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REPORT ON FRIENDLY SETTLEMENT

JUANA BELFER
ARGENTINA

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JUANA BELFER
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I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS

1. On January 5, 2011, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition filed by Elena C. Moreno and Myriam Carsen (hereinafter "the petitioners" or "the petitioning party") on behalf of Juana Belfer (hereinafter "alleged victim"), alleging the international responsibility of the Republic of Argentina (hereinafter "State" or "Argentine State" or "Argentina"), for the violation of the human rights set forth in Articles 8 (judicial guarantees), 24 (equality before the law) and 25 (judicial protection) read in conjunction with Article 1 (obligation to respect rights) of the American Convention on Human Rights, (hereinafter "Convention" or "American Convention"), to the detriment of the alleged victim for the lack of reparation for the damages caused to her and her family for the persecution she claimed to have suffered during the 1970s; and her consequent forced exile, as well as the denial of justice for violation of judicial guarantees, judicial protection, and equality and non-discrimination in connection with the civil proceedings based on Law No. 24.043.

2. On November 4, 2021, the Commission issued Admissibility Report No. 300/21, in which it declared the petition admissible and declared its authority to hear the claim presented by the petitioners regarding the alleged violation of the rights contained in Articles 8 (judicial guarantees), 24 (equality before the law), and 25 (judicial protection) of the American Convention read in conjunction with Articles 1.1 (obligation to respect) and 2 (duty to adopt provisions of domestic law) of the same instrument, to the detriment of Juana Belfer.

3. On February 13, 2023, the parties signed a friendly settlement agreement (hereinafter "FSA"), whereupon the parties were formally notified of the beginning of a friendly settlement process before the Commission on July 26, 2023. On October 10, 2023, the State stated the issuance of Executive Decree No. 514/2023 of October 5, 2023, approving the agreement. It also asked the Commission to grant its approval as established in the FSA. For their part, on September 20, 2024, the petitioners asked the Commission to grant its approval.

4. This friendly settlement report, in accordance with 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 petitioning party and a transcription of the friendly settlement agreement signed on February 13, 2023, by the petitioning party and representatives of the Argentine State. Also, the Commission hereby approves the agreement signed by the parties and decides to publish this report in its Annual Report to the General Assembly of the Organization of American States.

II. THE FACTS ALLEGED

5. The petitioners alleged the lack of reparation to Mrs. Juana Belfer for the damages caused to her and her family by the persecution she claims to have suffered during the 1970s; and her consequent forced exile, as well as the denial of justice for violation of judicial guarantees, judicial protection, and equality, and non-discrimination in the framework of the civil proceedings based on Law No. 24.043.

6. The petitioning party argued that Mrs. Juana Belfer and Mr. Mario Geller were victims of political persecution during the last civil-military dictatorship that ruled Argentina between 1976 and 1983. According to the petitioners, in summary: i) Mrs. Juana Belfer was married to Mr. Mario Geller, a leader of the

¹In accordance with Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Andrea Pochak, an Argentinian national, did not participate in the discussion or decision on this case.

"Liberation Party," who was arrested in the early 1960s under the so-called "Conintes Plan"; ii) on November 19, 1971, Mr. Geller was arrested again in the city of Rosario, Province of Santa Fe; iii) Mrs. Belfer's home was searched by members of the security forces, who allegedly ransacked and sealed down her home; iv) after Mr. Geller regained his freedom, the Geller Belfer family settled with their children in the city of Buenos Aires; v) in 1978, the military government destroyed the headquarters of the National Directorate of the Liberation Party and its regional sections in the city of La Plata and the Federal Capital, and Mr. Geller was one of the few survivors of that event; vi) other proceedings carried out in the city of Buenos Aires against the aforementioned political grouping targeted Mr. Geller and also Mrs. Belfer; vii) in order to safeguard her integrity and that of her children, Mrs. Belfer, being Jewish, requested protection from the State of Israel, whose authorities granted her a *laissez passer* on October 12, 1978, to subsequently emigrate to Mexico, where the United Nations High Commissioner for Refugees (UNHCR) granted her refugee status.

