

**TECHNICAL INFORMATION SHEET**  
**CASE 11.426 MARCELA ALEJANDRA PORCO**  
**FRIENDLY SETTLEMENT REPORT No. [270/23](#)**  
**TOTAL COMPLIANCE**  
**(BOLIVIA)**

**I. SUMMARY OF THE CASE**

**Victim(s):** Marcela Alejandra Porco

**Petitioner(s):** Servicio Paz y Justicia (SERPAJ), the Center for Justice and International Law (CEJIL), the Asociación Justicialista de Abogados, Fernando Rizzi and Gaspar Porco

**State:** Bolivia

**Beginning of the negotiation date:** May 1, 2009

**FSA signature date:** May 30, 2022

**Report on Admissibility No.:** [8/08](#) published on March 4, 2008

**Friendly Settlement Agreement Report No.:** [270/23](#) published on November 30, 2023

**Estimated length of the negotiation phase:** 14 years and 6 months

**Related Rapporteurship:** Women's Rights; Persons with Disabilities

**Topics:** Right to Compensation/ Freedom of Movement and Residence/Right to a Fair Trial/ Right to Equal Protection/ Judicial Protection

**Facts:** On December 30, 1994, the Inter-American Commission on Human Rights received a petition presented by the organization Servicio Paz y Justicia (SERPAJ), the Center for Justice and International Law (CEJIL), the Asociación Justicialista de Abogados, Fernando Rizzi and Gaspar, alleging the international responsibility of the Plurinational State of Bolivia for the alleged violation of the human rights, to the detriment of Marcela Alejandra Porco, an Argentine citizen, 25 years of age at the time, who was allegedly held in a women's prison despite suffering from a mental illness; during her imprisonment she was allegedly the victim of torture, inhuman and degrading treatment, and sexual violence. The petitioner also denounced alleged irregularities in the criminal proceedings against Marcela Alejandra Porco.

**Rights declared admissible:** On March 4, 2008, during the 131st Regular Period of Sessions, the IACHR adopted Admissibility Report No. 8/08 and declared the petition admissible with respect to the alleged violation of the rights enshrined in Articles 5(1) (right to humane treatment), 7 (right to personal liberty), 8(1) (right to a fair trial), 11(1) (right to privacy) and 25 (right to judicial protection) of the American Convention in relation to Articles 1(1) and 2 of said instrument.

**II. PROCEDURAL ACTIVITY**

1. On May 30<sup>th</sup>, 2022, the parties signed a friendly settlement agreement.
2. On November 30, 2023, the IACHR published the friendly settlement report N. ° 270/23, approving the friendly settlement agreement and accounting for its full compliance, and consequently decided to cease its supervision and close the case.

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

Clause of the Agreement	Status of Implementation
<b>I. BACKGROUND OF THE FRIENDLY SETTLEMENT AGREEMENT</b>	<b>Declarative clause</b>
<b>II. FRIENDLY SETTLEMENT PROCEEDING</b>	<b>Declarative clause</b>
<p><b>III. ACKNOWLEDGMENT OF RESPONSIBILITY AS A SATISFACTION MEASURE</b></p> <p>The Bolivian State recognizes its international responsibility for the violation of Marcela Alejandra Porco's rights to humane treatment, personal liberty, fair trial, privacy and judicial protection, recognized in articles 5.1, 7, 8.1, 11.1 and 25 of the ACHR, all in accordance with the general obligations to respect and guarantee the rights set forth in articles 1.1 and 2 of said international instrument.</p> <p>The recognition of the State's responsibility for the violation of the aforementioned human rights will be embodied in a formal missive addressed to Antonela Grisi and Gaspar Porco, signed by the State Attorney General, in his capacity as legal representative of the State, which will include an apology for the rights violations configured in the Admissibility Report No. 8/08 of March 4, 2008. Said letter shall be submitted in the framework of this international proceeding within a period of three (3) months computable as of the signature of this FSA.</p>	<b>Total<sup>1</sup></b>
<b>IV. NON-REPETITION MEASURES</b>	
<p><b>1. Legislative reform</b></p> <p>In 2019, in the framework of the negotiations of this FSA, previously agreed with the petitioner, a Bill was presented to the Chamber of Deputies to amend Article 295 of the Criminal Code, in accordance with the Inter-American Convention to Prevent and Punish Torture, the recommendations of the Concluding Observations on the Second Report of the Plurinational State of Bolivia, adopted by the Committee against Torture at its 50th Session (A/56/44) and other international instruments related to the prevention of torture, which was subsequently returned with observations to the drafting institutions.</p> <p>On August 16, 2021, the Service for the Prevention of Torture ("SEPRET") sent to the Ministry of Justice and Institutional Transparency, two proposed amendments to Article 295 of the Criminal Code, to be analyzed and once the final version of the Bill is drafted, the State undertakes to share it with the petitioning party to receive its final comments and to submit it to the Plurinational Legislative Assembly for approval.</p> <p>Said presentation shall be made within a period of four (4) months as of the signature of this FSA; and the necessary efforts shall be made so that the Draft Law is approved within a reasonable period of time.</p>	<b>Total<sup>2</sup></b>
<p><b>2. Right to truth, justice and guarantees of non-repetition</b></p> <p>The Plurinational State of Bolivia recognizes the right to truth and justice of all victims of serious human rights violations. Accordingly, the State explored the feasibility of filing a criminal complaint but taking into account the passage of time and the death of the victim, this proved to be unfeasible.</p>	<b>Total<sup>3</sup></b>

