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CASE 13.974

REPORT ON FRIENDLY SETTLEMENT

**CLAUDIA BARACALDO BEJARANO AND FAMILY
COLOMBIA**

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REPORT No. 161/24
CASE 13.974
FRIENDLY SETTLEMENT
CLAUDIA BARACALDO BEJARANO AND FAMILY
COLOMBIA¹
OCTOBER 24, 2024

I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On June 21, 2013, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “IACHR”) received a petition filed by Claudia Baracaldo Bejarano, on her own behalf and that of her family, which was subsequently undertaken by Corporación Sisma Mujer² (hereinafter “the petitioner”, “the petitioners” or “the petitioning party”) for the alleged international responsibility of the Republic of Colombia (hereinafter the “the State,” “the Colombian State,” or “Colombia”); stemming from the failure to conduct a diligent investigation into threats and attacks by members of the guerrilla force Fuerzas Armadas Revolucionarias de Colombia (hereinafter “FARC”) in the department of Amazonas when she worked as a teacher from 2008 to 2010, as well as for the consequent forced displacement of herself and her family. The petitioner also indicated that she was kidnapped, raped, and abandoned in the middle of the jungle, and alleged that the State failed to prevent and investigate with due diligence the acts of sexual violence of which she was a victim.

2. On April 24, 2020, the Commission issued Admissibility Report No. 102/20, in which it found the petition admissible and declared its competence to hear the claim presented by the petitioners with respect to the alleged violation of the rights set forth in Articles 5 (humane treatment), 7 (personal liberty), 8 (fair trial), 22 (movement and residence), 25 (judicial protection), and 26 (economic, social and cultural rights) in conjunction with Article 1(1) (obligation to respect the rights) of the American Convention on Human Rights and Article 7 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belém do Pará”).

3. On May 20, 2021, the parties signed a memorandum of understanding to pursue a friendly settlement in the instant case, along with a timetable to progress in the negotiations. In the following months, the parties held bilateral meetings in order to analyze the measures of reparation to be included in the friendly settlement agreement (hereinafter “ASA”), that materialized with the signing of that instrument on October 11, 2023 in the city of Bogotá, Colombia. Subsequently, on April 25, 2024, the parties submitted a joint report on the progress in the implementation of the friendly settlement agreement and requested the IACHR to approve it.

4. This report on friendly settlement, as established in Article 49 of the Convention and Article 40(5) of the Commission’s Rules of Procedure, includes a summary of the facts alleged by the petitioner and a transcription of the friendly settlement agreement, signed by the petitioner and representatives of the Colombian State on October 11, 2023. Likewise, the agreement signed by the parties is approved, and it is agreed that this report on the publication of this report in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

II. THE FACTS ALLEGED

5. This petition alleged the State failed to take adequate steps to protect the physical integrity of the petitioner after she was threatened and attacked by a guerilla group.

¹ In accordance with Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the discussion or decision on this case.

² Corporación Sisma Mujer assumed the representation as of May 25, 2021, as reflected in the case file.

6. According to the petition, Claudia Baracaldo Bejarano was the victim of attacks in 2008 and 2010 by a guerilla group associated with the FARC and claimed that the State was aware of the threats to her personal security, and ultimately failed to take steps to protect her or to provide redress for the violation of her right to physical security and other associated rights. From May 2006, the petitioner affirmed that she was a teacher of Spanish and English at a school in in Puerto Santander-Araracuara (Department of Amazonas). According to the petitioner, on June 9, 2008, her younger son Juan David was playing football when he accidentally hit the face of the daughter of a guerrilla commander. Subsequently this led to a major incident on June 22, 2008, when the petitioner alleged that (a) a group of men (from the guerilla group) came to her home and demanded that the petitioner hand over her son; (b) the men took the petitioner away and physically abused her, including smearing cocaine all over her body. As a follow up to the June attack, the petitioner alleged that in October 2008, she was physically abused by a student (who was not part of her class) at her school, who threatened retaliation for what had happened to the daughter of the guerilla leader.

7. Following this incident, the petitioner stated that she was forced to leave – initially for Bogotá, and ultimately for Leticia capital of the Department of Amazonas). According to the petitioner, she complained to various authorities, including the prosecutor of Leticia and the Public Defender of Leticia. The petitioner also affirmed that she contacted the relevant department of education to ask for a transfer to another school but was unsuccessful in this endeavor. Petitioner claimed that in her discussion with these various authorities that they dismissed her claim that she remained at risk of harm. The petitioner stated that she subsequently moved to Puerto Nariño (Department of Amazonas) where she continued to receive death threats by telephone, despite changing her number many times.

