

TECHNICAL INFORMATION SHEET
CASE 13.421 GEMINIANO GIL MARTINEZ AND FAMILY
FRIENDLY SETTLEMENT REPORT No. [333/20](#)
TOTAL COMPLIANCE
(COLOMBIA)

I. SUMMARY OF THE CASE

Victim (s): Geminiano Gil Martinez and Family

Petitioner (s): Jesús Arcángel Alonso Guzmán and Rigoberto Olivella Arzuaga

State: Colombia

Start date of negotiations: August 2, 2019.

Date of signing of FSA: December 4, 2019

Admissibility Report N°: [141/17](#), published on October 26, 2017

Report on Friendly Settlement Agreement N°: [333/20](#), published on November 19, 2020

Estimated length of negotiation phase: 1 year and 3 months

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

Topics: Right to life/ Arbitrary arrest/ Judicial guarantees/ Military jurisdiction/ Investigation and due diligence/ Judicial protection/ Security and violence/ Terrorism and human rights/ Excessive use of force/ Police violence

Facts: On December 21, 2007, the IACHR received a petition in which the petitioning party alleged that, on December 6, 1989, Mr. Geminiano Gil Martínez was abducted when he was traveling for work reasons from Granada, in the Department of Antioquia, to a camp located in the district (Corregimiento) of Santa Ana. The petitioner stated that on the morning of December 8, 1989, the victim's wife received a phone call from an unidentified person telling her that her husband and another man had been kidnapped. Later, that afternoon, the authorities of the municipality of Guatapé found the victim's body next to the corpse of another person and reported that he had died from a bullet wound to the head and had possibly been shot by members of illegal armed groups. The petitioner also pointed out that, on December 10, 1989, a press release published in the national circulation daily newspaper "El Espectador" stated that the abduction had been carried out by members of the National Liberation Army. The petitioning party reported that later an investigation was initiated before the Preliminary Criminal Investigation Court of Mixed Jurisdiction (*Juzgado Promiscuo*) in Guatapé and that, on February 5, 2007 a petition was filed with the Office of the Attorney General (FGN) and the Municipal Public Prosecutor's Office (*Fiscalía Seccional*) in Antioquia, requesting information regarding the investigation that had begun in December 1989 into the alleged abduction and murder of Geminiano Gil Martínez. The petitioning party stressed that the Prosecutor's Office reported that there was no record of the events and that, according to the Municipal Criminal Court in Guatapé the files on proceedings had been sent, on March 28, 1990 to the 61st Preliminary Criminal Investigation Court of the Municipality of San Rafael, which had no record of the case. The petitioning party further reported that it had filed a direct reparation suit against the Judiciary and the FGN, which had been admitted in a decision, handed down on April 14, 2009, and was still awaiting a final judicial ruling as of the day the petition was presented.

Rights declared admissible: The IACHR declared the petition admissible in respect of the alleged violation of Articles 4 (right to life), 5 (right to humane treatment/personal integrity), 7 (right to personal liberty), 8 (judicial guarantees), and 25 (right to judicial protection) of the American Convention in conjunction with Article 1.1 (obligation to respect rights) of the same instrument, to the detriment of Geminiano Gil Martínez and his family.

II. PROCEDURAL ACTIVITY

1. On December 4th, 2019, the parties signed a friendly settlement agreement.
2. The IACHR published the approval report on November 19, 2020.

