

OEA/Ser.L/V/II.150
Doc. 111
13 July 2019
Original: Spanish

REPORT No. 102/19
Case 13.017 A
FRIENDLY SETTLEMENT REPORT

FAMILIES OF VICTIMS OF THE MILITARY DICTATORSHIP,
OCTOBER 1968 TO DECEMBER 1989
PANAMA

Approved electronically by the Commission on July 13, 2019.

Cite as: IACHR, Report No. 102/19, Case 13.017 A, Friendly Settlement, Families of Victims of the Military Dictatorship, October 1968 to December 1989, Panama, July 13, 2019.

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FAMILIES OF VICTIMS OF THE MILITARY DICTATORSHIP
OCTOBER 1968 TO DECEMBER 1989
PANAMA
JULY 13, 2019¹

I. SUMMARY AND RELEVANT PROCEDURAL ASPECTS OF THE FRIENDLY SETTLEMENT PROCESS

1. On October 23, 2003 the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission", "the Commission," or "the IACHR") received a petition filed by Alberto Santiago Almaza Henríquez, Director General of the Office to Monitor the Objectives of the Truth Commission, and Jacinto González Rodríguez, Legal Support officer of the Office to Monitor the Objectives of the Truth Commission, representing the Committee of Families of Persons Assassinated and Disappeared of Panama, Héctor Gallego (COFADEPA-HG) and the Committee of Families of Disappeared Persons of Chiriquí (COFADECHI) ("the petitioners"), on behalf of the families of victims of the military dictatorship that ruled Panama between 1968 and 1989, against the Republic of Panama ("the Panamanian State", "Panama," or "the State"). The petition alleged that in the prevailing climate of violence and abuse of power under the military dictatorship in power Panama from October 11, 1968 until December 20, 1989, 109 people (hereinafter "the alleged victims") were victims of extrajudicial execution or forced disappearance allegedly attributable to elements of the State security forces.

2. The petitioners argued that the State of Panama violated Articles 4 (right to life), 5 (right to humane treatment), and 7 (right to personal liberty) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") to the detriment of the alleged victims. They also held that the State was responsible for violation of Article I (right to life, liberty and personal security) of the American Declaration of the Rights and Duties of Man (hereinafter "the American Declaration") and Articles I, III, and XI of the Inter-American Convention on Forced Disappearance of Persons. As to the admissibility requirements, they argued that their petition was admissible inasmuch as in those cases in which domestic remedies had not been exhausted, the exceptions set out in Article 31(2) of the Rules of Procedure of the Inter-American Commission on Human Rights (hereinafter "the Rules of Procedure") applied.

3. On October 27, 2015, the IACHR adopted Report on Admissibility No. 68/15. In its report, the IACHR concluded that it was competent to examine the alleged violations of the following articles: (a) 3 (right to juridical personality), 4 (right to life), 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial), and 25 (right to judicial protection) of the American Convention, in connection with the obligations established in Articles 1(1) and 2 of that instrument, to the detriment of the 39 purportedly disappeared alleged victims; (b) I, III, and XI of the Inter-American Convention on Forced Disappearance of Persons to the detriment of the 39 disappeared alleged victims; (c) 19 (rights of the child) of the American Convention to the detriment of the two purportedly disappeared minors; (d) I, XXV, and XXVI of the American Declaration to the detriment of the 28 alleged victims purportedly executed prior to June 1978; (e) 4 (right to life), 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial), and 25 (right to judicial protection) of the Convention to the detriment of the 39 alleged victims purportedly executed after June 1978; (f) 19 (rights of the child) of the American Convention to the detriment of the girl allegedly extrajudicially executed; (g) 5 (right to humane treatment), 8 (right to a fair trial), and 25 (right to judicial protection) of the American Convention, in connection with the obligations established in Articles 1(1) and 2 of that instrument; and (h) XVIII of the American Declaration to the detriment of the families of all 106 alleged victims.

4. In December 2018, the Commission was advised that the parties had bilaterally initiated negotiations on a friendly settlement agreement. In addition, the parties informed the Commission, that the Truth Commission of Panama had been in operation from 2003 to 2005 and that in 2010 it had convened a

¹In accordance with Article 17(2)(a) of the Rules of Procedure of the IACHR, Commissioner Esmeralda Arosemena de Troitiño, a Panamanian national, did not participate in the discussion or decision on this case.

“roundtable of understanding” [*mesa de entendimiento*] between organizations of victims' families and the State.