8. The petitioner alleged that in February 2010, she was kidnapped, raped, tortured by members of the same guerilla group associated with FARC and left for dead in a jungle not far from Leticia. According to the petitioner, she was hospitalized as a result of injuries suffered during this attack. The petitioner claimed that she made a criminal complaint to the relevant judicial/prosecuting authorities – in particular, the prosecutor assigned to Leticia. However, the petitioner alleged that that her matter was passed to different offices with no indication that an investigation was initiated or concluded. The petitioner mentioned that she was able to identify the assailants by name, so she is unable to comprehend the lack of conclusive investigation resulting in the arrest and prosecution of her assailants. The petitioner indicated that she also raised her complaint with *La Unidad para la Atención y Reparación Integral a las Víctimas* (hereafter “Victims’ Unit), but that this Victims Unit has treated her with indifference and negligence. The petitioner also alleges that she filed suit for reparation before *el Juzgado Único Administrativo del Circuito Judicial de Leticia*, but that her suit was dismissed as inadmissible on January 30, 2013 for failure to comply with certain procedural requirements. According to the petitioner, she did not discover that her suit had been dismissed until three years later (because she had been hospitalized at or around the time of the dismissal, and that her lawyer failed to inform her of the dismissal in a timely way). The petitioner also alleged that her lawyer at the time failed to take the corrective steps to avoid dismissal of her suit.

9. As a result of attacks, petitioner said now under psychiatric treatment for depression, anxiety, and Post Traumatic Stress Disorder; and that she is no longer able to work. Ultimately, the petitioner complained that despite the many years that have elapsed, that the State has taken no measures or no adequate measures to investigate the attacks against her in 2008 and 2010, with a view to holding the perpetrators criminally responsible, or to otherwise redress the violations of her right to physical security. The petitioner rejected the State’s contentions, and in particular contends that it was ultimately responsible for the acts of the guerrilla group, given that she had brought the threats and the attacks to the State’s attention in a timely manner.

III. FRIENDLY SETTLEMENT

10. On October 11, 2023, in the city of Bogotá, the parties signed a friendly settlement agreement, the text of which states the following:

**FRIENDLY SETTLEMENT AGREEMENT
CASE 13.974 CLAUDIA BARACALDO BEJARANO AND FAMILY**

On October 11, 2023, a meeting was held in the city of Bogotá D.C., between, on the one hand, Giovanni Andrés Vega Barbosa, Acting Director of the Office of International Legal Defense of the National Agency for Legal Defense of the State, acting with due authorization on behalf and in representation of the Colombian State, hereinafter the “State” or the “Colombian State,” and for the other party, Corporación Sisma Mujer, represented by Carolina Solano Gutiérrez, acting on behalf of the victims, hereinafter “the petitioner,” who have decided to sign this Friendly Settlement Agreement in the framework of Case C-13.974 Claudia Baracaldo Bejarano and family, pending before the Inter-American Commission on Human Rights.

PART ONE: CONCEPTS

For the purpose of this Agreement, the following definitions are adopted:

IACHR or Inter-American Commission: Inter-American Commission on Human Rights.

Moral damages: Harmful effects of the facts of the case that are not of an economic or patrimonial nature, which are manifested through the pain, affliction, sadness, distress, and anxiety of the victims.

Non-material harm: Includes both the suffering and affliction caused to the victims, the impairment of values that are very significant for the persons, as well as the alterations, of a non-monetary nature, to the living conditions of the victim or his or her family.³

State or Colombian State: In accordance with International Public Law, it shall be understood as the signatory party to the American Convention on Human Rights hereinafter “American Convention” or “ACHR.”

The Petitioner: Corporación Sisma Mujer.

Measures of satisfaction: Non-monetary measures intended to seek the recovery of the victims from the harm that has been caused them. Some examples of this type of measures are: public knowledge of the truth and acts of reparation.

Parties: The Colombian State, Claudia Baracaldo Bejarano, her family and representatives.

Acknowledgement of responsibility: Acceptance of the acts and omissions attributed to the State and that violate one or more of its obligations under international human rights law.

Comprehensive reparation: All those measures that objectively and symbolically restore the victim to the situation prior to the commission of the harmful acts.

