

TECHNICAL INFORMATION SHEET
CASE 12.233 VICTOR AMÉSTICA MORENO ET AL.
FRIENDLY SETTLEMENT REPORT No. [137/19](#)
TOTAL COMPLIANCE
(CHILE)

I. SUMMARY OF THE CASE

Victim(s): Víctor Améstica Moreno

Petitioner(s): Corporation for the Promotion and Defense of Human Rights (CODEPU)

State: Chile

Start of negotiations: December 30, 2003

Date FSA Signed: January 20, 2010

Report on Friendly Settlement Agreement No. [137/19](#), published on September 6, 2019

Estimated duration of the negotiation phase: 6 years

Associated rapporteurship(s): Not applicable

Topics: Protest/ unjustified dismissal/ assembly and association/ protection of the law

Facts: On November 1, 1999, the Inter-American Commission on Human Rights received a petition from the Corporation for the Promotion and Defense of Human Rights (CODEPU) against the Republic of Chile, alleging that Víctor Améstica Moreno, Alberto Araneda Muñoz, Héctor Martínez Vasquez, Oscar Sepulveda Alarcon, and Alejandro César Sánchez Canales—all members of Carabineros de Chile—had been victims of an arbitrary evaluation process carried out by officials of the Carabineros, in which their rights were violated and they were expelled from the institution with no substantive judicial decision having been issued regarding the violation of their rights. They further alleged that their respective spouses, Jenny Burgos Orrego, Marisol Valencia Poblete, Johanna Valdebenito Pinto, Carmen Araya Cordero, and María Angélica Olguín were discriminated against for being their wives. The petitioners also alleged that the State was responsible for violating the right to privacy, the freedom of assembly, the right to property, the right to equal protection of the law, and the right to judicial protection, protected in Articles 11(2), 15, 21, 24, and 25 of the American Convention on Human Rights.

Rights allegedly violated: The petitioners alleged violation of the rights recognized in Articles 1(1) (obligation to respect rights), 2 (domestic legal effects), 8 (right to a fair trial), 11 (right to privacy), 13 (freedom of thought and expression), 15 (right of assembly), 17 (rights of the family), 21 (right to property), 24 (right to equal protection), and 25 (right to judicial protection) of the American Convention.

II. PROCEDURAL ACTIVITY

1. The IACHR published the approval report on September 6, 2019, in which it recorded that the FSA had been complied with in full.

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

Agreement clause	Status of compliance
III. Public Acknowledgement of Responsibility	
Through this friendly settlement agreement, the Chilean State acknowledges that according to international standards, there was a violation of the petitioners' rights.	Declarative clause
IV. IV. Measures of Non-Repetition	
<p>The Chilean State undertakes to conduct a review of the legal and regulatory provisions applicable to performance evaluations of the Carabineros. The purpose is to verify whether rules governing staff performance evaluations respect the principle of objectivity, allow both sides to be heard, allow for rebuttal, and generally afford proper protections of the rights of Carabineros employees, in accordance with international human rights standards.</p> <p>The Chilean State also undertakes to inform the IACHR, within one year's time, of the result of that analysis, and to report on progress made regarding any measures it may have adopted as a result of that review.</p>	Total¹
V. Specific Reparations	
Within three months of the signing of this agreement, the Chilean State undertakes to remove or clean up the administrative files of the victims in this case, eliminating all records of the events that gave rise to these complaints.	Total²
The Chilean State undertakes to publish a summary of this friendly settlement agreement, one time only, in the Official Gazette of the Republic of Chile, and to post it for six months on the websites of the Foreign Ministry, the Ministry of Defense, and the Carabineros de Chile.	Total³
Through a letter sent by the Under-Secretary of Carabineros de Chile, Ms. Javiera Blanco Suárez, to each of the victims in both cases, the Chilean State shall give a formal apology for the reported violations and the repercussions these had on their lives and personal and family relationships. The letter will also indicate the measures proposed to remediate the consequences and inconveniences the victims suffered.	Total⁴
The petitioners may have direct access to the health services offered by both the Carabineros' Hospital, "HOSPITAL DEL GENERAL HUMBERTO ARRIAGADA VALDIVESO," and the Hospital of the Carabineros Social Security Department [<i>Dirección de Previsión de Carabineros</i>], "HOSPITAL TENIENTE HERNÁN MERINO CORREO," interchangeably, in accordance with the rates set by each hospital and the rates in effect for the Social	Total⁵

