

REPORT No. 116/13
PETITION 996-03
DECISION TO ARCHIVE
ARGENTINA
November 5, 2013

ALLEGED VICTIMS: Ramiro Diez Llano and family¹

PETITIONERS: María Soledad García Muñoz, Fabián Omar Salviolli,² and Guillermo Federico Di Bernardi

ALLEGED VIOLATIONS: Articles 2, 5, 8, 19, 21, and 25 of the American Convention on Human Rights

DATE PROCESSING BEGAN: November 14, 2003

I. POSITION OF THE PARTIES

A. Position of the petitioners

1. On November 24, 2003, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) received a petition alleging that Ramiro Diez Llano (hereinafter “the alleged victim”) had been punished by a judicial decision that violated due process and that had not been quashed despite the appeals filed, which led to consequences for the life of the alleged victim and his family.

2. The petitioners alleged that on December 22, 1993, a male child disappeared from his house in the city of Tandil and was found dead in an open, outdoor area three days later. On December 25, 1993, the alleged victim (who was 15 at the time), a friend of the child, testified for the first time at the First Police Station of Tandil and then gave a second statement, but this time in his father’s presence. On August 20, 1996, he denied responsibility for his friend’s death before the Juvenile Court Judge.

3. In November 1996, the Judge, acting unexpectedly and without grounds, opened an inquiry into the alleged victim’s involvement. Given the absence of grounds, an appeal for annulment was filed. The call for an inquiry was declared null and void by the Departmental Chamber of Azul in December 1996. Subsequently, the Juvenile Court Judge issued a decision in which she found the alleged victim guilty for the child’s death and dismissed the case definitively as it involved a minor who was immune from prosecution.

¹ Edgardo Hugo Diez, Marta Susana Llano, Constanza Jorgelina, and Lisanoro Diez Llano.

² In a note received by the IACHR on December 15, 2005, Fabián Omar Salviolli asked to have his name removed from the list of petitioners.

4. The petitioners allege that said decision “is extremely damaging” and led to “very serious consequences” for the alleged victim and his relatives. An appeal for annulment of this decision was filed but was denied as groundless. A complaint appeal was filed against that rejection with the Departmental Chamber of Azul, which rejected it as it considered that definitive dismissals are not subject to appeal. An extraordinary appeal for annulment was filed against that decision and rejected.

5. A complaint appeal was filed with the Supreme Court of Justice of Buenos Aires. Said court declared that the decision to deny the appeal was definitive and automatically annulled the decision reached by the Chamber and ordered it to constitute a new panel to issue a valid decision. Accordingly, the Chamber of Appeals of Azul issued a new decision on October 3, 1997, maintaining almost verbatim the opinion of its predecessors.

6. Extraordinary appeals for annulment and inapplicability of the law were filed against said decision, which were rejected by the Supreme Court of Justice of Buenos Aires. In February 2001, a federal extraordinary appeal was filed that was first granted by the Supreme Court of Justice of the Nation but then declared inadmissible, a decision that was notified on May 23, 2003.

B. Position of the State

7. The Argentine State referred to the proceedings related to the petition and proposed that a forum for dialogue be opened to explore the possibility of a friendly settlement to the petition.

II. PROCESSING BY THE IACHR

8. On November 14, 2005, the IACHR transmitted the pertinent parts of the petition to the State. On November 30, 2005, the State requested a copy of the file, which the IACHR forwarded on June 29, 2006. On September 18, 2006, the State submitted its observations, which were transmitted to the petitioners. On November 1, 2006, the petitioners submitted their observations expressing their readiness to explore the possibility of a peaceful settlement, which were communicated to the State. On December 23, 2009, the IACHR granted an extension requested by the State. On February 25, 2010, the State reiterated its readiness to dialogue, a brief that was transmitted to the petitioners so that they might express their interest in exploring the possibility of a friendly settlement, on March 3, 2010. Said request was reiterated on November 11, 2011, and September 4 and 23, 2013, with an indication in 2013 that if said information was not received within a month the Commission might archive the petition.

III. BASIS FOR THE DECISION TO ARCHIVE

9. Both Article 48.1.b of the American Convention on Human Rights and Article 42 of the Rules of Procedure of the Inter-American Commission on Human Rights establish that, during the processing of a petition, whether the information requested has been received or the period established has elapsed without its receipt, the Inter-American Commission will ascertain whether the grounds for the petition or communication still exist or subsist and, if they do not, will order the file archived.

10. As of the date of approval of the present report, the petitioners have not responded to the IACHR requests for information dated March 3, 2010; November 11, 2011; and September 4 and 23, 2013. Having made the corresponding analysis, the Commission considers that it does not have the necessary information to reach a decision on the petition, despite the efforts made to obtain said

information, and that the petitioner's unjustified procedural inactivity is a serious indication of a lack of interest in moving forward with the petition. As a result, the Commission hereby decides to archive the file of the present petition, pursuant to Article 48.1.b of the American Convention and Article 42 of its Rules of Procedure.

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.