7. In view of the above, Mrs. Belfer filed an application for the benefit under Law No. 24.043, which was processed under File No. 146.532/04 of the registry of the Ministry of Justice and Human Rights of Argentina, on the grounds that the events experienced or imposed by the dictatorship, especially the exile should be redressed. According to the petitioning party, the Human Rights Secretariat of the Ministry - the authority responsible for applying Law No. 24.043 - referred to case law as a basis for maintaining that the interpretation of the aforementioned Law should be broad, avoiding over-rigorous approaches that could lead to unjust outcomes. The Attorney General of the Treasury, on the other hand, issued Opinion 146/06, which is binding for State attorneys, stating that exiles not preceded by a detention should not be compensated. The petitioning party argued that the jurisprudence and practice of the Ministry was to include exile in the protection afforded by Law No. 24.043, and that in numerous cases reparatory compensation had been paid under these circumstances.

8. However, the application was rejected. According to information also provided by the State, the Secretariat of Human Rights concluded that Mrs. Belfer's situation was not "substantially analogous to or identical" with the precedents of the Supreme Court of Justice of the Nation where the viability of compensation for exile had been recognized within the framework of the law, and therefore proposed that the request be rejected. By Resolution No. 1839 of July 11, 2008, the Minister of Justice and Human Rights denied Mrs. Belfer's request, stating that her situation did not fall within any of those contemplated by Law No. 24.043 and that her departure from the country had not been a result of her exercising the option provided for in Article 23 of the National Constitution.

9. According to information provided by the petitioning party and the State, Mrs. Belfer disagreed with that decision and therefore filed an appeal before the National Court of Appeals for Federal Administrative Matters. By resolution of March 27, 2009, Chamber V of the Court rejected the appeal filed. Under its considerations, it stated that, although Mrs. Belfer had accredited her refugee status, this was not sufficient to grant the benefit provided for in Law No. 24.043, in light of a modification of the jurisprudence of the Supreme Court of Justice of the Nation, which had previously recognized the benefit based on the certificate issued by UNHCR. Mrs. Belfer filed a Federal Extraordinary Appeal. However, the Supreme Court of Justice of the Nation considered that the appeal did not comply with the formal requirements for its filing, declaring that the appeal should not have been admitted.

10. The petitioning party indicated that this last-mentioned decision was also contrary to reiterated pronouncements of the Supreme Court. They also pointed out that said decision was notified on July 13, 2010. In addition, they indicated that, like other complaints filed before the IACHR, the present petition addresses the rights of persons who went into exile to escape the State terrorism in force in Argentina between 1976 and 1983 (Petition Nos. 1320-11, 1425-11, 610-11, 1516-10, 1780-10, 1397-10, 1396- 10, 1547-10, 1781-10, and 107-11).

III. FRIENDLY SETTLEMENT

11. On February 13, 2023, the parties signed a friendly settlement agreement in the Autonomous City of Buenos Aires, the text of which establishes the following:

FRIENDLY SETTLEMENT AGREEMENT

The parties in Case No. 14.768 of the registry of the Inter-American Commission on Human Rights (hereinafter "IACHR" or the "Inter-American Commission"): Elena Carmen Moreno, in her capacity as legal representative of the petitioner Juana Belfer, and the Argentine Republic, as a State party to the American Convention on Human Rights (hereinafter the "American Convention"), acting under the express mandate of Article 99.11, represented by the Undersecretary for International Human Rights Protection and Liaison and the National Director for International Legal Affairs in Human Rights Matters of the National Human Rights Secretariat, Dr. Andrea Pochak and Dr. Gabriela Kletzel, respectively; and the Director of International Human Rights Litigation of the Ministry of Foreign Affairs, International Trade, and Religion of the Nation, Dr. A. Javier Salgado, have the honor to inform the IACHR that they have reached a friendly settlement agreement in the case, the contents of which are set forth below.

