

OEA/Ser.L/V/II.152
Doc. 15
August 15, 2014
Original: Spanish

REPORT No. 83/14
CASE 12.456
ARCHIVE

PIERRE LUCKNER
HAITI

Approved by the Commission at its session No. 2002 held on August 15, 2014
152 Special Period of Session.

Cite as: IACHR, Report No. 83/14. Case 12.456. Archive. Pierre Luckner. Haiti. August 15, 2014.

REPORT No. 83/14
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AUGUST 15, 2014

ALLEGED VICTIM: Pierre Luckner

PETITIONER: Centre Toussaint Louverture pour les droits de l'homme

VIOLATIONS ALLEGED: Articles 1(1), 7, 8, 24, and 25 of the American Convention on Human Rights

DATE PROCESSING BEGUN: July 6, 2000

I. THE PETITIONERS' POSITION

1. On June 5, 2000, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the IACHR") received a petition from Carlos Hercule and Patrick Daniel Frantz Laurent of the Centre Toussaint Louverture pour les droits de l'homme (hereinafter "the petitioners") in representation of Pierre Luckner (hereinafter "the alleged victim" or "Mr. Luckner") in which they accuse the Republic of Haiti (hereinafter "the State" or "Haiti") of violations of the rights recognized in Articles 7, 8, and 25 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") as well as the general obligation established at Article 1(1) of the same instrument. Subsequently the petitioners alleged the violation of Article 24.

2. According to the petitioners, Mr. Luckner, an attorney and former examining magistrate of the Court of First Instance of Port-de-Paix, was arbitrarily arrested in Port-de-Paix on October 16, 1998, by agents of the National Police. That same day the attorneys for the alleged victim submitted a complaint opposing that detention. The President of the Court of First Instance of Port-de-Paix issued a summary order dated October 17, 1998, ordering Mr. Luckner's immediate release. Despite that order, on October 18, 1998, the alleged victim was said to have been transferred to the office of the chief of police in Pétion-Ville, where he was said to have remained in detention.

3. On June 14, 1999, the new attorneys for the alleged victim, petitioners before the IACHR, filed a writ of habeas corpus before the Court of First Instance of Port-au-Prince. That same day, the court ordered that the arrest and detention of Mr. Luckner were arbitrary and constituted illegal acts, and ordered his immediate release. That judicial order was said to have been delivered to the Government Commissioner on June 21, 1999. Nonetheless, the alleged victim apparently was not released. According to information provided by the petitioners in their communication dated January 21, 2000, the alleged victim continued to be held. According to the information available, Mr. Luckner was released on December 24, 2000.

II. THE STATE'S POSITION

4. The State has not responded to the petitioners' arguments.

III. PROCESSING BEFORE THE IACHR

5. On February 26, 2004, the IACHR adopted Report No. 17/04 in which it found this petition admissible with respect to the alleged violation of Articles 1(1), 7, 8, and 25 of the American Convention. Notice of that report was made to the parties by note of May 27, 2004. The IACHR asked the petitioners to

submit their additional observations on the merits within two months, in keeping with what was established in Article 38(1) of the IACHR's Rules of Procedure in force at that time.

6. On April 22, 2009, the Commission sent the admissibility report to the petitioners once again and reiterated the request for information. Given the lack of a response, the IACHR reiterated the request for information on August 17, 2010, giving notice of the possibility of a decision to archive. On March 11, 2011, the petitioners sent a very brief communication requesting information on the friendly settlement procedure. On April 5, 2011, the IACHR answered that query, and on April 19, 2011, the IACHR sent a communication reiterating the request for information. To date the Inter-American Commission has not received the petitioners' additional observations on the merits.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

7. 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 establish that in the course of processing a petition, once the information is received and the time set has elapsed without any observations being received, the IACHR shall ascertain whether the grounds for the petition or communication still exist, and if not it shall order that the matter be archived. In addition, Article 42(1)(b) of the Rules of Procedure establish that at any time in the procedure the Commission may archive the matter if it does not have the information needed to reach a decision on the case.

8. Ten years after the adoption of the admissibility report, the IACHR has yet to receive the petitioners' additional observations on the merits. And this is despite having reiterated that request on three occasions, with a warning that the matter could be archived. In addition, the information contained in the case file that was the basis for adopting the admissibility report does not contain sufficient elements for the IACHR to rule on the merits of the case.

9. In such circumstances, the Inter-American Commission concludes that it does not have the information needed to reach a decision on the merits. Accordingly, in keeping with Article 42(1)(b) of the IACHR it decides to archive the instant case.

Approved by the Inter-American Commission on Human Rights in the city of Mexico on the 15th day of the month of August, 2014. (Signed): Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice-President; Felipe González, Second Vice President; José de Jesús Orozco Henríquez, Rosa María Ortiz, Paulo Vannuchi and James L. Cavallaro, Commissioners.