**FOLLOW-UP FACTSHEET OF REPORT No. 78/02**

**CASE 11.335**

**GUY MALARY**

**(Haiti)**

1. **Summary of Case**

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| **Victim (s):** Guy Malary  **Petitioner (s):** Natalie L. Reid (Debevoise & Plimpton)  **State:** Haiti  **Merits Report No.:** [78/02](http://cidh.org/annualrep/2002eng/Haiti.11335.htm), published on December 27, 2002  **Admissibility Report No.:** [113/00](http://cidh.org/annualrep/2000eng/ChapterIII/Admissible/Haiti11.335.htm), published on December 4, 2000  **Themes:** Right to Life / Summary, Extrajudicial or Arbitrary Executions / Right to a Fair Trial / Judicial Protection / Investigation and Due Diligence / Domestic Effects.  **Facts:** This case refers to the assassination of Mr. Guy Malary on October 14, 1993 in Port-au-Prince by individuals, with the participation of agents of the State, and the failure of the Haitian State to adequately investigate, to identify those responsible and to impose the appropriate punishment. Mr. Malary was appointed Minister of Justice by President Jean-Bertrand Aristide during his first term and continued to hold that office under the *de facto* military government of Raoul Cédras.  **Rights violated:** The IACHR concluded that: a) the Haitian State violated the right to life enshrined in Article 4 of the American Convention to the detriment of Mr. Guy Malary;  b) the Haitian State violated the right to a fair trial and the right to judicial protection enshrined in Articles 8(1) and 25 of the American Convention to the detriment of the next-of-kin of Mr. Guy Malary; and c) that these violations involved the breach of the general obligation to respect and guarantee the rights provided for in Article 1(1) of American Convention, to the detriment of Mr. Guy Malary and his next-of-kin, and that the Haitian State is obliged to investigate the facts, sanction those responsible and repair the consequences of these violations and pay compensation to Mr. Guy Malary’s next-of-kin. |

1. **Recommendations**

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| **Recommendations** | **State of compliance in 2020** |
| 1. Carry out a full, prompt, impartial, and effective investigation within the Haitian ordinary criminal jurisdiction in order to establish the responsibility of the authors of the violation of the right to life of Mr. Guy Malary and punish all those responsible. | Pending Compliance |
| 2. Provide full reparation to the next-of-kin of the victim, *inter alia*, the payment of just compensation. | Pending Compliance |
| 3. Adopt the measures necessary to carry out programs targeting the competent judicial authorities responsible for judicial investigations and auxiliary proceedings, in order for them to conduct criminal proceedings in the accordance with international instruments on human rights. | Pending Compliance |

1. **Procedural Activity**
2. In 2020, the IACHR requested updated information on compliance from the State and from the petitioners on August 17. As of the closing date of this report, the Commission had not received said information from neither of the parties. The Commission notes with concern that the petitioner has not presented information about measures adopted to implement the recommendations contained in Merits Report No. 78/02 to the IACHR since 2003 and the State since the publication the merits report, in 2002.
3. **Analysis of the information presented**
4. 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.
5. **Analysis of compliance with the recommendations**
6. **With regards to the first recommendation**,the State of Haiti has not presented specific information about compliance with this recommendation. However, during the Commission’s two *in situ* visits undertaken to the country in 2002, representatives of the State expressed to the delegation of the IACHR their willingness to investigate.[[1]](#footnote-1)
7. In 2003, the petitioners informed the Commission that the State had not yet carried out an impartial or effective investigation into Mr. Malary’s death nor had it brought those responsible to justice.[[2]](#footnote-2)
8. The Commission notes that it has not received detailed and up to date information regarding actions taken by the State to carry out a full, prompt, impartial, and effective investigation within the Haitian ordinary criminal jurisdiction in order to establish the responsibility of the authors of the violation of the right to life of Mr. Guy Malary and to punish those responsible. Based on this, the Commission finds that Recommendation 1 is pending compliance.
9. **Regarding the second recommendation**,the State of Haiti has not presented specific information about compliance with this recommendation. However, during the Commission’s two *in situ* visits undertaken to the country in 2002, representatives of the State expressed to the delegation of the IACHR their willingness to pay compensation to Mr. Malary’s next-of-kin.[[3]](#footnote-3)
10. In 2003, the petitioners informed the Commission that the Haitian State had not yet provided reparations to the next-of-kin of the victim.[[4]](#footnote-4)
11. The Commission notes that it has not received information regarding actions taken by the State to provide full reparation to the next-of-kin of the victim. Based on this, the Commission finds that Recommendation 2 is pending compliance.
12. **With regards to the third recommendation**,neither the State nor the petitioners have presented specific information about compliance with this recommendation.
13. The Commission notes that it has not received information regarding measures adopted by the State to carry out programs targeting the competent judicial authorities responsible for judicial investigations and auxiliary proceedings, in order for them to conduct criminal proceedings in the accordance with international instruments on human rights. The Commission urges the State to adopt actions to comply with this recommendation and to inform the IACHR of these actions. Based on this, the Commission finds that Recommendation 3 is pending compliance.
14. **Level of compliance of the case**
15. Based on the foregoing, the IACHR concludes that the level of compliance of the case is pending. Consequently, the Commission will continue to monitor compliance with Recommendations 1, 2 and 3.
16. The Commission calls the State to adopt the necessary measures to comply with the recommendations issued in Merits Report No. 78/02 and to provide up to date and detailed information on these measures to the Commission. At the same time, the IACHR invites the petitioners to present information about measures adopted by the State to comply with the Commission’s recommendations.
17. **Individual and structural results of the case**
18. Given that this case is pending compliance, there are no individual or structural results which have been informed by the parties.

1. IACHR, [Case 11.335, Merits Report No. 78/02, Guy Malary (Haiti)](http://cidh.org/annualrep/2002eng/Haiti.11335.htm), para. 98. [↑](#footnote-ref-1)
2. IACHR, 2003 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.cidh.org/annualrep/2003eng/chap.3f.htm), para. 182. [↑](#footnote-ref-2)
3. IACHR, [Case 11.335, Merits Report No. 78/02, Guy Malary (Haiti)](http://cidh.org/annualrep/2002eng/Haiti.11335.htm), para. 98. [↑](#footnote-ref-3)
4. IACHR, 2003 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.cidh.org/annualrep/2003eng/chap.3f.htm), para. 182. [↑](#footnote-ref-4)