Friendly Settlement: Alternative dispute resolution mechanism, used for peaceful and consensual- settlement before the Inter-American Commission on Human Rights.

Victim: Claudia Baracaldo Bejarano and family members.

³ I/A Court HR. Case of Caesar v. Trinidad and Tobago (Merits, Reparations and Costs). Judgment of March 11, Series C No. 123, para. 125.

PART TWO: BACKGROUND BEFORE THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

1. On June 21, 2013, the Inter-American Commission on Human Rights received a petition filed by Ms. Claudia Baracaldo on her own behalf and that of her family, in which she alleged the failure of the Colombian State to adopt measures to protect her physical integrity due to the threats and attacks she suffered from the now extinct by the FARC-EP guerrillas.
2. The initial petition states that since May 2006, Ms. Baracaldo had been working as a teacher of Spanish and English at a school in Puerto Santander, in the department of Amazonas. She indicates that on June 9, 2008, Ms. Baracaldo's son was playing soccer when, by accident, he hit the face of the wife of a commander of the FARC-EP guerrillas. She was also the daughter of a cacique. As a result, on June 22, 2008, men from that organization attempted to take her son, and upon her refusal, kidnapped and sexually abused her.
3. Ms. Claudia Baracaldo also indicates that in October 2008, a student from the school where she taught physically abused her and threatened to take revenge for what had happened to the wife of the commander and daughter of the cacique.
4. The petition states that, following the threats made by the student, Ms. Baracaldo recounts that she had to move, initially to Bogotá and subsequently to Leticia, department of Amazonas, where after several threats conveyed in pamphlets and calls, she was kidnapped, physically abused, and tortured in February 2010 by members of the FARC-EP, who abandoned her in a place in the jungle not far from Leticia.
5. Two investigations were conducted into the facts: (i) On the one hand, an investigation was registered with the case number 910016101509200900015, which was closed on August 28, 2012, and (ii) on the other hand, criminal report No. 10016000659201080039 was recorded, for the crimes of forced displacement and rape (*acceso carnal violento*). On February 21, 2019, the investigation with case number 91001610150920090001 was joined to investigation number 910016000659201080039 due to procedural connection.
6. By Report No. 102/20 of April 24, 2020, the Inter-American Commission on Human Rights found the petition admissible with respect to the alleged violation of the rights to humane treatment, personal liberty, judicial guarantees, movement and residence, judicial protection, and economic, social and cultural rights, enshrined in Articles 5, 7, 8, 22, 25, and 26 of the American Convention on Human Rights in conjunction with the obligations established at Article 1(1) of the same instrument, as well as Article 7 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).
7. On May 20, 2021, the Memorandum of Understanding to Pursue a Friendly Settlement was signed.
8. In the following months, joint meetings were held between the parties with the aim of analyzing the measures of reparation to include in the friendly settlement agreement that is being signed today.

PART THREE: BENEFICIARIES

The Colombian State recognizes the following persons as victims in this agreement:

Name	Identity document	Relationship
Claudia Baracaldo Bejarano	[...]	
John Freddy Buitrago Baracaldo	[...]	Son
Juan David Perdomo Baracaldo	[...]	Son
Fidel Baracaldo Bejarano ⁴	[...]	Brother
Daniel Tovar Baracaldo ⁵	[...]	Nephew

PART FOUR: ACKNOWLEDGMENT OF RESPONSIBILITY

The Colombian State acknowledges its international responsibility, by omission, for the violation of the rights recognized in Articles 5 (human treatment), 8 (fair trial), and 25 (judicial protection), in relation to Article 1(1) (obligation to ensure rights), of the American Convention on Human Rights, and Article 7(b) of the Convention of Belém do Pará, to the detriment of Ms. Claudia Baracaldo Bejarano.

Likewise, the Colombian State acknowledges its international responsibility, by omission, for the violation of the rights recognized in Articles 8 (fair trial) and 25 (judicial protection), in relation to Article 1(1) (obligation to ensure rights) of the American Convention on Human Rights to the detriment of the family members of Ms. Claudia Baracaldo Bejarano listed in the third part of this agreement.

The aforementioned, for failing to prevent the acts of sexual violence of which she was victim, considering the risk she was in as a teacher in the department of Amazonas, the previous acts of which she had been victim, and the complaints and requests for protection and relocation that Ms. Claudia Baracaldo had submitted to different institutions.

