

**REPORT N° 26/10**  
PETITION 12.100  
DECISION TO ARCHIVE  
HAITI  
March 16, 2010

**ALLEGED VICTIMS:** Frantz Henri Jean-Louis and Thomas Asabath

**PETITIONERS:** Jean-Claude Nord and Gérard Georges

**INITIATION OF PROCESSING:** December 22, 1998

**ALLEGED VIOLATIONS:** The alleged facts concern violations of Articles 1(1), 7, 8 and 25 of the American Convention on Human Rights (the "American Convention")

**I. POSITION OF THE PETITIONERS**

1. On December 22, 1998, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition from Gérard Georges, lawyer and President of the Haitian-American League of Human Rights, and Jean-Claude Nord, lawyer and Secretary of the Haitian Center for Human Rights (the "petitioners"), against the Republic of Haiti (the "State" or "Haiti"), alleging violations of the American Convention for the illegal arrest of Frantz Henry Jean-Louis and Thomas Asabath (the "alleged victims") on July 23, 1998, without warrant of arrest and without having been surprised in the act of committing a criminal offense ("*flagrante delicto*"), as well as their illegal detention first in the Pétion-Ville police station and subsequently in the Pétion-Ville civil prison.

2. Further, the petitioners allege that despite an order declaring "*their arrest illegal and their detention abusive and arbitrary*" issued on August 5, 1998, the Government Commissioner refused to liberate Messrs. Jean-Louis and Asabath until October 9, 1998. Nonetheless, the petitioners assert that as soon as the alleged victims were released, they were brutally arrested again, this time pursuant to a warrant of arrest, of which they were not informed, with the charge of "*narcotic trafficking in the Haitian territory*".

3. The petitioners indicate that on November 30, 1998, the examining magistrate in charge of the case issued a release order. However, they allege that on the very same day the State Secretary of Public Security called the examining magistrate to his office, as well as the Government Commissioner, to order them not to comply with the release order. By doing so, the petitioners claim that the State Secretary deliberately acted against constitutional and legal principles as well as against fundamental norms and principles contained in international human rights instruments ratified by the State of Haiti, including the American Convention.

**II. POSITION OF THE STATE**

4. The State has not presented any response to the facts alleged by the petitioners, nor has it questioned the admissibility of the petition under consideration.

### III. PROCESSING BEFORE THE INTER-AMERICAN COMMISSION

5. Following receipt of the petition, the Inter-American Commission transmitted the pertinent parts thereof to the State on January 28, 1999, with a ninety-day time period to present its observations, and notified the petitioners.

6. On March 5, 1999, the IACHR received information from the petitioners, dated February 24, and acknowledged receipt on March 30, 1999. On December 14, 2001, the Inter-American Commission renewed its request for observations to the State, within a one month time period. On December 17, 2001, the IACHR issued the same request to the petitioners.

7. The IACHR reiterated its requests on March 22, 2002, both to the State and to the petitioners. On June 17, 2009, the IACHR requested the petitioners to confirm their interest in pursuing the petition, considering the series of events that occurred in Haiti since their last communication.<sup>1</sup> The IACHR also informed the petitioners that in the event the information was not received, it might archive the record of the petition in accordance with Article 48.1.b of the American Convention. As of the date of this report, the IACHR has not received additional and/or updated information from the State or the petitioners.

### IV. GROUNDS FOR THE DECISION TO ARCHIVE

8. Article 48.1.b of the American Convention, as well as Article 42 of the Rules of Procedure of the IACHR, both set forth that prior determining admissibility, the Inter-American Commission shall ascertain whether the grounds for the petition still exist or subsist and if it considers that they do not, it shall order the case to be archived. In addition, Article 42.1.a of the Rules establishes that the IACHR may also decide to archive a case when the information necessary for the adoption of a decision is unavailable.

9. In this case, the petition was submitted on December 22, 1998 and although on three occasions, in 2001, 2002 and 2009, the IACHR requested the petitioners to provide additional information; it has now been more than ten years since their last communication.

10. The IACHR notes that it has repeatedly expressed its concerns for the rights to liberty and security; judicial guarantees; and to judicial protection in Haiti, particularly in situations similar to that described in the petition.<sup>2</sup> However, considering the particular circumstances as described above, the Inter-American Commission considers that it lacks the necessary elements to make a determination on the petition's admissibility or to determine whether the grounds for the petition subsist, and it considers that the necessary information is unavailable. Therefore, pursuant to Articles 48.b of the American Convention and 42 of its Rules of Procedure, the IACHR decides to archive this petition, without prejudging on its merits.

Done and signed in the city of Washington, D.C., on the 16<sup>th</sup> day of the month of March, 2010. (Signed: Felipe González, President; Paulo Sérgio Pinheiro, First Vice-President; Dinah Shelton, Second Vice-President; María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, members of the Commission).

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<sup>1</sup> For example, see IACHR Annual Report 2004, Chap. IV para.103, where the Inter-American Commission noted that "[t]he year 2004 witnessed dramatic changes in the political landscape of Haiti, which included the departure of former President Aristide at the end of February 2004 following a violent uprising, the installation of a transitional government in March 2004, and the arrival of a new United Nations Mission." The IACHR also notes that since March 2004, the Pétion-Ville Prison is a detention center exclusively for women detainees.

<sup>2</sup> See; *inter alia*, IACHR Annual Report 2003, Chap. IV, paras. 47-48; IACHR Annual Report 2004, Chap. IV, paras 132, 134-135; IACHR Annual Report 2005, Chap. IV, paras. 235-236; IACHR Annual Report 2007, Chap. IV, para. 182.