**FOLLOW-UP FACTSHEET OF REPORT No. 1/06**

 **CASE 12.264**

**FRANZ BRITTON**

 **(Guyana)**

1. **Summary of Case**

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| **Victim (s):** Franz Britton**Petitioner (s):** I. Kamau Cush (Movement for Economic Empowerment)**State:** Guyana**Merits Report No.:** [1/06](http://www.cidh.oas.org/annualrep/2006eng/GUYANA.12264eng.htm), published on February 28, 2006**Admissibility Report No.:** [80/01](http://cidh.org/annualrep/2001eng/Guyana12264.htm), adopted on October 10, 2001**Themes:** Domestic Legal Effects / Right to Life / Right to Personal Liberty / Right to a Fair Trial / Judicial Protection / Detention Conditions / Investigation and Due Diligence**Facts:** This case concerns the disappearance ofMr. Franz Britton (also known as Collie Wills), who was first arrested on January 19, 1999, by police officers at Cove and John Police Station, East Coast Demerara, Guyana. Mr. Britton was subsequently released on January 23, 1999 but was arrested again on January 25, 1999 at the same police station by a division of the police known as the Quick Reaction Group or the “Black Clothes”. Mr. Britton has not been seen since January 25, 1999 and his whereabouts are unknown, despite multiple inquiries made to the State. **Rights violated:** The Commission concluded that agents of the State security forces abducted and/or detained Franz Britton and that during the following six years his whereabouts have not been identified and that, as a result, the State violated the rights of Franz Britton to life, liberty, personal liberty, judicial protection, arbitrary arrest and due process of law, all recognized, respectively, in Articles I, XVIII, XXV, XXV and XXVI of the American Declaration.  |

1. **Recommendations**

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| **Recommendations** | **State of compliance in 2020** |
| 1. Carry out a serious, impartial and effective investigation by means of the competent organs, to establish the whereabouts of Franz Britton and to identify those responsible for his detention-disappearance, and, by means of appropriate criminal proceedings, to punish those responsible for such grave acts in accordance with the law.  | Pending compliance |
| 2. Adopt the necessary legislative or other measures to prevent the recurrence of such events and provide, in all cases, the required due process and effective means of establishing the whereabouts and fate of anyone held in State custody. | Pending compliance |
| 3. Adopt measures to make full reparation for the proven violations, including taking steps to locate the remains of Franz Britton and to inform the family of their whereabouts; making the arrangements necessary to facilitate the wishes of his family as to an appropriate final resting place; and providing reparations for the relatives of Franz Britton including moral and material damages in compensation for the suffering occasioned by Mr. Britton’s disappearance and not knowing his fate. | Pending compliance |