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

Clause of the Agreement	Status of Implementation
<p>FIRST: ACKNOWLEDGMENT OF RESPONSIBILITY.</p> <p>The Colombian State acknowledges international responsibility for the violation of Article 8 (right to judicial guarantees) and Article 25 (right to judicial protection) of the American Convention on Human Rights to the detriment of family members of the victim, for lack of diligence in investigating deeds that occurred on December 6, 1989, in which Mr. Geminiano Gil Martínez died.</p>	Declarative clause
<p>SECOND: DISCONTINUANCE OF THE DIRECT REPARATION SUIT.</p> <p>In view of the signing of the present friendly settlement agreement by the Colombian State and the representatives of the victims, the petitioners commit to discontinue Direct Reparation Suit No. 05001233100020090059701 being processed on first appeal by the Council of State, Section Three. They also expressly waive filing any other domestic lawsuit on account of the same facts and for the same claims.</p>	Declarative clause
THIRD: MEASURES OF SATISFACTION	
<p>a) Act of acknowledgment of responsibility: A private ceremony of apology and to restore dignity in the Jesucristo Redentor Army Cathedral in Bogotá, presided over by a senior National Government official. The ceremony in which the State acknowledges its responsibility shall include active participation by family members and representatives of the victims. In that ceremony, the State shall acknowledge its responsibility in the terms agreed to in this Agreement. The National Agency for Legal Defense of the State shall be responsible for implementing this measure, in coordination with the Ministry of National Defense.</p>	Total¹
<p>b) Delivery of mementos and invitations: The Office of the Presidential Adviser on Human Rights shall oversee preparation of mementos and invitations to be delivered during the Acknowledgment of Responsibility ceremony. How these measures are implemented shall be agreed upon with the victims and their representatives.</p>	Total²
<p>c) Publication of the facts: The Colombian State commits to posting the report issued by the Inter-American Commission on Human Rights pursuant to Article 49 of the American Convention that approves the friendly settlement agreement on the web page of the National Legal Defense Agency of the State for a period of six months.</p>	Total³
FOURTH: FINANCIAL REPARATION.	Total⁴

¹ IACHR, Report No. 333/20, Case 13.421. Friendly Settlement. Geminiano Gil Martinez and Family, Colombia, November 19, 2020. Available at: <http://www.oas.org/en/iachr/decisions/2020/COSA13421EN.pdf>.

² IACHR, Report No. 333/20, Case 13.421. Friendly Settlement. Geminiano Gil Martinez and Family, Colombia, November 19, 2020. Available at: <http://www.oas.org/en/iachr/decisions/2020/COSA13421EN.pdf>.

³ IACHR, *Annual Report 2022*, Chapter II, Section F. Negotiation and Implementation of Friendly Settlement Agreement. Available at https://www.oas.org/en/iachr/docs/annual/2022/Chapters/4-IA2022_Cap_2_EN.pdf.

⁴ IACHR, *Annual Report 2023*, Chapter II, Section C. Advances and challenges on negotiation and implementation of friendly settlement agreement. Available at https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_2_ENG.PDF

<p>The State commits to applying Law 288 of 1996 once the present Friendly Settlement Agreement is approved by issuance of the report envisaged in Article 49 of the American Convention on Human Rights, its purpose being to provide reparation for such material and immaterial damages as may be proven in favor of the victims' relatives that have not received compensation in the administrative jurisdiction, or, if they have, discounting the amounts recognized for administrative reparation. To that end, recourse shall be had to the criteria and amounts recognized in current Council of State case law.</p>	
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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

- The State conducted the private Acknowledgment of Responsibility and Request for Forgiveness ceremony in the Jesucristo Redentor Army Cathedral. It began with a liturgical act commemorating the 30th anniversary of the death of Geminiano Gil Martínez: an event of great symbolic importance for the family. The ceremony was presided over by the Director General of the National Legal Defense Agency of the State (ANDJE), who, on behalf of the Colombian State, asked the victims and their next of kin for forgiveness for what had happened and acknowledged the State's responsibility.
- The State sent out invitations to the ceremony to the victims and their next of kin and provided the IACHR with a photographic record of those invitations. During the ceremony, 80 mementos and 20 printed invitations were handed out, along with a photographic record of the order of business and of the ceremony, which was attended by members of the victim's family, the Ministry of Defense, and ANDJE.
- In connection with the procedure established in Law 288/96, the State made the compensation payment to the beneficiaries of the friendly settlement agreement, through Resolution No. 282 of May 25, 2023, for a total amount of \$1,513,514,685.69 pesos.

B. Structural outcomes of the case

- The State published the Article 49 report on the web page of the National Legal Defense Agency of the State: www.defensajuridica.gov.co and the Ministry of National Defense.