For failing to investigate with due diligence the acts of sexual violence to which she was subjected, and which were made known to the judicial and administrative authorities of the State on different occasions, thereby generating impunity in relation to the facts, anxiety, fear, uncertainty, and negative psychosocial impacts.

PART FIVE: MEASURES OF SATISFACTION

The Colombian State commits to the following measures of satisfaction:

I. Ceremony for the Acknowledgement of Responsibility:

The Colombian State shall hold a ceremony for the acknowledgement of responsibility with the participation of Ms. Claudia Baracaldo Bejarano, family members, and representatives. The ceremony shall be carried out in accordance with the acknowledgement of responsibility indicated in this Agreement.

This measure shall be entrusted to the National Agency for Legal Defense of the State.

II. Publication of the Article 49 Report:

The Colombian State shall publish the relevant sections of the friendly settlement agreement once it has been approved by the Inter-American Commission, on the website of the National Agency for Legal Defense of the State, for a period of six (6) months.

⁴ Mr. Fidel Baracaldo Bejarano is only a beneficiary of Law 288 of 1996.

⁵ Mr. Daniel Tovar Baracaldo is only a beneficiary of Law 288 of 1996.

III. Financial Aid for Education

The Colombian State, through the Ministry of National Education and the Colombian Institute for Educational Credit and Technical Studies Abroad (ICETEX: Instituto Colombiano de Crédito Educativo y Estudios Técnicos en el Exterior), shall provide financial aid to Ms. Claudia Baracaldo and to each of her children, John Freddy Buitrago Baracaldo and Juan David Perdomo Baracaldo, with the purpose of financing an academic program at the technical, professional, technological, university, or graduate level at an institution of higher learning in Colombia recognized by the Ministry of Education, in-person, distance, or virtual format.

The financial aid shall cover the cost of tuition for the semesters of an academic program at the technical, professional, technological, university, or graduate level for a sum, per semester, of up to eleven (11) times the legal minimum wages (SMMLV), covering the number of semesters stipulated in the curriculum registered in the National System of Information on Higher Education (SNIES). In addition, an allowance shall be transferred in the amount of two (2) times the legal minimum wages (SMMLV) per semester if the institution of higher learning is in the municipality of residence of the beneficiary or the beneficiaries, or four (4) times the legal minimum wages (SMMLV) if the institution of higher learning is outside the municipality of residence of the beneficiaries.

Within the framework of university autonomy, the Ministry of National Education will refrain from managing or requesting before any institution of higher learning, the admission or allocation of places in academic programs.

The beneficiaries must complete the relevant procedures to be admitted, ensuring their continued attendance at the institution of higher learning, ensuring an adequate academic performance. If the beneficiaries lose their status as students due to disciplinary or academic reasons, the measure shall be understood to have been complied with by the Colombian State.

The financial aid shall begin to be used within a term of no more than seven (7) years from the signing of this agreement. Otherwise the efforts of the State to comply with this clause shall be deemed fulfilled.

In order to access the financial aid, the beneficiaries must submit the following, through their representatives:

1. Receipt of payment of tuition of the academic program with the value of the semester.
2. Photocopy of the identity document.
3. Phone number
4. Address of residence
5. First and last names
6. Date of birth
7. Date of issuance of document
8. Stratum
9. Country of residence
10. Department of residence
11. City of residence
12. Cellphone number
13. Home phone
14. Address of residence
15. Email

The request for resources for the fulfillment of the measure shall be made by the National Agency for Legal Defense of the State, once the beneficiaries make the respective request.⁶

IV. Entrepreneurship fund (Fondo Emprender)

The SENA, from its Business Development Centers (CDE: Centros de Desarrollo Empresarial), will support Claudia Baracaldo Bejarano and family through its Capital Soporte (entrepreneurial counselor) with respect to the stages that are part of the Ruta Emprendedora for the formal creation of a company through the eventual allocation of seed capital from the Entrepreneurship fund, considering the external and internal rules that apply to the case, as well as the terms of reference of each call for proposals of Entrepreneurship.

That the Ruta Emprendedora SENA Entrepreneur Fund must be exhausted by Ms. Claudia Baracaldo Bejarano and family in its entirety. To this end, through the Capital Soporte, guidance and support will be provided along the Ruta, without prejudice to the obligations and responsibilities of Claudia Baracaldo Bejarano and family (potential entrepreneurs).

That the aforementioned support is understood to be through the technical advisory services of the entrepreneurship counselor assigned, who will apply the differential approach instituted in Article 13 of Law 1448 of 2011. That likewise, periodically forums will be held to show evidence of the progress of the process of interest to Ms. Claudia Baracaldo Bejarano and family.

