for the violation of human rights contained in articles 4 (life), 5 (humane treatment), and 7 (personal liberty) in relation to articles 1.1 (obligation to respect) of the American Convention on Human Rights, (hereinafter “Convention” or “American Convention”), for the disappearance of Aaron Ubaldo Ochoa, Hugo Leonel Gramajo Lopez, Ivan Gonzales Fuentes, Carlos Contreras Conde, Mario Arturo de León Méndez. As well as for the disappearance and subsequent execution of Victor Hugo Ramirez Jaramillo, Silvia Maria Azurdia Utrera, Eduardo Antonio Lopez Palencia, and Carlos Leonel Chuta Camey and Carlos Humberto Cabrera (hereinafter the “alleged victims”), who were students who belonged to the Association of University Students [*Asociación de Estudiantes Universitarios*] –AUE– of the Universidad San Carlos de Guatemala –USAC. Subsequently, on November 22, 1989, the Center for Legal Action on Human Rights (CALDH), became a party to the process before the Commission.

2. The petition was initially filed on behalf of 10 individuals. By virtue of the signing of 2 separate friendly settlement agreements, the Commission decided to disaggregate the case into 10.441 A (with respect to Silvia María Azurdia Utrera, Víctor Hugo Rodríguez Jaramillo, Iván Ernesto González, Carlos Contreras Conde, Hugo Leonel Gramajo, Mario Arturo de León, Carlos Leonel Chutá Camey, Eduardo Antonio López Palencia, and Aaron Ochoa), and 10.441 B with respect to Carlos Humberto Cabrera Rivera. Said disaggregation was notified to the parties on April 9, 2020.

3. Subsequently, the petitioners presented on February 4, 2005, a new petition in favor of Carlos Humberto Cabrera Rivera, filed under number P-143-05, whose registration was canceled because it was a reproduction of the original petition contained in the case 10.441.

4. In case 10.441 B, the parties signed a Friendly Settlement Agreement on May 2, 2005, within the framework of a working meeting held in Guatemala. Subsequently, on June 24, 2020, the petitioner indicated his conformity with the approval of the agreement.

5. In this friendly settlement report, as established in article 49 of the Convention and article 40.5 of the Commission's Rules of Procedure, a summary of the facts alleged by the petitioner is presented and the friendly settlement, which was signed on May 2, 2005, by the petitioner and the representatives of the State of Guatemala, is transcribed. Likewise, the agreement signed between the parties is approved and it is agreed this report will be published in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

II. FACTS ALLEGED

6. According to the petitioners' allegations, Carlos Humberto Cabrera Rivera was one of the 10 students who disappeared in the so-called "Black August", who was kidnapped between 8:00 and 8:30 a.m. on September 9, 1989, while he was in front of his house, located in Colonia Venezuela, zone 21 of Guatemala City. According to witnesses, around ten armed men approached the victim, beat him and put him in a vehicle with no characteristics. The next day the victim was found dead, near the central campus of the University of San

¹ Commissioner Stuardo Ralón Orellana, a national of Guatemala, did not participate in the consideration or vote on this case in accordance with Article 17 (2) (a) of the IACHR's regulations.

Carlos de Guatemala (USAC), located in zone 12 of the capital, along with three bodies, including those of two other students who disappeared during "Black August", Víctor Hugo Rodríguez Jaramillo and Silvia Azurdia Utrera². According to the petitioners, said violations would have taken place in the framework of a military intelligence operation by state agents or persons who would have acted under their protection, tolerance, or acquiescence. The bodies showed signs of torture, including hypodermic needle sticks and multiple penetrating wounds from a short puncture object.

7. On the day of the kidnapping, the victim's son, Yovani Cabrera, presented a Habeas corpus request in favor of Carlos Humberto Cabrera at the Peace Magistrate's Court, located near the former Second Corps of the National Police in zone one of Guatemala City. The petitioners indicated that this request was never resolved by the Judge and that the process does not physically exist in the court files of said judicial body.

8. The petitioners argued that they had denounced the kidnapping of the victim in the Assembly of the National Judge's Union, and indicated that, as of the date of the petition, the authorities of the State of Guatemala had not carried out a serious investigation into the events to find the culprits, and as a consequence the case was still in impunity.