<sup>1</sup> IACHR, Report No. 270/23, Case 11.426. Friendly Settlement. Marcela Alejandra Porco. Bolivia. November 30, 2023. [https://www.oas.org/en/iachr/decisions/2023/BO%20SA%2011.426%20ENG\\_FINAL%20WEB.pdf](https://www.oas.org/en/iachr/decisions/2023/BO%20SA%2011.426%20ENG_FINAL%20WEB.pdf)

<sup>2</sup> IACHR, Report No. 270/23, Case 11.426. Friendly Settlement. Marcela Alejandra Porco. Bolivia. November 30, 2023. [https://www.oas.org/en/iachr/decisions/2023/BO%20SA%2011.426%20ENG\\_FINAL%20WEB.pdf](https://www.oas.org/en/iachr/decisions/2023/BO%20SA%2011.426%20ENG_FINAL%20WEB.pdf)

<sup>3</sup> IACHR, Report No. 270/23, Case 11.426. Friendly Settlement. Marcela Alejandra Porco. Bolivia. November 30, 2023. [https://www.oas.org/en/iachr/decisions/2023/BO%20SA%2011.426%20ENG\\_FINAL%20WEB.pdf](https://www.oas.org/en/iachr/decisions/2023/BO%20SA%2011.426%20ENG_FINAL%20WEB.pdf)

<p>Therefore, in order to contribute to the non-repetition of the facts related to this case, the State undertakes to issue, through the Ministry of Government, an internal instruction of national scope, addressed to the General Directorate of the Penitentiary Regime and the General Command of the Bolivian Police, reminding them that the State is in a special position of guarantor with respect to persons deprived of liberty, and that as such, it assumes specific duties to respect and guarantee the fundamental rights of these persons; In particular, the rights to life and personal integrity, the realization of which is an indispensable condition for the achievement of the essential purposes of the sentence of deprivation of liberty: the reform and social readaptation of convicted persons. It will also recall the obligation to comply with the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), mainly in relation to medical care and humane treatment, according to which all persons deprived of liberty will be treated humanely, with unrestricted respect for their inherent dignity, their fundamental rights and guarantees, and in strict compliance with international human rights instruments and the responsibilities derived from their non-compliance. Likewise, the instruction shall make specific reference to the facts of this case, its content and wording shall be previously agreed upon with the victim and his representatives.</p>	
<p><b>V. COMPENSATION</b></p> <p>The State undertakes to compensate Antonela Grisi, daughter of Marcela Alejandra Porco, for the violations of rights indicated in the Admissibility Report No. 8/08 of March 4, 2008, with a one-time payment of U\$ 12,000 (TWELVE THOUSAND 00/100 AMERICAN DOLLARS), which will be materialized through a Decree and must be made within one (1) year, as of the signature of this FSA. Considering that Antonela Grisi resides in Argentina, the payment will be made through an international bank transfer.</p> <p>However, the State will only be responsible for the payment of compensation to Antonela Grisi and will not be responsible for any other payment related to the facts referred to in this case.</p> <p>Furthermore, Antonela Grisi, Gaspar Porco and CEJIL definitively and irrevocably waive the right to initiate any other claim of any nature with the Bolivian State in relation to the facts that gave rise to this case.</p>	<b>Total<sup>4</sup></b>
<p><b>VI. NOTIFICATION TO THE IACHR</b></p>	<b>Declarative clause</b>
<p><b>VII. CONFORMITY</b></p>	<b>Declarative clause</b>

#### 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 2023 Annual Report.

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

##### A. Individual outcomes of the case

- On September 19, 2022, a symbolic act of delivery and reading of a letter of redress was carried out in virtual mode which was recorded on the YouTube web page of the Attorney General's Office. Subsequently, the parties informed that, by means of official letter PGE-DESP No. 1896/2022 of September 27, 2002, the Attorney General's Office sent a copy of the letter of

<sup>4</sup> IACHR, Report No. 270/23, Case 11.426. Friendly Settlement. Marcela Alejandra Porco. Bolivia. November 30, 2023. [https://www.oas.org/en/iachr/decisions/2023/BO%20SA%2011.426%20ENG\\_FINAL%20WEB.pdf](https://www.oas.org/en/iachr/decisions/2023/BO%20SA%2011.426%20ENG_FINAL%20WEB.pdf)

- acknowledgment of international responsibility and apology, signed by the Attorney General of the State, which was sent through the Embassy of Bolivia in Buenos Aires to Antonela Grisi.
- The parties stated that the totality of the compensation in favor of Antonela Grisi was cancelled.

**B. Structural outcomes of the case**

- During the month of March 2023, the Ministry of Justice and Institutional Transparency submitted to the Chamber of Deputies the Bill called "*Law on Compliance with International Human Rights Commitments*", which incorporated the Technical Legal Report, Statement of Reasons and Bill for the amendment of Article 295 and the incorporation of Articles 295 bis and 295 ter to the Penal Code approved by Law 1768 of March 10, 1997.
- The Ministry of Government issued the Instructive MIN.GOB-INS.DESP No. 012/2023, addressed to public servants of the Bolivian Police, as well as to the General Directorate of Penitentiary Regime, with the objective that such public servants who have in their custody persons deprived of their liberty, apply the established procedures, framing their actions in the Political Constitution of the State, norms and International Treaties in the framework of Human Rights, Organic Law of the National Police, Manual of Basic Techniques of Police Intervention in the context of Human Rights and legal regulations in force.