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Port-au-Prince, August 5, 2013

Mr. Jose de Jesus Orozca HENRIQUEZ
President of the Inter-American Commission on Human Rights (IACHR)
1889 F. Street N.W
Washington DC 20006

Re: Reiteration of the request for investigations into continuous and serious human rights violations in Haiti

Mr. President,

The *Bureau des Avocats Internationaux* (BAI) is alarmed and concerned by the continued deterioration of human rights in Haiti, and seeks the assistance of the honorable Inter-American Commission on Human Rights.

The situation is most serious and troubling when the most senior officials – in this case the President of the Republic, Michel Martelly, as well as the Prime Minister, Laurent Salvador Lamothe – violate such rights, putting Haiti's democratic future and rule of law in immediate danger. The facts that we present for your consideration are both scandalous and indicative of the Haitian Executive's persistent desire to dominate and control the Haitian judicial system, undermining the Haitian Constitution.

The Judge and Examining Magistrate of the district court (Court of First Instance) of Port-au-Prince, Jean Serge Joseph, presided over the Magistrates' Court, which was responsible for hearing the prosecution of Sofia Saint Remy Martelly, the Haitian President's wife, and their son Olivier Martelly. The President's wife and son are accused of corruption, money laundering, abuse of authority, and squandering of funds from the Public Treasury. On July 2, 2013, Judge Joseph made a preliminary judgment,¹ ordering that President Martelly make Prime Minister Lamothe and various other ministers available to the Judiciary to testify in accordance with Article 398 of the Code of Criminal Procedure, as updated by Jean Vandal.²

¹ Le Nouvelliste, Mercredi 3 Juillet 2013, No : 39020, Page 3.

² Article 398 (L.12 Juillet 1920).- Les grands fonctionnaires de l'Etat ne pourront jamais être cités comme témoins, même pour les débats qui ont eu lieu en présence du jury, si ce n'est dans le cas où le Président d'Haïti, sur la demande d'une partie et le rapport du Secrétaire d'Etat de la Justice, aurait, par une ordonnance spéciale, autorisé cette comparution.

In response to the Judge's order, President Martelly, through former Justice Minister and Public Security Minister Raymond Jean Michel, summoned Joseph to the law offices of Louis Garry Lissade, declaring, **"The President of the Republic is offended by this measure of justice that you have taken. He now must take drugs in order to sleep."** This statement was reported by Madistin Samuel, attorney at law in Port-au-Prince and former Senator, in a denouncement made to the Prosecutor at the Court of First Instance of Port-au-Prince on July 14, 2013 (see Mr. Madistin's denouncement attached hereto). Mr. Lissade then urged Judge Joseph, per the instruction of President Martelly, to review his July 2 order in a subsequent hearing.

Despite the Executive's pressure, Judge Joseph refused to overturn the July 2 order. On Thursday, July 11, 2013, upon further request of Mr. Lissade, the Judge returned to Mr. Lissade's office escorted in Mr. Raymond Jean Michel's car. President Martelly, who attended the meeting along with the Prime Minister, the Minister of Justice and of Public Security, and the President of the Port-au-Prince Trial Court, ordered Judge Joseph to quash the case. When the Judge responded "no", arguing that the Public Prosecutor had already filed an official Appeal and that he had relinquished his ability to do any more, threats and insults rained down upon him. Witnesses recount that the Judge was even struck in the face in front of everyone in the room.

Following these terrible abuses, on Saturday, July 13, only two days later, Judge Joseph passed away after being rushed to Bernard Mevs Hospital. The judge was admitted to the hospital at 3:00 a.m. but was not seen by a doctor until 7:00 a.m., after waiting for four hours.³ Immediately after Judge Jean Serge Joseph was declared dead, two doctors on call convened an unusual press conference at the hospital to declare that the judge had suffered a brain hemorrhage. "Information indicating that the death could have been due to obscure circumstances," provoked the Montreal Canada Coroner's Office who received Judge Jean Serge Joseph's body to commence an investigation. The judge is a Canadian citizen of Haitian origin.⁴ According to his family, the Judge had never suffered from any serious preexisting conditions.

Unfortunately for Judge Joseph, one of the two previously mentioned doctors wore a pink bracelet, the color of the current Haitian regime, and to the parents, allies and friends of Judge Joseph, this insignia indicates that the victim had fallen into the wrong hands.

Mr. President, the judge's death is a scandal and, in the eyes of the people, of men of law and of all of those who remain vigilant around the current regime, this amounts to an execution, an elimination and an assassination to quell the voice of justice. The Chamber of Deputies, one of the chambers that makes up the Haitian Parliament, immediately formed an investigative commission in response to this presumed assassination to shine a light on this bizarre situation.

³ Haiti Liberté, Francklyn B. Geffrard, *DID THE MARTELLY REGIME THREATEN AND PLAY A ROLE IN THE DEATH OF JUDGE JEAN SERGE JOSEPH?* (27 juillet 2013) <http://www.globalresearch.ca/haiti-political-assassination-suspicious-death-of-judge-who-called-for-prosecution-of-presidential-family/5343313>.

⁴ Le Nouvelliste, *Le décès d'un juge canado-haïtien soulève des doutes* (27 Juillet 2013) <http://lenouvelliste.com/article4.php?newsid=119524>.

Mr. President, Haiti today is experiencing a political regime willing to do anything to eliminate Haitians' constitutional rights to liberty and to freely express their demands and aspirations. The government is systematically denying the democracy to which the Haitian people aspire. All citizens are thus under threat. Dictatorship is taking root and settling in full force in Haiti.

