

# *National Human Rights Defense Network (RNDDH)*

Membre de la  
**fidh**

*Fight against corruption in Haiti:  
Advocacy Report for Better Knowledge of State Institutions*



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## *SUMMARY*

1. Embezzlement of public property, laundering of assets, illicit enrichment, overbilling, favoritism, payment of bribes, influence peddling, etc., these are the main acts of corruption enshrined in legal instruments and providing institutions called upon to fight corruption in Haiti a specific framework for cleaning up the state apparatus. However, despite the many denunciations and scandals that have marked public life over the past 20 years, only one conviction has been pronounced by the Haitian judicial authorities and only 2 debts have been issued by the CSC / CA. And, citizens continue to struggle to access the services offered by state companies, perceived to be corrupt.

2. On the International Anti-Corruption Day, this year, the National Network for the Defense of Human Rights (RNDDH) intends to invite citizens-To engage in the fight against corruption and to demand from the state authorities a reform of the state boxes.

3. In this sense, the RNDDH has, on the one hand, wanted to present to the Haitian population the functioning of four (4) institutions called to fight corruption namely: the ULCC, the UCREF, the CNMP and the BAFE. On the other hand, 4 other institutions providing direct services to the population were dissected. These are the DGI, the OAVCT, the ONA and the Directorate of Immigration and Emigration.

4. Separate fact sheets were prepared by the RNDDH based on which nineteen (19) heads of institutions, twenty-four (24) employees including trade unionists and seventeen (17) taxpayers were met.

5. The results of the interviews revealed that the institutions called upon to fight corruption are not well known. They do not work enough and are under the control of their supervisory authorities. The heads of institutions that provide direct services to the population are perceived as tolerant of corruption: the racketeers have their inputs, the information is neither available nor accessible and employees-es accept either directly from citizens-This means that the Commission, through its Member States and the Member States, will be able to use the services of the Member States and the Member States directly and indirectly, by means of racketeers, to receive money against the promise of prompt services, which suggests that the services are knowingly rendered inaccessible, in order to extract money from taxpayers.

6. Based on the above results, State authorities are invited to:

- Make public services available and accessible to all citizens.
- Display service prices in all state institutions.

- Demand the establishment of a reception service within all state institutions.
- Take drastic measures to eradicate corruption in state institutions.
- Punish those involved in corruption.
- Provide resources for employees to perform their duties.

The RNDDH also recommends that citizens:

- Refuse to participate in acts of corruption.
- Report cases of corruption within state institutions.
- Require the State to make services available without having to go through racketeers.

## **I. INTRODUCTION**

1. For several years, issues related to corruption have attracted the attention of the Haitian population because of the close relationship between corruption and denial of human rights, particularly the non-realization of economic and social rights, is no longer to be proven.
2. Many criticisms have been directed at the state institutions involved in the matter. On the one hand, institutions called upon to fight corruption are criticized for not working sufficiently to crack down on those who practice it. On the other hand, those who are called upon to provide a service to taxpayers and litigants are criticized for tolerating acts of corruption, even though there are many reports of their members' involvement in acts of corruption.
3. Challenged by the issue, the National Network for the Defense of Human Rights (RNDDH) has examined, over the last twenty (20) years, various cases of corruption within the public administration in general and the judicial system. However, this year, on the International Anti-Corruption Day – December 9, 2021, the organization aims to help the various components of Haitian society to become more involved in the fight against corruption, by a better understanding of the work of certain state institutions.

## **II. METHODOLOGY**

4. The purpose of this report is twofold: firstly, to present succinctly to the Haitian population certain state institutions created to combat corruption, as well as some that are called upon to provide direct services to citizens; On the other hand, the targeted institutions must rapidly address their various challenges with a view to improving their perception by citizens.
5. Thus, four (4) anti-corruption institutions were monitored. These are the Central Economic and Financial Intelligence Unit (UCREF), the Anti-Corruption Unit (ULCC), the National Commission for Public Procurement (CNMP) and the Bureau of Financial and Economic Affairs (BAFE). Four (4) other institutions providing direct services to the population were also observed. These are the Directorate General for Taxation (DGI), the Office for Insurance Against Third Parties (OAVCT), the Immigration and Emigration Services and the National Office for Old Age Insurance (ONA).
6. For the preparation of this document, the RNDDH instructors, equipped with survey sheets, appeared in the eight (8) state institutions mentioned above both in Port-au-Prince and in some provincial cities. They met with thirty-four (34) persons, including nineteen (19) heads of institutions, twenty-four (24) employees, including trade unionists, and seventeen (17) citizens found at the scene.

7. For each of the monitored institutions, interviews with officials focused on the legal framework, the referral, the internal mechanisms Anti-corruption, transparency and accountability. Together with the citizens and employees, their knowledge of the institutions, their perception of the services offered by them and what should be improved, were reviewed.

### **III. BACKGROUND AND FOCUS ON SPECIFIC CORRUPTION CASES**

8. As mentioned above, over the past twenty (20) years, the RNDDH has denounced several cases of corruption within the state apparatus. Some of these cases, which were real scandals that made the headlines, led to parodies of judgment, while others died of their own accord, since the institutions that had been seized did not guarantee their success in an exemplary judgment. Here are some examples:

9. On January 23, 2003, the magistrate Pierre Josiard AGNANT ordered the release of Salim BATRONY alias Johny BATRONY who was then accused of illicit drug trafficking. A search was carried out at his home during which fifty-eight (58) kilograms of cocaine had been discovered. Persistent information was circulating in the corridors of the courthouse of Port-au-Prince, suggesting that the judge had received three hundred and fifty thousand (350,000) US dollars to render this decision.<sup>1</sup> This led to a scandal of unimaginable magnitude, following which the Ministry of Justice and Public Security had to put the magistrate in question on standby. The American government, for its part, cancelled the entry visa on American soil of magistrate Pierre Josiard AGNANT. The Superior Council of the Judiciary, seized of the file on complaint of the coordinator of the National Commission for the Fight against Drugs had issued, on February 6, 2004, a judgment recognizing as well founded the reproaches addressed to the magistrate AGNANT. During the same year, the magistrate Pierre Josiard AGNANT has however reintegrated the Haitian judicial system.

