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**REPORT No. 266/23**  
**PETITION 268-10**  
REPORT ON FRIENDLY SETTLEMENT

MARÍA DEL CARMEN SENEM DE BUZZI  
ARGENTINA

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**REPORT No. 266/23**  
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NOVEMBER 30, 2023

**I. SUMMARY AND RELEVANT PROCEEDINGS OF THE FRIENDLY SETTLEMENT PROCESS**

1. On March 1, 2010, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "IACHR") received a petition lodged by the Center for Legal and Social Studies (CELS), (hereinafter "the petitioners" or "the petitioning party") alleging the international responsibility of the Republic of Argentina (hereinafter "State" or "Argentine State" or "Argentina"), for the alleged violation of the human rights enshrined in Articles 3 (right to juridical personality), 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial), 11 (right to privacy), 17 (rights of the family), 22 (freedom of movement and residence), 24 (right to equal protection) and 25 (right to judicial protection), in relation to Article 1 (obligation to respect) of the American Convention on Human Rights, (hereinafter "Convention", "American Convention" or "ACHR") and Articles I.2.a, II and III.1 of the Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities, to the detriment of María del Carmen Senem de Buzzi (hereinafter "alleged victim"). The foregoing for the arbitrary and forced detention of Mrs. Senem de Buzzi in a psychiatric facility.

2. On October 6, 2020, the parties initiated a friendly settlement process, which materialized in the signing of a friendly settlement agreement (hereinafter "FSA" or "agreement"), on June 6, 2022, within the framework of the public act of acknowledgment of international responsibility held in the Autonomous City of Buenos Aires. Furthermore, on January 26 and September 8, 2023, respectively, the State and the Petitioner requested the homologation of said agreement.

3. This friendly settlement report, in accordance with Article 49 of the Convention and Article 40(5) of the Rules of Procedure of the Commission, contains a summary of the facts alleged by the petitioners and a transcription of the friendly settlement agreement signed on June 6, 2022, by the petitioning party and representatives of the Argentine State. Likewise, the agreement signed between the parties is approved and it is agreed that this report will be published in the Annual Report of the IACHR to the General Assembly of the Organization of American States.

**II. THE FACTS ALLEGED**

4. According to the petitioner, in 1993 Mrs. Carmen Senem de Buzzi, a Brazilian national, was financially supporting herself as a dressmaker and lived with her son, Carlos Maciel Buzzi, who was 19 years old, and her husband, Mr. José María Buzzi, in the city of Buenos Aires. On October 20 of that year, the alleged victim went to the Office for Minors and Persons Lacking legal Capacity No. 1 of the City of Buenos Aires with the intention of requesting medical help to deal with her son's drug addiction. As a result of this action, the National Civil Court No. 77 began to intervene.

5. The petitioner alleged that on October 22, 1993, Judge Marta del Rosario Mattera ordered the Forensic Medical Corps to determine whether the young man suffered from a mental illness or deficiency and whether this habitually affected his ability to manage his person or his property. The judge summoned both parents and the son for a hearing, which was held on November 5, 1993. During the hearing, an argument broke out between Mrs. Carmen Senem de Buzzi and her son, and the judge ordered the latter to leave the office and wait alone in an adjoining room, where she had a brief discussion about the family conflict with a social worker. After some time, the judge indicated that Mrs. Carmen Senem de Buzzi would then be interviewed by a psychiatrist from the forensic team. The interview lasted only 10 minutes and then the woman was taken in an ambulance to the "Santa Clara" psychiatric clinic in the province of Buenos Aires, an institution dependent on

the state social security system for retirees of which she was a member, where she was admitted without her consent.

6. The petitioners argued that the alleged victim never understood the reasons for her internment because her mother tongue is Portuguese. They also indicated that Mrs. Carmen Senem de Buzzi was transferred, without her consent, to a psychiatric clinic where she was detained for almost five months. The petitioner indicated that during the first 15 days she was completely isolated without contact with the outside world or with her family, and that her stay in the clinic lasted 4 months and 25 days and that during that period of time she did not have permission to leave or go on outings, nor the possibility of continuing with her work. She also mentioned that the clinic staff never provided her with information about her treatment and she never received adequate medical attention, but rather, on the contrary, she was forced to take ground-up medication that she did not know about, under threat of a straitjacket and further isolation. Finally, the petitioners indicated that, throughout her internment, she had to survive locked up in precarious health conditions, poorly fed and forced to live in a distressing coexistence in a strange and hostile asylum environment, where she contracted skin diseases and urinary infections, lice, cystitis and a deplorable general condition, due to the lack of hygiene in the place.

7. The petitioners indicated that, as far as the performance of the judicial system was concerned, the public defenders never contacted her, nor did they carry out effective and adequate procedural acts to defend her. In addition, it was alleged that no judicial authority controlled the internment, nor adequately safeguarded her rights, and that Mrs. Carmen Senem de Buzzi was never reliably notified of the decision ordering her internment, which made it impossible for her to oppose it.