In no case will the allocation of resources by SENA Fondo Emprender be guaranteed without compliance with the requirements established in Agreement 000010 of 2019 (Bylaws of Fondo Emprender), as well as compliance with the requirements set forth in the terms of reference of given call for proposals by Fondo Emprender that are of interest to and/or entail the participation of Claudia Baracaldo Bejarano and family.⁷

Ms. Claudia Baracaldo must choose the municipality where she will perform the process within the Ruta Emprendedora SENA Fondo Emprender, therefore, she must complete the application process in the municipality she has chosen.

In the event that Ms. Claudia Baracaldo Bejarano does not complete the Ruta Emprendedora in its entirety in the municipality chosen, this clause shall be deemed to have been met with compliance.

PART SIX: HEALTH AND REHABILITATION MEASURES

The Ministry of Health and Social Protection shall implement the measures of rehabilitation comprising medical, psychological, and psychosocial health care through the National Social Security Health System (SGSSS: Sistema General de Seguridad Social en Salud) and the Program of Psychosocial and Comprehensive Health Care for Victims (PAPSIVI: Programa de Atención Psicosocial y Salud Integral para las Víctimas).

To that end, through the liaisons provided for this purpose by the corresponding EPS, adequate, timely, and priority treatment will be guaranteed to those persons who require it, after expressing their interest, and for as long as necessary. When providing psychological treatment and psychosocial care, the particular circumstances and needs of each person must be considered, such that they are provided with family and individual treatment, as agreed with each one of them, and after an individual assessment.

⁶ Ministry of Education, email of November 4, 2022.

⁷ National Learning Service (SENA: Servicio Nacional de Aprendizaje), email of October 25, 2022.

To access comprehensive health care, the beneficiaries are guaranteed, timely and quality access, to the medicines and treatments required (including physical and mental health), in accordance with the provisions governing the SGSSS. They shall also have priority and differential care by virtue of their status as victims.

To this end, a comprehensive health management mechanism will be guaranteed through the different local operators of the PAPSIVI, the focal points of the victims in the regions, and the entities administering benefit plans and the Ministry of Health and Social Protection, as the case may be.

In the case of psychosocial rehabilitation in the PAPSIVI, the measure will be provided within the framework of the planning and implementation of the psychosocial component of the Program or the available institutional offer, in accordance with the guidelines developed for this purpose by the Ministry of Health and Social Protection; in any event, the continuity of care will be assured taking into account the individual will of each victim protected by this agreement.

Psychosocial care will be provided within the framework of the modalities provided for in the guidelines of the PAPSIVI. In the case of family care, it will be guaranteed that Ms. Baracaldo and the other beneficiaries of the measure will have the autonomy to identify the members of the family nucleus whose relationship is essential for their emotional rehabilitation.

This measure of reparation will be implemented in the terms indicated for persons who are in the national territory, from the signing of this agreement.⁸

PART SEVEN: GUARANTEES OF NON-REPETITION

I. Visit of the Office of the General Prosecutor of the Nation to the Departmental office for Amazonas

The Office of the General Prosecutor of the Nation, through the Office of the Gender Group, will conduct one (1) visit to the Departmental Office for Amazonas, where it will carry out the following activities: drive and advance in the investigation of cases; a service fair aimed at the community where information on the meaning of gender-based violence, the different ways it may occur, what are the available support channels of care in the event that one is a victim or knows of a case, and which agencies to turn to in order to guarantee and protect the rights of those who are victims, is discussed; an interinstitutional meeting with the participation of different governmental entities such as the Office of the Mayor, Office of the Local Ombudsperson (Personería), Family Commissariat, Secretariat for Health, Colombian Institute of Family Welfare, and the National Police, addressing good practices of the different pathways of care concerning each role and the barriers observed in the territory for access to justice and the services for care of victims. The forementioned with the purpose of strengthening the expertise of prosecutors and inter-institutional cooperation.

Prior to the visit, the representatives will be informed of the date and will receive a detailed explanation of the activities to be carried out.

After the visit, a detailed report of the visit will be submitted explaining the findings on sexual violence reported at that agency.

⁸ Ministry of Health and Social Protection, June 5, 2023.

II. Dissemination of Resolution 01774 of 2016

The National Agency for Legal Defense of the State will produce an audiovisual piece to explain Resolution 01774 of 2016 of the Office of the General Prosecutor of the Nation, “Whereby the Protocol for Investigation of Sexual Violence is adopted and measures are established for its implementation and evaluation.”

