

REPORT No. 113/13
PETITION 94-01
DECISION TO ARCHIVE
ARGENTINA
November 5, 2013

ALLEGED VICTIM AND PETITIONER: Edgardo Mario Gille

ALLEGED VIOLATIONS: Articles 21 and 25 of the American Convention on Human Rights

DATE OF INITIAL PROCESSING: December 11, 2003

I. POSITION OF THE PARTIES

A. Position of the Petitioner

1. On February 15, 2001, the Inter-American Commission on Human Rights (hereinafter, the “Commission” or “IACHR”) received a petition filed by Edgardo Mario Gille (hereinafter, “the petitioner”) alleging that his father, Emilio Gille, who had died in 1985, was one of the retirees affected by the suspension of the pension mobility system. The petitioner claimed that in 1992, in view of the fact that the suspension of pension mobility had been declared unconstitutional, and as a result of the *amparo* appeal lodged, a court found that Isabel Marcos de Gille, mother of the petitioner, had the right to receive the amounts related to the differences in payment of her husband Emilio Gille’s retirement pension.

2. The petitioner alleged that the 1992 *amparo* appeal judgment had not been executed by the time his mother passed away in October 1993; as a result, as the universal heir, he managed to get the court hearing the succession proceedings to order ANSES to execute the judgment in his favor. He claimed that when he filed his petition, such judgment had not yet been executed and that more than nine years had elapsed since it had been issued.

B. Position of the State

3. Initially, the State proposed commencing a dialogue aimed at exploring a friendly settlement. On June 26, 2013, the State informed the IACHR that the judgment giving rise to the petition had been fully executed, and thus the petition had been rendered moot; the State requested the petition be archived.

II. PROCESSING BEFORE THE COMMISSION

4. On December 11, 2003, the IACHR forwarded the relevant portions of the petition to the State. The State submitted its observations on May 23, 2005; such observations were forwarded to the petitioner on March 10, 2006 for his comments. On October 16, 2008, the IACHR asked the petitioner for his comments on the friendly settlement proposed by the State and requested updated information from the State.

5. On October 27, 2008, the State submitted its response, which was then forwarded to the petitioner for his comments on February 25, 2009. On September 13, 2011, the IACHR repeated its request for information from the petitioner. On July 11, 2012 and July 23, 2013, the IACHR reiterated its request for information from the petitioner, indicating that in the absence of a response, the case file could be archived. On June 26, 2013, the State submitted additional information that was forwarded to the petitioner on August 20, 2013.

III. BASIS FOR THE DECISION TO ARCHIVE

6. Both Article 48(b) of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the Inter-American Commission on Human Rights provide that during the processing of a petition, after receiving information, or once the period established to receive information has elapsed, the IACHR shall ascertain whether the grounds for the petition or communication still exist, and if they do not exist or subsist, it shall order the archiving of the case file.

7. At the time of approval of this report, the petitioner has not responded to the requests for information made by the IACHR on October 16, 2008, February 25, 2009, September 13, 2011, July 11, 2012, and July 23, 2013. Having conducted the corresponding evaluation, the Commission believes that it lacks the information necessary to reach a decision on the petition, despite efforts to obtain such information, and that the unjustified lack of action taken by the petitioner in the process constitutes a serious indication of disinterest in moving forward with the petition. Thus, in accordance with Article 48(b) of the Convention as well as Article 42 of its Rules of Procedure, the IACHR hereby decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 5th day of November 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Dinah Shelton, Felipe Gonzalez, Rodrigo Escobar Gil and Rose-Marie Belle Antoine, Commissioners.