

TECHNICAL INFORMATION SHEET
PETITION 735-07 ISMAEL MONDRAGÓN MOLINA
FRIENDLY SETTLEMENT REPORT No. 110/20
TOTAL COMPLIANCE
(MEXICO)

I. SUMMARY OF THE CASE

Victim(s): Ismael Mondragón Molina
Petitioner(s): Edgar Mondragón Bustamante
State: Mexico
Date negotiations started: December 5, 2016
FSA signature date: March 14, 2018
Report on Friendly Settlement Agreement No.: 110/20, published on June 9, 2020
Estimated length of the negotiation phase: 3 years 6 months
Associated Rapporteurship: Rapporteurship on the Rights of the Child
Topics: Rights of children and adolescents/ right to life/ right to a fair trial/ investigation and due diligence/ judicial protection

Facts: On June 6, 2007, the Inter-American Commission on Human Rights received the petition filed by Mr. Edgar Mondragon Bustamante, alleging the Mexican State's international responsibility for the failure to investigate the death of his son, 1 year 11 months of age, Ismael Mondragon, as a result of medical malpractice during cranial surgery at the Children's Hospital of the State of Sonora, a public institution. Afterwards, the attorney Miguel Nava Alvarado became a co-petitioner.

Rights allegedly violated: The petitioners alleged that the Republic of Mexico violated Article 4 (right to life), Article 5 (right to personal integrity), and Article 19 (rights of the child) of the American Convention on Human Rights.

II. PROCEDURAL ACTIVITY

1. On March 14, 2018, the parties signed a friendly settlement agreement.
2. On June 9, 2020, the Commission approved the friendly settlement agreement through Report 110/20.

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

| Agreement Clause | Status of Compliance |
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| I. RECOGNITION OF RESPONSIBILITY The "MEXICAN STATE" recognizes its international responsibility for violations of the rights to life and personal integrity and the rights of the child enshrined in Articles 4, 5, and 19 of the American Convention on Human Rights, in connection with the general obligation to respect the rights contained in Article 1.1 of the same instrument, for the incidents that occurred to the detriment of Ismael Mondragon Molina. | Declarative Clause |

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| <p>The "MEXICAN STATE" recognizes that the violations indicated in the previous paragraph are imputable to it and entail its international responsibility with respect to "THE VICTIMS," as well as the obligation to provide them with reparations.</p> | |
| <p>A. REHABILITATION MEASURES</p> | |
| <p>Clause 3.2 Regarding health. The "MEXICAN STATE" undertakes to provide each one of "THE VICTIMS" priority, free, and adequate medical and psychological care services, by designing personally tailored health roadmap that takes into consideration the information of each one of the beneficiaries, as well as their place of residence and their accessibility to existing services depending on the distance. The healthcare services shall be provided via the public institutions of the "MEXICAN STATE."</p> <p>The "MEXICAN STATE" shall provide them with a direct contact in the public health institutions in the event they require any healthcare service. This contact must be capable of taking decisions and acting as an intermediary to resolve any need that might appear.</p> <p>Clause 3.2.1 Agreement on the health roadmap. The specific needs for services of "THE VICTIMS" shall be incorporated into the present agreement, through Annex 1, which shall be agreed upon by consensus between "THE PARTIES" within six months, at the latest, after the present agreement has been signed. "THE VICTIMS" through their representatives, shall provide "SEGOB" with all of the necessary information for their affiliation, assessment, and/or healthcare in the public health institutions as soon as "THE PARTIES" agree on the terms. In turn, "THE VICTIMS" pledge to go to the consultations, checkups, assessments, sessions, treatments, and any other type of procedure established by or stemming from the agreements. The "MEXICAN STATE" shall provide the corresponding facilities for the provision of the services in accordance with the terms of applicable legal regulations.</p> <p>The "MEXICAN STATE" shall not be required to provide medical or psychological care services to "THE VICTIMS" or their next-of-kin if they decide to change, either temporarily or permanently, their place of residence outside the country's territory, and this is without detriment to fact that the services can once again be provided if the victims return to Mexican territory.</p> | <p>Total¹</p> |

¹ See IACHR, Annual Report 2021, Chapter II, Section F. Advances and regressions on negotiation and implementation of friendly settlement. Available at: <https://www.oas.org/en/iachr/docs/annual/2021/Chapters/IA2021cap2-en.pdf>.

