

REPORT No. 96/11
DECISION TO ARCHIVE
PETITION 11.780
PERU
July 21, 2011

ALLEGED VICTIMS: Javier Díez Canseco and Gustavo Mohme

PETITIONERS: Javier Díez Canseco and Gustavo Mohme

VIOLATIONS ALLEGED: Articles 11, 13 and 25 of the American Convention on Human Rights

PROCESSING STARTING DATE: July 28, 1997

I. POSITION OF THE PETITIONERS

1. The petitioners alleged that the Peruvian Government had underwritten the cost of a commercial that they claimed had defamed them. The petition stated that Mr. Javier Díez Canseco and Mr. Gustavo Mohme were Congressmen and members of the opposition to then President Alberto Fujimori.

2. The commercial was said to be about the attacks purportedly perpetrated against the alleged victims while in their vehicles. According to the petitioners' version of events, the assailants were members of the Peruvian National Police. Although the petitioners had reported the alleged attacks to the judicial authorities, the commercial claimed that the attacks were the work of common criminals and accused the petitioners of casting aspersions on the Police Force.

3. The petitioners stated that they had filed a petition seeking *amparo* relief against the airing of the commercial. They asserted that on August 13, 1997, the Public Law Chamber of the Lima Superior Court dismissed the petition of *amparo*, whereupon the petitioners filed an appeal. By a communication received on December 22, 1997, they alleged an unwarranted delay in rendering a judgment on their appeal, but did not report the outcome of this remedy.

II. THE POSITION OF THE STATE

4. The State argued that the petition must be declared inadmissible owing to a failure to exhaust local remedies. As for the allegations made by the petitioners in their brief of December 22, 1997, Peru's contention was that the alleged victims had not filed a petition of complaint, "which is the right of every individual who considers himself to have been adversely affected by an unwarranted delay" when the Peruvian courts fail to take action.

III. PROCESSING WITH THE IACHR

5. The Commission received the petition on July 7, 1997, and registered it as number 11.780. On July 28, 1997, it forwarded a copy of the petition to the State and gave it 90 days in which to present its response, in accordance with the Commission's Rules of Procedure then in force. The State submitted its response on November 13, 1997, and sent additional observations on December 29, 1997 and February 24, 1998. The petitioners, for their part, sent additional information on December 22, 1997.

6. On August 11, 2010, the IACHR requested updated information from the petitioners and advised them that if no reply was received within one month, it might consider closing the record on the petition, pursuant to Article 48(1)(b) of the Convention.

IV. GROUNDS FOR THE DECISION TO CLOSE THE RECORD

7. Article 48(1)(b) of the American Convention and Article 42(1) of the Commission's Rules of Procedure both provide that in processing a petition and after the information has been received or the time period established has elapsed and the information has not been received, the Commission will ascertain whether the grounds for the claim still exist. If they do not, the Commission will order the record to be closed.

8. In the instant case, the most recent communication from the petitioners was received 13 years ago and, despite an August 11, 2010 request for updated information, the petitioners have not provided additional briefs. Given the circumstances and inasmuch as the available information is not sufficient to adopt a decision as to the petition's admissibility or inadmissibility, the IACHR decides to close the record, in keeping with Article 48(1)(b) of the American Convention and Article 42(1) of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 21nd day of July 2011. (Signed): Dinah Shelton, President; José de Jesús Orozco Henríquez, First Vice-President; Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero, and María Silvia Guillén, Commission Members.