III. FRIENDLY SETTLEMENT

9. The parties signed a Friendly Settlement Agreement on May 2, 2005, within the framework of a working meeting held in Guatemala, which states the following:

**FRIENDLY SETTLEMENT AGREEMENT
CASE P443-95(sic)³
CARLOS HUMBERTO CABRERA**

I. BACKGROUND

The student community was one of the sectors of Guatemalan society that was hit the hardest by the repression during the internal armed conflict.

Students, especially those who were members of the Association of University Students ("AEU"), suffered waves of repression and state violence during different times of the conflict, which included threats, raids, destruction and theft of property, illegal detentions, forced disappearances, and extrajudicial executions.

One of the bloodiest times of violence against the student movement occurred in the two weeks between August 21 and September 10, 1989, a period in which eleven(sic)⁴ student leaders, all members of the AEU, disappeared. During the following weeks, the bodies of six of them were found in public places, all with signs of torture, and in the case of four of them, along with their bodies, notes indicating that their student activities were the motive for the

² The Commission verified that they were included in a friendly settlement agreement dated February 18, 2005 in the framework of case 10,441 A.

³ The filing date of the petition is October 6, 1989, filed under case number 10.441, and subsequently disaggregated into 10.441 A and B.

⁴ The Commission understands that this is a material error. Case 10.441 refers to 10 individualized students in the initial petition such as: Silvia María Azurdia Utrera, Víctor Hugo Rodríguez Jaramillo, Iván Ernesto González, Carlos Contreras Conde, Hugo Leonel Gramajo, Mario Arturo de León, Carlos Leonel Chutá Camey, Eduardo Antonio López Palencia, Aaron Ochoa, and Carlos Humberto Cabrera Rivera. See also, IACHR, Annual report. Chapter IV. 1989. Available electronically at: <https://www.cidh.oas.org/annualrep/89.90span/cap4c.htm> (last accessed on March 6, 2020). In its Annual Report, the Commission indicated that: The first serious acts of violence recorded during the period to which this report refers, took place between August 23 and September 10, 1989, when the Commission was informed that ten Students from the Universidad San Carlos de Guatemala had been kidnapped. Their names are as follows: Silvia María Azurdia Utrera, Víctor Hugo Rodríguez Jaramillo, Iván Ernesto González, Carlos Contreras Conde, Hugo Leonel Gramajo, Mario Arturo de León, Carlos Leonel Chutá Camey, Carlos Humberto Cabrera, Eduardo Antonio López Palencia, and Aaron Ochoa. The Commission has begun processing a case for the facts in question under No. 10.441.

crimes.

Illustrative Case No. 30 of the report of the Commission for Historical Clarification, Guatemala: Memory of Silence (1989) detailed the context, the facts, and the implications of the so-called "black August", and concluded that: "the students were victims of a military intelligence operation, in which State agents or people who acted under their protection, tolerance, or acquiescence participated."

Carlos Humberto Cabrera Rivera was one of the 11⁵ students who disappeared during the "Black August" (the "Victim"). On September 9, 1989, between 8:00 and 8:30 a.m., the victim was kidnapped in front of his house, located in Colonia Venezuela, zone 21 of Guatemala City. About ten armed men approached the victim, beat him and put him in a vehicle with no characteristics. The next day, the victim was found dead, near the central campus of the University of San Carlos de Guatemala (USAC), located in zone 12 of the capital, along with three bodies, including those of two other students who disappeared during "Black August", Víctor Hugo Rodríguez Jaramillo and Silvia Azurdia Utrera. Each of the corpses showed signs of torture.