Over the course of the past twelve months, the Minister of Justice, Jean Renel Sanon, has carried out an upheaval of the judicial system. Individuals with little experience or reputation have been named judges, magistrates, or prosecutors in order for the current leaders of Haiti to implement their macabre plan for the State.⁵

Honorable President, on July 17, 2012, the *Bureau des Avocats Internationaux* (BAI) requested an investigation by the IACHR into the human rights situation in Haiti to deal with such flagrant violations. We urge you to commence this investigation. Institutions with the mission to guarantee the respect of human rights must not remain passive and allow the situation to decline.

I personally received threats starting a few days after the July 17 letter to the IACHR, and on September 28, 2012, the Prosecutor of the Port-au-Prince Trial Court, Mr. Jean Renal Senatus, appeared on "Radio Vision 2000" and announced on-air that Minister of Justice Sanon ordered the arrest of certain lawyers, myself included, as well as the closure of my office, the *Bureau des Avocats Internationaux* (BAI).⁶ The Inter-American Commission has since adopted precautionary measures "to guarantee the life and physical integrity of Mr. Mario Joseph" and of the two other attorneys - André Michel and Newton St. Juste - who filed complaints against President Michel Martelly's family in the case that may have gotten Judge Joseph killed.⁷

Attorney André Michel is currently the subject of political intimidation. On Friday, July 26, 2013, police surrounded his office located at Avenue Christophe, No. 140, for hours. Were it not for the support of representatives of organizations defending human rights, his colleagues at the Bar of Port-au-Prince and others, Mr. Michel would have been arrested and put in jail for his political beliefs. The principle of inviolability of an officer of the court was not followed. A magistrate judge visited Mr. Michel's office without a Prosecutor in violation of Article 49 of the Criminal Code Annotated Institution Menan and Patrick PIERRE LOUIS and Article 57 of the Decree of 29 March 1979 regulating the legal profession in Haiti.⁸ The fact that the police and the judge were on the scene with a warrant violates the procedure to

⁵ Le Nouvelliste, Calixte Valentin libéré, *le RNDDH scandalisé* (9 Novembre 20012) <http://www.lenouvelliste.com/article4.php?newsid=110644>.

⁶ SOLICITUD DE MEDIDAS CAUTELARES CONTRA EL ESTADO DE HAITÍ POR AMENAZAS DE MUERTE Y ORDEN DE ARRESTO EN CONTRA DE LOS DEFENSORES DE DERECHOS HUMANOS MARIO JOSEPH, NEWTON SAINT JUSTE Y MICHEL ANDRE (Octobre 2012) <http://ijdh.org/wordpress/wp-content/uploads/2012/10/Medidas-cautelares-mario-joseph-CIDH.pdf.pdf>.

⁷ Commission Inter-Américaine des droits de l'homme, MC-363-12 (19 Octobre 2012) <http://www.ijdh.org/wp-content/uploads/2012/10/Cautionary-mesures-mario-joseph-REVISEDFrench.pdf>.

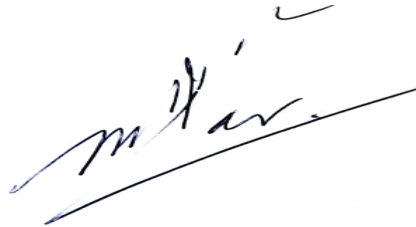
⁸ Le Cabinet de l'Avocat est inviolable et ne peut être l'objet de perquisitions de la part des autorités policières que s'il est personnellement prévenu d'un crime ou d'un délit ; et dans ce cas, l'Avocat sera assisté d'un Confrère de son choix. Avis en sera toujours donné au Bâtonnier et au Conseil de Discipline.

prosecute a lawyer and makes it clear that André MICHEL may be arrested at any time (see letter from President of the Bar Association of Haiti).

It is therefore urgent for the Inter-American Commission on Human Rights (IACHR) to launch an investigation in Haiti. Human rights organizations in Haiti face a delinquent state. The Haitian President himself has called such organizations legal bandits. Major scandals continue to shake the country: corruption, kidnapping, drug trafficking, murder, and a refusal to maintain a path toward credible, inclusive, and democratic elections, all constitute clear proof of this.

Mr. President, it is impossible to imagine Haitian political life today as a dictatorship. The Haitian people believe in the Inter-American Commission on Human Rights and they see its good works as it takes charge of guarding human rights throughout the Americas.

We hope Mr. President that this cry for help will mobilize the IACHR and encourage an investigation into Haiti. The *Bureau des Avocats Internationaux* (BAI) presents our warmest regards, and asks that you please accept our deepest respects.

A handwritten signature in blue ink, appearing to read 'm. joseph', is written over a horizontal line.

Mario JOSEPH, Attorney at Law

Managing Attorney

Bureau des Avocats Internationaux

cc : Office of Citizen Protection, Madame Florence ELIE

Justice Minister Jean Renel Senatus

Minister of Human Rights and the Fight Against Extreme Poverty, Marie Carmèle Rose Anne Auguste

IACHR Rapporteur for Haiti, Rosa María Ortiz

UN independent expert on the situation of human rights in Haiti, Gustavo Gallón

UN special rapporteur on the independence of judges and lawyers, Gabriela Carina Knaul de Albuquerque e Silva

UN Secretary General Ban Ki Moon

UN High Commissioner for Human Rights, Navanethem Pillay

MINUSTAH Section on Human Rights

Canadian Ambassador Henri-Paul Normandin

French Ambassador Patrick Nicoloso

U.S. Ambassador Pamela White

U.S. State Department, Corey Andrews

Members of the U.S. Congressional Black Caucus

Amnesty International

International Federation of Human Rights (FIDH)

Human Rights Watch

International Association of Democratic Lawyers

International Association of Jurists

National Lawyers Guild