This piece will be sent by email to the departmental offices for Amazonas of the following institutions: Office of the General Prosecutor of the Nation, the Office of the Mayor, Office of the Local Ombudsperson, Family Police Stations, Secretariat of Health, Colombian Institute for Family Welfare, and the National Police.

In addition, it shall be sent by email to the organizations of women, teachers, and human rights defenders as agreed with the representatives of the victims.

III. Dissemination of an assistance route for public-sector teachers who have been victims of threats

The National Agency for Legal Defense of the State will produce an audiovisual presentation explaining Decree 1075 2015 (subsection 2 – Transfer due to being threatened) and Ministerial Directive 02 of 2019.

The audiovisual presentation shall be sent by email to the official institutions of the department of Amazonas so as to be shared with the teachers. The educational institutions will preserve their autonomy as to whether they wish to disseminate the audiovisual material sent.

In addition, it will be sent by email to the organizations of women, teachers, and human rights defenders to be agreed upon with the representatives of the victims.

IV. Publication of a book

The Colombian State agrees to publish, layout, and print one thousand (1,000) copies of the book that Ms. Claudia Baracaldo Bejarano will write, telling her story, and to hold an event to launch the book.

The book will state that the author of the text is Ms. Claudia Baracaldo Bejarano. In addition, the Colombian State will include a clause exempting it from responsibility. It will be noted for the record that all the statements made in the book are the sole responsibility of Ms. Claudia Baracaldo Bejarano.

The editing, layout, printing, publication, and delivery of the copies will be coordinated with the victim and her representatives.

The Ministry of Interior will be responsible for coordinating the implementation of this measure.⁹

The National Agency for Legal Defense of the State will request the resources from the Ministry of Finance and Public Credit.

⁹ Ministry of the Interior, Official note No. R3DkODE-39 of August 2023.

PART EIGHT: MEASURES OF COMPENSATION

The State shall proceed with the application of Law 288 of 1996 for the purpose of compensating the non-material and material harm that may be proven in favor of the victims recognized in clause three of this friendly settlement agreement. For these purposes, the criteria and amounts recognized by the current national case-law shall be applied.

In the event that any victim has been compensated through the administrative courts and/or has been a beneficiary of administrative reparations, the amounts that have been recognized therein shall be discounted from the financial compensation granted in accordance with the procedure provided herein in order to avoid double or excessive compensation.

Likewise, for the purpose of the compensation of damages, the evidence used shall be in accordance with the relevant procedural norms of Colombia.

PART NINE: APPROVAL AND FOLLOW-UP

The parties ask the Inter-American Commission the approval of this agreement and its follow-up.

Having been read, and the parties being aware of its scope and legal content, this it is signed on October 11, 2023.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

11. The IACHR reiterates that in accordance with Articles 48(1)(f) and 49 of the American Convention, the purpose of this procedure is to “reach a friendly settlement of the matter based on respect for the human rights recognized in the Convention.” The acceptance to pursue this process expresses the good faith of the State to comply with the purposes and objectives of the Convention pursuant to the principle of *pacta sunt servanda*, by which States must comply with the obligations assumed in the treaties in good faith.¹⁰ It also wishes to reiterate that the friendly settlement procedure set forth in the Convention allows for conclusion of individual cases in a non-contentious manner, and has proven, in cases involving a variety of countries, to provide an important vehicle for resolution that can be used by both parties.

12. The Inter-American Commission has closely followed the progress of the friendly settlement reached in this case and values the efforts made by both parties during the negotiation of the agreement to reach a friendly settlement that is compatible with the object and purpose of the Convention.

13. In accordance with clause nine of the agreement signed by the parties, whereby they requested the Commission to approve the friendly settlement agreement pursuant to Article 49 of the American Convention, and taking into account the joint request by the parties of April 25, 2024, to move forward in this regard, it is appropriate at this time to assess compliance with the commitments set forth therein.