1. **Procedural Activity**
2. The IACHR requested a working meeting with both parties for its 173rd ordinary period of sessions to follow-up on the recommendations issued in the Merits Report No. 1/06 for September 24, 2019. The working meeting was cancelled at the request of the petitioners.
3. In 2020, the IACHR requested updated information on compliance from the State and from the petitioners on August 14. As of the closing date of this report, the Commission had not received said information from neither of the parties. The Commission notes that the petitioners have not presented information about measures adopted to implement the recommendations contained in Merits Report No. 1/06 to the IACHR since 2018 and the State since 2013.
4. **Analysis of the information presented**
5. In 2020, the parties did not present information in response to the Commission’s request on the actions adopted by the State to comply with the recommendations issued in the Merits Report No. 1/06.
6. In this sense, because of the lack of updated information on the level of compliance with the recommendations, the IACHR reiterates the analysis of compliance and the conclusions made in its 2019 Annual Report.
7. **Analysis of compliance with the recommendations**
8. **With regards to the first recommendation**,in 2012, the State informed that both the family of Mr. Britton as well as the petitioners failed to exhaust domestic remedies to search for or complain about Mr. Britton’s disappearance. The State added that it had made efforts to ascertain what happened to Mr. Britton and to trace his whereabouts, but these revealed that there was no evidence or record that he was detained. Based on this, the State concluded that it was unable to carry out any further investigation as it can find no records of Mr. Britton having been detained nor any witnesses or other information that would assist it in ascertaining what happened to Mr. Britton or his whereabouts.[[1]](#footnote-1) However, the State indicated that were it to be provided with or receive new information in regards to this case it would be willing to take steps to ascertain what happened in Mr. Britton. In 2013, the State indicated that it had no additional information to share with the Commission.[[2]](#footnote-2)
9. In 2018, the petitioners informed that the State has not carried out a serious, impartial and effective investigation by means of the competent organs, to establish the whereabouts of Franz Britton and to identify those responsible for his detention-disappearance, and, by means of appropriate criminal proceedings, to punish those responsible for such acts in accordance with the law. The petitioners further informed that in March 2016 the United Nations Working Group on Enforced or Involuntary Disappearances urged the State of Guyana to conduct appropriate investigations to clarify the fate and whereabouts of Mr. Britton, but that, to this date, the State has not taken actions to comply with this request. The petitioners indicated that they had spoken with the President of Guyana, the Attorney General, the Minister of Foreign Affairs, other political officials, members of the judiciary, press and civil society organizations, but there have been no advances in the case.
10. The IACHR recalls that the obligation to investigate facts of forced disappearance persists as long as the uncertainty about the final fate of the disappeared person remains, because the right of the victim’s next of kin to know his or her fate and, as appropriate, where the victim’s remains are, represents a reasonable expectation that the State must satisfy using all the means at its disposal.[[3]](#footnote-3) In that sense, the Commission invites the State to adopt the necessary measures to carry out a serious, impartial and effective investigation into the detention-disappearance of Franz Britton and to inform the IACHR of these actions. Based on this, the Commission finds that Recommendation 1 is pending compliance.
11. **Regarding the second recommendations**, in 2012, the State submitted pertinent sections of its Constitution, statutes and administrative measures, which supposedly consist of impartial mechanisms for complaints against abuse, torture and degrading or inhuman punishment. Consequently, the State asserted that its constitutional and legislative framework already provided the required due process and effective means of establishing the whereabouts and fate of anyone held in State custody.[[4]](#footnote-4)
12. In 2018, the petitioners informed that, to their knowledge, the State has not adopted the necessary legislative or other measure to prevent the recurrence of such events and to provide, in all cases, the required due process and effectives means of establishing the whereabouts and fate of anyone held in State custody.
13. The Commission notes the information submitted by the State in 2012. At the same time, the IACHR indicates that the State has not presented detailed and up to date information on actions taken to comply with this recommendation since that time and invites the State to do so. Based on this, the Commission finds that Recommendation 2 is pending compliance.
14. **With regards to the third recommendation**, in 2012, the State presented the same information regarding this recommendation as it presented in relation to Recommendation 1.[[5]](#footnote-5) In 2013, the State indicated that it had no additional information to share with the Commission.[[6]](#footnote-6)
15. In 2018, the petitioner informed that the State has not taken actions to locate the remains of Franz Britton and that no reparations have been provided to the relatives of the victim.
16. The IACHR calls the State to take measures to comply with this recommendation and to inform it of these measures. Based on this, the Commission finds that Recommendation 3 is pending compliance.
17. **Level of compliance of the case**
18. Based on the foregoing, the IACHR concludes that the level of compliance of the case is pending. Consequently, the Commission will continue to monitor Recommendations 1, 2 and 3.
19. **Individual and structural results of the case**
20. Given that the case is pending compliance, there are no individual or structural results which have been informed by the parties.
1. IACHR, 2012 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2012/Chap.3.D.doc), para 786. [↑](#footnote-ref-1)
2. IACHR, 2013 Annual Report, [Chapter II, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2013/docs-en/AnnualReport-Chap2-D.pdf), para. 793. [↑](#footnote-ref-2)
3. IACtHR, [Case of the Río Negro Massacres v. Guatemala](http://www.corteidh.or.cr/docs/casos/articulos/seriec_250_ing.pdf), Judgment of September 4, 2012. Series C No. 250, para. 224. [↑](#footnote-ref-3)
4. IACHR, 2012 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2012/Chap.3.D.doc), para 786. [↑](#footnote-ref-4)
5. IACHR, 2012 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2012/Chap.3.D.doc), para 786. [↑](#footnote-ref-5)
6. IACHR, 2013 Annual Report, [Chapter II, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2013/docs-en/AnnualReport-Chap2-D.pdf), para. 793. [↑](#footnote-ref-6)