10. From 21 to 27 of December 2006, at the Office National d'Assurances-Vieillesse (ONA), the director of the time Sandro JOSEPH prepared a file for the purchase of land on behalf of the ONA, for the sum of sixty-one million, one hundred and forty-four thousand, four hundred forty-seven gourdes and fifty cents (61,144,447.50) gourdes including the acquisition of fifteen (15) earth tiles in Tabarre for fifty-six million (56,000,000) gourdes and the payment of the fees of notary Pierre Hermanne REMEDOR of the residence of Arcahaie, estimated at two million six hundred forty thousand (2,640,000) gourdes.

11. The declaration of sale of said property had been carried out by Jonas NOZIERE presented as being the representative of the heirs Innocent AUGUSTE, to the study of said notary

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<sup>1</sup> RNDDH - Justice – Corruption: The NCHR condemns the reinstatement of Judge Pierre Josiard AGNANT in the Judiciary, Com.P/N14/A04, June 8, 2004.

to the Arcahaie; said property would have been surveyed by the surveyor Pierre Marcelin JEAN PHILIPPE of the commune of Arcahaie assisted by the surveyor Jacques Arold BOISROND for these operations. However, the latter had formally denied having assisted a survey operation in a commune for which he was not commissioned. The property allegedly sold by unknown sellers hiding behind Jonas NOZIERE was in fact only owned by a public limited company.<sup>2</sup>

12. During his passage at the head of the ONA, the director Sandro JOSEPH granted amounts ranging from twenty-five thousand (25,000) to three million (3,000,000) gourdes to his relatives, for carnival activities or in the form of loans. A total of forty-six million, one hundred and ninety-six thousand, three hundred and ninety-seven (46,196,397) gourdes were distributed to at least twenty (20) individuals, fifteen (15) commercial enterprises, fifty (50) musical groups, fifteen (15) organizations, twenty-two (22) media outlets, two (2) ministries, two (2) mayors, forty-nine (49) deputies and five (5) senators, according to a 2009 report of the Anti-Corruption Unit (ULCC).

13. According to this ULCC report, loans were made to parliamentarians and those in power by Sandro JOSEPH. They were spread over periods of up to fifty (50) years, at excessively insignificant rates.

14. As ANO Manager, Sandro JOSEPH also gave a friend a brand-new vehicle and paid cash to the dealership.

15. On 19 March 2009, Sandro JOSEPH <sup>3</sup>was arrested and imprisoned. However, all those who had benefited from his largesse were never sought after.

16. Thanks to the earthquake of January 12, 2010, Sandro JOSEPH escaped from the civil prison of Port-au-Prince, after spending nine (9) months and a few days there. Some believed that he had left the country. However, to general amazement, on April 20, 2016, he surrendered to the judicial authorities. On July 20, 2016, the criminal court of Port-au-Prince sitting without jury assistance formed to judge the case in question, entrusted to Judge Al Duniel DIMANCHE. The magistrate DIMANCHE, after the interrogation of Sandro JOSEPH, had ordered a suspension of hearing in order to search for the witnesses and to hear them in their turn.

17. On July 22, 2016, the hearing resumed. During the meeting, the magistrate Al Duniel DIMANCHE ordered the arrest of the notary Pierre Hermann REMEDOR. The latter went a few

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<sup>2</sup> RNDDH - Misappropriation of ONA Funds: RNDDH urges judicial authorities to shed light on this matter, Com.P./N03/A09

<sup>3</sup> RNDDH - Rapport sur la situation générale des Droits Humains en Haïti au cours de l'année 2008, mai 2009, 37 pages

days later, on July 27, 2016, to the civil prison of Port-au-Prince, in order to make himself available to the Justice.

18. In the face of these actions to shed light on the acts of corruption which he was accused of and to condemn all those who were involved with him, Sandro JOSEPH suddenly claimed that he no longer had confidence in the Magistrate's handling of the case and asked him to deport himself from the case.

19. The case was redistributed to Magistrate Mathieu CHANLATTE who, on 19 September 2016, issued his decision dismissing Sandro JOSEPH from the ties of the indictment. The magistrate Mathieu CHANLATTE argued that the file was incomplete, since no report of debet devoting the mismanagement of the former director was on it. And, indeed, the Superior Court of Auditors and Administrative Disputes (CSC/CA) then seized of the file, had not acted on it.

20. At the Ministry of Foreign Affairs, the former administrator Harold BRUNOT was sentenced on January 7, 2008, by the Superior Court of Auditors and Administrative Disputes (CSC/CA) to return the sum of seventy-six million (76,000,000) gourdes that were diverted under his administration.<sup>4</sup>

21. In 2008, in at least four (4) municipalities<sup>5</sup> across the country, corruption and administrative mismanagement scandals occurred:

- The then mayor of Tiburon, Mclair MERVEILLE, fled in June 2008 with a large sum of money in his possession for various social projects in the municipality;
- The then mayor of Léogane, Santos ALEXIS was accused of embezzling more than twenty million (20,000,000) gourdes. On October 20, 2008, he was arrested in the morning in Malpasse while on a bus.
- The mayor of Savanette, Jeantès TELFORT was indexed in the diversion of several million gourdes that had been allocated under the state of emergency. On November 5, 2008, members of several organizations in the commune of Savanette had closed the door of the town hall for mismanagement.
- On March 13, 2008, the then mayor of Bainet, Lesly LAFAILLE was arrested at Toussaint Louverture International Airport for embezzlement.

