

**REPORT No. 40/11**  
PETITION 664-03  
DECISION TO ARCHIVE  
HAITI  
March 23, 2011

**ALLEGED VICTIMS/ PETITIONERS:** André Apaid, Léon Jean Sainthyl, Choubert Louis, Mercurieu Aubain, Jean Wilkerson Alexis, Charles Dunet, Pierre Francky Roland, Magalie Feliz, Esaie Raymond, Souffrant Bonivard, Eric Galleus, Pierre Duckens, Orélien Samuel, Elie Franck Florestal, and Pierre Jacques.

**INITIATION OF PROCESSING:** December 11, 2003

**ALLEGED VIOLATIONS:** Articles 4, 5, 8, 13, 15, 16, 25 of the American Convention on Human Rights (the "American Convention")

**I. POSITIONS OF THE PARTIES**

**A. THE PETITIONERS**

1. On August 28, 2003, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition from André Apaid, as representative of the political organization "Group of 184," as well as individual petitions from each of the above-named persons, (the "alleged victims" or "petitioners") against the State of Haiti (the "State" or "Haiti"), alleging persecution and assault for opposition to the then government of Haiti.

2. According to the petitions, which were consolidated into "André Apaid *et al.*," each of the alleged victims was a member of the "Group of 184," a civil society organization in Haiti. They indicate that on July 12, 2003, the Group of 184 traveled to Cité Soleil to meet with residents of the community. The alleged victims claim that during the meeting, a group of 50 persons attacked the members of the Group, throwing stones and shooting at them, while police did nothing to stop the violence. The petitioners claim that the Group fled in vehicles severely damaged by stones and bullets; ultimately, it was alleged that 42 people had to be hospitalized as a result of the attack.

3. The petitioners allege that in the days that followed the attack, several high-ranking officials claimed that the Group of 184 had provoked the violence. There were further allegations that a former government official confessed the violence against the group was organized by the Aristide government of Haiti. The chief prosecutor of Port-au-Prince filed charges against Mr. Apaid as leader of the Group of 184, accusing him of being responsible for the deaths of four persons in the July 12 violence. The petitioners argue that this was part of a set-up to persecute the Group and Mr. Apaid.

4. Mr. Apaid alleges that the government was setting him up for the deaths of four people, and that there was an assassination plot against him by the Aristide government. The alleged victim claims that he had no chance of getting a fair trial, and requested precautionary measures to protect him against the government, as he received death threats on a daily basis. On January 8, 2004 the Commission received a transcript of a policeman's testimony via the President of the Haitian Bar Association, Mr. Duplan, regarding a plot to assassinate Mr. Apaid.

## **B. THE STATE**

5. On December 11, 2003 the State was asked for information regarding the petitions. The Commission also requested information from the State on December 30, 2003 and January 13, 2004 regarding precautionary measures. On January 5 and February 23, 2004, the Haitian Minister of Foreign Affairs informed the IACHR that its request had been forwarded to the Minister of Justice and Public Security. No further response or information from Haiti has been received.

## **II. PROCESSING BEFORE THE INTER-AMERICAN COMMISSION**

6. The IACHR received the petitions on August 28, 2003. On September 8, 2003, the Commission requested further information from Mr. Apaid in regards to the request for precautionary measures. On September 29, 2003, the IACHR informed the alleged victims it had received the petitions and was studying the allegations therein. On December 11, 2003, the Commission transmitted the pertinent parts of the petition to the State. Also on December 11, 2003, the IACHR informed the petitioners that their cases had been combined into "André Apaid *et al.*," and that Haiti had been asked for a response.

7. On December 29, 2003, Mr. Apaid was granted precautionary measures. On December 30, 2003, the Commission requested information from the State regarding these precautionary measures, as well as information regarding threats against Gervais Charles, Mr. Apaid's lawyer, and Herve Saintilus, another member of the Group of 184. On January 9, 2004, the petitioners sent an email to the IACHR stating that the government had not taken any initiative to implement the precautionary measures. On January 9, 2004, the Commission extended precautionary measures to Gervais Charles and Herve Saintilus.

8. On March 2, 2004, the Commission held a hearing to address issues related to the precautionary measures granted to Mr. Apaid, which was attended by a representative of the alleged victims. The Aristide government, however, was overthrown a few days before the hearing; since then, there has been no further information from the petitioners.

9. On April 27, 2009, the IACHR sent a letter to Mr. Apaid, informing him first that there had been no response from Haiti on the petitions or the precautionary measures to date. The Commission also asked if the alleged victim wished to pursue the petition or renew precautionary measures, given the events since the hearings on the precautionary measures; there was no response. On August 10, 2010, the IACHR reiterated the request, but again there was no answer.

10. Finally, on August 25, 2010, the IACHR reiterated its request to the State for information regarding the status of the petitions. Haiti did not respond.

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

11. Articles 48.1.b of the American Convention and 42 of the Rules of Procedure of the IACHR establish that prior to determining admissibility this organ shall determine if the grounds for the petition subsist; and that 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.

12. It has been nearly 7 years since the last communication from the alleged victims. As the petitions were based on allegations of persecution and conspiracy by the Aristide government, which has since been overthrown in Haiti, it is unknown whether the grounds for their petitions persist.

13. Under these circumstances, the IACHR considers that it lacks the necessary elements to make a determination as to whether the grounds underlying the initial petition subsist; to pronounce on admissibility; or to reach a decision on the alleged human rights violations. Therefore, in accordance with Article 48.1.b of the American Convention and Article 42 of its Rules of Procedure, the IACHR decides to archive this petition.

Done and signed in the city of Washington, D.C., on March 23, 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, Members of the Commission.