**FOLLOW-UP FACTSHEET OF REPORT No. 28/09**

**CASE 12.269**

**DEXTER LENDORE**

**(Trinidad and Tobago)**

1. **Summary of Case**

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| **Victim (s):** Dexter Lendore  **Petitioner (s):** Saul Lehrfreund (Death Penalty Project)  **State:** Trinidad and Tobago  **Merits Report No.:** [28/09](http://www.cidh.org/annualrep/2009eng/TT12269eng.htm), published on March 20, 2009  **Admissibility Report No.:** [21/05](http://cidh.org/annualrep/2005eng/TT.12269eng.htm), adopted on February 25, 2005  **Themes:** Domestic Effects / Right to a Fair Trial / Judicial Protection / Right to Humane Treatment / Right to Personal Liberty / Conditions of Detention / Torture, Cruel, Inhuman and / or Degrading Treatment.  **Facts:** This case concerns the detention conditions of Mr. Dexter Lendore, who was detained on death row at the state prison, in Port of Spain, Trinidad and Tobago and whose sentence was subsequently commuted to seventy-five years imprisonment with hard labor.  **Rights violated:** The Inter-American Commission concluded that Trinidad and Tobago was responsible for violating Mr. Lendore’s rights under Articles 8(1) and 8(2) of the American Convention, in conjunction with violations of Article 1(1) of that international instrument, due to its failure to provide him with the assistance of competent and effective counsel during his criminal proceedings; and that the State is also responsible for violating Mr. Lendore’s rights under Articles 25 and 8 of the American Convention, in conjunction with violations of Article 1(1) of the American Convention, as well as violations of Articles XVIII and XXVI of the American Declaration, by failing to provide Mr. Lendore with effective access to a Constitutional Motion for the protection of his fundamental rights. |

1. **Recommendations**

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| **Recommendations** | **State of compliance in 2019** |
| 1. Grant Mr. Lendore an effective remedy, which includes a re-trial in accordance with the due process protections prescribed under Article 8 of the American Convention or, where a re-trial in compliance with these protections is not possible, his release, and compensation. | Pending compliance |
| 2. Adopt such legislative or other measures as may be necessary to ensure that Mr. Lendore’s conditions of detention comply with applicable international standards of humane treatment as articulated in the present report, including the removal of Mr. Lendore from death row. | Pending compliance |
| 3. Adopt such legislative or other measures as may be necessary to ensure that the right to judicial protection under Articles XVIII and XXVI of the American Declaration is given effect in Trinidad and Tobago in relation to recourse to Constitutional Motions. | Pending compliance |

1. **Procedural Activity**
2. In 2019, the IACHR requested updated information on compliance from the State on July 10 and the State presented said information through a note dated October 25, 2019.
3. In 2019, the IACHR requested updated information on compliance from the petitioners on July 10 and the petitioners presented said information on September 27, 2019.
4. **Analysis of the information presented**
5. The Commission considers the information provided by the State and the petitioners in 2019 to be relevant given that it refers to compliance with at least one of the recommendations issued in Report No. 28/09. Likewise, the IACHR appreciates that the State has submitted information after 10 years.
6. **Analysis of compliance with the recommendations**
7. **With regards to the first recommendations**,over 2019, the State asserted that Mr. Lendore does not meet the requirements for a re-trial, inasmuch as his motion has been denied twice by the Privy Council. It reported that in 1998, the authorities commuted the death sentence imposed on him to a prison term of 75 years with hard labor. The State remarked that in 2017, as a member of a larger group of persons in the same situation, Mr. Lendore challenged the decision commuting his death sentence on the grounds that that decision had been made through collective examination and on a not case-by-case basis of each person sentenced. The Privy Council denied said appeal and dismissed the argument on the grounds that the decision to commute had taken into consideration the particular situation of each defendant. Lastly, the State noted in its communication that complying with this recommendation would mean accepting that the OAS, through the IACHR, is able to wrongfully strip the Judicial Committee of the Privy Council of its jurisdiction. The State claimed that it does not intend to place the OAS in a position that stands at odds with the sovereign enforcement of its domestic legislation and specified that because Trinidad and Tobago had denounced the American Convention on Human Rights in 1999, the decisions that the IACHR issues are not binding on it.
8. In 2018, the petitioners informed that they have not acted for Mr. Dexter Lendore for a considerable period of time. At the same time, the petitioners presented a judgement of the Judicial Committee of the Privy Council, *Lendore and others v. The Attorney General of Trinidad and Tobago (2017)*,[[1]](#footnote-1)which concerns Mr. Dexter Lendore.In this case, Mr. Dexter Lendore, along with other individuals whose mandatory death sentences had been commuted to life imprisonment or imprisonment for 75 years in Trinidad and Tobago, challenged the constitutionality of the substituted sentences arguing that these sentences were imposed on a broad group of prisoners without consideration of the individual circumstances of each one.
9. In 2019, the petitioners reported that in 1998, Mr. Lendore had benefited from the commutation of the death sentence to a 75-year prison term. They explained that even though the State provides legal assistance services for cases that involve potential human rights violations, the State has still not ordered his release. The petitioners reported to the IACHR that the judgment handed down against Mr. Lendore is still pending an appeal for review by judicial authorities.
10. The Commission takes a positive view of the information submitted by the petitioners and the State. However, it notes that even though the State has processed and settled several legal proceedings, none of them have ensured Mr. Lendore the opportunity for access to re-trial or, should this not be possible, for him to be released from prison and be awarded compensation. Likewise, the IACHR cites that the petitioners remarked that domestic remedies relating to review of the Mr. Lendore conviction have yet to be exhausted and, therefore, the IACHR will eagerly awaits resolution of these remedies. Based on the foregoing, the Commission considers recommendation 1 to be pending compliance.
11. **Regarding the second and third recommendation**, the State reported that there are provisions of the law aimed at bringing the legislation of Trinidad and Tobago into line with international standards. It further noted that there are domestic remedies available that provide for constitutional review and that Mr. Lendore had exercised said right to appeal in 2017 before the Privy Council.
12. In 2019, the petitioners did not provide information on compliance with this recommendation.
13. The Commission welcomes the information provided by the State with respect to the current status of the case, as well as the measures adopted by it to ensure compliance with it. It further takes note of the statements of the State about the existence of legislative bills aimed at bringing into line domestic law with the obligations undertaken by the State in the sphere of international law. Nonetheless, the IACHR urges the parties to provide complete and up-to-date information to have greater clarity about existing legislative bills, the content thereof, as well as any other information relating to whether these bills are in force or are currently being implemented. Based on the foregoing, the IACHR considers this recommendation to be 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 Recommendations 1, 2 and 3.
16. The IACHR invites the State to adopt the necessary measures to fully comply with the recommendations issued in Merits Report 28/09, and to provide up-to-date and detailed information on these measures to the Commission.
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. Judicial Committee of the Privy Council, [Lendore and others v. The Attorney General of Trinidad and Tobago (Trinidad and Tobago)](https://www.jcpc.uk/cases/docs/jcpc-2015-0055-judgment.pdf) [2017] UKPC 25 (United Kingdom). [↑](#footnote-ref-1)