8. On December 14, 1993, the court notified the Official Guardian to intervene. Despite this, the petitioner stated that the appointed guardian formally appeared in the case on February 9, 1994, 94 days after the beginning of the internment. Throughout the proceedings, there were numerous misunderstandings and miscommunications between the court and the clinic, to the detriment of the victim, who had to remain hospitalized longer than the professionals of the institution themselves advised.

9. On October 5, 1995, a claim for damages was filed against the National Judicial Branch, for the multiple faults in the performance of the justice system derived from the arbitrary detention, the failure to comply with the duties of control and effective judicial protection, and the violation of due process and the right to defense in trial. Furthermore, it was indicated that the lawsuit sought, in addition to financial reparation for the damages suffered, to obtain recognition of the harmful conduct of the State and its agents, who failed to ensure respect for her fundamental rights and guarantees. After almost 8 years of proceedings, on April 22, 2003, the first instance judgment was issued, rejecting the claim. Mrs. Senem de Buzzi appealed the decision before the Court of Appeals for Federal Administrative Matters, which issued its decision on August 9, 2005, confirming the rejection of the appeal. Subsequently, against this decision, an extraordinary federal appeal was filed before the National Supreme Court of Justice ("CSJN"). In view of its rejection by the Chamber, the petitioner filed a appeal of complaint directly before the CSJN, which issued its decision on September 1, 2009 and rejected the appeal without ruling on the merits, thus exhausting the domestic judicial remedy. According to the petitioner, almost 14 years elapsed between the filing of the appeal and the final decision.

### **III. FRIENDLY SETTLEMENT**

10. On June 6, 2022, the parties entered into a friendly settlement agreement, the text of which provides as follows:

#### **FRIENDLY SETTLEMENT AGREEMENT**

The parties to petition P-268-10 "María del Carmen Senem de Buzzi", of the registry of the Inter-American Commission on Human Rights (hereinafter, "IACHR"): Mr. Carlos Maciel Buzzi (D.N.I. 23.771. 867) and the Centro de Estudios Legales y Sociales, represented in this act by Paula Litvachky (hereinafter "the petitioning party"), and the Government of the Argentine Republic (hereinafter "the State"), as a State party to the American Convention on Human

Rights, (hereinafter "the Convention"), acting by express mandate of Articles 99(11) and 126 of the Constitution of the Argentine Nation, and in accordance with the provisions of Article 28 of the Convention, represented by Horacio Pietragalla Corti, Secretary of Human Rights of the Nation, and Alberto Javier Salgado, Director of International Human Rights Litigation of the Ministry of Foreign Affairs, International Trade and Worship, have the honor to inform the IACHR that they have reached a Friendly Settlement Agreement for the petition, the content of which is developed below, requesting that in order to reach a consensus, said agreement be accepted and the consequent report provided for in Article 49 of the Convention be adopted.

## **I. Acknowledgement of international responsibility by the State**

Based on what is considered in the opinion of the National Human Rights Secretariat IF-2022-29372876-APN-DNAJIMDDHH#MJ, which is an integral part of this agreement, the Argentine State acknowledges its international responsibility for the human rights violations suffered by Mrs. María del Carmen Senem de Buzzi, which consisted of her forced, illegal and arbitrary internment in a psychiatric clinic for four months and 25 days, and her incommunicado detention for 15 days, in violation of the provisions of Article 7 of the Convention; the lack of minimum care and decent conditions of internment, contrary to Article 5 of the Convention; the absence of due process, judicial guarantees and effective judicial protection, in violation of Articles 8 and 25 of the Convention; the arbitrary interference in his family life and privacy, contrary to Articles 17 and 11 of the Convention; and the violation of his right to equality and non-discrimination guaranteed in Article 24 of the Convention; all this in relation to the obligations to respect and guarantee rights (Articles 1.1 and 2 of the Convention).

Specifically, Mrs. María del Carmen Senem de Buzzi was interned against her will, by virtue of a judicial decision that did not comply with the standards of legality and reasonableness emerging from international human rights law, without effective legal assistance or information on the reasons for her internment or on her medical treatment, and with a complete lack of judicial control. The conditions of her internment were incompatible with her personal integrity, and the legal proceedings she brought to obtain reparation for the damages she suffered took almost 14 years and ended without success.

María del Carmen Senem de Buzzi passed away in February 2019 after years of fighting for the recognition of her rights. The Argentine State presents its most sincere apologies to the family of Mrs. María del Carmen Senem de Buzzi represented by her son Carlos Maciel Buzzi.

The parties emphasize that the enactment of the National Mental Health Law (Law No. 26.657, enacted on December 2, 2010, after the facts of this case) is a milestone in the field of public policies on mental health, despite the difficulties and pending tasks for its full implementation.

