

**REPORT No. 15/13**  
PETITION 1428-06  
DECISION TO ARCHIVE  
BRAZIL  
March 20, 2013

**ALLEGED VICTIM:** Mabel dos Santos

**PETITIONER:** Susi Tiburcio dos Santos

**ALLEGED VIOLATIONS:** The petitioner does not expressly allege any specific violations

**INITIATION OF PROCESSING:** June 24, 2008

**I. POSITION OF THE PARTIES**

**A. Position of the petitioner**

1. On December 21, 2006, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition alleging the responsibility of the Federative Republic of Brazil (the "State" or "Brazil") for the unwarranted delay in the lawsuit regarding the inheritance of Sergio Sereno Henrique Cunha, which supposedly prevented Mabel dos Santos (the "alleged victim" or "Mrs. Santos") from receiving her fair share of her father's estate.

2. The petitioner asserted that after the death of Sergio Sereno Henrique Cunha in 1992 a judicial proceeding declared the alleged victim as his legitimate child in 1998. Despite the judicial acknowledgment of paternity and the order reopening the inheritance inventory, the alleged victim could not receive her legal share of her deceased father's assets. The petitioner observed that the three other heirs and the widow of the deceased were intentionally delaying the process in order to avoid a new division of the assets.

**B. Position of the State**

3. The State argued that the petition did not meet the minimum requisites for the processing of petitions required by the American Convention and the Rules of Procedure of the IACHR. The State specifically indicated that no irregularity in the processing of that lawsuit had taken place and that no violation of the human rights of the alleged victim had been committed.

4. The State maintained that the petition did not satisfy the rule requiring prior exhaustion of the remedies under domestic law and that there was no unwarranted delay in the processing of the inheritance lawsuit, especially considering the number of heirs and the complexities of the case. The State also maintained that the principal responsibility for any delay in the procedure was due to the attitude of the other heirs, who had intentionally tried to impede its conclusion.

## **II. PROCEEDINGS BEFORE THE IACHR**

5. The Inter-American Commission received the petition on December 21, 2006. The petitioner submitted additional communications on July 20, 2007; January 30, 2008 and April 24, 2008. By means of a note dated June 24, 2008, the IACHR transmitted the pertinent portions of the petition to the Brazilian State.

6. On November 5, 2008, the IACHR received the State's response to this petition. This communication was duly forwarded to the petitioner on December 9, 2008.

7. Since the petitioner did not furnish any additional information, on April 25, 2011, the Inter-American Commission reiterated its request for information and additionally inquired whether the grounds for the petition still existed or subsisted. Given the lack of response from the petitioner, on February 7, 2012, the IACHR reiterated its previous request for information. On both occasions, the IACHR advised the petitioner about the possibility of ordering the record to be closed, if it did not receive the requested information, in conformity with Article 48.1.b of the American Convention. The petitioner sent a communication to the IACHR on June 22, 2012, in which she merely indicated that "the lawsuit is still pending before the Court of Justice of Rio de Janeiro state," without providing any specific information and/or documents related to the exhaustion of domestic remedies and the other admissibility requirements.

## **III. GROUNDS FOR THE DECISION TO ARCHIVE**

8. Articles 48.1.b of the American Convention and 42 of the Rules of Procedure of the IACHR establish that at any time during processing, the Inter-American Commission shall ascertain whether the grounds for the petition still exist or subsist; and that if it considers that they do not, it shall order the case to be archived. In addition, Article 42.1.b of its Rules of Procedure establishes that the IACHR may also decide to archive a case when the information necessary for the adoption of a decision is unavailable.

9. More than four years have elapsed since processing began on June 24, 2008, and the Inter-American Commission still lacks the necessary elements for the adoption of a decision on the admissibility of this petition. Specifically, the IACHR does not have sufficient information about the exhaustion of domestic remedies or the other admissibility requirements. As a result, the Inter-American Commission hereby decides to archive the file of the present petition, pursuant to Article 48.1.b of the American Convention, as well as Article 42.1.b of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 20th day of March 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Felipe González, Rodrigo Escobar Gil, Rose-Marie Antoine, Commissioners.