

TECHNICAL INFORMATION SHEET NO. 37/09
CASE 12.190 JOSE LUIS TAPIA AND OTHER MEMBERS OF THE CARABINEROS
FRIENDLY SETTLEMENT REPORT No. 37/19
TOTAL COMPLIANCE
(CHILE)

I. SUMMARY OF THE CASE

Victim(s): José Luis Tapia Gonzáles, José Alejandro Villagrán Guzmán, Luis Eduardo Hernández Mieville, Nelson Enrique Garrido Reyes, Manuel Augusto Zamora Irarrazabal, David Matías Álvarez Álvarez, Víctor Alejandro Lago Maldonado, Giny Escobar Lara, Rosa Paz Valdés, Sonia Valencia Torres, Claudia Bustamante Torres, Sandra Duran Villegas, Olga del Carmen Becerra Pérez, and Ana Maria Aguilera Saldivia

Petitioner(s): Luis Antonio Acevedo Villavicencio and Leopoldo Sánchez Grunert

State: Chile

Start of negotiations: Not applicable

Date FSA Signed: March 8, 2018

Report on Admissibility No. 21/04 published on February 24, 2004

Report on Friendly Settlement Agreement No. 37/19, published on April 16, 2019

Estimated duration of the negotiation phase: 1 year

Associated rapporteurship(s): Office of the Special Rapporteur on Economic, Social, Cultural, and Environmental Rights

Topics: Fair and satisfactory working conditions/ Economic, social, cultural and environmental rights

Facts: In the wake of the distribution of an additional economic benefit considered unequal, on April 27, 1998, the date on which the day of the Carabinero is celebrated in Chile, the wives of several members of the Carabineros who were negatively impacted by that distribution staged a protest. None of the husbands of the victims was present at that demonstration. In spite of that, after the protest the General Director of Carabineros said in various statements that the victims would be charged with sedition (*sedición impropia*) as spouses of the women involved in the protest. The petitioners argued that the intention of this was to discharge those officials for the aforementioned alleged offenses committed by their spouses, with the result that they were placed in List 4 for elimination and subsequently dismissed, despite the fact that they had been rated for inclusion in List 1 for merit a short time previously.

Rights declared admissible: The Commission concluded that it had competence to hear the case and declared that the petition was admissible in respect of the alleged violations of the rights to a fair trial and judicial protection protected by Articles 8 and 25 of the American Convention on Human Rights (hereinafter “the Convention” or “American Convention”), as well as the obligations set out at Articles 1(1) and 2 of that instrument.

II. PROCEDURAL ACTIVITY

1. The IACHR published the approval report on April 16, 2019, in which it recorded that the FSA had been complied with in full.

III. ANALYSIS OF COMPLIANCE WITH THE CLAUSES OF THE FRIENDLY SETTLEMENT AGREEMENT

Agreement clause	Status of compliance
<p>I. RECOGNITION OF THE FACTS By means of this friendly settlement agreement, the State recognizes the facts set forth in the petition submitted to the Commission.</p>	<p>Declarative clause</p>
<p>II. ECONOMIC REPARATION The State undertakes to pay the petitioners, as reparation for any possible damage caused, be it material or non-material, an amount equivalent, in pesos, to US\$ 17,000 for each of the former Carabineros who are the petitioners, namely: José Luis Tapia Gonzáles, José Alejandro Villagrán Guzmán, Luis Eduardo Hernández Mieville, Nelson Enrique Garrido Reyes, Manuel Augusto Zamora Irrarázabal, David Matías Álvarez Álvarez, and Víctor Alejandro Lago Maldonado. The payment of the above-indicated amounts shall be made in the equivalent in Chilean pesos at the moment of the payment. The payment shall be made by personal check to the order of Mr. Fabián Pacheco Ilabaca, attorney representing the former Carabineros who are the petitioners, within three months of the date of the signing of this agreement. That document shall be delivered to him by Carabineros de Chile, after showing a national ID card and power of attorney for receiving the payment; and he will be obligated to subsequently make electronic transfers or deposits to the bank accounts of each of them. Mr. Fabián Pacheco Ilabaca should deliver to Carabineros de Chile the vouchers for the electronic bank transfers or deposits he makes, along with a document certifying its receipt by the petitioners, stating their agreement.</p>	<p>Total¹</p>
<p>III. MONITORING COMMISSION For the purposes of monitoring the performance of the commitments assumed in this agreement, the parties agree to constitute a “Monitoring Commission” coordinated by the Human Rights Bureau of the Ministry of Foreign Affairs and the Office of the Undersecretary for Human Rights of the Ministry of Justice and Human Rights, through their respective representatives. This Commission will also be made up of a representative of Carabineros de Chile and the attorney representing the victims. The methodology and frequency of the meetings of this Commission shall be determined by consensus by its members. The Commission shall deliver a progress report on the obligations assumed in</p>	<p>Total²</p>

¹ IACHR, Report No. 37/19, Case 12.190, Friendly Settlement, José Luis Tapia et al., Chile, April 16, 2019, Available at: <http://www.oas.org/en/iachr/decisions/2019/CHSA12190EN.pdf>.

² IACHR, Report No. 37/19, Case 12.190, Friendly Settlement, José Luis Tapia et al., Chile, April 16, 2019, Available at: <http://www.oas.org/en/iachr/decisions/2019/CHSA12190EN.pdf>.

this report to the Executive Secretariat of the IACHR when it considers it appropriate or when asked to do so by said inter-American organ.	
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IV. LEVEL OF COMPLIANCE OF THE CASE

2. In its approval report on the friendly settlement agreement, the IACHR considered that Clauses II (Economic Reparation) and III (Monitoring Commission) of the friendly settlement agreement had been complied with in full.

3. Based on the foregoing, the IACHR declared that the friendly settlement agreement had been complied with in full and, therefore, it decided to cease its supervision of compliance with this friendly settlement agreement.

IV. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes in the case

- The State recognized its international responsibility in the case for the violations committed.
- The State paid the petitioners, as reparation for any possible damage caused, whether material or non-material, an amount equivalent in pesos to US\$ 17,000 each.