## **II. COMMITMENTS ASSUMED BY THE STATE**

### **II.1. Satisfaction measures**

#### ***II.1.1. Publication of the agreement***

The State, through the Secretariat of Human Rights of the Nation, undertakes to disseminate this agreement within a maximum period of 6 months from the publication in the Official Gazette of the decree of the National Executive Power approving it, in a newspaper of national scope and in the following websites:

- Website of the National Ministry of Health (<https://www.argentina.gob.ar/salud>).
- Website of the Ministry of Health of the Province of Buenos Aires (<https://www.gba.gob.ar/saludprovincia>).

- Website of the National Mental Health Law Review Body (<https://www.mpd.gov.ar/index.php/secretaria-ejecutiva-del-organo-de-revision-de-salud-mental>).
- Website of the National Secretariat of Human Rights (<https://www.argentina.gob.ar/derechoshumanos>).

The State, through the National Secretariat of Human Rights, shall notify the petitioning party with due notice of the dates on which the publications will be made. The publication on the aforementioned websites shall be for a period of one year and shall be in legible font size and accessible to the public.

The parties agree that, upon presentation to the IACHR of the evidence attesting to the aforementioned publications, there shall be "total compliance" with this clause and, consequently, the IACHR's supervision of its execution shall cease.

### ***II.1.2. Act of acknowledgement of international responsibility***

The State shall carry out a public act of acknowledgement of international responsibility in relation to the facts of the case in which the human rights violations recognized in this agreement and their differential impact in terms of gender shall be referred to. The ceremony shall be public, with the presence of high-ranking officials of the National Government, including officials of the National Ministry of Health, the National Secretariat of Human Rights and the National Ministry of Women, Gender and Diversity. Officials from the Government of the Province of Buenos Aires will also participate. The parties will agree on the modality of the public act, as well as the particularities required, such as the place and date for its realization.

The event will be publicized through social networks of the Secretariat of Human Rights of the Nation, and press material will be sent to the media.

The public act shall be held no later than six months after the publication in the Official Gazette of the decree approving this agreement.

The parties agree that, with the presentation to the IACHR of the evidence demonstrating the celebration of the act of recognition, there will be "total compliance" with this clause and, consequently, the supervision of the IACHR with respect to its execution will cease.

## **II.2. Non-repetition measures**

### ***II.2.1. Booklet and awareness-raising campaign***

**Booklet:** The State, through the National Secretariat for Human Rights, with the participation of the petitioning party, will design a digital booklet that develops in a synthesized, clear and accessible way the rights of users of psycho-social care established in the Argentine regulations, with a gender perspective and making explicit reference to international standards, the obligations of health/mental health teams to provide the respective care, and the differentiated impact on women.

The State, through the aforementioned Secretariat, will present the digital booklet to the provincial governments at the Federal Council on Mental Health and Addictions, and it will be available for download on the website of the National Ministry of Health. The Council will also invite the health authorities of the provinces and the Autonomous City of Buenos Aires to do the same on their respective websites.

Both commitments must be fulfilled within a maximum period of one year from the publication in the Official Gazette of the decree approving this agreement.

**Campaign:**

The State, through the National Secretariat of Human Rights, will implement a national campaign on the rights of mental health service users established in Argentine regulations, with a gender perspective, and making explicit reference to international standards and the differentiated impact on women, on October 10 (World Mental Health Day) and December 2 (commemoration of the enactment of the National Mental Health Law). The campaign will be carried out through the social networks of the National Secretariat of Human Rights and the National Ministry of Health. The State will present the campaign to the provincial governments and the Autonomous City of Buenos Aires at the Federal Council on Mental Health and Addictions and will invite the provinces to disseminate it widely on their social networks.

The design of the campaign will be carried out with the participation of the petitioning party. It shall start within a maximum period of one year from the publication of this agreement in the Official Gazette and shall have a duration of not less than 3 years.

The parties agree that, upon presentation to the IACHR of the digital booklet -together with the evidence attesting to: a) its publication on the website of the Ministry of Health of the Nation, b) the steps taken before the health authorities of the provinces and of the Autonomous City of Buenos Aires so that they do the same on their respective websites; and c) of its presentation before the Federal Council on Mental Health and Addictions-; at the same time, with the accreditation of the launching of the first year of the campaign described in the fourth paragraph of this clause and its presentation before the Federal Council on Mental Health and Addictions, there shall be "total compliance" with this clause and, consequently, the supervision of the IACHR with respect to its execution shall cease.

***II.2.2. Presentation of the Adequacy Plans of the public neuropsychiatric hospitals of the Province of Buenos Aires and the adoption of the authorization and supervision standards for the operation of mental health and problematic drug use facilities in the Province of Buenos Aires.***

The Federal State, through the Secretariat of the National Human Rights Secretariat, will promote before the Ministry of Health of the Province of Buenos Aires that the public neuropsychiatric hospitals of said province submit their Adequacy Plans, in accordance with the provisions of Article 27 of National Law No. 26.657.