14. The Inter-American Commission considers that clauses one (Definitions), two (Background before the Inter-American Human Rights System), three (Beneficiaries), and four (Acknowledgement of responsibility) of the agreement are of a declarative nature. Therefore, there is no need to supervise compliance with these terms. In this respect, the Commission values clause four, in which the Colombian State recognizes its international responsibility by omission, for the violation of the rights recognized in Articles 5 (humane treatment), 8 (fair trial), and 25 (judicial protection) of the American Convention on Human Rights, in connection to Article 1(1) of the same instrument (obligation to ensure rights), and Article 7(b) of the

¹⁰ Vienna Convention on the Law of Treaties, U.N. Doc A/CONF.39/27 (1969), Article 26: “**Pacta sunt servanda**” Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Convention of Belém do Pará, to the detriment of Ms. Claudia Baracaldo Bejarano. In addition, it values the recognition by the Colombian State of its international responsibility by omission for violation of the rights recognized in Articles 8 (fair trial) and 25 (judicial protection) of the American Convention on Human Rights, in connection to Article 1(1) of the same instrument (obligation to ensure the rights), to the detriment of the family of Ms. Claudia Baracaldo Bejarano.

15. With respect to section I of clause five, concerning the holding of a ceremony for the acknowledgement of responsibility, as jointly informed by the parties, the ceremony was held on December 4, 2023, at 2:00 p.m., at the offices of the National Agency for Legal Defense of the State. The parties reported that, during the ceremony, a video was shown with photographs of Ms. Claudia Baracaldo Bejarano, along with the song “*Soy Selva*,” which was performed by the artist Urka in her honor. In addition, by request of the representatives, and as an affirmative measure, the State purchased from Ms. Claudia Baracaldo memorial items, which were some terrariums from her entrepreneurship “La Chagra Terrarios.” These were distributed at the end of the ceremony for the acknowledgement of responsibility, and the photographic record of that ceremony was submitted.

16. The parties reported the existence of constant communication between the State and the petitioners, with whom they coordinated each of the details for the implementation of the measure, such as the place, date, and time, as well as the program and logistics required. In this regard, the State provided a copy of the invitation extended to the representatives and family members for the ceremony as well as the media content circulated on the social networks of the State institutions and of the representative of the petitioners, with images of the ceremony for the acknowledgment of responsibility.

17. Similarly, an account was given of the contents of the agenda agreed upon for the ceremony; which included an opening session, the national anthem of Colombia, the screening of a commemorative video, and remarks by Ms. Claudia Baracaldo Bejarano, and her representative Ms. Linda Cabrera, Director of Sisma Mujer. The agenda included remarks by Father Francisco de Roux, followed by the words of Mr. Sergio Orlando Ramírez Lozano, of the Colombian Biblical Society. Finally, there was a musical presentation by Paula Pera.

18. The Director General of the National Agency for Legal Defense of the State, on behalf of the Colombian State, apologized to the victim and her family members for what happened, and recognized the international responsibility of the Colombian State in the terms set forth in the Friendly Settlement Agreement signed by the parties, stating as follows:

[...]

Professor Claudia Baracaldo, we at the National Agency for Legal Defense of the State are most honored to have you and your family and representatives, and to hold this event for the acknowledgment of responsibility in our offices. You are always welcome here.

Today I don’t want to focus on the facts that constituted the violation of your human rights, as I understand that the preparation of this ceremony and being here have implied for you stirring up profoundly painful memories. Instead, I wish to highlight your courage for breaking the silence, for denouncing what happened and reaching this office so that your voice can be heard, and for fostering actions so that women will never again be victims of any type of violence. [...].

Practices that constitute gender-based violence are often an expression of the historically unequal power relations between men and women, and this hierarchization facilitates the scenarios of various types of violence, its concealment and normalization.

As a structural problem of our societies, this issue unfortunately on some occasions is reproduced in State institutions, including the administration of justice, by not providing attention with a gender perspective or taking immediate and effective measures to stop the

acts of violence by third persons and protect the life and integrity of women who are reporting violence or threats against them.

Despite the fear produced by an initial attack and an initial threat, which might paralyze many of us, you, *profesora* Claudia, used the tools at your disposal to make the situation known to the institutions and to ask the State to take measures that would guarantee your protection.

Bravely, and despite the risk you were taking, you broke the silence time and again, but unfortunately you did not find a State receptive to your complaint. You turned to all those institutions whose mission is to protect our rights and investigate the violence used against us, exhausting all these remedies available to you, without preventing the acts of violence of which you were ultimately a victim in 2010.

I stand in solidarity not only with the pain and all the repercussions caused by the violence perpetrated against you, but also with the feelings of loneliness, fear, and frustration at not finding the care and protection that you should have received. [...]