On February 4, 2005, the Center for Legal Action on Human Rights ("CALDH") submitted a petition to the Inter-American Commission on Human Rights (the "Commission") on behalf of the victim's family (the "Petitioners"). The petitioners argued that the forced disappearance, torture, and extrajudicial execution of Carlos Cabrera were violations of articles 1.1, 4, 5, 7, 11, 13, and 16 of the American Convention on Human Rights (the "Convention") as well as articles 8 and 25 of the same instrument.⁶

As for the other victims of "black August", on November 22, 1989, the Center for Legal Action on Human Rights ("CALDH"), submitted a petition to the Commission on behalf of the families of seven⁷ of the victims, including Silvia Azurdia Utrera and Victor Rodriguez Jaramillo. The petition argued that the forced disappearance (in the case of 5 students) and the forced disappearance, torture, and extrajudicial execution (in the case of 2) were violations of Articles 1.1, 4, 5, and 7 of the Convention. The case is processed before the Commission as case 10.441 (Silvia Azurdia Utrera et al.). Regarding the procedure before the Commission, CALDH has asked the Commission to add the present case-to-case 10441, in light of the similar circumstances of fact and substance between the two cases.

On February 18, 2005, the State and CALDH, in accordance with the provisions of article 41 of the Regulations of the Inter-American Commission on Human Rights, signed a Friendly Settlement Agreement in relation to case 10.441 (the "Utrera Agreement"). The State and CALDH (the "Parties") have decided to sign this agreement (the "Friendly Agreement") in terms similar to the Utrera Agreement to ensure that the Petitioners are repaired on an equal basis.

II. ON THE PARTICIPANTS AND THE WILL OF THE PARTIES

On the one hand, the President of COPREDEH —Frank William Rafael La Rue Lewy—, on behalf of the State of Guatemala; and on the other hand, Fernando Lopez Antillon, Legal Director of the Justice and Reconciliation Program of the CALDH, representing the Petitioners. Appear in order to sign this Friendly Agreement in the case identified with number P-143-05 Carlos Humberto Cabrera Rivera, based on respect for the human rights recognized in the American

⁵ Idem.

⁶ The registration of this petition was canceled because it was a reproduction of the original petition contained in case 10.441. In this regard, see paragraphs 1 to 3 of this report.

⁷ Idem.

Convention on Human Rights, the American Declaration, and other instruments that are applicable to the present case.

III. ACKNOWLEDGMENT OF STATE RESPONSIBILITY AND ACCEPTANCE OF THE FACTS

) Under instructions by the Constitutional President of the Republic, COPREDEH, on behalf of the State of Guatemala and before the Commission, recognizes the international responsibility of the State, without prejudice to the individual criminal responsibilities that may arise, for the violations of the following rights of the Victims: right to life (Article 4), right to humane treatment (Article 5), right to personal liberty (Article 7), right to a fair trial and judicial protection (Articles 8 and 25), right to privacy (Article 11), freedom of thought and expression (Article 13), freedom of association (Article 16) and the duty to protect and guarantee the rights enshrined in the Convention (Article 1.1);^a

b) The State further acknowledges that there was a violent state strategy directed against the student movement at that time, and the victim's human rights violations occurred as a result of such a strategy.

IV. PUBLIC APOLOGY

a) As part of the reparation to the victim and their family, the State undertakes to make public its acknowledgment of international responsibility for the violations of the Victims' human rights, as well as for the implementation of the violent state strategy against the student movement in general, and to present public apologies to the Victim and the petitioners in a public act that will be held to honor their memory and in compliance with section IV of the Utrera Agreement (the "Public Act");

V. MEASURES TO HONOR THE MEMORY OF THE VICTIMS

a) The State agrees to negotiate an agreement with CALDH on the measures to honor the memory of the Victims in accordance with the reasonable wishes of the Petitioners and the real possibilities of the Government of the Republic of Guatemala, which must be executed with priority within COPREDEH' budget for 2005;

b) CALDH agrees to submit proposals for compliance with said measures to COPREDEH within a period of two months from the date of signing the Friendly Agreement;

c) COPREDEH undertakes to provide a response to the proposals prepared by CALDH under subsection (b) above, as soon as possible.

VI. INVESTIGATION, PROSECUTION, AND SANCTION OF THOSE RESPONSIBLE

a) The State of Guatemala recognizes the imperative need to launch investigations to identify, prosecute, and punish those responsible for the Victim's human rights violations.

b) Within this framework, COPREDEH will promote the necessary actions before the Attorney General's Office in order to carry out an immediate, impartial, and effective investigation by the State.

c) The State agrees to provide the Commission, so that it may be transferred to CALDH, reports on the investigation process detailed above, every 6 months from the signing of this agreement.