In turn, the Federal State, through the same organism, will promote that the Ministry of Health of the Province of Buenos Aires develops and adopts, in consultation with the Undersecretary of Human Rights of the Province of Buenos Aires, standards of qualification, operation and periodic supervision of the mental health and problematic consumption services, in accordance with the provisions of article 6 of law no. 14.580 of the Province of Buenos Aires, within a maximum period of one year as from the signature of the agreement, in the following cases: (i) institutions corresponding to the private sector; (ii) public institutions depending on the municipal States when they have funds with the participation of the Government of the Province of Buenos Aires.

The Federal State, through the National Secretariat of Human Rights, will promote that the Ministry of Health of the Province of Buenos Aires dictate and present guidelines for the operation of public mental health services respectful of human rights.

The parties agree that, with the presentation to the IACHR of the Adaptation Plans of the public neuropsychiatric hospitals of the Province of Buenos Aires, of the act containing the standards for the habilitation, operation and periodic supervision of the mental health and problematic consumption services in the mentioned cases, and the guidelines for the operation of public mental health institutions, there shall be "total compliance" with this clause and, consequently, the supervision of the IACHR with respect to its execution shall cease.

### ***II.2.3. Training and education in mental health and human rights for the Judicial Branch***

#### **a) Inclusion of the subject of mental health in the judicial career admission exam.**

The State, through the Secretariat for Human Rights, shall submit, within one year of the signing of this agreement and with the participation of the petitioning party, a dossier of contents and recommendations related to Argentine regulations on mental health issues and international standards on the subject, as well as specific regulations on mental health and gender, to be included in the admission exams to the judicial career. This dossier will be submitted to the Council of the Judiciary of the National Judicial Branch, the Federal Board of Courts and Superior Courts of Justice of the Argentine Provinces and the Autonomous City of Buenos Aires (JUFEJUS), the Federal Forum of Councils of the Judiciary and Trial Juries of the Argentine Republic (FO.FE.C.MA), the National Public Defender's Office and the National Attorney General's Office.

The parties agree that, with the submission to the IACHR of the evidence attesting to the presentation of the aforementioned dossier, there shall be "total compliance" with this clause and, consequently, the IACHR's supervision of its execution shall cease.

#### **b) Training proposal for magistrates, officials and assistants of the national, federal and provincial jurisdictions on mental health in general and involuntary hospitalization in particular**

The National State (through the National Secretariat for Human Rights) will propose to the Council of the Judiciary of the National Judicial Branch, the Federal Board of Courts and Superior Courts of Justice of the Argentine Provinces and of the Autonomous City of Buenos Aires (JUFEJUS), the Federal Forum of Councils of the Judiciary and Trial Juries of the Argentine Republic (FO. FE.C.MA), the National Public Defender's Office and the Attorney General's Office, training for magistrates, officials and assistants of the national, federal and provincial jurisdictions, and if necessary will impart them.

The training will deal with the normative framework of the Convention on the Rights of Persons with Disabilities and the National Mental Health Law, with a gender perspective, within a maximum period of one year from the publication in the Official Gazette of the decree approving this agreement. In the training instances, explicit reference shall be made to international standards on the subject, as well as to the present case. For the design of the trainings, the State shall give participation to the petitioning party.

The parties agree that, with the presentation to the IACHR of the written efforts of the Secretariat of Human Rights of the Nation to propose the training sessions to the entities mentioned in the preceding paragraph, there shall be "total compliance" with this clause and, consequently, the supervision of the IACHR with respect to its execution shall cease.

### ***II.2.4. Promotion of the implementation of the National Mental Health Law in the provinces***

The State will promote, through the Federal Council on Human Rights and the Federal Council on Mental Health and Addictions (COFESAMA), that the provinces and the Autonomous City of Buenos Aires adopt rules for the operation of their mental health facilities compatible with Law No. 26.657, deepen the processes of creation of review bodies and establish mechanisms that guarantee specialized and free legal defense in cases of involuntary internment as well as in the processes of determination of legal capacity.

The parties agree that one (1) meeting shall be held before the COFESAMA and two (2) at the Federal Roundtable on Human Rights and Mental Health that operates within the scope of the Federal Council on Human Rights, with the presence of the petitioning party, in which the issues highlighted in the preceding paragraph shall be addressed. Said meetings shall be held within 6 months from the publication in the Official Gazette of the decree approving this agreement.

Based on the inputs produced in the aforementioned meetings, the State shall prepare a report on the federal implementation of the National Mental Health Law, with emphasis on the presentation of plans for the adequacy of the monovalent institutions and the creation of the review bodies which are still missing, and shall send it to all the provinces and the Autonomous City of Buenos Aires. It will also publish it on the website of the National Ministry of Health.