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<sup>4</sup> RNDDH - Review of René PREVAL's Presidency on Human Rights Issues May 2006 - May 2011, May 2011, page 45, 86 pages

<sup>5</sup> Idem, page 33

22. Joseph Eugène HYACINTHE and Jean Marie André Esner MILIEN,<sup>6</sup> respectively government commissioner and dean at the Court of First Instance of Les Cayes, were revoked on June 22, 2008, following a corruption scandal. They were accused of having received money for the release of two (2) drug traffickers, namely Alain MATHURIN and Jean BAPTISTE.

23. On November 12, 2008, the judicial apparatus of Port-de-Paix had transported to the home of Alain DESIR for search following his arrest on October 21, 2008, for illicit drug trafficking. The search turned into a real scene of looting where magistrates, agents of the National Police of Haiti (PNH), clerks, stole in the house valuables as well as a large amount of money whose amount has never been disclosed. Later, other people of the commune addressed themselves to those who had taken part in this search operation in order to demand and receive their share of the spoils. As part of this looting, at least seven (7) members of the Port-de-Paix judiciary were arrested and taken to Port-au-Prince. They are Justices of the Peace Saint Marc BOUQUET and Jean Mathieu DORVILUS, clerks Louis Albert LORISTON and Gaby DORELIEN, clerk Dumas Louis DOR, two (2) secretaries of the Public Prosecutor's Office, Sainvilia SAINT-CHARLES and Kerline JEAN.<sup>7</sup>

24. In 2010, the judge of the referendums Jean-Claude DOUYON gave, in favor of the heirs of Jean Serpent METELLUS represented by their representative Solange METELLUS, an order in bail with provisional execution, of three hundred sixty (360) Earth tiles, depending on the dwelling of Vivy Michael. This order was made outside the legal rules because the judge for interim measures has no jurisdiction to rule on a question of property rights. Moreover, the case had not been enrolled or distributed, and the formation of lawyers in the decision was false, Ernest ISAAC having stated that he had not been made aware of the case. At the same time, the Public Prosecutor of Port-au-Prince had received the testimony of the lady Solange METELLUS who claimed to have paid one hundred thousand (100,000) gourdes to Judge DOUYON to obtain this order. This case was brought before the Court of Cassation, which ruled on July 28, 2010, that the testimony of the lady Solange METELLUS was not credible because of the pressure conditions in which it had been obtained at the Prosecutor's Office. At that time, the Court did not consider it necessary to hear the lady in question, nor to pursue its investigations with the Cabinet of Ernest ISAAC or with the parties involved in the case.<sup>8</sup>

25. The dean of the Court of First Instance of Saint-Marc, Ramon GUILLAUME,<sup>9</sup> was nicknamed in his jurisdiction «judge of the habeas accomplice», because he released many people

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<sup>6</sup> Idem, page 45

<sup>7</sup> RNDDH - Scandal at the level of the judiciary: Call for the respect of the law and the moralization of judicial and police practices, 30 December 2008, 6 pages

<sup>8</sup> RNDDH - The Court of Cassation of the Republic is not ready for the fight against corruption in the judicial system, 12 August 2010, Com. P. N5/A2010

<sup>9</sup> Idem

after arrangements with the defenders of the case, using the habeas corpus procedure. It has even examined cases pending at the investigation offices, thus trivializing the judicial investigations; The Court of Cassation which had been seized of the case was then content to declare that the decisions rendered by a judge can be challenged by the superior courts. However, the Court did not have to verify the conditions under which certain scandalous decisions had been rendered by this magistrate, while witnesses had appeared.

26. In May 2011, the Ministry of the Interior and Territorial Communities had one hundred and five (105) contract members, twenty-two (22) of whom were former members of the Concertation des Parlementaires Progressistes (CPP) bloc. who had been elected under the banner of the political platform Inite. They had been hired by the said ministry on October 1, 2010, for a contract to expire at the departure of the then minister, Paul Antoine BIEN-AIME. These former deputies each received one hundred thousand (100,000) gourdes per month, except for the deputy Richard Paul OLIVAR who received only forty thousand two hundred and fifty (40,250) gourdes. Eleven (11) of these MPs were re-elected. And, despite their re-election, they had continued for some time to receive their emoluments from the Ministry.<sup>10</sup>

27. At the sub-commissariat of Cornillon, in 2012, a note posted by officials informed the public that the vehicles confiscated by the sub-commissariat would only be remitted at the rate of the payment of one hundred (100) gourdes per day. No receipts were issued to the owners who paid the amount in question.<sup>11</sup>

28. On April 12, 2004, Edrick LEANDRE becomes the head of the OAVCT. From 2008, many employees began to denounce cases of corruption and administrative mismanagement during his leadership. Among other things, they criticized the director of the OAVCT:

- The establishment on July 30, 2004, of a cafeteria within the OAVCT which provided it with an excuse to disburse huge sums of money on a monthly basis, in the name of Magalie BAPTISTE.
- The termination of a networking contract of five (5) annexes of the OAVCT for an amount of seven million (7,000,000) gourdes despite the fact that three million five hundred thousand (3,500,000) gourdes had already been paid to the contracting firm and the signing in 2005 of a new contract for similar work, for an amount of fourteen million (14,000,000) gourdes.

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<sup>10</sup> RNDDH – Haiti Corruption: RNDDH calls for an end to waste and cronyism in public administration, July 2011, 7 pages

<sup>11</sup> RNDDH - General Situation of Human Rights in the country during the first year of presidency of Michel Joseph MARTELLY, June 14, 2012, 48 pages.