5. On February 12, 2019, the parties held a meeting in Bolivia in the context of the 171st session of the Commission, which was facilitated by Commissioner Flávia Piovesan in her capacity as rapporteur for the country. On June 21, 2019, the parties signed a friendly settlement agreement (hereinafter “the ASA” or “the Agreement”) that covered 13 victims represented by the organization COFADEPA-HG.

6. On June 26, 2019, the parties sent the IACHR a joint communication requesting approval of the ASA.

7. In relation to the above, it is worth mentioning that the Panamanian State is engaged in other friendly settlement negotiation processes with the rest of the victims and that the effects of this approval report are purely confined to the 13 victims and 83 family members who have subscribed to the ASA to which it refers.

8. Pursuant to Articles 49 of the American Convention and 40(5) of the Commission’s Rules of Procedure, this friendly settlement report includes a summary of the petitioner’s allegations and transcribes the friendly settlement agreement signed on June 21, 2019, by the petitioner COFADEPA-HG and representatives of the Panamanian 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. ALLEGED FACTS

9. The petitioners denounced the forced disappearance and extrajudicial execution in Panama of 109 people between October 1968 and December 1989. According to the petition, those violations were committed by officials of the military regime, under the general policy instituted by the military government of eliminating the opposition.

10. The petitioners alleged that during the dictatorship, officials of the National Guard dissolved the National Assembly, and appointed a Provisional Government Junta, which was run by the military. The petitioners also said that over that period, political activity was practically suppressed by a harsh military regime that engaged in the persecution and arbitrary, systematic detention of those who opposed the dictatorial government. They said, in particular, that a plan of repression was conducted against community leaders, student movements, and supporters of the Civic Front (*Frente Cívico*) who did not support the military government, and that this repression manifested itself in many acts of violence which, it was alleged, was the reason for the increase in the number of armed clashes, incarcerations, and deaths in unexplained circumstances that occurred during this period.

11. Within this context of violence and abuse of power, the petitioners alleged violations of the fundamental rights of 109 persons. For each alleged victim, the petitioners identified the victim, described the particular facts of the rights violations that were documented to the Truth Commission, and detailed the judicial activity that took place in connection with those acts. They also described the profile of the victims, saying that they were young people at the time of their deaths or disappearances and that most of them were from low-income social groups.

12. According to the petitioners, 39 people were victims of forced disappearance and two of those 39 were minors. They also claimed that 70 people were victims of extrajudicial execution and that one of those whose right to life was thus violated was a girl. All of the aforementioned violations were attributed to agents of the Panamanian Army.

13. With respect to exhaustion of domestic remedies, the petitioners say that in 103 of the 109 cases,² the facts were reported to the appropriate authorities between 1970 and 2003. They said that most of the cases were still at the preliminary investigation stage, some more than 36 years after the time the petition was lodged; in other cases the accused were acquitted. They also said that of all the above-mentioned proceedings, only 6 convictions had been handed down, encompassing 14 of the cases brought by the petitioners, with one judgment convicting those responsible for the extrajudicial execution of 9 alleged victims identified by the petitioners. Of the other five convictions, two were default judgments.³ With regard to the remaining 89 cases, the petitioners reported that 33 were at the pre-trial investigation stage, and that appeals had been filed in 11 of them without a decision adopted thereon. Eight cases had been closed, and three had been barred by the statute of limitations. The court authorities had decided for the dismissal in 26 cases. Five acquittals had been decided; in one case, those allegedly responsible had been pardoned, and in two cases the records could not be found.

14. Finally, they submitted that, despite the fact that the courts issued judgments in a number of cases, a situation of structural impunity existed in Panama in relation to the crimes committed during the military dictatorship. According to the petitioners, this situation is the result of the manipulation of the justice system by those responsible for the terror wielded by the State. In this regard, they say that this alleged impunity was consolidated through the use of procedural mechanisms, such as the statute of limitations on criminal proceedings, and denial of justice, as was clearly visible in the proceedings brought by the families of the victims.

