**FOLLOW-UP FACTSHEET OF REPORT No. 81/07**

**CASE 12.504**

**DANIEL AND KORNEL VAUX**

**(Guyana)**

1. **Summary of Case**

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| **Victim (s):** Kornel Vaux and Daniel Vaux**Petitioner (s):** Avril Salomon**State:** Guyana**Merits Report No.:** [81/07](http://www.cidh.oas.org/annualrep/2007eng/Guyana12504eng.htm), published on October 15, 2007**Admissibility Report:** Analyzed together in Merits Report No. 81/07**Themes**: Domestic Legal Effects / Right to Life / Right to Humane Treatment / Right to Personal Liberty / Right to a Fair Trial / Judicial Protection / Arbitrary detention / Death Penalty**Facts:** This case refers to Daniel and Kornel Vaux who were charged for the murder of Baiwant Jaikissoon on July 11, 1993 and subsequently sentenced to death on December 19, 1997. Their appeal to the Guyana Court of Appeal was dismissed on December 7, 2000.**Rights violated:** The IACHR concluded that the State of Guyana was responsible for the infliction of violence by police officers on brothers Daniel and Kornel Vaux while in their custody; and for failing to accord a fair trial to the Vaux brothers, particularly in the treatment of the confession evidence by the courts of that country, which prevented them from fully contesting the voluntariness of the confession evidence tendered by the prosecution. Accordingly, the IACHR concluded that the State of Guyana violated the rights of the Vaux brothers under Articles XVIII, XXV and XXVI of the American Declaration of the Rights and Duties of Man; and that execution of the Vaux brothers based upon the criminal proceedings for which they are presently convicted and sentenced would be contrary to Article I of the American Declaration. |

1. **Recommendations**

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| **Recommendations** | **State of compliance in 2020** |
| 1. Grant an effective remedy, which includes compensation for the maltreatment inflicted on the Vaux brothers; a re-trial of the charges against the Vaux brothers in accordance with the fair trial protections under the American Declaration, or failing that, an appropriate remission or commutation of sentence. | Substantial partial compliance |
| 2. Adopt such legislative or other measures as may be necessary to ensure that criminal defendants are afforded access to evidence under the control of the State that they might reasonably require necessary to challenge the voluntariness of confession evidence. | Pending compliance |
| 3. Undertake an investigation to identify the direct perpetrators of the beatings inflicted on Daniel Vaux and Kornel Vaux while in custody to extract confessions and to apply the proper punishment under law;  | Pending compliance |
| 4 Adopt such legislative or other measures as may be necessary to ensure that any confession of guilt by an accused is valid only if it is given in an environment free from coercion of any kind, in accordance with Article XXV of the American Declaration. | Pending compliance |

1. **Procedural Activity**
2. In 2020, the IACHR requested updated information on compliance with the recommendations from the State on August 14. As of the closing date of this report, the Commission had not received such information from the State. The Commission notes with concern that the State has not presented information about measures adopted to implement the recommendations contained in Merits Report No. 81/07 to the IACHR since 2015.
3. In 2020, the IACHR requested updated information from the petitioners on compliance with the recommendations on August 14. As of the closing date of this report, the Commission had not received such information from the petitioners. However, on October 13, 2020, the Commission received a note sent by Daniel Vaux, one of the victims in the case.
4. **Analysis of the information presented**
5. The Commission considers that the information provided by Daniel Vaux, as the victim in the case, is relevant to the measures adopted regarding compliance with at least one of the recommendations issued in the Report on the Merits No. 81/07.
6. **Analysis of compliance with the recommendations**
7. **Regarding the first recommendation**, the parties have not submitted any information about measures adopted by the State to implement these recommendations in 2018.
8. On February 6, 2015, the State reported that following the 2010 reform of the Criminal Law Offenses Act abolishing the death penalty for persons convicted of homicide and introducing rules on life imprisonment with the possibility of parole, on January 28, 2013, the Superior Court commuted the sentences of Daniel and Kornel Vaux to life imprisonment.
9. In 2020, Daniel Vaux, one of the victims, sent a note to the Commission informing that, on 2 December 2019, he and his brother, Kornel Vaux, were granted parole.
10. The Commission welcomes the fact that the death sentences of Daniel Vaux and Komel Vaux were commuted to life imprisonment in January 2013 and that they were subsequently granted parole on 2 December 2019. However, the Commission is still not aware that compensation has been awarded to the victims. On this matter, the Commission reminds the State that it is a principle of international law that any breach of an international obligation resulting in harm gives rise to the duty to adequately redress such harm.[[1]](#footnote-1) In accordance with the jurisprudence of the inter-American system, victims of human rights violations have the right to adequate compensation for the harm suffered, which must be concretized through individual measures aimed at restoring, compensating and rehabilitating the victim, as well as satisfaction and guarantees of non-repetition.[[2]](#footnote-2) Further, a State cannot modify or disregard this obligation by relying on its domestic law.[[3]](#footnote-3) Based on the foregoing, the Commission finds that Recommendation 1 is substantially partially complied.
11. **With regards to recommendations 2 to 4,** the parties have not submitted any information about measures adopted by the State of Guyana to implement these recommendations. Based on this, the Commission finds that Recommendations 2, 3 and 4 are pending compliance.
12. **Level of compliance of the case**
13. Based on the foregoing, the IACHR concludes that the level of compliance of the case is partial. Consequently, the Commission will continue to monitor Recommendations 1, 2, 3 and 4.
14. The Commission calls the parties to provide detailed information regarding actions taken to comply with the aforementioned recommendations.
15. **Individual and structural results of the case**
16. This section highlights the individual and structural results informed by the parties.
17. **Individual results of the case**

*Restoration of the infringed right measures*

* On January 28, 2013, the Superior Court commuted the sentences of Daniel and Kornel Vaux to life imprisonment.
* On 2 December 2019, the brothers Daniel and Kornel Vaux were granted parole.
1. **Structural results of the case**

No structural results have been informed

1. IACtHR, [Case of La Cantuta Vs. Peru, Judgement of November 29, 2006](http://www.corteidh.or.cr/docs/casos/articulos/seriec_162_ing.pdf). Series C No. 162, paras. 199-200. [↑](#footnote-ref-1)
2. IACHR, [Principal Guidelines for a Comprehensive Reparations Policy](http://www.cidh.org/pdf%20files/Lineamientos%20Reparacion%20Administrativa%2014%20mar%202008%20ENG%20final.pdf), 19 February 2008, OEA/Ser/L/V/II.131, doc. 1, para. 1; UNGA, [Resolution 60/147 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](http://legal.un.org/avl/pdf/ha/ga_60-147/ga_60-147_ph_e.pdf), 16 December 2005. A/RES/60/147. [↑](#footnote-ref-2)
3. IACtHR, [Case of La Cantuta Vs. Peru, Judgement of November 29, 2006](http://www.corteidh.or.cr/docs/casos/articulos/seriec_162_ing.pdf). Series C No. 162, para. 200. [↑](#footnote-ref-3)