The parties agree that there shall be "total compliance" with this clause as of the submission to the IACHR of: a) the evidence of the meetings held before COFESAMA and the Federal Roundtable on Human Rights and Mental Health, b) the report referred to in the previous paragraph and the evidence of its delivery in writing to all the provinces and to the Autonomous City of Buenos Aires, as well as its publication on the web page of the Ministry of Health of the Nation.

### **III. COMPENSATION, COSTS AND EXPENSES**

The parties agree to constitute an ad-hoc Arbitral Tribunal, in order to determine the amount of the pecuniary reparations due to Mrs. Senem de Buzzi, derived from the violations of rights recognized in the first clause, which shall be defined on the basis of the criterion of equity understood according to the jurisprudence of the Inter-American System in similar cases. Due to the death of Mrs. Senem de Buzzi, her son Carlos Maciel Buzzi will act before the arbitral tribunal.

The Tribunal will be composed of three independent experts, of recognized expertise in human rights and high moral quality, one appointed at the proposal of the petitioning party, the second appointed at the proposal of the State (through the Secretariat of Human Rights of the Nation), and the third appointed at the proposal of the two previous ones. The members of the ad-hoc Arbitral Tribunal shall act ad honorem in their functions.

For the purposes of the composition of the Arbitral Tribunal, the parties shall send the curriculum vitae of the person proposed to the other party, so that the latter may formulate any objections it deems appropriate, in accordance with the requirements set forth in paragraph 2 above.

Once the Arbitral Tribunal has been constituted, it shall commence the process within one month of the adoption by the Inter-American Commission on Human Rights of the report referred to in Article 49 of the Convention.

The procedure to be applied by the Arbitral Tribunal shall be defined by mutual agreement between the parties, who shall draw up its Rules of Procedure. The costs of the Tribunal's



proceedings shall be borne by the State, without prejudice to what has already been indicated in relation to the ad honorem nature of the work of its members.

The award of the Arbitral Tribunal shall be final and not subject to appeal, except in the event of any of the grounds for nullity contemplated in Article 760 of the National Code of Civil and Commercial Procedure. The award shall contain the amount and the modality of the agreed pecuniary reparations, and once notified, it shall be submitted to the Inter-American Commission on Human Rights, through the Ministry of Foreign Affairs, International Trade and Worship, within the framework of the monitoring process of the compliance with the agreement, in order to verify that it complies with the applicable international parameters.

The pecuniary reparations fixed in the arbitration award shall be satisfied within the term and in accordance with the modalities determined by the Arbitral Tribunal, in accordance with the criteria established in the jurisprudence of the Inter-American Court of Human Rights.

The amount corresponding to the compensation determined in its award by the Arbitral Tribunal established in this clause shall be deposited to the order of the Court in which the probate proceedings of María del Carmen Senem de Buzzi, DNI No. [...], who was in her lifetime and as belonging to the respective files, are being processed.

Once this agreement has been approved by Decree of the National Executive Branch, the petitioning party definitively and irrevocably waives the right to initiate any other pecuniary or non-pecuniary claim against the State in connection with the facts that gave rise to this case.

#### **I. AD REFERENDUM SIGNATURE AND REPORT OF ARTICLE 49 OF THE CONVENTION**

The Government of the Argentine Republic and the petitioning party welcome the signing of this agreement, express their full agreement with its contents and scope, mutually appreciate the goodwill shown and formally request the Inter-American Commission on Human Rights to ratify it and adopt the report provided for in Article 49 of the American Convention on Human Rights, at which time this agreement shall acquire full legal force and effect.

Three copies of the same tenor are signed in the Autonomous City of Buenos Aires, on the 6th day of the month of June, 2022.

#### **IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE**

11. The IACHR reiterates that in accordance with Articles 48(1)(f) and 49 of the American Convention, the purpose of this procedure is to “reach a friendly settlement of the matter based on respect for the human rights recognized in the Convention.” The acceptance to pursue this process expresses the good faith of the State to comply with the purposes and objectives of the Convention pursuant to the principle of *pacta sunt servanda*, by which States must comply with the obligations assumed in the treaties in good faith.<sup>1</sup> It also wishes to reiterate that the friendly settlement procedure set forth in the Convention allows for conclusion of individual cases in a non-contentious manner, and has proven, in cases involving a variety of countries, to provide an important vehicle for resolution that can be used by both parties.

12. The Inter-American Commission has closely followed the development of the friendly settlement reached in this case and appreciates the efforts made by both parties during the negotiation of the agreement to reach this friendly settlement which is compatible with the object and purpose of the Convention.

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<sup>1</sup> Vienna Convention on the Law of Treaties, U.N. Doc A/CONF.39/27 (1969), Article 26: “**Pacta sunt servanda**” *Every treaty in force is binding upon the parties to it and must be performed by them in good faith.*

13. Pursuant to the provisions of Clause IV of the ASA and in accordance with the requests of the State and the petitioner of January 26, 2023 and September 8, 2023, in which they requested the homologation of said agreement, it is appropriate at this time to assess compliance with the commitments established in this instrument.