III. FRIENDLY SETTLEMENT

15. In Panama City on June 21, 2019, the State, represented by Ana Carolina Cambra of the Bureau of International Legal Affairs and Treaties of the Ministry of Foreign Affairs, and Maritza Maestre, representative of the organization Committee of Families of Persons Assassinated and Disappeared of Panama, Héctor Gallego, (COFADEPA-HG), signed a friendly settlement agreement, the text of which provides as follows:

CASE 13.017 A
FAMILIES OF VICTIMS OF THE MILITARY DICTATORSHIP, OCTOBER 1968 TO
DECEMBER 1989
FRIENDLY SETTLEMENT AGREEMENT
BETWEEN THE ASSOCIATION COMMITTEE OF FAMILIES OF PERSONS ASSASSINATED
AND DISAPPEARED OF PANAMA, HÉCTOR GALLEGOS, (COFADEPA-HG) AND THE
PANAMANIAN STATE

The Republic of Panama presents its compliments to the Inter-American Commission on Human Rights and has the pleasure to refer to the friendly settlement procedure in which the Government of the Republic of Panama is engaged with the **Committee of Families of Persons Assassinated and Disappeared of Panama, Héctor Gallegos**, an organization listed as a private foundation in the Public Records Office of Panama, with registration number 6096, Document 309853, hereinafter **COFADEPA.HG**, in accordance with Article 40 of the Rules of Procedure of the Inter-American Commission on Human Rights.

The Panamanian State is pleased to advise the Commission that with the consent of both parties the friendly settlement procedure between the Republic of Panama and COFADEPA.HG

² According to the petition, no judicial proceedings were conducted in the cases of the following alleged victims: Javier Sánchez, disappeared in 1969; Carlos Milar González Caballero, disappeared in 1969; Marta Morán Jiménez, disappeared in 1989; Leopoldo Rafael Allen Serracín, executed in 1969; Walter Sandiñas Iguini, executed in 1970; and Tomás Rojas Hinestroza, executed in 1979.

³ The petitioners indicate that the five remaining cases in which sentences were issued were: (i) the execution of Father Nicolás Johannes Van Kleef Filcz; a judgment in 1992 sentenced the accused, Olmedo Espinoza Espinoza, to 16 years in prison, which was upheld by the Supreme Court of Justice; (ii) the forced disappearance of Father Jesús Héctor Gallego Herrera in 1993; a jury of conscious sentenced three military officers to 15 years in prison; (iii) the execution of Daniel Simoné Hernández; a default judgment was handed down in 1995; (iv) the execution of Hugo Spadafora Franco; sentence handed down by the Superior Court of the Third Judicial District, Chiriquí; (v) the execution of Yito Barrante Méndez; default judgment handed down.

has reached a satisfactory conclusion, with a commitment on the part of the State based on respect for the human rights recognized in the American Convention on Human Rights, the American Declaration, and other applicable elements, such as jurisprudence of the Inter-American Court on such matters.

The Ministry of Foreign Affairs will present this Agreement to the Cabinet Council, the functions of which, pursuant to Article 200(4) of the Constitution, include: "To approve jointly with the President the transfer or submission by the latter of disputes to which the State is a party to arbitration; this requires the favorable opinion of the Attorney General of the Nation."

Background

The Truth Commission was set up in 2001 with an express mandate based on the need to know the truth. That Commission investigated and uncovered the crimes committed during the military dictatorship and in 2002 it presented its final report.

On October 23, 2003, the Inter-American Commission on Human Rights received a petition from the families of the victims of the military dictatorship alleging that in the context of violence and abuse of power that had prevailed in Panama from October 11, 1968 to December 20, 1989, they were victims of extrajudicial execution or forced disappearance.

In addition, in 2010 organizations of victims' families and the State formed the Roundtable of Understanding, which developed formulas for possible reparation measures, and since 2014 negotiations have been under way on reparation measures in the context of the Roundtable of Understanding.

In 2015 the Inter-American Commission on Human Rights adopted Report 68/15 of October 27, 2015, by which it admitted the case, and the parties continued with the negotiation and implementation of the reparation measures in a bilateral way, but in the framework of a friendly settlement procedure.

Further to the foregoing, we have the pleasure to present the document that contains the agreed-upon clauses, which take as reference the criteria on reparation developed by the inter-American human rights system:

1. Pecuniary damages

This implies the loss of, or detriment to, the income of the victims and, as applicable, their family members, the expenses incurred as a result of the events and the pecuniary consequences that may have a cause-effect link with the events in the instant case for which, if applicable, a compensatory amount is fixed seeking to redress the economic consequences of the violations that were determined. It is divided between consequential damages and lost earnings.

a. Consequential Damages

Consequential damages are the direct detriment to, diminishment, or material destruction of assets, independent of the other effects, patrimonial or otherwise, that may be derived from the act that gave rise to the damages. They include the value of the destroyed assets, the costs of obtaining information on the whereabouts of the victims, and any additional costs that the violation may have caused the victim or their families.