VII. REPARATIONS

a) The State recognizes that the acceptance of its international responsibility, for the violations of the human rights of the Victims, implies the responsibility to pay fair compensation to the Petitioners under the parameters defined by mutual agreement between the parties, taking into consideration the criteria of the Inter-American system and those of a national nature that are deemed convenient to apply in the negotiation.

b) The State undertakes to arrive to an agreement, which will define the amount and the term of payment of the financial compensation, with the Petitioners within two months from the signing of the friendly agreement.

c) The parties agree to meet within one month of the signing of the Friendly Agreement, to discuss the issue of financial compensation and set a schedule to ensure compliance with subsection (b) above.

VIII. EXPENSES INCURRED

a) The State agrees to pay the expenses incurred in for the processing of the case both before the national jurisdiction and before the international jurisdiction.

IX. BREACH OF TERMS

a) In the case of breach of any of the terms indicated in this agreement, and failure to remedy such violation, CALDH will have the option to terminate the Friendly Agreement and continue with the contentious process, in accordance with Article 41 of the Commission's Regulations.

b) The terms agreed in this agreement may be extended by mutual agreement of the parties, upon verifying the existence of just cause, situations of force majeure, or acts of God.

X. LEGAL BASIS

This Friendly Agreement is signed based on articles 1, 2, 3, 44, 46, and 183 (a) and on the fundamental principles established in the Political Constitution of the Republic of Guatemala, in the Peace Agreements, signed by the Government of the Republic of Guatemala and the Guatemalan National Revolutionary Unit, as well as respect for the human rights recognized in Articles 1.1, 4, 5, 7, 11, 13, 16, 8 and 25 of the American Convention on Human Rights; and Article 41 of the Rules of Procedure of the Inter-American Commission on Human Rights;

In Guatemala City, on May second of the year two thousand and five.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE.

10. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, this procedure is intended to "reach a friendly settlement of the matter based on respect for the human rights recognized in the Convention." The acceptance of carrying out this process expresses the good faith of the State to comply with the purposes and objectives of the Convention by virtue of the *Pacta Sunt Servanda* principle, whereby States must comply in good faith with the obligations assumed in the treaties⁸. The IACHR also wishes to reiterate that the friendly settlement procedure contemplated in the Convention allows the closure of

⁸ Vienna Convention on the Law of Treaties, U.N. Doc A/CONF.39/27 (1969), Article 26: "**Pacta sunt servanda**". *Every treaty in force binds the parties and must be complied with by them in good faith.*

individual cases in a non-contentious manner, and has demonstrated, in cases related to various countries, to offer an important solution vehicle, which can be used by both parties.

11. The Inter-American Commission has closely monitored the development of the friendly settlement achieved in this case and highly values the efforts made by both parties during the negotiation of the agreement to reach this friendly settlement that is compatible with the object and purpose of the Convention.

12. According to the Resolution 3/20 of the IACHR on differentiated actions to address the procedural delay in friendly settlement procedures, since the signing of the agreement, the parties will have two years to move forward towards the approval by the Inter-American Commission on Human Rights, except for duly qualified exceptions established by the Commission. In relation to those matters with a signed agreement and without homologation in which the foreseen term has expired, the Commission will determine its course of action taking into particular consideration the duration of the compliance phase, the antiquity of the petition and the existence of fluid dialogues between the parties and/or substantial progress in the compliance phase. In said Resolution, the Commission established that when evaluating the viability of the approval of the agreement, or the closure or maintenance of the negotiation process, the IACHR will consider the following elements: a) the content of the text of the agreement and whether it has a clause of full compliance prior to approval; b) the nature of the agreed measures; c) the degree of compliance thereof, and in particular the substantial execution of the commitments assumed; d) the will of the parties in the agreement or in a subsequent written communication; e) its suitability with human rights standards and f) the observance of the State's will to fulfill the commitments assumed in the friendly settlement agreement, among other elements.⁹

13. In attention to the fifteen years that have elapsed since the signing of the friendly settlement agreement, on a petition filed 31 years ago, on October 6, 1989, regarding facts that occurred at that time and that the petitioner asked for its approval, it is up to determine the course of action of this matter and assess the viability of the approval of the agreement in light of the objective criteria established by the Commission in Resolution 3/20.