¹ See IACHR, 2019 Annual Report, Chapter II, Section G. Friendly Settlements. Available at <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>

² See IACHR, 2019 Annual Report, Chapter II, Section G. Friendly Settlements. Available at <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>

³ See IACHR, 2019 Annual Report, Chapter II, Section G. Friendly Settlements. Available at <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>

⁴ See IACHR, 2019 Annual Report, Chapter II, Section G. Friendly Settlements. Available at <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>

⁵ See IACHR, 2019 Annual Report, Chapter II, Section G. Friendly Settlements. Available at <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>

<p>Security Department health system at the time health services are provided, and in accordance with whether the beneficiaries are enrolled in the FONASA or ISAPRE health insurance systems. To this end, the petitioners are understood to be authorized by the authorities of these two hospitals to receive services without the sponsorship of an active or passive contributor into the Carabineros Social Security system, which is taking financial responsibility for the medical benefits provided.</p> <p>To accomplish this, the corresponding offices within the hospitals mentioned above will incorporate the petitioners into their databases, allowing them to use the hospitals by simply showing a current identity card. This will be implemented within one month of the date of this agreement.</p>	
<p>VI. Reparations</p>	
<p>The following sums shall be paid to compensate for material and non-material damages: US\$17,000 each to the former employees of the Carabineros individually named in this document and US\$3,000 for each of the petitioners individually mentioned herein who were not employees of the Carabineros. These payments will be made in their equivalent in Chilean pesos at the time of payment.</p> <p>Payment will be made in the form of a check payable to the order of each of the victims, within three months of the date of this agreement. These checks shall be picked up by the petitioners at the Human Rights Department of the Foreign Ministry of Chile, upon presentation of their national identity card.</p>	<p>Total⁶</p>
<p>VII. Monitoring Commission</p>	
<p>In order to monitor compliance with the commitments made in this agreement, the parties agree to form a Follow-Up Committee coordinated by the Human Rights Department of the Ministry of Foreign Affairs of Chile. This Committee will be comprised of one representative of the Human Rights Department of the Chilean Foreign Ministry, one representative of Carabineros de Chile, one representative of the Ministry of Defense, and one representative of the petitioners. The methodology and frequency of the Committee's meetings will be decided by its members. The Committee will periodically report to the Executive Secretariat of the IACHR on progress being made to fulfill the commitments undertaken in this agreement.</p>	<p>Total⁷</p>

V. LEVEL OF COMPLIANCE OF THE CASE

2. In its approval report the Commission found that there has been full compliance with Clauses IV, V, VI, and VII of the friendly settlement agreement, related to measures of non-repetition, individual reparation measures, compensation, and follow-up to the FSA.

⁶ See IACHR, 2019 Annual Report, Chapter II, Section G. Friendly Settlements. Available at <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>

⁷ See IACHR, 2019 Annual Report, Chapter II, Section G. Friendly Settlements. Available at <http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap2-en.pdf>

3. Accordingly, the IACHR declared that the friendly settlement agreement had been complied with in full and, therefore, it decided to close its supervision of compliance with this friendly settlement agreement.

VI. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State recognized its responsibility.
- The State designated the Under-Secretary of Carabineros, Ms. Javiera Blanco Suárez to sign a letter apologizing to the beneficiaries of the FSA.
- The State, through the Carabineros' Social Security Department, informed that the petitioners and their spouses had direct access to health care benefits.
- The State paid the victims the amounts agreed upon as economic compensation for the material and non-material harm caused.
- The State expunged the administrative records of the victims in the case.

B. Structural outcomes of the case

- The State enacted Law No. 20.784, amending the employment statutes of Carabineros de Chile to create a new entity for evaluating and ranking enlisted personnel.
- The State published the FSA in the Official Gazette of the Republic of Chile.