

**TECHNICAL INFORMATION SHEET**  
**CASE 11.779 PATRICIO JOSÉ REASCOS**  
**REPORT ON FRIENDLY SETTLEMENT AGREEMENT Nº 22/01**  
**ARCHIVE**  
**(ECUADOR)**

**I. SUMMARY OF THE CASE**

**Victim(s):** José Patricio Reascos

**Petitioner(s):** Ecumenical Commission for Human Rights of Ecuador

**State:** Ecuador

**FSA signature date:** June 11, 1999

**Report on Friendly Settlement Agreement No. 22/01**, published on February 20, 2001

**Rapporteurship involved:** Persons Deprived of Liberty

**Topics:** Persons deprived of liberty/investigation/prison system

**Facts:** At 8:00 a.m. on September 12, 1993, Mr. Reascos, who was inebriated, was arrested in the San Roque area of the city of Quito by members of the Office of Criminal Investigation. When he was searched, a packet of marijuana the petitioner had acquired for personal consumption was found. Mr. Reascos was taken to the offices of Interpol and later transferred to the Center for Provisional Detention. The Third Criminal Court of Pichincha heard the case, and on October 16, 1993, instituted criminal proceedings. And, considering that the requirements of Article 177 of the Code of Criminal Procedure had been met, the Court ordered Mr. Reascos to be held in pretrial detention. The petitioner stated that when the complaint was submitted to the IACHR on February 18, 1997, and despite repeated requests for a speedy trial, that never happened as more than three years had elapsed without a formal indictment. The petitioner reported that under Article 65 of Ecuador's Law on Narcotics and Psychotropic Substances, drug use is to be punished by a maximum of two years in prison, even if one is given the maximum punishment provided by law. At the time the petition was received by the IACHR, Mr. Reascos had already served more time than the maximum sentence that could have been imposed on him. Accordingly, on November 4, 1996, he filed an *amparo* appeal with the Presiding Judge of the Superior Court of Justice of Quito, which was dismissed on November 6, 1996. The petitioner indicated that the summary proceeding [*sumario*], which according to Article 231 of the Code of Criminal Procedure should not last more than 60 days, was drawn out over three years. On June 4, 1997, the Third Criminal Court of Pichincha sentenced Mr. Reascos to 16 months in prison for the crime of drug use and ordered the judgment to be consulted with the Superior Court. At the time this judgment was issued, Mr. Reascos had been in custody for three years and nine months. On September 16, 1997, the Superior Court upheld the decision of the lower court, and so Mr. Reascos was released on September 20, 1997, after having been imprisoned a full of four years. Accordingly, his right to be tried within a reasonable time had been violated, as had his right to be presumed innocent until proven otherwise.

**Rights alleged:** The petitioners alleged violation of the rights to personal liberty (Article 7), a fair trial (Article 8), and judicial protection (Article 25) of the American Convention on Human Rights (ACHR), all in breach of the obligations provided for under Article 1(1) thereof, to the detriment of Mr. José Patricio Reascos.

## II. PROCEDURAL ACTIVITY

1. On June 11, 1999, the parties signed the friendly settlement agreement.
2. On February 20, 2001, the Commission approved the friendly settlement agreement by report No. 22/01.

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

Agreement clause	State of compliance
<p><b>III. STATE RESPONSIBILITY AND ACCEPTANCE</b></p> <p>The Ecuadorian State acknowledges its international responsibility for having violated the human rights of Mr. José Patricio Reascos enshrined in Article 7 (personal liberty), Article 8 (a fair trial), and Article 25 (judicial protection), and the general obligation set forth in Article 1(1) of the American Convention on Human Rights and other international instruments, since the violations were committed by State agents, which could not be disproved by the State, giving rise to State responsibility.</p> <p>Given the above, the Ecuadorian State accepts the facts in case N<sup>o</sup> 11.779 before the Inter-American Commission on Human Rights and undertakes the necessary reparative steps to compensate the victims, or their successors, for the damages caused by those violations.</p>	<p><b>Declarative</b></p>
<p><b>IV. COMPENSATION</b></p> <p>In view of the foregoing, the Ecuadorian State, through the Attorney General, as the sole judicial representative of the Ecuadorian State, pursuant to Article 215 of the Constitution of Ecuador, enacted in Official Register N<sup>o</sup> 1 and in force since August 11, 1998, is awarding Mr. José Patricio Reascos, a one-time compensatory payment of twenty thousand US dollars (US\$ 20,000), or the equivalent in local currency, calculated at the exchange rate in effect at the time the payment is made, to be paid from the National Budget.</p> <p>This compensation covers the consequential damages, loss of income, and moral damages suffered by Mr. José Patricio Reascos, and any other claim that Mr. José Patricio Reascos or his next-of-kin may have, regarding the subject of this agreement, under domestic and international law, and is chargeable to the National Budget. To this end, the Office of the Attorney General will notify the Ministry of Finance, for it to carry out this obligation within 90 days of the signing of this document</p>	<p><b>Total<sup>1</sup></b></p>
<p><b>V. PUNISHMENT OF THE PERSONS RESPONSIBLE</b></p> <p>The Ecuadorian State pledges to bring civil and criminal</p>	<p><b>Noncompliance<sup>2</sup></b></p>

<sup>1</sup> IACHR, Report No. 22/01, Case 11.779, Friendly Settlement, Jose Patricio Reascos, Ecuador, February 20, 2001.

<p>proceedings against and shall seek the punishment of those persons who are alleged to have participated in the violation in the performance of State functions or under the color of public authority.</p>	
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<p>The Office of the Attorney General pledges to encourage the State Attorney General, the competent judicial organs, and public agencies or private institutions to contribute legal evidence to determine the liability of those persons. If admissible, the prosecution will be subject to the constitution and laws of the Ecuadorian State.</p>	
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#### **IV. LEVEL OF COMPLIANCE OF THE CASE**

3. The Commission evaluated the petitioner's request of December 3, 2015, to have the Commission cease monitoring the agreement and archive the case given the prescription of the criminal action and loss of contact with the victims in the case. Bearing in mind that this is not a case of grave human rights violations that are imprescriptible pursuant to settled case law of the Inter-American Court and Commission, the Commission decided to note on the record that the Ecuadorian State has failed to comply with the measure to bring the perpetrators to justice and compliance with the agreement remains partial.

#### **V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE**

##### **A. Individual results in the case**

- The State paid financial compensation, as set forth under the agreement.

<sup>2</sup> See IACHR, Annual Report 2018, Chapter II, Section G. Status of Compliance with the Recommendations Issued by the IACHR in Merits Reports and Friendly Settlement Agreements Approved by the IACHR. Available at: <http://www.oas.org/en/iachr/docs/annual/2018/docs/IA2018cap.2-en.pdf>