14. The Inter-American Commission values the third declaratory clause (III), which recognizes the international responsibility of the Guatemalan State for the violation of the rights to life, humane treatment, personal liberty, fair trial, and judicial protection, established in articles 4, 5, 7, 8, and 25 of the American Convention, to the detriment of Carlos Humberto Cabrera.

15. Regarding the text of the agreement, the Commission observes that is not clear from its drafting that the approval of the agreement depends on the total fulfillment of the measures agreed upon. At the same time, it is necessary to indicate that when notifying the eventual application of Resolution 3/20 of the IACHR to the petitioners, they opted to move forward with the homologation process.

16. Regarding the nature of the measures agreed upon, the Commission observes that the agreement establishes instant enforcement measures such as the performance of an act of acknowledgment of responsibility, the payment of economic compensation, the construction of a plaza and installation of a plaque in memory of the victim. Likewise, the inclusion of successive execution clauses related to justice is observed.

17. Regarding the degree of compliance with the agreement, the Commission will now assess the progress made in relation to each of the clauses of the agreement.

18. Regarding the fourth clause fourth (IV) of the agreement, on the State's duty to present public apologies to the victims and their next of kin in a public act, the representatives of the victims reported on August 30, 2005 that, on 29 of August of the same year and in accordance with the Friendly Settlement Agreement, the act of acknowledging international responsibility was held at the facilities of the National Palace of Culture. In this act, each of the victims' next of kin, the representative of CALDH, the president of COPREDEH,

⁹ In this regard see, IACHR, Resolution 3/20 on differentiated actions to address the procedural delay in friendly settlement procedures, approved on April 21, 2020

and the Constitutional Vice President of the Republic spoke, the latter publicly stated "we apologize because the State did not guarantee the life and integrity of the students;" adding that "the Executive will promote the start of a criminal procedure, since to date it does not exist, despite the fact that the events occurred in the return to democracy." In said brief, the petitioners considered that this part of the friendly settlement agreement was fulfilled, information that was reiterated on June 24, 2020. The State confirmed this information on November 9, 2005. Taking into consideration, the information provided by the parties, the Commission considers that the fourth clause of the FSA is fully complied with and so it declares it.

19. Regarding the fifth clause fifth (V), referring to measures to honor the memory of the victims, on April 10, 2006, the State reported that it was in negotiations with the petitioners who presented the State with a proposal to collectively honor all the students related to the case, consisting of the construction of a square in memory of the victims. Said information was forwarded to the petitioners, who confirmed on April 26, 2006 that, with regard to the honoring measure, the Rector of the University of San Carlos already had the authorization to build a square on the university campus in memory of the victims.

20. The State reported on May 25, 2006, that on May 16 of the same year a meeting was held at the University of San Carlos, with the representatives and relatives of the victims, in which it was presented the square that would have the name that the victim's families chose. As indicated by the State, there would have been no consensus among the relatives at that time, which is why they would explore other possible places for the construction of the plaza.

21. Subsequently, on June 5, 2006, the petitioners indicated the acceptance of the next of kin of the victims of the construction of the square at the University of San Carlos, in which trees would be planted and plaques would be installed in memory of them. The petitioners announced the continuation of the negotiations and meetings to define the content of the plaques and the precise place of their location in the agreed plaza.

22. As reported by the State on September 29, 2006, CALDH's request on the collective memory measure included the next of kin of the victims' proposal that it reflected "both the interests and passions of the victims, as well as the unity and solidarity with which they lived their lives". Adding that the petitioners had pointed out to the State "this proposal is for the creation of a square in the capital that can serve as a space to remember and honor the memory of the students. The architectural and symbolic elements will contribute to a calm atmosphere, which will encourage the thought and reflection of visitors, and provide a space to honor and remember the deceased, which will have significance especially for the families of the disappeared."