The Inter-American Court has stated in previous cases that pecuniary damages include the various expenses that family members incur upon inquiring into the whereabouts of the victim, owing to the concealment of what occurred and the failure to investigate the facts on

the part of the authorities. Such expenses include visits to public institutions, travel, and accommodation, among others.

In this case, the families of the victims, organized under the association known as the Committee of Families of Persons Assassinated and Disappeared of Panama, Héctor Gallegos, (COFADEPA-HG), have gone to enormous lengths in a bid to establish the whereabouts of the remains of the disappeared family members and filed complaints with the National Investigations Department (DENI) as it was then called; today it is part of the Public Prosecutions Service [*Ministerio Público*].

The complaints, filed over the course of almost 50 years, are contained in various case files at prosecutors' offices in different judicial districts. In some cases, it was established that the victims were forcibly disappeared and killed, in violation of their right to life enshrined in Article 19 of the Constitution of 1946, Article 1 of the American Declaration of the Rights and Duties of Man, and Article 3 of the Universal Declaration of Human Rights. Furthermore, inasmuch as the victims were violently killed and forcibly disappeared, they are crimes against humanity.

b. Lost earnings

Lost earnings are defined as the economic harm suffered as a direct consequence of the violation suffered; in other words, loss of revenue or a reduction in future wealth.

The Final Report of the Truth Commission of Panama ("*La verdad os hará libres*" - Panamá: Comisión de la Verdad, 2002, p. 219, ISBN 9962-8837-0-9) contains the victims' stories and witnesses' accounts of how productive men and women with their own jobs and activities that enabled them to support their families were tortured, mistreated, executed, and disappeared.

2. Non-pecuniary damages

According to the conception of the Inter-American Court of Human Rights, non-pecuniary damages may include distress and suffering caused directly to the victim or his next of kin, tampering with individual core values, and changes of a non-pecuniary nature in the everyday life of the victim or of his next of kin.

Given that they were subjected to murder and forced disappearance, it is presumed that the victims suffered profound distress prior to being executed by members of the military dictatorship. Furthermore, in the case of the members of COFADEPA.HG, the disappearance and killing of their relatives continues to cause the families anguish, uncertainty, despair, impotence, and frustration. In addition, 50 years later, while some of those responsible have been found, brought to trial, and sentenced; others who have been indicted are fugitives from justice for crimes against humanity, increasing the suffering of the victims' families.

There are other aspects that have adversely affected the family members: for one thing, they have been denied the possibility of mourning the putative deaths of their missing relatives, causing them instability and suffering, even after the years that have passed; for another, the lack of a final resting place for the victims' remains prolongs the families' uncertainty as to their whereabouts.

3. Payment of Pecuniary Reparation

The parties recognize the technical reports resulting from the expert actuarial studies performed by Maribel Gordón, economist with personal identity card No. 8-239-249, submitted in accordance with the requests of the Ministry of Economy and Finance on January

28, 2019, regarding the damages suffered by the following family members of the victims of the military dictatorship:

1. José de la Encarnación González
2. Floyd Wendell Britton Morrinson
3. Félix González Santizo
4. Elias González Santizo
5. Manuel Alberto Diaz Adames
6. Narciso Cubas Pérez
7. Alcibiades Bethancourt Aparicio
8. Belisario Gantes Batista
9. Carlos Millar González Caballero
10. Bettzy Marlène Mendizabal Hill
11. Manuel Alexis Guerra Morales
12. Hipólito Quintero Delgado
13. Daniel Emilio Heart Pérez

In Annex A to this Agreement, the parties include a list of family members of victims recognized by the parties in relation to Case 13.017-A “Families of Victims of the Military Dictatorship of Panama from October 1968 to December 1989,” which list they deem consistent with the Final Report of the Truth Commission of Panama. The parties consider Annex A an integral part of this friendly settlement agreement.

The State, through the Ministry of Economy and Finance, will review and analyze said actuarial expert’s studies in order to determine if they conform to the procedures established in Panamanian law and the case-law of the inter-American system on compensation in cases relating to human rights and crimes against humanity.

The State will appoint the Ministry of Economy and Finance as the entity in charge, on behalf of the Republic of Panama, of diligently executing in a timely manner the appropriate procedure for payment of the aforementioned economic obligations, **without collection of income tax**, as established as a precedent and undertaking on the part of the State in Article 7 of Cabinet Decree No. 42 of November 13, 2012, published in Official Gazette No. 27164-A of Thursday, November 15, 2012.