14. The Inter-American Commission values Declaratory Clause I of the FSA in which the Argentine State acknowledges its international responsibility for the violation of the rights to personal integrity, personal liberty, honor and dignity, family protection, equality before the law and guarantees of judicial protection, established in Articles 5, 7, 8, 11, 17, 24 and 25 of the American Convention, in relation to Article 1(1) and (2) of the same instrument, to the detriment of Carmen Senem de Buzzi and her family.

15. Regarding clause II.1.1 of the ASA on the publication of the ASA, on August 31, 2023, the State informed that the agreement is published on the official websites of the Ministry of Health of the Nation, the Ministry of Health of the Province of Buenos Aires<sup>2</sup> and the Review Body of the Mental Health Law.<sup>3</sup> In addition, the State indicated that the dissemination in a national newspaper will be made once the respective decree of the National Executive Power is published and that, on July 15, 2022, CELS sent a draft gazette to that effect. In this regard, on September 8, 2023, the petitioning party confirmed the information provided by the State and indicated that it would be awaiting information related to the duration of the publication of the FSA on the websites. As of the date of preparation of this report, it was not possible to verify that the FSA was available on the website of the National Ministry of Health, in accordance with its commitment. Therefore, taking into consideration the information provided by the parties, the Commission considers that this aspect of the agreement has been partially complied with and so declares. In this regard, the Commission is awaiting the publication of the corresponding content on the website of the National Ministry of Health and the publication of the Decree of the National Executive Power to disseminate the FSA in a national newspaper.

16. With regard to clause II.1.2 of the FSA on the act of acknowledgment of international responsibility, as reported by the State and the petitioner, on August 31, 2023 and September 8, 2023, respectively, on June 6, 2022, the act of acknowledgment of responsibility and apology, and signing of the FSA took place. The event took place in the Puiggrós Hall of the National Archive of Memory and was attended by the Secretary of Human Rights of the Nation; the Director of International Human Rights Litigation of the Ministry of Foreign Affairs, the National Director of Mental Health and Addictions of the Ministry of Health of the Nation; the Vice President of the Nuevo Cuyo Region of the Federal Board of Courts and High Courts of Justice of the Argentine Provinces and the Autonomous City of Buenos Aires; the Executive Secretary of the National Mental Health Review Body, the Undersecretary of Mental Health, Problematic Consumption and Violence in the Health Sphere of the Ministry of Health of the Province of Buenos Aires and other executive and judicial authorities of provincial and national bodies. Mr. Carlos Maciel Buzzi, son of Mrs. María del Carmen, was also present at the event and CELS participated through its Executive Director, Paula Litvachky, and the coordinator of the mental health team, Macarena Sabin Paz.

17. In this regard, the State gave an account of the contents of the agenda of the act of acknowledgement of responsibility and its publication, which included some initial words and a public apology from the State by the National Secretary of Human Rights. Then, the coordinator of the mental health team of CELS took the floor and was followed by the National Director of Mental Health and Addictions of the National Ministry of Health. Then, the National Director of Mental Health and Addictions of the National Ministry of Health intervened, as well as the Executive Secretary of the National Mental Health Review Body of the Undersecretariat of Mental Health, Problematic Consumption and Violence in the Health Sphere of the Ministry of Health of the Province of Buenos Aires. Finally, the Vice-President of the Nuevo Cuyo Region of the Federal Board of Courts and High Courts of Justice of the Argentine Provinces and the Autonomous City of Buenos Aires closed the event with a few words on behalf of the Argentine State authorities present. Finally, it should be noted that the event was broadcasted and is available on the YouTube Channel of the National Secretariat of

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<sup>2</sup>

[https://www.gba.gob.ar/saludprovincia/noticias/el\\_estado\\_argentino\\_firm%C3%B3\\_un\\_acuerdo\\_de\\_soluci%C3%B3n\\_amistosa\\_con\\_cidh](https://www.gba.gob.ar/saludprovincia/noticias/el_estado_argentino_firm%C3%B3_un_acuerdo_de_soluci%C3%B3n_amistosa_con_cidh)

<sup>3</sup> <http://www.mpd.gov.ar/index.php/defensoria-general-de-la-nacion/organo-nacional-de-revision-de-salud-mental>

Human Rights.<sup>4</sup> Therefore, the Commission considers that clause II.1.2 of the FSA has been fully complied with and so declares.