- The annual disbursement of huge amounts for the printing of calendars, jerseys during carnival festivities and for advertising.
- Use of the OAVCT credit card for personal purposes

29. On May 30, 2011<sup>12</sup>, Edrick Léandre was arrested for corruption and embezzlement of public funds.

30. On August 1, 2011, a debit judgment had been issued by the Superior Court of Accounts and Administrative Litigation (CSC / CA) against Edrick LEANDRE. The Court, in this judgment, AFFIRMED that in its management there is prevarication, embezzlement, embezzlement and embezzlement; condemns him accordingly to the reimbursement of seventeen million four hundred and twenty-five thousand one hundred and eighty-seven gourdes and twenty centimes (17,425,187gdes 20). Orders the service of the judgment to the Directorate General of Taxes (DGI) for the purposes of freezing financial assets and sequestering the movable and immovable property of Mr. Edrick Léandre until full payment of the amount; also orders that the judgment be served on the Ministry of Economy and Finance for its execution; finally orders the transmission of this judgment to the Prosecutor's Office of the Court of First Instance of Port-au-Prince for the legal consequences.

31. On August 2, 2012, according to the wishes of the referral order issued by Judge Yves ALTIDOR, Edrick LEANDRE was brought before the Criminal Court sitting without jury assistance for embezzlement, corruption, money laundering and association of criminals.

32. Finally, it was not until December 10, 2015, that he was sentenced to 4 years and 8 months of imprisonment, to the restitution to the Haitian State of the sum of seventeen million four hundred and twenty-five. one thousand one hundred and ninety-seven gourdes and twenty centimes (17, 425, 197. 20) gourdes, to a million (1,000, 000) gourdes of fine to the Haitian State and to three (3) years of deprivation of his civil, political and family rights.

33. In 2015, Maître Nonie H. MATHIEU, former president of the Superior Court of Accounts and Administrative Litigation (SC / CA) was indexed in a corruption scandal including acts of embezzlement in an amount equivalent to thirty- seven million five hundred thousand (37,500,000) gourdes. Materials had been purchased by the state for this amount. They were never delivered. However, Maître Nonie MATHIEU was able to present the delivery sheets to the Ministry of the Economy and Finance. America Supplies Distribution and Professional Services and Decor have been splashed by this scandal.

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<sup>12</sup> RNDDH - Observations on the functioning of the Haitian judicial system during the year 2011-2012, October 1, 2012, 41 pages

34. During the night of March 17-18, 2015, in Gonaïves, Madsen CLERVOYANT was arrested. He was taken into custody at the police station of this commune. Justice of the Peace Louima LOUIDOR, who was then seized of the case, transferred him to the investigating office for attempted assassination. However, while Madsen CLERVOYANT was in detention, on March 26, 2015, the government commissioner Me Enock Génélus sent a communication ordering those in charge of the civil prison in Gonaïves to "take all the necessary steps to have someone drive, under escort, the accused Madsen CLAIRVOYANT, at the Capital Bank, Gonaïves branch, in order to carry out a banking transaction there and put him back in his cell after the said transaction. "

35. On March 27, 2015, Madsen CLAIRVOYANT did go to the bank and was able to complete the transaction. And, in total, he paid out forty-nine thousand nine hundred (49,900) US dollars. However, his file was in the Cabinet of Instruction, without any guarantee - normally - that it would have been dismissed by the investigating magistrate and that he would be released.

36. On August 28, 2017, then Minister of Social Affairs and Labor Roosevelt BELLEVUE was indexed in a scandal of overbilling of fifty thousand (50,000) school kits amounting to nine hundred and fifty thousand (950,000) U.S. dollars. On October 11, 2017, the Chief Prosecutor of the Public Prosecutor's Office at the Port-au-Prince Court of First Instance claimed to have opened an investigation. In this sense, he had sent a correspondence to the Directorate General of Taxes (DGI), demanding information concerning institutions that had been indexed in this corruption scandal. They are: AGD Papeterie, ENERGITEK, Haiti Supply, Kayimit Sales Services, National Trading Group, NGA Entreprise. However, only the minister was subsequently dismissed.

37. On August 6, 2019, Jimmy FERVIL, Anel NELSON, André AUGUSTE, Myrlande GEORGES CASSEUS and Ysmick CHOUTE were indexed in a corruption scandal. They were arrested near the Unibank branch located at Rue Darguin, Pétion ville by the Central Directorate of Judicial Police (DCPJ). Quickly, the name of the ex-Senator Onondieu LOUIS was mentioned. The Bureau des Affaires Financière (BAFE) conducted its investigation and found money laundering, embezzlement, illicit enrichment, criminal association and breach of trust.

38. On August 16, 2019, the DCPJ report was forwarded to the Public Prosecutor's Office at the Court of First Instance in Port-au-Prince. The investigating judge Jean Osner PETIT PAPA was chosen to lead the judicial investigation of the case. Its only two (2) acts of instruction were to order the release of the arrested persons and to audition, on September 14, 2019, former Senator Onondieu LOUIS who had moreover appeared in the criminal chamber without having been convened. After his audition, he went home.

39. The RNDDH, along with other partners in the company, has also reported cases of corruption. The two (2) most recent examples are the case of Fritz William MICHEL and the Petrocaribe file.

40. On July 22, 2019, Fritz William MICHEL<sup>13</sup> was appointed by presidential decree to replace Jean Michel LAPIN. Immediately after his appointment, he was indexed in a corruption scandal according to which, for several years, with his wife Natacha MARSAN, he set up many companies in order to benefit from exorbitant contracts within the public administration.

41. Breach of trust, overbilling, influence peddling, insider trading and illegal acquisition of interests are all acts of corruption that Fritz William MICHEL has been guilty of since 2016. However, after the media outcry caused by this case, Fritz William MICHEL was simply replaced.