I. Background

In January 2011, Juana Belfer filed a petition with the Inter-American Commission for violation of Articles 8 (judicial guarantees), 24 (equality before the law), and 25 (judicial protection) of the American Convention in conjunction with Article 1(1) of the same instrument.

In her complaint, Mrs. Belfer stressed that because of the political activism of her spouse, Mario Geller, her family had suffered of persecution and threats during the last civil-military dictatorship. She said that Mr. Geller was a leader of the "Liberation Party", and that in 1978, the repressive forces destroyed the political organization to which he belonged. For this reason, and in order to safeguard their lives, the family was forced into exile, first in Israel and then in Mexico.

Because of the above, Mrs. Belfer filed a request for the granting of the benefit governed by Law No. 24,043 before the Ministry of Justice and Human Rights, which was rejected. Her claim was also rejected in court.

The IACHR forwarded the petition to the Argentine State on June 15, 2017.

On November 4, 2021, the Commission adopted Admissibility Report No. 300/21. On that occasion, the Commission declared the complaint admissible with respect to Articles 8, 24, and 25 of the American Convention in conjunction with Article 1.1 and 2 of that same instrument.

In that context, and taking into account that on August 6, 2020, the Minister of Justice and Human Rights of the Nation instructed the areas involved in the processing of applications for the benefit provided for in Law No. 24.043 to apply the new doctrine set forth by the National Treasury Prosecutor's Office in Opinion No. IF-2020-36200344-APN-PTN, the National Directorate of International Legal Affairs in Human Rights Matters of the National Secretariat of Human Rights consulted the Directorate of Management of Reparation Policies whether the criteria currently in force would allow the recognition of the petitioner's claim that she had been exiled.

Following its affirmative response, a dialogue was initiated with the petitioning party's request which resulted (sic) in the request for reparation being limited to the expeditious granting of the duly requested benefit, excluding any other claim for reparation of an economic nature, or reparation of any other kind.

The State considers that Mrs. Juana Belfer was a victim of political persecution by the civil-military dictatorship that wreaked havoc in the Argentine Republic between March 24, 1976 and December 10, 1983. In view of this, in line with opinion IF-2023-00333405-APN-DNAJIMDDHH#MJ of the National Secretariat of Human Rights and in compliance with its international human rights obligations, the Argentine State understands that the petitioner is entitled to adequate compensation for the violations she suffered.

II. Measures to be adopted

1. The parties agree that pecuniary compensation will be granted in accordance with the framework provided by Law No. 24.043, to which end the entire period during which Mrs. Juana Belfer remained in forced exile will be considered, in keeping with opinion IF-2023- 00333405-APN-DNAJIMDDHH#MJ. That is, from October 19, 1978 to August 28, 1981.
2. The Argentine State hereby undertakes to issue, within three (3) months as of the publication in the Official Gazette of the Argentine Republic of the Decree of the National Executive Branch approving this agreement, the ministerial resolution granting the monetary benefit established in Law No. 24.043, without additional costs or expenses. The amount of the reparation shall be estimated as of the date of issuance of the aforementioned ministerial resolution.
3. Once the petitioning party submits to the National Administration of Social Security (ANSES) a true copy of the alleged victim's national identity document and the correctly completed form (PS.6.298) requesting the benefit provided for in Law No. 26.913, and signs the affidavit attached as an annex, the Argentine State undertakes to issue the corresponding resolution within three (3) months.
4. The State also undertakes to comply with the term set forth in Article 30 of the rules of Chapter V of Law No. 25.344, as set forth in the Executive Decree No. 1116/2000.
5. Upon payment of the reparation provided for in section II.2 of this agreement, the petitioning party permanently and irrevocably waives the right to bring any other claim against the State for monetary compensation in connection to the facts that gave rise to the instant case.