It is in view of the foregoing that, in my capacity as Director General of the National Agency for Legal Defense of the State of Colombia, I recognize the international responsibility of the State, by omission, for violation of the rights to humane treatment, fair trial, and judicial protection established in Articles 5, 8, and 25 of the American Convention, in connection to the obligation to respect rights of Article 1(1) of the same instrument, as well as the violation of Article 7(b) of the Convention of Belém do Pará, to the detriment of Ms. Claudia Baracaldo Bejarano.

I also recognize the international responsibility of the State, by omission, for the violation of the rights to fair trial and judicial protection, recognized in Articles 8 and 25 of the American Convention on Human Rights, in connection to Article 1(1) (obligation to respect rights) of the same instrument, to the detriment of the family members recognized in clause three of the friendly settlement agreement.

[...].

19. The ceremony for the acknowledgment of responsibility was uploaded to the YouTube channel of the National Agency for Legal Defense of the State¹¹ and on *Facebook*.¹² Consequently and bearing in mind the information described above, the Commission considers, and hereby declares, that section I of clause five of the friendly settlement agreement, related to the ceremony for the acknowledgment of responsibility, has been met with full compliance.

20. With regards to sections II (publication of the Article 49 report), III (financial aid for education), and IV (Entrepreneurship Fund (Fondo Emprender)) of clause five (measures of satisfaction), as well as clauses six (health and rehabilitation measures), seven (guarantees of non-repetition), and eight (measures of compensation) of the friendly settlement agreement, in light of the joint request of the parties to proceed with the approval of the agreement prior to their compliance, the Commission observes that said measures must be complied with after the publication of this report. Therefore, it considers, and hereby declares, that their compliance is still pending. In light of the above, the Commission awaits updated information from the parties on their execution subsequent to the approval of this report.

21. Based on the foregoing, the Commission concludes, and hereby declares, that section I (ceremony for the acknowledgment of responsibility) of clause five has been met with full compliance. On the other hand, the Commission considers, and hereby declares, that compliance is still pending with sections II

¹¹ See ANDJE, YouTube, , Ceremony of Acknowledgement- Case 13.974 Claudia Baracaldo Bejarano and family: [Case 13.974 Claudia Baracaldo Bejarano and family \(youtube.com\)](#).

¹² See Facebook, , Ceremony of Acknowledgement- Case 13.974- Claudia Baracaldo Bejarano and family: [Case 13.974- Claudia Baracaldo Bejarano and family](#).

(publication of the Article 49 report), III (financial aid for education), and IV (Entrepreneurship Fund (Fondo Emprender)) of clause five (measures of satisfaction), as well as clauses six (health and rehabilitation measures), seven (guarantees of non-repetition), and eight (measures of compensation) of the friendly settlement agreement. Accordingly, the Commission considers, and hereby declares, that the friendly settlement agreement has been partially implemented. Finally, the Commission reiterates that the rest of the content of the agreement is declaratory, hence the IACHR does not need to supervise their implementation.

V. CONCLUSIONS

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

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

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To approve the terms of the agreement signed by the parties on October 11, 2023.
2. To declare full compliance with section I of clause five (ceremony for the acknowledgment of responsibility) of the friendly settlement agreement, as per the analysis set forth in this report.
3. To declare that compliance with sections II (publication of the Article 49 report), III (financial aid for education), and IV (Entrepreneurship fund (Fondo Emprender)) of clause five (measures of satisfaction), as well as clauses six (health and rehabilitation measures), seven (guarantees of non-repetition), and eight (measures of compensation) of the friendly settlement agreement, is still pending as per the analysis set forth in this report.
4. To find that the friendly settlement agreement has met with partial compliance, as per the analysis in this report.
5. To continue to monitor the commitments undertaken in sections II (publication of the Article 49 report), III (financial aid for education), and IV (Entrepreneurship fund (Fondo Emprender)) of clause five (measures of satisfaction), as well as clauses six (health and rehabilitation measures), seven (guarantees of non-repetition), and eight (measures of compensation) of the friendly settlement agreement, until it has been fully implemented, as per the analysis set forth in this report. To that end, to remind the parties of their commitment to report periodically to the IACHR on its implementation.
6. To publish this report and include it in its Annual Report to the General Assembly of the OAS.

Approved by the Inter-American Commission on Human Rights on the 24th day of the month of October, 2024. (Signed:) Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice President; Edgar Stuardo Ralón Orellana, Arif Bulkan, Andrea Pochak, and Gloria Monique de Mees, Commissioners.