

TECHNICAL INFORMATION SHEET
CASE 13.758 FRANKLIN BUSTAMANTE RESTREPO AND FAMILY
FRIENDLY SETTLEMENT REPORT No. 337/21
TOTAL COMPLIANCE
(COLOMBIA)

I. SUMMARY OF THE CASE

Victim(s): Franklin Bustamante Restrepo and family
Petitioner(s): Oscar Darío Villegas Posada
State Colombia
Beginning of the negotiation date: November 30, 2020
Report on Admissibility No: 36/19, published on April 13, 2019
FSA signature date: September 13, 2021
Friendly Settlement Agreement Report No: 337/21, published on November 22, 2021
Estimated length of the negotiation phase: One year
Rapporteurship: Rights of the Child
Topics: Right to life / Rights of the child / Extrajudicial execution / Personal integrity / Protection of the family / Judicial protections

Facts: The petitioner claimed that, on July 28, 1989, two agents of the DAS [*Administrative Department of Security- Departamento Administrativo de Seguridad in Spanish*] descended from a pick-up truck whose license plate was LG 15-81, threatening and kneeling child Franklin Bustamante, who was allegedly discussing with a sales partner in Berrio park. One of the agents would have shot him causing his death, after which both agents left the place. On January 28, 1991, the 18 Criminal Investigating Court of Medellín had conducted an investigation deciding its archiving, allegedly due to lack of evidence. According to the petitioner, several witnesses saw the facts and recognized those responsible, however, they did not declare during the criminal proceedings due to founded fear or retaliation from DAS agents; as opposed to the latter Contentious Administrative proceedings, at which the witnesses declared in greater detail. According to the testimonies, one of said agents had been a bodyguard of the governess of Antioquia at the time. The petitioner party claimed that, by archiving the investigation, the access to justice had been denied, leaving the death of the alleged victim in impunity.

Rights declared admissible: On April 13, 2019, the Inter-American Commission on Human Rights approved the Report on Admissibility No. 36/19 in which it declared itself competent to assess the alleged violation of the rights recognized in articles 4 (right to life), 5 (humane treatment), 8 (judicial guarantees), 19 (rights of the child) and 25 (right to judicial protection) of the American Convention, in accordance to the obligations set forth in article 1.1 thereof.

II. PROCEDURAL ACTIVITY

1. On September 13, 2021, the parties signed a friendly settlement agreement.
2. On November 22, 2021, the Commission approved the friendly settlement agreement through Report 337/21.

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

Agreement Clause	Status of Compliance
FOURTH PART: ACKNOWLEDGMENT OF RESPONSIBILITY The Colombian State acknowledges its international responsibility for the 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 thereof, to the detriment of the family of Mr. Franklin Bustamante Restrepo, for the lack of diligence in the investigation of the occurred facts.	Declarative Clause
FIFTH PART: MEASURES OF SATISFACTION	
1. Act of Acknowledgment of Responsibility: The Colombian State is to perform a Public Act of Acknowledgement of Responsibility, which is to be conducted in a virtual manner with the participation of the family of Mr. Franklin Bustamante and their representatives. The act shall be performed pursuant to the acknowledgement of responsibility mentioned in this Agreement. The present measure shall be performed by the National Agency of Juridical Defense of the State.	Total¹
2. Publication of the Report of Article 49: The Colombian State shall carry out the publication of the Report of article 49 of the IACHR, once it is issued by the Inter-American Commission on Human Rights, on the web page of the National Agency of Juridical Defense of the State, for the term of six (6) months.	Total²
SIXTH PART: MEASURES OF COMPENSATION	
The State is obliged to initiate the compliance of Law 288 of 1996 “By means of which instruments are established for the compensation of detriment to the victims of human rights violations by virtue of the set forth by certain international human rights bodies”, once the present Friendly Settlement Agreement is homologated by means of the issuance of the Report of Article 49 of the American Convention on Human Rights, with the purpose of repairing the detriment caused to the family of the victims	Total³

¹ See IACHR, Report No. 337/21, Case 13.758. Friendly Settlement. Raul Franklin Bustamante. Colombia, November 22, 2021. Available at: <https://www.oas.org/en/iachr/decisions/2021/COSA13758EN.pdf>.

² See IACHR, Annual Report 2022, Chapter II, Section C. Advances and regressions on negotiation and Implementation of Friendly Settlement Agreement. Available at https://www.oas.org/en/iachr/docs/annual/2022/Chapters/4-IA2022_Cap_2_EN.pdf.

³ See IACHR, Annual Report 2024, Chapter II, Section C. Advances and challenges on negotiation and implementation of friendly settlements agreements. Available at: https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_2_EN.PDF.

<p>as a consequence of the affectations generated by the facts of the present case.</p> <p>The National Agency of Juridical Defense of the State shall be the entity in charge of assuming the compliance of Law 288 of 1996.</p> <p>For purposes of compensation, the criteria and amounts recognized by the current jurisprudence of the State Council is to be resorted.</p>	
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IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared full compliance with the case and the ceasing of the follow-up of the friendly settlement agreement in the 2024 Annual Report.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State carried out the act of recognition of responsibility on October 22, 2021, through a virtual platform in the context of the COVID 19 pandemic.
- The State moved forward with the processing of Law 288 of 1996 by paying compensation to the beneficiaries of the friendly settlement agreement by Resolution No. 703 of December 20, 2023, for a total amount of \$522,000,000.

B. Structural outcomes of the case

- This act was disseminated on the website of the National Legal Defense Agency and various social networks.