

REPORT No. 46/12
DECISION TO ARCHIVE
CASE 12.438
HAITI
March 20, 2012

ALLEGED VICTIM: Guy Andre Francois

PETITIONER: Marie Alice Francois

ALLEGED VIOLATIONS: The IAHCR has declared the petition admissible for possible violations of articles 7, 8, and 25 of the American Convention on Human Rights.

BEGINNING OF PROCESSING: March 27, 2002

ADMISSIBILITY REPORT ADOPTED ON: October 22, 2003

I. POSITION OF THE PETITIONER

1. On the 1st of March, 2002 the Inter American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the IACHR") received a petition from Marie Alice Francois (hereinafter "the petitioner") against the Republic of Haiti (hereinafter "the State" or "Haiti") on behalf of her husband, Guy Andre Francois, (hereinafter "the alleged victim" or "Mr. Francois").

2. According to the petitioner, on the 19th of December, 2001, Guy Andre Francois was arbitrarily arrested by agents of the police, without a judicial order and having done nothing to constitute flagrancy. Mr. Francois was driven to the Commissary and then the Petion-Ville Prison. In response to a *habeas corpus* petition, the Tribunal of First Instance declared, on the 7th of January, 2002, that both the arrest and the detention of the alleged victim were illegal and ordered his immediate release. Nevertheless, according to the petitioner, the prosecutor (*Commissaire du Gouvernement*) did not release Mr. Francois.

3. Subsequent to the adoption of the admissibility report No. 79/03, on the 22 of October, 2003, the IACHR became aware, through publically available information, that the alleged victim was liberated on the 29th of February, 2004. Additionally, and also according to public information, Mr. Francois was assassinated by unknown persons and his body found in his car on the 14th of September, 2006. According to the available information, the murder does not appear to be related to the detention of the alleged victim but was perpetrated in the context of the existing violence in Haiti at the time.¹

¹ Information available at: <http://ht.vlex.com/vid/funeraillles-colonel-guy-celebrees-miami-63432821> y
<http://www.haitiwebs.com/showthread.php?t=252>

II. POSITION OF THE STATE

4. The State has not responded to the allegations raised by the petitioner.

III. PROCEEDINGS BEFORE THE IACHR

5. The 1st of March, the Inter-American Commission received an initial petition and registered it under the number 12.438. After completing a preliminary analysis, on the 27th of March 2002 the Commission proceeded to transmit copies of the pertinent parts to the State for its observations. On the 17th of March 2003, the IACHR requested additional information from the petitioner and reiterated the request to the State. In a note dated 24th of March, the State acknowledged receipt of both communications but did not submit any information with respect to the petition. On the 16th of April 2003, the petitioner sent additional information, which was forwarded to the State. Until that date, the State had not presented its observations with respect to the allegations contained in the petition.

6. On the 22nd of October 2003 the IACHR adopted report No. 79/03 in which it declared the present petition admissible for the possible violation of articles 1(1), 7, 8, and 25 of the American Convention. The parties were notified of said report in a note dated October 28th 2003. In a note sent to the petitioner, the IACHR requested that she present any additional observations on the merits of the case within two months, in accordance with what was established in article 38(1) of the Rules of Procedure of the Commission then in effect.

7. On the 9th of August 2010 and the 12th of April 2011 the IACHR reiterated the request to the petitioner and indicated that, if said information was not received within a month, the Commission could proceed to dismiss the case. To date, the Inter American Commission has not received observations on the merits from the petitioner.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

8. Both article 48(1)(b) of the American Convention as well as article 42 of the Rules of Procedure of the Inter American Commission establish that, within the process of the proceedings of a petition, after the information has been received, or after the period established has elapsed and the information has not been received, the Commission shall ascertain whether the grounds for the petition or communication still exist and, if not, shall order the record to be closed. Additionally, article 42(1)(b) of the Rules of Procedure establishes that at any time during the proceedings the Commission can dismiss the case if there is not enough information to reach a decision on it.

9. Eight years after the initial report on the admissibility of the case, additional observations on the merits of the case have still not been received from the petitioner. The silence of the petitioner persists even in the face of two reiterated requests, one of which included a warning about the possible dismissal of the case. Further, the information contained in the file that served as the basis for the adoption of the admissibility report does not contain the sufficient elements for the IACHR to make a decision on the merits of the case.

10. As there is not enough information to make a decision on the merits on this case, in accordance with article 42(1)(b) of its Rules of Procedure, the IACHR decides to dismiss the present case.

Done and signed in the city of Washington, D.C., on the 20th day of the month of March 2012. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Felipe González, Second Vice-President; Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz, and Rose-Marie Antoine, Commissioners.