42. Between 2008 and 2018, US\$3.8 billion was squandered by state authorities through the Petrocaribe project. It was an agreement binding the Haitian State to Venezuela, allowing to buy petroleum products with payment facilities, spread over several years. This facility was proposed with the aim of promoting the realization of socio-economic projects such as the construction of roads, schools, hospitals, etc.

43. The first alerts launched on contracts made over the counter for exorbitant amounts and the two (2) Senate<sup>14</sup> reports of August 17, 2016, and November 10, 2017, did not have the expected effects. It was not until an awareness and denunciation campaign led by Petro Challengers, that the Superior Court of Auditors and Administrative Disputes (CSC/CA) audited the expenses related to this contract and produced three (3) separate reports published on January 31, 2019, May 31, 2019, and August 12, 2020. They cover the period from September 2008 to September 2016. The court found acts of fraudulent management, collusion, influence peddling, favoritism, misappropriation of funds, illegal procurement. Moreover, according to the CSC/CA, the projects funded by the Petrocaribe funds were not supervised or had poor and complacent supervision. Good project management practices were not applied, and the start-up advances were often above the 30% threshold. Thus, the Court's conclusions assimilated this case to the biggest corruption scandal, ever orchestrated at the highest level of the state.

44. Four (4) presidents, six (6) governments, ministries, branches were indexed in this massive corruption scandal. And, today, the Petrocaribe remains the most exorbitant current debt of the Haitian State. However, the referral of this matter to the judicial authorities has not yet resulted in any trial.

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<sup>13</sup> ECC - Scandals and Corruption Operations: ECC considers that Fritz William MICHEL is not eligible for the position of Prime Minister, September 18, 2019, 5 pages

<sup>14</sup> Fight against corruption: Human rights organizations call for citizen mobilization to stop any attempt to drown the Senate reports on the squandering of Petrocaribe funds, 15 December 2017, 3 pages

45. These numerous cases clearly show that only one conviction has been pronounced by the Haitian judicial authorities and only 2 debts have been issued by the CSC / CA. However, in many cases, institutions called upon to investigate corruption had sent detailed reports to the judicial authorities.

46. The Haitian judiciary, itself plagued by corruption, has never considered it necessary to play its part in deterring others from committing acts of corruption. And successive governments have shown no political will to eradicate corruption within state institutions.

#### IV. PRESENTATION OF THE INSTITUTIONS FIGHTING CORRUPTION

47. As noted above, four (4) anti-corruption institutions were affected as part of this report. These are UCREF, ULCC, CNMP and BAFE.

##### A. Central Economic and Financial Intelligence Unit (UCREF)

###### a) *Presentation and Referral*

48. The UCREF is created by the Law of February 21, 2001, on the laundering of assets from illicit drug trafficking. Its operation is governed by a normative framework including, inter alia, the law, that of November 11, 2013, on money laundering and terrorist financing, the organic law of May 2017 on the autonomy of the UCREF, the 2004 decree operationalizing the UCREF. An autonomous body with legal personality, the unit enjoys financial and administrative autonomy.

49. The mission of the UCREF is to receive, analyze and process the declarations sent to it by natural or legal persons who are obliged to send them to it, and concerning money laundering and terrorist financing. The unit is also called upon to play the role of judicial police by seeking, gathering evidence and referring cases to the courts for legal action.

50. These numerous cases clearly demonstrate that for the period analyzed, only two (2) debit judgments were issued by the Superior Court of Accounts and Administrative Litigation (CSC / CA) and only one (1) conviction was pronounced by the Haitian judiciary. However, in many cases, institutions called upon to investigate the facts of corruption had forwarded detailed reports to the judicial authorities.

51. The UCREF may be seized by natural and legal persons such as transfer houses, banking institutions, credit institutions, insurance houses, stockbrokers, lawyers, accountants, etc. It may also be seized by any other person who, during his profession, carries out or controls capital movements and real estate transactions.

*b) Internal mechanisms Anti-corruption - Transparency and accountability - control and funding*

52. Internal anti-corruption mechanisms are set out in the UCREF Internal Regulations.

53. For transparency and accountability, UCREF has a Management Board. At the end of each financial year, the Ministry of Economy and Finance is required to submit an activity and expenditure report and its planning for the following financial year. An inventory report is submitted annually to the Superior Court of Auditors and Administrative Disputes (CSC/CA).

54. There is no control and funding mechanism, all of which is provided by the Ministry responsible for the unit. Nevertheless, the UCREF has a risk management plan and rules of procurement procedures for the institution, based on compliance with public accounting principles.

*c) Knowledge of UCREF by citizens*

55. Very few of the people we met said they were used to hearing about UCREF on the radio. However, they would hardly define the acronym or even state the scope of the UCREF.

*d) UCREF Challenges*

56. The lack of training for UCREF staff, the lack of awareness of work among the members of society and the importance of the institution, the lack of financial means to carry out the work of the institution and the fact that the UCREF is neither independent nor present on the national territory constitute the major challenges of the institution.

**B. Anti-corruption Unit (ULCC)**

*a) Presentation and Referral*

57. The Anti-Corruption Unit (ULCC), an administrative body under the supervision of the Ministry of Economy and Finance, was created by the decree of 8 September 2004.

58. The legal framework for the operation of the ULCC is composed among others of the decree, the Law of February 12, 2008, on the declaration of Heritage, the Law of March 14, 2014, on the prevention and repression of corruption, the Law of August 29, 1912, on the Extradition of Fugitive Criminals and the Inter-American and United Nations Conventions Repressing Corruption, ratified by Haiti.

59. The mission of the ULCC is to combat corruption and its manifestations in all its forms within the public administration. In this sense, it is called to protect public and collective

property, to promote transparency in the management of public affairs, to establish a climate of trust to promote private investment and to moralize public administration and public life in general. It must also participate in the definition of a strategy to fight corruption in Haiti and look at contracts relating to major infrastructure projects of the Haitian state.

