

TECHNICAL INFORMATION SHEET
CASE 12.337 MARCELA ANDREA VALDÉS DÍAZ
FRIENDLY SETTLEMENT REPORT N° 80/09
FULL COMPLIANCE
(CHILE)

I. SUMMARY OF THE CASE

Victims (s): Marcela Andrea Valdés Díaz

Petitioner (s): *Fundación Instituto de la Mujer*

State: Chile

Admissibility Report No.: [57/03](#) published on October 10, 2003

Report on Friendly Settlement Agreement No.: [80/09](#) published on August 6, 2009

Related Rappporteurship: Rights of Women

Topics: Humane Treatment/ Judicial Guarantees/ Right to privacy/ Right to equal treatment/judicial protection

Facts: The petitioner argues that Mrs. Marcela Andrea Valdés Díaz was a member of *Carabineros de Chile* [the Chilean police] and that upon getting married in 1994 to Claudio Vázquez Cardinalli, a Captain in Carabineros of Chile, he subjected her to physical and psychological abuse, a fact that was brought to the attention of both Carabineros of Chile and the judicial authorities. The petitioner says that Mrs. Marcela Andrea Valdés obtained a court order of permanent protection in 1999. The petitioner says that subsequently, both Mrs. Valdés and her husband asked their superiors for permission to live separately, which was granted. The petitioner claims that based on the foregoing request, the (police) Prefecture of Valdivia opened a summary proceeding to investigate Mrs. Valdés marital relationship, which resulted in the adoption of Resolution No.14 of June 4, 1999, whereby she was sentenced to 15 days of detention, while two other police officers were given lesser penalties. Before the final decision was delivered, she filed for a constitutional remedy of protection from the courts, whereupon she was sentenced to additional time under arrest for having sought judicial remedies before exhausting the administrative procedures. The petitioner says that as a result of these sanctions, she was ultimately discharged. The petitioner adds that Mrs. Valdés went to court to file an appeal challenging her discharge, but her appeals were denied without an examination of the merits of her claims.

Rights Declared Admissible: The Inter-American Commission on Human Rights decided that it was competent to hear the present case, and that the petition was admissible in accordance with Articles 5 (right to humane treatment), 8 (right to a fair trial), 11 (right to privacy), 24 (right to equal protection) and 25 (right to judicial protection) of the American Convention on Human Rights, in connection with Articles 1.1 and 2 of said instrument and Article 7 of the Convention of Belém do Pará.

II. PROCEDURAL ACTIVITY

1. On March 11, 2008, during its 131st Ordinary Period of Sessions, the parties signed a friendly settlement agreement.

2. On August 6, 2009, the Commission approved the agreement signed by the parties in Report No.80/09.

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

Agreement Clause	Status of Compliance
1. NON REPETITION MEASURES:	
a. Review, update, and enhancement of legal and regulatory standards on domestic violence, with an emphasis on situations that affect police officials and on preventive measures, <i>inter alia</i> , on sexual harassment.	Total¹
b. Strengthening of the study course's contents that are connected with human rights at all levels and in all educational processes in the institution.	Total²
c. To continue to hold training workshops and seminars on issues related to protection for women in the police role, strengthening, in particular, assistance for victims of domestic violence, the social dimension of the socio-cultural phenomenon of domestic violence and its legal implications: domestic violence, femicide, and learning disorders in children.	Total³
d. Bearing in mind that the State of Chile, under the coordination of the Gender Equity Advisory Office of the Ministry of Defense, set up a working group consisting of representatives of the Armed Services, Security Forces, and the Investigation Police, as well as their respective retirement funds Department, in order to detect possible gender inequities through a complete review of institutional rules and regulations, this group will strengthen its attention to issues connected with domestic violence in the above-mentioned institutions. Furthermore, taking into account that at an initial stage various nongovernmental organizations and leading scholars participated, describing their experiences and contributing their views and observations on the matters with which the working group is concerned, also an invitation will be sent to the petitioner's lawyers before the IACHR, in their capacity as members of the organization representing this case, Fundación Pro-Bono.	Total⁴
In this regard, the parties expressly state for the record their desire that this experience of creating the working group, as well as its organization and work, and the results thereof, serve as a stimulus and example of good practices for the region and the international community.	Declarative Clause
Finally, it should be mentioned that the Executive Secretariat of the IACHR will be duly informed of each of the various activities carried out.	Total⁵
2. SPECIFIC REPARATION MEASURES:	
Publication of a summarized version of the text of the present agreement in the Official Gazette of the Republic of Chile as well as on the web sites of the Ministry of Defense and Carabineros of Chile.	Total⁶
3. HEALTH CARE SERVICES:	

¹ See IACHR, Report No.80/09, Case 12.337. Friendly Settlement. Marcela Andrea Valdés Díaz. Chile. August 6, 2009.