18. With regard to clause II.2.1 of the FSA, on the booklet and awareness campaign, on August 31, 2023, the State indicated that, together with the petitioner, the awareness campaign was designed and published on October 10, 2022 (World Mental Health Day) and December 2, 2022 (commemoration of the enactment of the National Mental Health Law), on the social networks of the National Secretariat of Human Rights and the National Ministry of Health. Likewise, the State accompanied the email through which the Federal Council on Mental Health and Addictions (COFESAMA) sent the content of the campaign to the provinces, inviting them to share its content. In addition, it was also indicated that the digital booklet was prepared jointly with the petitioner and that the National Director of Mental Health and Problem Use Management sent the pieces to all the provinces that make up COFESAMA.

19. For its part, on September 8, 2023, the petitioner mentioned that on June 29, 2023, it approved the proposed booklets and indicated that the dialogue with the State was very fruitful, in that its concerns and worries about some of the proposed booklets were received, and the pertinent modifications were made. With respect to the national campaign on the rights of persons using mental health services, the petitioner confirmed the information provided by the State and added that the December 2, 2022 campaign focused on the dissemination of videos produced by the radio station "La Colifata" and that they are already in dialogue for the 2023 campaign. Therefore, taking into consideration the information provided by the parties, the Commission considers that this aspect of the agreement has been fully complied with and so declares.

20. With regard to clause II.2.2 of the FSA, on the submission of the Adequacy Plans of the public neuropsychiatric hospitals of the Province of Buenos Aires and the adoption of the standards of authorization and supervision for the operation of mental health and problematic use facilities in the Province of Buenos Aires, on August 31, 2023, the State informed that the adequacy plans were submitted, both in their health and non-health components, in the four monovalent hospitals owned by the Province of Buenos Aires.<sup>5</sup> The State also indicated that, in relation to the commitment regarding the development of standards for the authorization, operation and periodic supervision of mental health and problematic use services, with respect to institutions in the private sector, the complementary norms for the qualification of mental health and problematic drug use providers and private health care or recreational establishments provided for in Decree-Law No. 7314/67 and its Regulatory Decree No. 3280/90 and amendments, in the terms proposed by the Undersecretariat for Mental Health, Problematic Drug Use and Gender Violence, were approved.<sup>6</sup> In addition, the State mentioned that the municipal autonomy enshrined in Article 5 of the Argentine National Constitution does not exempt the municipal States from complying with the regulatory framework of public order existing at the national and provincial level in the field of Mental Health, therefore, the municipal mental health institutions that receive funds from the provincial treasury must comply with National Law 26.657, and Provincial Law 14.580, as well as the Integral Provincial Plan of Mental Health<sup>7</sup> and the Guide for the Attention of Crises and Emergencies due to Mental Health and Problematic Consumption. On the other hand, it indicated that, as regards the guidelines for the operation of public Mental Health services, the Comprehensive Provincial Mental Health Plan (2022-2027),<sup>8</sup> in the terms contemplated in the ACTA-2022-23289134-GDEBA-SSSMCPYVGM SALGP of the Provincial Interministerial Commission, was approved. In this regard, on September 8, 2023, the petitioner stated that as of that date they did not have detailed information on compliance with this end of the agreement, but indicated that they were aware that progress was being made. Subsequently, on September 18, 2023, the Commission forwarded the updated information submitted by the State for the information of the petitioner. Therefore, taking into consideration the information provided by the State, the Commission considers that clause II.2.2 of the FSA has been fully complied with and so declares.

<sup>4</sup> See official YouTube channel of the National Secretariat of Human Rights. Available at: <https://www.youtube.com/watch?v=jzvgKxbTNvQ&t=5s>

<sup>5</sup> Dr. Domingo Cabred Hospital, Suzonal hospital specialised in Neurology "Dr. Domingo J. Taraborelli", Interzonal Hospital "Dr. José A. Esteves" and "Dr. Alejandro Korn".

<sup>6</sup> Norms approved by RESO-2021-4750-GDEBA-MSALGP

<sup>7</sup> Approved by RESO-2023-10-GDEBA-SSSMCPYVASM SALGP.

<sup>8</sup> Idem 6.

21. With regard to subparagraph a) inclusion of the subject of mental health for the judicial career admissions examination in clause II.2. .3 of the FSA, on training and education in mental health and human rights for the Judiciary, the State indicated on August 31, 2023, that it worked jointly with the petitioners to prepare a dossier of contents and recommendations related to Argentine regulations on mental health issues and international standards on the subject, as well as specific regulations on mental health and gender, to be included in the admission exams to the judicial career, and provided a copy of the dossier. In this regard, the State reported that a copy of the dossier was sent to the various agencies identified in the friendly settlement agreement and accompanied the corresponding records. On September 8, 2023, the petitioner indicated that on June 29, 2023, it accepted the proposal of the dossier. Therefore, taking into consideration the information provided by the parties, the Commission considers that this aspect of the FSA has been fully complied with and so declares.