60. The ULCC is seized by complaint lodged by any natural or legal person, to investigate suspected facts of corruption or any other similar offences.

61. To date, the RNDDH is waiting for a working meeting with the leaders of the ULCC to discuss with them the internal mechanisms Anti-corruption, Transparency and Accountability.

*b) Citizens' Awareness of ULCC*

62. Interviewees report that they often hear about ULCC on the radio. However, they say they feel that the unit is not working enough to fight corruption.

**C. Commission Nationale des Marchés Publics (CNMP)**

*a) Presentation and Referral*

63. The National Public Procurement Commission (CNMP) is created by the decree of December 3, 2004, establishing the rules applicable to the award of public works, supplies and services contracts. However, the Commission operates under the Law of June 10, 2009, laying down general rules on public procurement and public works concession agreements.

64. The normative framework of the CNMP includes the aforementioned decree and law, the Order specifying the modalities of application of the law laying down the general rules relating to public procurement and public works concession agreements, the Decree determining the organization and functioning of the National Public Procurement Commission, the Decree sanctioning the manual of procedures for the award of public contracts and contracts for the concession of works and public service and the Decree taken on May 25, 2012 fixing the thresholds for the award of public contracts and the intervention thresholds of the National Commission of Public Procurement (CNMP).

65. Present in the West, the North and the South, the CNMP's mission is to regulate and control the public procurement system and public works concession agreements. In this sense, the CNMP issues opinions, proposals or recommendations with a view to defining the public procurement policy. It also makes work tools available to contracting institutions and is called upon to propose a public procurement policy to the State authorities.

66. The staff of the CNMP shall consist of one hundred and six (106) public officials, nine (9) of whom shall be contractors.

67. The CNMP is seized by the Contracting Authority, who sends a copy of the bids received. Its control is both a priori and a posteriori. It may impose sanctions against non-compliant tenderers and contract holders by excluding them from public procurement, withdrawing or repealing validation. And, against the offending officials, it may order their replacement, their temporary or permanent exclusion from the monitoring or controls of public contracts and transfer their files to the judicial authorities.

*b) Internal mechanisms Anti-corruption – Transparency and accountability – Control and funding*

68. The code of ethics applicable to civil servants, all legal texts referring to these mechanisms and Title 5 of the Law of 10 June 2009 laying down rules to combat corruption in the public procurement system, are used as an internal anti-corruption mechanism.

69. For transparency and accountability, the CNMP has coordination.

70. Control mechanisms are set by the rules and procedures for awarding public contracts.

*c) Citizens' Knowledge of the CNMP*

71. The citizens interviewed have never heard of the CNMP.

*d) CNMP Challenges*

72. The CNMP is having difficulty convincing the various departments and service delivery agencies to adopt the forward procurement plan, which is a major challenge.

73. In addition, the adoption of legislation requiring the various entities to submit their annual procurement proposals no later than October 31 of each year would help the CNMP in its work.

74. The revision of the legal operating framework and the creation of new directorates within the CNMP, including a communication directorate called to improve the services of this commission, are also considered challenges facing the CNMP.

**D. Bureau of Financial and Economic Affairs (BAFE)**

*a) Presentation and Referral*

75. The Bureau of Financial and Economic Affairs (BAFE) is a specialized entity under the

supervision of the Central Directorate of the Judicial Police (DCPJ) itself created by the Law of 29 November 1994 creating, organization and operation of the National Police of Haiti (PNH), establishing the DCPJ.

76. In order to better understand the role of the BAFE, it should be recalled that the DCPJ's remit is to observe offences under criminal law, to establish the circumstances and to gather the evidence and to search for the perpetrators. The DCPJ also fights against smuggling, financial and economic crimes as well as illicit drug trafficking. And the BAFE is particularly responsible for investigating financial and economic crimes, finding those involved and referring them to the judicial authorities for legal action.

77. BAFE does not have framework legislation.

78. The BAFE staff consists of thirty-one (31) police officers who are investigators and twenty (20) civilian employees, who are themselves contractors.

79. In the same way as the DCPJ, the BAFE is seized by a commission rogatory of the investigating judge or a delegation of competence of the Government Commissioner. The BAFE can also self-regulate and investigate economic and financial crimes, allowing any natural or legal person to file a complaint. And to do its job, the BAFE has an anti-corruption unit, an anti-money laundering brigade, a financial investigation service and an economic investigation service, through which it receives complaints and denunciation from natural and legal persons.

*b) Internal mechanisms Anti-corruption - Transparency and accountability - control and funding*

80. The BAFE does not have its own internal regulations or anti-corruption mechanism. Being an entity of the DCPJ, it is administered by the Directorate General of the PNH. However, upon integration, police officers undergo a polygraph test consisting of a lie detector. Those who fail are not allowed to join the BAFE.

81. For transparency and accountability, BAFE has a Management Board. It is required to submit a report of activities and expenditures as well as a planning document at the end of each fiscal year, to the Ministry of Economy and Finance, through the Directorate General of the PNH.

82. For control and funding mechanisms, the BAFE does not have a risk management plan. The BAFE also has no own operating budget.

*c) Citizens' Awareness of BAFE*

83. The citizens met do not know about BAFE. They have never heard of it.

#### *d) BAFE Challenges*

84. Today, BAFE does not have framework legislation. Nor does it have an investment policy. Consequently, the budgetary constraints of the BAFE are supported by the Directorate General of the PNH. However, BAFE is a financially autonomous institution. Achieving autonomy for BAFE is a challenge.

85. Nor does BAFE have decentralized services, nor is it operational at the regional level. And the antennas planned for the ports and airports of the country are not yet in place, which limits the work of this specialized cell of the DCPJ.

