

TECHNICAL INFORMATION SHEET
CASE 12.986 JOSÉ ANTONIO BOLAÑOS JUÁREZ
FRIENDLY SETTLEMENT REPORT No. 106/19
TOTAL COMPLIANCE
(MEXICO)

I. SUMMARY OF THE CASE

Victim(s): José Antonio Bolaños Juárez.

Petitioner(s): José Antonio Bolaños Juárez.

State: Mexico.

Beginning of negotiation date: September 6, 2016

FSA signature date: June 27, 2018

Report on Friendly Settlement Agreement No.: [106/19](#), published July 28, 2019

Estimated length of the negotiation phase: 3 years

Associated Rapporteurship: Rapporteurship on the Rights of Persons Deprived of Liberty

Topics: Police violence, physical violence, life, cruel, inhuman, o degrading treatment or punishment, excessive use of force, torture, impunity, conditions of detention.

Facts: On July 17, 2001, more than 40 police officers from the Office of the Attorney General (PGR: Procuraduría General de la República), heavily armed, with black balaclavas and clothing, entered the medical office of the alleged victim and petitioner, José Antonio Bolaños Juárez, a physician, breaking doors and windows. Approximately 10 days later the victim was intercepted when leaving his office by police, who asked him to accompany them to the Office of the Specialized Unit for Organized Crime (UEDO), which is part of the Office of the Attorney General of the Republic, to ask him some questions. Once in the offices of the UEDO in Mexico City, the agents beat and tortured him, placing a plastic bag over his face, provoking asphyxia and even convulsions. During this whole sequence of events, through shouts and insults, they instigated him and threatened to shoot him in the fingers if he did not accept that he was a kidnapper who amputated his victims' fingers. He was subsequently transferred to other offices in which they asked him several questions and beat him once again. Subsequently, he was taken to an unofficial detention facility, where he remained for two months, and in which his health worsened due to the lesion in his internal organs. During all this time he was not informed of the reason for his detention. Subsequently, he was transferred to the prison known as Reclusorio Sur in the Federal District, where the judge in charge of his case (No. 166/2001) informed him that he was going to be indicted, along with two other persons, for committing the crimes of illegal deprivation of liberty in the modality of kidnapping, aggravated injuries, and carrying a firearm without a license. Based on the statements of two witnesses said to be co-defendants, and on "concise" evidence fabricated by the Office of the Attorney General, by judgment of March 20, 2003, the 13th District Court for Federal Criminal Proceedings in the Federal District ("13th District Court") convicted him and sentenced him to 60 years in prison and a fine.

Rights alleged violated: The petitioners alleged violations of the human rights set forth in Articles 1 (obligation to respect rights), 7 (right to personal liberty), and 8 (judicial guarantees) of the American Convention.

II. PROCEDURAL ACTIVITY

1. The IACHR published the homologation report on July 28, 2019.
2. The IACHR requested updated information on August 13, 2020.
3. The State submitted updated information on September 16, 2020.
4. The petitioner submitted updated information on July 28, 2020.
5. On August 6, 2020, the parties held a working meeting facilitated by the IACHR for promoting full compliance with the friendly settlement agreement.

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

Clause of the Agreement	Status of Compliance
<p>SECOND: EFFECTIVE INVESTIGATION</p> <p>It is the will of “THE VICTIMS” that this Agreement not include an obligation related to the investigation of the facts of the case. “THE VICTIMS” also state they wish not to participate in the investigations carried out at its own initiative by “THE MEXICAN STATE” with respect to the case.</p> <p>Nonetheless, the foregoing does not relieve “THE MEXICAN STATE” of its obligations stemming from Mexican Legislation, the American Convention, and the Inter-American Convention to Prevent and Punish Torture, in respect of diligently investigating the crime of torture. In response, the Office of the Attorney General shall give impetus to the investigations of the case outside of the context of this Agreement, at all times prioritizing the best interest of “THE VICTIMS,” avoiding any possible type of revictimization.</p>	<p>Declarative Clause</p>
<p>THIRD: RECOGNITION OF INTERNATIONAL RESPONSIBILITY</p> <p>“THE MEXICAN STATE” recognizes, in keeping with what is indicated by the IACHR, its international responsibility for the violation of the rights to humane treatment, due process, judicial guarantees, and judicial protection, Articles 5, 7, 8 and 25 of the American Convention, in relation to the general obligation to respect the rights contained at Article 1(1) of the same instrument, as well as Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, for the facts that occurred to the detriment of citizen José Antonio Bolaños Juárez.</p> <p>“THE MEXICAN STATE” recognizes that the violations expressed in the previous paragraph are attributable to it and give rise to its international responsibility vis-à-vis “THE VICTIMS” as well as the obligation to make reparation.</p>	<p>Declarative Clause</p>
<p>FOURTH: REPARATIONS</p>	