Having received payment of the economic reparation, the petitioners permanently and irrevocably waive the right to bring any other financial claim against the State in relation to this case.

4. Measures of Satisfaction and Guarantees of Non-Repetition.

This section complies with the second form of reparation of the non-pecuniary injury, to which the Court’s case-law makes reference, which, given its characteristics, cannot be compensated economically but which rather has as its purpose restoring the dignity of the victims, and at the same time guaranteeing that the human rights violations not recur.

According to the Inter-American Court of Human Rights, such measures of satisfaction aim to redress non-pecuniary damages; they are non-financial and public in terms of their scope and repercussions. Likewise, the Court has also determined that such measures derive from “other harmful effects of the facts, which are not of a financial or patrimonial nature, and which could be repaired by carrying out official acts, including the investigation and punishment of those responsible,” memorialization of the victims, and consolation of the bereaved, and which signify an official reprobation of the human rights violations committed as well as entailing a commitment to ensure that events such as those that occurred in this case are not repeated.

4.1. Compilation of the historical record of the 1968-1989 period

The parties acknowledge that joint and positive efforts have been made to compile information about the events that occurred during the military dictatorship with the aim of drafting the historical record for the period from 1968 to 1989.

The parties hereby state that they have worked jointly on the production of the pamphlet titled "*Comisión de la Verdad, Síntesis del Informe Final*" [Truth Commission, Summary of the Final Report], which describes the events under the military dictatorship.

The State undertakes, if possible, to re-edit, print, and release the pamphlet "*Comisión de la Verdad, Síntesis del Informe Final*" and to teach what happened during the military dictatorship in Panama as well as the context in Latin America and the world in the curricula and courses for grades 10 (Ethics), 11 (History of Panama), and 12 (Civics III).

The parties hereby declare that pending are the inclusion in the pamphlet of the topic "torture sites" as well as the presentation of the curriculum, and that for the purposes of finalizing their inclusion a meeting will be held, facilitated by the Inter-American Commission on Human Rights.

4.2. Legislative measure

The parties acknowledge that they have worked jointly to prepare the preliminary draft of a proposed law declaring June 9 as "Civic Day of Reflection for the Victims of the Military Dictatorship."

The State undertakes, through the Ministry of Foreign Affairs and with the authorization of the Cabinet Council, to present said draft law and to hold meetings with legislative officials to promote its enactment, while respecting the institutional framework and the separation of powers.

4.3. Monument to the Murdered and Disappeared

The parties acknowledge that a competition for the design of the Monument to the Murdered and Disappeared was held in 2016 and won by the architect Juan J. Casis, with personal identity card No. 8-745-1909.

The parties also recognize that two public tenders were held: the first was declared void, and the second canceled. Accordingly, the State, through the Ministry of Foreign Affairs, will take the necessary steps to organize a public tender for the study, design, and construction of the "***Monument to the Murdered and Disappeared***" in memory of all the victims of murder and forced disappearance at the hands of the military dictatorship and will ensure the necessary resources in advance of the tender for that purpose.

To that end, it is suggested that the list of costs that was prepared together with the technical specifications presented by the winning designer be taken into account, which shall also be reanalyzed and reviewed.

The parties also acknowledge that the site where said monument will be built is *Parque La Poinciana*, located at Calle Arnaldo Walker and Calle Rafael Alemán in the district of Ancón, said site having been duly granted by the Office of the Mayor of Panama.

4.4. Public Pronouncement on the Facts

The State will hold a public act of apology and acknowledgment of international responsibility in order to accept its responsibility as State for the acts that occurred. In that act, an apology will be offered to the COFADEPA.HG family members for the facts alleged before the Inter-American Commission on Human Rights.

The act will be held in Panama City in the presence of State authorities, COFADEPA.HG family members, and any COFADECHI family members that wish to attend.

The State shall publish the public pronouncement in a nationally distributed daily newspaper and in the Official Gazette, as well as providing a copy to each of the petitioners belonging to COFADEPA.HG in the Friendly Settlement Agreement.

The parties agree that the act of public pronouncement will be one of the last activities to be carried out and its coordination and organization will be consulted with the victims' families.

4.5. Law Creating the Category of Disappeared Person

The Republic of Panama is a party to the Inter-American Convention on Forced Disappearance of Persons and when that convention it entered into force, the Panamanian State assumed the obligation to take legislative, administrative, judicial, and any other measures necessary to comply with the commitments undertaken therein.