### **V. PRESENTATION OF INSTITUTIONS PROVIDING DIRECT SERVICES TO THE POPULATION**

86. Four (4) other institutions providing direct services to the Haitian population were also monitored. These are the Directorate General of Taxes (DGI), the Office of Insurance Vehicles Against Third Parties (OAVCT), the National Office of Old Age Insurance (ONA) and the Directorate of Immigration and Emigration.

#### **A. Directorate-General for Taxation (DGI)**

##### *a) DGI Presentation*

87. The Directorate General of Taxes (DGI), under the supervision of the Ministry of Economy and Finance is created by the law of June 6, 1924, establishing the General Administration of Contributions. However, its current name and operating framework are laid down by the Law of September 29, 1987.

88. The DGI is a decentralized organization set up to collect taxes for the benefit of the Haitian government. Consequently, its mission is mainly to contribute to the implementation of the State's fiscal policy.

89. The DGI represents the Haitian State in justice both by asking and defending and it offers its services directly to taxpayers: final tax declaration, tax number for natural and legal persons, passport fees, taxes of legalization of documents, Patent, certificate of good life and morals, trademark etc.

90. DGI staff consists of more than two thousand (2,000) public officials. And, as needed, other resources may be requested for a limited time.

*b) Taxpayers' Perception of DGI*

91. For some taxpayers, DGI collects revenue for the country. For others, it is only a state institution called upon to provide a direct service to citizens.

92. Many believe that the reception of taxpayers in the various offices of the DGI is organized in such a way that it promotes the presence of the racketeers on the premises. Indeed, already around the offices of the DGI, people who do not work in the box and who have teamed up with employees to extort money from taxpayers, approach anyone who visits DGI and promises to provide them with support or express service. Thus, for a tax number whose fee is fixed at two hundred and fifty (250) gourdes, a taxpayer will be asked two hundred and fifty (250) gourdes more, for simple services or seven hundred and fifty (750) gourdes more, for an express service.

93. Information is not available and there is no hospitality to accompany taxpayers. The different spaces where taxpayers must go to claim the services they need are not indicated or are very little indicated. Thus, the reception of taxpayers is left to the racketeers. Many of them are rude and aggressive with taxpayers.

94. In addition, services are very slow. As a result, taxpayers who decide not to pay a racketeer risk spending the day or even having to come back.

95. Some taxpayers consider DGI to be a messy and corrupt institution. Others believe that the staff recruited has no competence and seems to have been favored based on its political connections.

96. The officials, aware of the presence of the snowshoers having decided not to intervene to regularize the situation, the taxpayers with whom the RNDDH talked believe that the institution tolerates corruption blithely.

*c) Employee perception of DGI*

97. Employees did not want to share their perception of the box with the RNDDH.

*d) DGI Challenges*

98. The provision of clear information to taxpayers on available services and rates, the establishment of a reception desk and the eradication of snowshoeing at DGI offices will help improve services to the public. In addition, the training of employees and the adoption of a new framework law for the operation of the DGI are also challenges faced by this institution.

## **B. Office d'Assurance Véhicules Contre Tiers (OAVCT)**

### ***a) Presentation of the OAVCT***

99. The Office d'Assurance Véhicules Contre Tiers (OAVCT) was set up under the Decree of September 21, 1967, which makes car insurance against third parties, an obligation and thereby the protection of persons particularly exposed to the risks of motor traffic, to the rank of public safety.

100. Its legal framework is composed of the decree of June 8, 1964, making car insurance against third parties, an obligation, of the law of June 21, 1967, granting to the commercial bank of Haiti S.A. the exclusive privilege to exercise the powers of the insurance company against third parties for non-performance of the obligations towards the Haitian State; Decree of September 21, 1967, establishing the Office of Vehicle Insurance Against Third Parties.

101. The mission of the OAVCT is to protect and secure road users, pedestrians and vehicles. Therefore it requires insurance coverage for all vehicles operating on the national territory.

102. With a presence on the national territory, the OAVCT has one thousand one hundred and fifty-three (1.153) employees and contractors.

### ***b) Taxpayers' Perception of the OAVCT***

103. Taxpayers met at the OAVCT's premises believe that the services provided on-site by this institution operate quickly. However, when accidents occur, reporting and compensation services are too slow. They also denounce the fact that employees of the OAVCT agree to be approached by racketeers or to collect amounts higher than the required rates.

### ***c) Employee Perception of the OAVCT***

104. Even if the evidence is difficult to produce, some employees met with claim that persistent rumors circulate about the involvement of the current management of the OAVCT in acts of corruption.

105. They believe that since the arrival of the team in place, strategic changes have been made to divert the funds raised. For example, it was ordered to stop transferring the box's collections to the National Credit Bank (NBC) as was done in the past. The funds collected must remain on site to be recovered by the central office. Since this new decision, the box is increasingly irregular in the payment of wages. In addition, according to them, cheques are regularly diverted from accident management.

106. Some also denounce the irregular transfer of employees to key positions. Similarly, many feel they are not entitled to raise the thorny issue of pay. As soon as they agitate the wage adjustment, the contractors are simply revoked, and the employees are transferred against their will or simply revoked.

107. Officials were also replaced by relatives of the current director, Sieur Fritzner BERNADEL and members of the union who had formed an alliance with him, in the context of the resolution of the crises that shook the OAVCT.

108. According to officials of the OAVCT, it is because of the numerous problems in fuel supply and safety that many drivers and vehicle owners were unable to come to renew their insurance, this has resulted in recurring delays in the payment of salaries.

109. Finally, the employees met denounce the fact that many scandals of theft (Croix-des-Bouquets), misappropriation of funds, favoritism, misappropriation of assets of the OAVCT (Tabarre) to the benefit of political activists, have made headlines without resulting in the conviction of indexed persons.