22. With regard to paragraph b) training proposal for magistrates, officials and assistants of the national, federal and provincial jurisdictions, on mental health in general and involuntary internment in particular of clause II.2.3 of the FSA, on August 31, 2023, the State affirmed that a program and schedule of classes was prepared in conjunction with the petitioner. In addition, it indicated that the authorities of the National Secretariat for Human Rights participated in the meeting of the Steering Committee of the Federal Board of Courts and High Courts (JUFEJUS) held on December 2, 2022 and that information was provided on the course entitled "Human Rights and Mental Health. Standards of International Human Rights Law" which is available on the official training site of the JUFEJUS.<sup>9</sup> In the same vein, on September 8, 2023, the petitioner informed that, during 2022, the parties finalized the general outline of the training; that the interventions of each specialist were filmed, in order to create the entirety of the training and that two members of CELS were invited to give two training classes. Therefore, taking into consideration the information provided by the parties, the Commission considers that this aspect of the agreement has been partially complied with and so declares. In this regard, the Commission is awaiting information on the training provided to the Council of the Judiciary of the National Judicial Branch, the Federal Forum of Councils of the Judiciary and Trial Juries of the Argentine Republic (FO.FE.C.MA), the National Public Defender's Office and the National Attorney General's Office.

23. With regard to clause II.2.4. of the FSA, on promotion of the implementation of the National Mental Health Law in the provinces, on August 31, 2023, the State indicated that meetings of COFESAMA and the Federal Roundtable on Human Rights and Mental Health of the Federal Human Rights Council were held, and that the petitioner was informed prior to those meetings, but that they were unable to attend due to scheduling issues. In this regard, on September 8, 2023, the petitioner mentioned that they were not aware of the required meetings. Therefore, taking into consideration the information provided by the parties, the Commission considers that this point of the FSA is pending compliance and so declares.

24. Given that compliance with the commitments established in Clause III on compensation, expenses and things of the FSA depends on the approval of the agreement by the IACHR, the Commission considers that compliance is pending and so declares.

25. Therefore, the Commission considers that clauses II.1.2 (act of acknowledgment of international responsibility), II.2.1 (awareness-raising booklet and campaign), II.2.2 (adaptation plans) and II.2.3.a (inclusion of mental health issues in the judicial career entrance examination) of the friendly settlement agreement are fully complied with and so declares. At the same time, the Commission considers that clauses II.1.1 (publication of the FSA) and II.2.3.b (training for magistrates, civil servants and assistants) of the FSA are partially complied with and so declares. Finally, the Commission concludes that clauses II.2.4 (promotion of the implementation of the National Mental Health Law in the provinces) and III (compensation, expenses and costs) of the FSA are pending compliance and so declares.

26. Furthermore, the Commission considers that the rest of the content of the friendly settlement agreement is of a declarative nature and therefore does not fall under its supervision. Finally, the Commission

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<sup>9</sup> <http://jufejus.org.ar/2004/>

considers that the agreement has a partial substantial level of compliance and will continue to monitor the implementation of the aforementioned enforcement clauses until they are fully implemented.

## **V. CONCLUSIONS**

1. Based on the foregoing and in keeping with the procedure provided for in Articles 48(1)(f) and 49 of the American Convention, the Commission would like to reiterate its profound appreciation of the efforts made by the parties and its satisfaction that a friendly settlement has been arrived at in the present case on the basis of respect for human rights and consistent with the object and purpose of the American Convention.

2. Based on the considerations and conclusions contained in this report,

### **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

#### **DECIDES:**

1. To approve the terms of the friendly settlement agreement signed by the parties on June 6, 2022.

2. To declare full compliance with clauses II.1.2 (act of recognition of international responsibility), II.2.1 (booklet and awareness-raising campaign), II.2.2 (adequacy plans) and II.2.3.a (inclusion of mental health issues for the judicial career admission exam) of the friendly settlement agreement, according to the analysis contained in this report.

3. To declare partial compliance with clauses II.1.1 (publication of the FSA) and II.2.3.b (training for magistrates and assistants) of the friendly settlement agreement, according to the analysis contained in this report.

4. To declare clauses II.2.4. (promotion of the implementation of the National Mental Health Law in the provinces) and III (compensation, expenses and costs) of the friendly settlement agreement pending, according to the analysis contained in this report.

5. To declare that the friendly settlement agreement has a partial substantial level of compliance, according to the analysis contained in this report.

6. To continue monitoring clauses II.1.1 (publication of the FSA); II.2.3.b (training for magistrates and assistants); II.2.4. (promotion of the implementation of the National Mental Health Law in the provinces) and III (compensation, expenses and costs) of the friendly settlement agreement, according to the analysis contained in this report. To this end, remind the parties of their commitment to report periodically to the IACHR on their compliance.

7. To make this report public and include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on the 30<sup>th</sup> day of the month of November, 2023. (Signed:) Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, Vice President; Roberta Clarke, Second Vice President; Julissa Mantilla Falcón, Stuardo Ralón Orellana, Carlos Bernal Pulido and José Luis Caballero Ochoa, Commissioners.