² See IACHR, Report No.80/09, Case 12.337. Friendly Settlement. Marcela Andrea Valdés Díaz. Chile. August 6, 2009.

³ See IACHR, Report No.80/09, Case 12.337. Friendly Settlement. Marcela Andrea Valdés Díaz. Chile. August 6, 2009.

⁴ See IACHR, Report No.80/09, Case 12.337. Friendly Settlement. Marcela Andrea Valdés Díaz. Chile. August 6, 2009.

⁵ See IACHR, Report No.80/09, Case 12.337. Friendly Settlement. Marcela Andrea Valdés Díaz. Chile. August 6, 2009.

⁶ See IACHR, Report No.80/09, Case 12.337. Friendly Settlement. Marcela Andrea Valdés Díaz. Chile. August 6, 2009.

The petitioner will continue to receive care at either Hospital de Carabineros "DEL GENERAL HUMBERTO ARRAIGADA VALDIVIESO" or the Hospital of the Carabineros Social Security Department, "HOSPITAL TENIENTE HERNAN MERINO CORREA, or under the modalities and conditions offered by the National Health Fund (FONASA).	Total⁷
4. ECONOMIC REPARATIONS:	
As reparation for material and non-pecuniary damages, the petitioner will receive a one-time total, payment of the equivalent in pesos of US\$ 50,000 (fifty thousand US dollars). That amount shall be paid directly by means of a money order to Mrs. Marcela Valdés Díaz.	Total⁸
5. COURT COSTS:	
The State of Chile shall reimburse part of the litigation costs which have been appraised at the one-time total sum of US\$ 6,000, which it is requested be paid directly to Fundación Pro Bono, a Chilean nongovernmental organization. Marcela Valdés hereby acknowledges its support in the process she faced as a result of the events denounced in the petition to the IACHR.	Total⁹

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared full compliance with the case and ceased monitoring the friendly settlement agreement in Approval Report No.80/09.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State has adopted the necessary measures to provide the victim with access to health care at the Hospital of the Carabineros Social Security Department (DIPRECA), "Hospital Teniente Hernán Merino Correa," medical facility under the supervision of the Under-secretariat for Carabineros of the National Ministry of Defense.
- The State provided Mrs. Valdés Díaz of a cash voucher payable on demand from the State Bank N° 3413042 for the sum of twenty-three million Chilean pesos (\$23,000,000), the equivalent of US\$ 50,000 (fifty thousand US dollars) calculated at the exchange rate for that date.
- The State paid the legal fees in an amount in national currency equivalent to US\$ 6,000 to representatives of Corporación Pro Bono.
- The State published a summarized version of the friendly settlement agreement in the Official Gazette of the Republic of Chile and on the web sites of the Ministry of Defense in a micro site devoted to gender issues, and of the Carabineros of Chile and maintained it there for more than three months.
- The State published the complete text of the agreement on the Carabineros of Chile website (www.carabineros.cl, banner "noticias destacadas", under the link "acuerdo de solución amistosa ante la Comisión Interamericana de Derechos Humanos.")

B. Structural outcomes of the case:

⁷ See IACHR, Report No.80/09, Case 12.337. Friendly Settlement. Marcela Andrea Valdés Díaz. Chile. August 6, 2009.

⁸ See IACHR, Report No.80/09, Case 12.337. Friendly Settlement. Marcela Andrea Valdés Díaz. Chile. August 6, 2009.

⁹ See IACHR, Report No.80/09, Case 12.337. Friendly Settlement. Marcela Andrea Valdés Díaz. Chile. August 6, 2009.

- The State, through the Education Department of the Carabineros of Chile conducted a complete review of the Study Plans and Programs in use at the time, which encompassed all five levels of the Institutional Educational System: 1) Induction; 2) Advanced Training; 3) Specialization; 4) Skills Development; and, 5) Follow-up Courses.

- The State undertook workshops and seminars on issues related to gender equality, protection of women, domestic violence and police activities in the Chilean Carabineros.

- The State promoted the revision of the institutional regulations for the detection of possible gender inequities through the working group established in 2007 in order to comply with non-repetition measures.

- The State, through the Ministry of National Defense, set up a working group made up of representatives of the Armed Forces, of Security Forces (Army, Air Force and Navy), the Carabineros of Chile and the Investigative Police, in addition to representatives of the National Defense Welfare Institutions, with the purpose of reviewing and analyzing the legal and regulatory norms that govern their actions and functioning, with emphasis on gender equality, intra-family violence and, the situation of members of each institution, from the perspective of the principles and rules of the instruments of international human rights law.

- The Department of Health of the Carabineros issued the corresponding instructions, in order to implement online systems for assistance to the public at the Institutional Hospital "General Humberto Arraigada Valdivieso", the necessary measures to allow and facilitate assistance to the former official, and access to the health benefits granted in said hospital center, charged to the health system to which she is attached.