III. Signature *ad referendum*

The parties hereby state that this agreement shall be approved by a Decree of the National Executive Branch.

The Government of the Argentine Republic and the petitioners welcome the signing of this agreement, express their full conformity with its content and scope, mutually appreciate the good will shown, and agree that once the executive decree is published in the Official Gazette of the Argentine Republic, the Inter-American Commission on Human Rights will be requested, through the Ministry of Foreign Affairs, International Trade, and Religion, to adopt the report referred to in Article 49 of the American Convention on Human Rights, at which time the agreement will acquire full legal force.

Three identical copies are signed in the Autonomous City of Buenos Aires, on the 13th day of February 2023.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

12. 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.² It also wishes to highlight 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.

13. The Inter-American Commission has closely monitored the progress of the friendly settlement reached in the instant case and appreciates the efforts made by both parties during negotiations to reach this friendly settlement, which is compatible with the object and purpose of the Convention.

² Vienna Convention on the Law of Treaties, United Nations 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.

14. As established in Clause III of the agreement, and in view of the State's confirmation on October 10, 2023, regarding the issuance of Decree No. 514/2023 of the National Executive Branch approving the FSA, as well as the request of the petitioning party of September 20, 2024, to move forward with its adoption, it is appropriate at this time to assess compliance with the commitments established in this instrument.

15. With respect to Clause II.2, regarding the issuance of the ministerial resolution granting the compensation benefit established by Law No. 24.043, the Commission notes that on November 29, 2023, the State reported that on November 27, 2023, the Minister of Justice and Human Rights of the Nation issued Resolution RESOL-2023-1430-APN-MJ, whereby it granted Juana Belfer the benefit established by Law No. 24.043 establishing the number of days eligible for compensation and the corresponding compensation amount. This information was brought to the attention of the petitioning party. In light of the above, the Commission considers, and hereby declares, that clause II. 2 on the issuance of the Ministerial resolution to provide reparation in favor of Mrs. Belfer, has been met with full compliance.

16. Likewise, regarding Clauses II.1 (payment of monetary compensation), II.3 (issuance of the resolution pursuant to Law No. 26.913), and II.4 (term) of the friendly settlement agreement, the Commission considers, and so declares, that compliance with them is still pending. Therefore, the Commission considers, and hereby declares, that compliance with the friendly settlement agreement is still partial. In this regard, the Commission will continue to monitor the implementation of the FSA until full compliance with its terms has been achieved.

17. Finally, the Commission considers that the rest of the content of the agreement is of a declarative nature and therefore does not require its supervision.

V. CONCLUSIONS

18. 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.

19. 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 February 13, 2023.
2. To declare that, Clause II. 2 (issuance of ministerial resolution under Law 24.043) of the friendly settlement agreement, has been met with full compliance, according to the analysis contained in this report.
3. To declare that compliance is still pending in respect to Clauses II.1 (payment of monetary compensation), II. 3 (issuance of the resolution under Law No. 26.913), and II.4 (term) of the friendly settlement agreement according to the analysis contained in this report.
4. To declare that the friendly settlement agreement has met a level of partial compliance, according to the analysis contained in this report.
5. To continue monitoring compliance with Clauses II.1 (payment of monetary compensation), II. 3 (issuance of the resolution under Law No. 26.913), and II.4 (term) of the friendly settlement agreement, in

accordance with the analysis contained in this report. To that end, to remind the parties of their commitment to keep the IACHR regularly informed regarding compliance.

6. To publish the present 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 26th day of the month of June 2025. (Signed): José Luis Caballero Ochoa, President; Arif Bulkan, Second Vice President, Edgar Stuardo Ralón Orellana, Gloria Monique de Mees, Carlos Bernal Pulido and Roberta Clarke, Commissioners.