A. MEASURES OF REHABILITATION 4.1. General obligations of the parties.	Declarative Clause
<p>4.2. In the area of health.</p> <p>“THE MEXICAN STATE” shall grant precautionary measures aimed at restoring the health and dignity of “THE VICITMS” as per the following:</p> <p>“THE MEXICAN STATE” undertakes to grant each of “THE VICTIMS” adequate, preferential, and free medical and psychological care.</p> <p>While the medical care is provided through public institutions of “THE MEXICAN STATE,” and only when the public institutions of “THE MEXICAN STATE” cannot provide the care required by “THE VICTIMS” recourse will be had to a private institution, in the instant case an effort will be made to provide care at the medical establishment trusted by and usually used by “THE VICTIMS,” this being the Clínica Londres.</p> <p>In the event that the medical or psychological service needed by “THE VICTIMS” must be provided at facilities away from their place of residence, “THE MEXICAN STATE” will cover the respective travel and per diem costs so long as it is in Mexican territory and the services are not viable at their place of residence.</p> <p>“THE MEXICAN STATE” will facilitate contact with an area of the Ministry of Health that serves as liaison for communicating in case of a medical emergency or any eventuality arises with respect to the health care. This liaison unit will have the necessary capacity for engagement to resolve such emergencies.</p> <p>Since the medical care will be provided at Clínica Londres, the corresponding steps will be taken with the Executive Commission for Attention to Victims (CEAV) to incorporate “THE VICTIMS” to the National Registry of Victims (RENAVI) as soon as possible. In the event that the care cannot be provided at that clinic, the best conditions of care will be sought in the public specialty hospitals as necessary for the occasion. “THE VICTIMS,” through “THE REPRESENTATIVE,” will provide the CEAV with all the information necessary for their registration, and undertake to go to the consultations, examinations, evaluations, sessions, treatments, or any type of procedure that is established or that derives from the agreements of “THE PARTIES.” “THE MEXICAN STATE” shall grant the corresponding facilities for the provision of services in the terms of the applicable legal provisions.</p> <p>“THE MEXICAN STATE” will not be obligated to provide medical or psychological care to “THE VICTIMS” if they decide to temporarily or permanently change their residence to outside the national territory; without prejudice to it being resumed should they return to Mexican territory.</p>	<p style="text-align: center;">Total¹</p>

¹ See IACHR, 2020 Annual Report, Chapter II, Section F. Negotiation and Implementation of Friendly Settlement Agreements.

<p>4.3. Incorporation to the Seguro Popular.</p> <p>“THE MEXICAN STATE” will incorporate “THE VICTIMS” to the Seguro Popular; they will have access to the services and pharmaceuticals established in its medical coverage.</p> <p>Their incorporation should be concluded no later than 6 (six) months after the signing of this Agreement.</p>	<p>Total²</p>
<p>4.4. Care in the event of a change in place of residence.</p> <p>If “THE VICTIMS” change domicile to another state in the Mexican Republic, the medical care will be provided in their new place of residence through the Seguro Popular or a similar program that provides the same level of care.</p>	<p>Declarative Clause</p>
<p>B. MEASURES OF SATISFACTION</p>	
<p>4.5. Ceremony for Recognition of International Responsibility and Apology.</p> <p>“THE MEXICAN STATE” shall hold a ceremony for recognizing its international responsibility and apologizing, which will be private, at the petitioner’s express request. In that ceremony it will be recognized that citizen José Antonio Bolaños Juárez was deprived of liberty in violation of several provisions of the CPEUM, the American Convention, and the Inter-American Prevention to Prevent and Punish Torture, as he was a victim of torture and mistreatment in addition to due process violations. “THE VICTIMS” and “THE REPRESENTATIVE” will participate in that ceremony, if they do desire, and the violation of rights mentioned in Clause 3.1 will be recognized.</p> <p>The private ceremony for recognition will be headed up by the Principal in the Human Rights Unit of the Ministry of Interior, the Director General for Human Rights and Democracy of the Ministry of Foreign Affairs, and the Coordinator for International Affairs and Attaches of the Office of the Attorney General.</p> <p>In addition to the private ceremony for recognition of international responsibility and apology, “THE VICTIMS” will be given a written document, signed by Mr. Rafael Adrián Avante Juárez, Undersecretary for Human Rights, Ambassador Miguel Ruiz Cabañas Izquierdo, Undersecretary for Multilateral Affairs and Human Rights, and Ms. Sara Irene Herrerías Guerra, Deputy Attorney General for Human Rights, Crime Prevention, and Community Services, stating the recognition of international responsibility and apology.</p> <p>The characteristics of the ceremony for recognition of international responsibility and apology will be spelled out in Annex 1 to this Agreement.</p>	<p>Total³</p>

² IACHR, Report No. 106/19, Case 12,986. Friendly Settlement. José Bolaños Juárez. July 28, 2019.