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| <p>III. A. Clause 3.2.2 Affiliation to the People's Social Security (<i>Seguro Popular</i>). The "MEXICAN STATE" shall affiliate "THE VICTIMS," if appropriate, to the People's Social Security, and they shall have access to the services included in the medical coverage of that insurance.</p> | <p>Total²</p> |
| <p>Clause 3.3 Scholarships. "THE ENTITY" shall provide facilities to Edgar Mondragon Bustamante, Leslie Michelle Mondragon Molina, and Edgar Eduardo Mondragon Molina, for the purpose of awarding scholarships for their schooling in conformity with applicable laws and through the institutions having jurisdiction. The facilities for awarding the scholarships shall continue until university education.</p> <p>Once the scholarships have been awarded, this measure shall be subject to the academic performance of the beneficiaries and may be withdrawn if they do not meet academic, administrative, disciplinary, or any other standards that the schools they attend require of their students, regardless of their academic achievement. The "MEXICAN STATE" can be released from this obligation if, for reasons imputable to Mr. Edgar Mondragon Bustamante, as well as to Leslie Michelle Mondragon Molina and Edgar Eduardo Mondragon Molina, the requirements stipulated in the present clause are not met.</p> | <p>Total³</p> |
| <p>B. Measures of satisfaction</p> <p>Clause 3.4 Act of acknowledgment of responsibility. The "MEXICAN STATE" shall hold a public ceremony of recognition of responsibility and public apology in which it recognizes that Ismael Mondragon Molina died because of medical malpractice, attributable to the medical staff of Children's Hospital of the State of Sonora.</p> <p>The public ceremony of recognition shall be headed by the Under-Secretary of Human Rights of the "SEGOB," as well as by the Under-Secretary for Unilateral Affairs and Human Rights of the "SRE." The Governor of the state of Sonora shall be invited to attend said ceremony or to designate a high-level official to attend on her behalf.</p> <p>The specific contents of the ceremony of recognition of responsibility shall be incorporated into the present Agreement in Annex 2, which shall be agreed upon between "THE PARTIES" in conformity with the provisions in the present clause, and they shall part of a public ceremony to be held after the present agreement has been signed. Annex 2 must include the</p> | <p>Total⁴</p> |

² See IACHR, Report No. 110/2020, Petition 735-07. Friendly Settlement. Ismael Mondragon Molina. Mexico. June 9, 2020. Available at: <http://www.oas.org/es/cidh/decisiones/2020/mxsa735-07es.pdf>.

³ See IACHR, Report No. 110/2020, Petition 735-07. Friendly Settlement. Ismael Mondragon Molina. Mexico. June 9, 2020. Available at: <http://www.oas.org/es/cidh/decisiones/2020/mxsa735-07es.pdf>.

⁴ 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.

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| date, place, and general characteristics of the public ceremony of recognition of responsibility. The " MEXICAN STATE " must offer " THE VICTIMS " or their " REPRESENTATIVE " a proposal for the ceremony of recognition of responsibility, which shall be incorporated into Annex 2, within three months after the agreement has been signed. The public ceremony must be held within six months after " THE PARTIES " have agreed upon the terms of Annex 2. | |
| Clause 3.4.1 Dissemination of the Act of acknowledgment of responsibility. The public ceremony of recognition of responsibility shall be disseminated according to the terms set forth in Annex 2. ⁵ | Total⁶ |
| Clause 3.5 Unveiling of commemorative plaque and bust in the Children's Hospital of the State of Sonora. For the purpose of rendering tribute to the memory of Ismael Mondragon Molina, the " MEXICAN STATE ," in particular the health authorities of " THE ENTITY ," shall take steps to install a commemorative plaque and bust at Children's Hospital of the state of Sonora, which shall include a commemorative text. The specific contents of the present clause shall be incorporated into the present agreement in Annex 3 and shall be agreed upon by consensus by " THE PARTIES " within than six months, at the latest, as of the signing of the present agreement. | Total⁷ |
| C. GUARANTEES OF NON-REPETITION | |
| Clause 3.6 Training courses Training courses on pediatric medical care and human rights: a training course must be provided to physicians working in public children's hospitals of the state of Sonora, and it must focus on pediatric medical care and human rights, especially the right to health and its ramifications when there are children, taking into account the inter-American system in order to prevent the repetition of the incidents in the case and in which practical cases are examined with elements that are similar to those described herein. | Total⁸ |
| D. COMPENSATORY INDEMNIFICATIONS Clause 3.7 Compensation for material damages: The State shall pay the indirect victims, namely, C. Edgar Mondragon Bustamante, Elizabeth Molina | Total⁹ |

⁵ The Commission notes that there is no Annex 2 of the FSA signed on March 14, 2018, in the case file. Therefore, it informally consulted the State and verified that the parties, throughout the negotiation process, did not prepare this document, so that its reference becomes abstract.