In compliance with the foregoing, the State, through the Electoral Tribunal, will introduce regulations on the creation of the category of "disappeared person" exclusively for the victims of the military dictatorship (1968-1989) registered in Report on Admissibility No. 68/15 of October 27, 2015, Report No. 34/06 of March 14, 2006, and the judgment of the Inter-American Court of Human Rights adopted on August 12, 2008, so that their death may be registered and the cause of death recorded as forced disappearance.

5. Measures of Justice

5.1. Investigation and punishment of those responsible

The State undertakes to effectively pursue to their legal conclusion all ongoing criminal proceedings to establish appropriate responsibilities for the facts, ensuring that the Constitution and the laws of the Republic are observed and that fundamental rights and freedoms are protected. The foregoing entails the elimination of the *de facto* and *de jure* obstacles and mechanisms preventing compliance with those obligations, so that the available measures under domestic law can be utilized.

In addition, the State undertakes, through the office of the Attorney General of the Nation, to coordinate with the prosecutors' offices in different judicial districts in order to deal with the utmost responsibility and promptness all procedures arising from the cases connected with the military dictatorship.

5.2. Bone DNA analysis

The parties acknowledge that the skeletal remains of the following persons were successfully identified and delivered to their families: BETTZY MENDIZABAL, HIPÓLITO QUINTERO DELGADO, REYNALDO SÁNCHEZ, EVER QUINTANAR GUZMÁN, GERARDO OLIVARES and GERÓNIMO DÍAZ.

The State undertakes, through the Institute of Legal Medicine and Forensic Sciences, to continue the work of analysis and identification of the skeletal remains in the custody of that institution, to which end the State shall, to the extent possible, provide it with the necessary

budget to purchase the inputs and hire the expert personnel to enable it to perform its functions properly.

The Institute of Legal Medicine and Forensic Sciences shall adopt decisive measures to make substantive progress, so that within a reasonable time the skeletal remains of the victims are identified for their families and the medico-legal documents used for civil registration procedures are prepared.

6. Implementation Schedule

The State pledges to perform the obligations contained in this friendly settlement agreement within one (1) year of the signing of this agreement.

7. Approval and Follow-up

The parties request the Inter-American Commission on Human Rights to approve this agreement. Once this agreement has been signed, the parties will present the document representing the friendly settlement agreement to the Inter-American Commission on Human Rights for its approval and publication in accordance with Articles 49 of the American Convention on Human Rights and 40(5) of the Rules of Procedure of the Inter-American Commission on Human Rights.

8. Publication and Completion of the Agreement

The fulfillment and conclusion of the procedure before the Inter-American Commission on Human Rights shall be verified and accepted by the parties by means of an administrative act published in the Official Gazette of the Republic of Panama, indicating that the friendly settlement agreement between the parties has been substantially performed or, at a minimum, has begun to be implemented, such that it is unequivocally demonstrated that financial reparation for the pecuniary and non-pecuniary damage caused to the victims and to the petitioners and beneficiaries has been made, and that there is willingness on the part of the State to perform its obligations under the Agreement.

9. Supervision and Compliance

The parties request the Inter-American Commission on Human Rights to continue to monitor compliance with those points of this agreement whose performance remains pending after the adoption of the approval report, either by requesting compliance reports or by holding periodic meetings with the parties.

Panama City, June 21, 2019.

**ANNEX A
CASE 13.017 A, FAMILIES OF VICTIMS OF THE MILITARY DICTATORSHIP, OCTOBER
1968 TO DECEMBER 1989
List of Victims and Their Family Members**