23. According to the State, the architectural elements requested by the petitioner included:

- Central fountain: flowing water, symbolizing eternal life.
- A stone circle around the fountain with the names of the victims engraved, symbolizing their unity, friendship, and solidarity.
- Plaque with details of the events and mounted in an appropriate place in the square.
- For the historical memory and honor of the victims: stone benches in circular formation around the fountain to sit and to provide spaces for visitors to remember, think, and reflect.
- Eight trees (*Picus*) planted in a garden around the plaza in a circular formation, representing each of the deceased students.
- A small plaque with the name, date of birth and date of death of each victim would be placed at the foot of each tree.

24. In the same communication of September 29, 2006, the State reported on the opening ceremony of the square and honoring of the memory of the 10 students (of cases 10.441 A and B) on July 14, 2006. In this regard, it should be noted that in said act, Commissioner Víctor Abramovich participated, in his capacity as Rapporteur of the IACHR for Guatemala; as well as the President of COPREDEH, the Rector of the University of San Carlos, the relatives and friends of the students, and the media. The State provided a photographic record with details of the square and the plaques installed. Said information was forwarded to the petitioners, who indicated their satisfaction with compliance with the measure to honor the memory of the victims on March 17, 2011, in what refers to the inauguration of the square, indicating that the wishes of the petitioners and relatives of the victims had been fulfilled with the realization of this event.

25. Subsequently, in briefs of January 20, 2012 and June 28, 2013, the State reported that on August 18, 2011, another individualized public act of unveiling of the plaque of Carlos Humberto Cabrera Rivera was carried out, an event that was held in the auditorium of the Faculty of Humanities of the Central Campus of the University of San Carlos of Guatemala.

26. Said information was transferred to petitioners, who did not present any observations on that occasion. Subsequently, on June 24, 2020, the petitioners indicated their compliance with this part of the agreement.

27. Finally, the Commission learned that in 2019 the Exemplary Student Plaza in the USAC was revitalized in memory of the victims of the case, which now has gardens, lighting, benches, ambient sound, a historical mural, and a commemorative plaque with the names of the martyrs¹⁰. Therefore, taking into consideration the aforementioned elements of information, the Commission considers that the fifth clause (V) of the friendly settlement agreement is fully complied with and so it declares it.

28. In relation to the sixth clause (VI), on the investigation, prosecution, and punishment of those responsible, on July 5, 2013, the State reported on the procedures carried out to obtain testimonies, death certificates, and autopsy reports; the exhumation of the corpse in one of the cases; taking DNA samples; obtaining information on vehicles possibly involved in the events and obtaining the police roster operating at the time of the events; and reported that it had not been possible to identify those responsible. The petitioner indicated in its observations of September 20, 2016, that the State had not presented progress in the investigation and that it had not been possible to identify those responsible for these events and requested that the State send a detailed and updated report that reflects the concrete progress and significant results of the investigation on the events, as well as on the identification, judicial prosecution, and punishment of those responsible for the victims' human rights violations.

29. On April 10, 2017, the State reported on the current situation of the investigation and the actions aimed at determining the historical truth of the events denounced, and which include: a) requests addressed to the Ministry of National Defense, to determine the participation of state agents in the commission of the facts investigated; b) requests to different institutions in order to confirm the information provided by the victims' families and the location of the place where the events occurred; c) Meetings were held with the participation of the plaintiff, sponsoring lawyer, experts, Military Advisor, and personnel of the Prosecutor's Office, in order to conclude with the terms of reference of two expert opinions to be carried out in this case.

30. For its part, on September 20, 2017, the petitioner indicated that it had no observations regarding the current situation of the investigation, since, as indicated by the State, the Prosecutor's Office had indeed carried out and was considering to carry out the indicated procedures, for which they considered that there had been a will to move forward on the investigation. Subsequently, on June 24, 2020, the petitioner indicated that the State continues to fail to comply with this point and requested the Commission to follow up on the matter. Taking into consideration the information provided by the parties, the Commission considers

¹⁰ In this regard, see the Web page of the San Carlos University. Exemplary Student Plaza is inaugurated. October 29, 2019. Available at: <https://soy.usac.edu.gt/?p=9411>

that this part of the FSA is partially fulfilled, and urges the State to continue deploying the corresponding actions in the matter of investigation, prosecution, and sanction of those responsible.