⁶ 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.

⁷ See IACHR, Annual Report 2023, Chapter II, Section C. Advances and challenges on negotiation and implementation of friendly settlement agreements. Available at: https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_2_ENG.PDF.

⁸ See IACHR, Report No. 110/2020, Petition 735-07. Friendly Settlement. Ismael Mondragon Molina. Mexico. June 9, 2020. Available at: <http://www.oas.org/es/cidh/decisiones/2020/mxsa735-07es.pdf>.

⁹ See IACHR, Report No. 110/2020, Petition 735-07. Friendly Settlement. Ismael Mondragon Molina. Mexico. June 9, 2020. Available at: <http://www.oas.org/es/cidh/decisiones/2020/mxsa735-07es.pdf>.

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| Hernández, Leslie Michelle Mondragon Molina, and Edgar Eduardo Mondragon Molina, compensation for material damages in the amounts specified in Annex 4 of the present agreement. | |
| Clause 3.8. Compensation for nonpecuniary damages: The "MEXICAN STATE" pledges to pay compensation for nonpecuniary damages, in conformity with the Rules of Operation of the "Trust Fund." | Total¹⁰ |
| Clause 3.9. Compensation payment procedures: The amounts agreed upon shall be paid to "THE VICTIMS," within six months after the present agreement has been signed, as long as they meet the indispensable formal requirements stipulated by Mexican law for the payment. In the event of delays, the provisions of the Rules of Operation of the Trust Fund shall be applied. These payments shall be made as a single lump sum and shall constitute the full amount of the monetary compensation that the "MEXICAN STATE" shall pay to compensate for the damages stemming from the violations stated in clause 2.1. | Total¹¹ |
| Clause 3.10. Delivery of the Productive Project. As a measure of compensation, the "MEXICAN STATE," through the SEGOB , pledges to take steps to secure access to possible support for "productive projects" for "THE VICTIMS." Awarding these projects shall be subject to the regulations and provisions which have been established for this purpose by the institutions that can award them in the federative entities in which the victims are residents. The number of productive projects to be provided, after previously established requirements have been duly met, can in no way be more than one for each one of the indirect victims. | Total¹² |

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 awarded the scholarships for the benefit of Edgar Eduardo Mondragon.
- The State paid monetary compensation for the damages caused by the incident, for the benefit of the victims, as agreed upon.

¹⁰ See IACHR, Report No. 110/2020, Petition 735-07. Friendly Settlement. Ismael Mondragon Molina. Mexico. June 9, 2020. Available at: <http://www.oas.org/es/cidh/decisiones/2020/mxsa735-07es.pdf>.

¹¹ See IACHR, Report No. 110/2020, Petition 735-07. Friendly Settlement. Ismael Mondragon Molina. Mexico. June 9, 2020. Available at: <http://www.oas.org/es/cidh/decisiones/2020/mxsa735-07es.pdf>.

¹² See IACHR, Annual Report 2021, Chapter II, Section F. Advances and regressions on negotiation and implementation of friendly settlement. Available at: <https://www.oas.org/en/iachr/docs/annual/2021/Chapters/IA2021cap2-en.pdf>.

- The State affiliated the beneficiaries of the agreement to the people's social security for health (*Seguro Popular*).
- The State paid \$1,436,365.00 (one million, four hundred and thirty-six thousand, three hundred and sixty-five Mexican pesos) to the family for health care and production projects.
- The unveiling of a plaque and bust at the Children's Hospital in the State of Sonora, which included an inscription in memory of the child Ismael Mondragon.
- On January 20, 2024, the ceremony of public acknowledgement of responsibility was held and disseminated on social networks and on the YouTube channel of the Ministry of the Interior.

B. Structural outcomes of the case

- Training courses were held for the authorities of children hospitals of Sonora.