No.	Name of the Victim	Truth Commission of Panama Case No.	Name of Family Member/Beneficiary	Relationship to the Victim	No.
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1	José de Encarnación González	CV-D-039-01	Antonio González Santizo	Son	1
			Almecía González Santizo	Son	2
			Encarnación González Santizo	Daughter/Petitioner	3
			Félix González Santizo (RIP), heirs:	Son	4
			Stalin González Santizo	Grandson	5
			Vantroi González Santizo	Grandson	6
			Félix Antonio González	Grandson	7
2	Floyd Britton	CV-A-010-01	Eloisa Fernández Agrazal	Widow/Petitioner	8
			Eduardo Ernesto Britton Fernández (RIP), heir:	Son	9
			Alexandra Maria Britton Beitía	Granddaughter	10
			Jaime Britton Morrinson	Brother	11
			Leland Britton Morrinson	Brother	12
			Federico Haroldo Britton Morrinson (RIP), heirs:	Brother	13
			Fredy Raúl Britton	Nephew	14
			Carlos Vladimir Britton	Nephew	15
			Telma Britton	Nephew	
			Luis Augusto Britton	Nephew	16
			Amos Augusto Britton Jiménez	Brother	17
			Elvin Adalberto Britton Jiménez	Brother	18
3	Félix González Santizo	CV-A-040-01	Stalin González Santizo	Son	19
			Vantroi González Santizo	Son	20
			Félix Antonio González	Son/Petitioner	21
4	Elias González Santizo	CV-A-039-01	Antonio González Santizo	Brother	22
			Almecía González Santizo	Brother	23
			Encarnación González Santizo	Sister/Petitioner	24
5	Carlos Millard González	CV-D-040-01	María Araúz	Widow	25
			Micxely González Pitty	Daughter/Petitioner	26
			Edgar Pitty	Son	27
6	Belisario Gantes	CV-A-030-01	Isabel Gantes Guerra	Sister	28
			Catalina Batista de Arias	Mother	29
			Pedro Gantes Batista	Brother	30
			Elisia Gantes Batista	Sister	31
7	Alcibiades Bethancourt A.	CV-D-015-01	Maritza Maestre	Niece/Petitioner	32
			Oderay Bethancourt Aparicio	Sister	33
			Luis Enrique Bethancourt Aparicio	Brother	34
			Eriberto Bethancourt Aparicio (RIP), heirs:	Brother	35
			Libia Bethancourt	Nephew	36
			Briseida Bethancourt	Nephew	37
			Dominga Bethancourt	Nephew	38
			Eriberto E. Bethancourt	Nephew	39
			Raúl Adrián Bethancourt	Nephew	40

			Luis Alberto Bethancourt Aparicio (RIP), heirs:	Brother	41
			Rubén Elias Bethancourt	Nephew	42
			Xenia Bethancourt	Nephew	43
			Luis Bethancourt	Nephew	44
			Irina Bethancourt	Nephew	45
			Martha Irene Bethancourt Aparicio (RIP), heirs:	Sister	45
			Luz Graciela Bethancourt	Nephew	47
			Abi Liz Bethancourt	Nephew	48
			Francisco Bethancourt Aparicio (RIP), heirs:	Brother	49
			Grissel Bethancourt	Nephew	50
8	Manuel A. Díaz Adames	CV-A-024-01	Anette Marisol Rosas Adames	Sister/Petitioner	51
			Ricardo Orlando Belloso Adames	Sister	52
			Manuel Alberto Díaz Fernández	Son	53
			Aurea Maruja Fernández Romero	Widow	54
			Balbina Cristina Díaz Camilo	Sister	55
			Víctor Manuel Díaz Camilo (RIP), heirs:	Brother	56
			Carmen Julia Díaz Anzoátegui	Nephew	57
			Víctor Manuel Díaz Anzoátegui	Nephew	58
			Carlos Antonio Díaz Camilo (RIP), heirs:	Brother	59
			Carlos Antonio Díaz Quiles	Nephew	60
			Davis Antonio Díaz Quiles	Nephew	61
9	Narciso Cubas	CV-A-020-01	Raúl Cubas Pérez	Son	62
			Jaime Cubas Pérez (QEPD) heredan los hermanos	Son	63
			Fidel Cubas Pérez	Son	64
			Narciso Mao Cubas Pérez	Son/Petitioner	65
			Ricardo Stalin Cubas Pérez (RIP), heir:	Son	66
			Dairón Julio Cubas Gonzalez	Grandson	67
10	Daniel Emilio Heart	CV-D-045-01	Yadiera Emilia Pianetta Trujillo	Widow	68
			Yariela Emilia Heart Pianetta	Daughter	69
11	Manuel Alexis Guerra	CV-A-041-01	Margarita Morales Lezcano	Mother	70
			Manuel Guerra López	Father	71
			Estervina Guerra Morales	Sister	72
			Manuel Javier Guerra Morales	Brother	73
			Manuel Excelio Guerra Morales	Brother/Petitioner	74
12	Hipólito Quintero	CV-A-077-01	Maritza Esther Quintero	Daughter/Petitioner	75
			Luis Alberto Rodríguez Sánchez	Son	76
			Rubén Alexis Quintero Sánchez	Son	77
			Amarilis Edith Quintero Sánchez	Son	78
13	Betty Mendizabal	CV-A-056-01	Estela María Hill Herrera	Mother	79
			Sofía del Carmen Mendizabal Hill	Sister	80
			Carlos Eduardo Mendizabal Hill	Brother	81
			Cesar Rafael Mendizabal Hill	Brother	82
			Marco Antonio Mendizabal Hill	Brother	83
			Kilmara Estela Mendizabal Hill	Sister/Petitioner	84