31. Regarding the seventh clause (VII), referring to economic compensation, the State reported on January 5, 2010, on the signing of the agreements and economic compensation with the victims' next of kin on May 10, 2007. In addition, the State clarified that due to insufficient funds in the Ministry of Public Finance, the parties had agreed to defer the payment of the obligation in two disbursements equivalent to 50% each. The State did not indicate the total amounts of compensation for the benefit of the relatives of the victim, nor did it provide the payment vouchers, or the compensation agreement signed.

32. On March 17, 2011, the petitioner confirmed the payment of the economic compensation using the methodology indicated by the State, which was reiterated on June 24, 2020. Taking into consideration the information provided by the parties, the Commission considers that clause seven (VII) of the friendly settlement agreement is fully complied with and so it declares it.

33. In relation to eighth clause (VIII), referring to expenses incurred in, the parties have not reported any progress on this commitment. The Commission considers that it does not have sufficient information to determine compliance with this clause and therefore urges the parties to provide relevant information during the supervision stage of the agreement. However, the petitioner party confirmed in general terms the compliance with the measures of the agreement, indicating that only the measure related to the search for justice would be pending. For this reason, the Commission considers that this part of the agreement is fully fulfilled and so it declares it.

34. Regarding the will of the parties in the agreement or in a subsequent written communication, on June 24, 2020, the petitioner party indicated its compliance with the approval of the agreement, requesting the Commission to maintain the follow up of the measure of justice until its full compliance.

35. Regarding the adequacy of the agreement with the standards on human rights, it is observed that the content of the FSA is consistent with the standards on human rights, since elements were integrated as measures of satisfaction, economic compensation and justice, which are considered appropriate within the factual scenario of the particular case, being in accordance with the various pronouncements of the IACHR and the jurisprudence of the Inter-American Court of Human Rights regarding the reparation of victims of human rights violations.

36. In relation to the State's will to comply with the ASA, it should be noted that, according to the analysis of the case, it is observed that there has been a commitment on the part of the State verified in the partial substantial compliance with the friendly settlement agreement.

37. Based on the foregoing, the Commission concludes that clauses IV on public apologies, V on measures to honor the memory of the victims, VII on economic compensation and VIII on costs and expenses is pending compliance are fully complied with. At the same time, the Commission concludes that clause VI on guarantees of justice is partially fulfilled. Lastly, in relation to the State's will to comply with the ASA, it should be noted that, according to the analysis of the case, it is observed that there has been a commitment on the part of the State in complying partially with the agreement of friendly settlement. For the aforementioned, the Commission considers that the friendly settlement agreement has a partial substantial level of execution. Finally, the Commission considers that clauses I, II, III, IX, and X of the friendly settlement agreement are declarative in nature, and therefore their supervision is not necessary.

XI. CONCLUSIONS

1. Based on the foregoing considerations and by virtue of the procedure provided for in Articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts made by the parties and its satisfaction for the achievement of a friendly settlement in the present case, based on respect for human rights, and compatible with the object and purpose of the American Convention.

2. Following the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the agreement signed between the parties on May 2, 2005.
2. To declare the full compliance of clauses three (III) (Acknowledgment of State responsibility and acceptance of the facts); fifth (V) (Measures to honor the memory of the victims); fourth (IV) (Public apologies); Seventh (VII) (Reparations) and eight (VIII) (costs and expenses); of the friendly settlement agreement, pursuant to the analysis in made this report.
3. To declare the partial compliance of clause six (VI) (Investigation, prosecution, and punishment of those responsible).
4. To continue with the supervision of clause six (VI) of the friendly settlement agreement until its full compliance according to the analysis contained in this Report. To this end, it reminds the parties of their commitment to periodically inform the IACHR on its compliance.
5. To make this report public and include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on August 14, 2020. (Signed): Joel Hernández García President; Antonia Urrejola, First Vice President; Flávia Piovesan; Second Vice President, Esmeralda E. Arosemena Bernal de Troitiño and Julissa Mantilla Falcón ,Members of the Commission.