³ IACHR, Report No. 106/19, Case 12,986. Friendly Settlement. José Bolaños Juárez. July 28, 2019.

<p>4.6. Expunging Criminal Records</p> <p>“THE MEXICAN STATE” will take the steps with the competent authorities to expunge the criminal records that may exist against citizen José Antonio Bolaños Juárez, and the Office of the Attorney General will eliminate any reference to his purported criminal liability.</p> <p>The Ministry of Interior shall send a letter to the principal national circulation newspapers that still have such references to urge that they be deleted.</p>	Total⁴
C. GUARANTEES OF NON-REPETITION	
<p>4.7. Continuing training courses in the Office of the Attorney General of the Republic.</p> <p>The Office of the Attorney General shall conduct a training workshop on fighting torture geared to the staff of the institution in which a practice case is studied with characteristics similar to those of the instant case, without making reference to citizen José Antonio Bolaños Juárez, considering that this was expressly required in the program that has been presented as Annex 2 to this Agreement.</p>	Total⁵
D. COMPENSATION	
<p>4.8. Monetary compensation:</p> <p>“THE MEXICAN STATE” shall make a payment corresponding to the harm suffered by the party affected, which included forth pecuniary and non-pecuniary damages. The payment will be made considering what is established in the Operating Rules, taking into account the concepts spelled out in the following clauses and whose figures are specified in Annex 3 to this Agreement.</p>	Declarative Clause
<p>4.9. Compensation for Non-material Harm.</p> <p>“THE MEXICAN STATE” undertakes to pay compensation for non-material harm to citizen Diana Azucena Bolaños Cruz and to citizen Sabdy Antonio Bolaños Cruz, in keeping with the Operating Rules. The non-material harm corresponds to the payment for suffering and/or afflictions caused the victims; the detriment to significant values for the persons; as well as the disturbances non-pecuniary in nature. The amount of moral damages will be established based on the case-law of the inter-American human rights system in similar cases in keeping with the specifications in Annex 3.</p>	Total⁶
<p>4.10. Compensation for Material Harm.</p> <p>The amounts contemplated will be paid to “THE VICTIMS” within 2 (two) months of the signing of this Agreement, so long as they comply with the requirements provided for in Mexican legislation for being paid. In case of default or delinquency, the relevant provisions of the Operating Rules will apply.</p>	Total⁷

⁴ IACHR, Report No. 106/19, Case 12,986. Friendly Settlement. José Bolaños Juárez. July 28, 2019.

⁵ IACHR, Report No. 106/19, Case 12,986. Friendly Settlement. José Bolaños Juárez. July 28, 2019.

⁶ IACHR, Report No. 106/19, Case 12,986. Friendly Settlement. José Bolaños Juárez. July 28, 2019.

⁷ See IACHR, 2020 Annual Report, Chapter II, Section F. Negotiation and Implementation of Friendly Settlement Agreements.

<p>These payments will be made in a lump sum and constitute the total amount of economic reparations that “THE MEXICAN STATE” will make in light of the harm stemming from the violations described in Clause 3.1.</p> <p>Once the payments provided for in this Agreement are made to “THE VICTIMS” they may not make any claim to any authority of “THE MEXICAN STATE,” be it federal, state, or municipal, for the payment of any additional amount. Regarding the foregoing, “THE VICTIMS” state that they are satisfied with the amounts established in this Agreement. In addition, the payments that “THE MEXICAN STATE” makes to “THE VICTIMS” shall be made in their name.</p>	
4.11. Modalities of payment of the reparations.	Declarative Clause
FIFTH: INTEGRAL NATURE OF THE AGREEMENT	Declarative Clause
SIXTH: CONFIDENTIALITY	Declarative Clause
SEVENTH: TERMINATION OF THE AGREEMENT AND EARLY SATISFACTION OF OBLIGATIONS	Declarative Clause
EIGHTH: APPLICABLE LAW, INTERPRETATION, AND DISPUTE SETTLEMENT	Declarative Clause
NINTH: SUPERVISION AND HOMOLOGATION OF THE AGREEMENT	Declarative Clause

IV. LEVEL OF COMPLIANCE OF THE CASE

6. The Commission declared full compliance with the case and ceased monitoring the friendly settlement agreement in the 2020 Annual Report.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State held the ceremony for recognition of responsibility.
- The State incorporated the victims to the Seguro Popular.
- The State paid economic compensation to the victims.
- The State provided medical and psychological attention to the beneficiaries of the agreement.

B. Structural outcomes of the case:

- The public ceremony for recognition of responsibility was disseminated via several websites, radio stations, and other media outlets.
- The State expunged the victim’s criminal record.
- The State held ongoing training courses at the Office of the Attorney General of the Republic.