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

16. The IACHR reiterates that, under Articles 48(1)(f) and 49 of the American Convention, this procedure has the objective of “reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in this Convention.” The State’s consent to pursue this avenue is evidence of its good faith to honor the Convention’s purposes and objectives, based on the principle of *pacta sunt servanda*. According to that principle, States must comply in good faith with the obligations undertaken in treaties.⁴ The IACHR also wishes to point out that, with the friendly settlement procedure provided for in the Convention, individual cases can be settled in a non-contentious manner. In cases involving a number of countries, the friendly settlement procedure has proven to be a useful vehicle that both parties can utilize to arrive at a solution.

17. The Inter-American Commission has closely monitored the progress of the friendly settlement reached in the present case and greatly values the efforts that both parties in negotiating this friendly settlement agreement, which is compatible with the object and purpose of the Convention.

18. The Commission notes that the parties have included an annex (Annex A) to the friendly settlement agreement that contains a list of the victims and their family members, together with their respective personal details, and it therefore declares same to be an integral part of the agreement signed by the parties.

19. According to Clause 7 of the friendly settlement agreement, on June 26, 2019 the parties requested the Commission to issue the report envisaged in Article 49 of the American Convention.

20. The Commission takes note of the commitments assumed by the State in Clauses 1 and 2, which include the obligation to provide reparation to the victims by acknowledging pecuniary damages, loss of earnings, and non-pecuniary damages. It also takes note of the provisions contained in Clause 3 referring to the payment of pecuniary reparations to the 13 victims and their 83 family members recognized as such in Annex A to the friendly settlement agreement. Accordingly, it declares that compliance with clauses 1, 2, and 3 is pending.

21. In relation to Clause 4, concerning measures of satisfaction and guarantees of non-repetition, the Commission finds it to be a declaratory clause, for which reason there is no call to supervise its performance.

22. In relation to Clauses 4.1 (Public Pronouncement on the Facts), 4.2 (Investigation and punishment of those responsible), and 4.3 (Monument to the Murdered and Disappeared), all of which relate to measures of satisfaction and guarantees of non-repetition, the IACHR declares that compliance therewith is pending and that it will continue to monitor them until they have been fully complied with.

23. With respect to Clause 5 of the agreement, relating to the Implementation Schedule, the Commission will remain attentive to the State's review of the actuarial studies for the purposes of payment of the financial obligations within the time limit established in said clause, and it urges the parties to keep it informed of progress in the implementation of that clause. Accordingly, the IACHR declares that compliance with Clause 5 of the agreement is pending.

24. As for Clauses 6 (Approval and Follow-up), 7 (Publication and Completion of the Agreement), and 8 (Supervision and Compliance), the IACHR finds them to be declaratory and declares them as such.

25. The Commission finds that all the clauses in this friendly settlement agreement are pending compliance and it requests the parties to keep it informed in timely manner about the effective implementation

⁴ Vienna Convention on the Law of Treaties, U.N. 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.*

of the different points of the agreement. The IACHR will closely monitor implementation of the obligations assumed in the agreement and will apply the guidelines prescribed in Article 49 of the Convention.

V. CONCLUSIONS

26. 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.

27. 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 June 21, 2019, as well as Annex A to the friendly settlement agreement.

2. To declare pending compliance Clauses 1 (Pecuniary Damages), 2 (Non-pecuniary Damages), 3 (Payment of Pecuniary Reparation), 4.1 (Public Pronouncement on the Facts), 4.2 (Investigation and Punishment of Those Responsible), 4.3 (Monument to the Murdered and Disappeared), and 5 (Implementation Schedule).

3. To continue to supervise Clauses 1, 2, 3, 4.1, 4.2, 4.3, and 5 of the friendly settlement agreement until they have been fully complied with in accordance with the analysis contained in this report. To that end, to remind the Parties of their commitment to periodically inform the IACHR regarding compliance therewith.

4. To make the present report public 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 13 day of July 2019. (Signed): Joel Hernández, First Vice-President; Antonia Urrejola; Second Vice-President; Margarete May Macaulay, Francisco José Eguiguren, Luis Ernesto Vargas Silva and Flávia Piovesan, Members of the Commission.