#### *d) Challenges of the OAVCT*

110. Providing quality service and eradicating the racketeer phenomenon are the main challenges of the OAVCT.

### **C. Office National d'Assurance Vieillesse (ONA)**

#### *a) Presentation of the ONA*

111. The Office National d'Assurance-Vieillesse (ONA) is an autonomous directorate of public administration created under the Law of August 28,1967. Its mission is to provide public and private sector employees with benefits to compensate for the services provided during the productive years of their lives.

112. The legal framework of the ONA includes, in addition to the law which created it, the law of October 10,1949 which constitutes a first on social insurance, the decree of November 8, 1965, on compulsory old age insurance and the law of August 25,1971, establishing a branch of Savings and Loans.

113. Today, the ONA has fifteen (15) communal offices across the national territory that serve to offer services and products to insured persons.

*b) Collection of ONA by insured persons*

114. For many policyholders, the ONA is an institution that looks after insurance and pensions while providing loans to people who contribute. However, when they apply for loans on their contributions, they find it difficult to receive the money. Service is excessively slow. And because they often hear on the radio about huge amounts of money borrowed by large entrepreneurs, they have the perception that loan applications are more easily granted to the well-off rather than to the middle class or the masses.

*c) Employee Perception of ONA*

115. According to several employees, the ONA is perceived as a corruption-promoting institution. If today it is not as flagrant as before, however, this corruption manifests itself in several forms and at several levels.

116. According to several employees, the ONA is perceived as a corruption-promoting institution. If today it is not as flagrant as before, however, this corruption manifests itself in several forms and at several levels.

117. Overcharging, for example, is very common. In addition, some of the technicians of the Superior Court of Auditors and Administrative Disputes (CSC/CA) placed in the boxes of the ONA to ensure compliance and compliance with procedures in public procurement, are denounced by employees- They believe they are turning a blind eye and are targeting irregular contracts. They receive in return undue percentages.

118. At the level of legal services, the employees also believe that some lawyers arrange with business owners who owe a lot of money to the ONA and erase their debts for bribes. Thus, influence peddling, complicity and acts of embezzlement against the institution are legion.

119. On the other hand, while some claims have been considered by the new Director General a.i. of the ONA, other problems remain unresolved. They mainly concern the reinstatement of the debit card for employees, with a revised increase, the granting of promotions to employees, particularly those working in the regions.

*d) ONA Challenges*

120. Making employers regularly pay the contributions of their employees, making all state institutions contribute, sharing information with insured persons and improving services are the challenges facing the ONA. In addition, personnel must be qualified and above all disciplined.

#### **D. Directorate of Immigration and Emigration**

##### ***a) Presentation by the Directorate of Immigration and Emigration***

121. The Directorate of Immigration and Emigration is an entity of the Ministry of the Interior and Territorial Collectivities, itself created in favor of the Decree of May 17, 1990. The main task of the Directorate of Immigration and Emigration is to control migratory movements on the national territory.

##### ***b) Perception of the Directorate of Immigration and Emigration by Citizens***

122. Poorly known, it is presented by several citizens as an entity solely responsible for providing passports to Haitians. And indeed, those who met in the Directorate of Immigration and Emigration presented themselves to claim this service.

123. They believe that it is easy for anyone to know the legal price of the passport since the amount is paid against receipt to the Directorate General of Taxes (DGI). However, it is because of the slowness of the service and the lack of information that they are forced to go through a racketeer.

124. Employees, in complicity with racketeers promise to expedite the service and deliver the document as quickly as possible. If some of them receive the money directly from the person claiming the service, others deal directly with agencies, against a substantial percentage. Finally, some others have for contact PNH agents who facilitate to their relatives and friends, fast services.

##### ***c) Employee Perception of the Directorate***

125. No employee of the Immigration and Emigration Directorate wanted to share his perception of how the box works.

##### ***d) Immigration and Emigration Management Challenges***

126. Slowness of the service, lack of information, corruption, too long a delay are the main difficulties encountered by the Directorate of Immigration and Emigration. Similarly, effective devolution of the services of this directorate is also a challenge.

## VI. COMMENTS AND RECOMMENDATIONS

127. The monitoring of the eight (8) state institutions presented in this document reveals that corruption within the state remains and remains a scourge and that immediate measures must be taken to eradicate it.

128. The four (4) institutions called to fight corruption, which have been succinctly presented here, namely the UCREF, the ULCC, the CNMP and the BAFE, are little known by the company and their work is not at all disclosed. The RNDDH wants for proof the fact that many citizens met, could not even define the acronyms of these institutions.

129. UCREF, ULCC, CNMP and BAFE do not fight corruption sufficiently. The RNDDH believes that if this had been the case, the many racketeers who approach taxpayers at the doors of state boxes that provide direct services to the population, would not do so openly. This is one of the many reasons why it is difficult to give credit to anti-corruption bodies because, by not doing their work, they accept de facto, daily acts of corruption that tend to be considered normal or insurmountable by citizens.

130. The RNDDH also deplores the fact that the institutions called to fight corruption are not financially autonomous. They also do not have the means and tools necessary for an effective work: Lack of legal framework of operation, limited coverage in Port-au-Prince and some large cities in regions, lack of qualified staff, budgetary constraints, inability to force state institutions to comply with established regulations, etc. These are the challenges that these four (4) institutions face because they depend too much on their supervisory ministry or hierarchical authority.

131. It should also be noted that state authorities have chosen not to give these institutions free rein. The UCREF was recently distorted by the deceased President Jovenel MOÏSE, with the complicity of the 50th Legislature. The ULCC has always been under the control of the men in power. And, for their part, the BAFE and the CNMP were simply muzzled and confined to secondary roles when they should have been among the first institutions to turn to, the BAFE for judicial investigations related to acts of corruption, the CNMP, for a priori and/or posteriori control of public procurement procedures.

132. However, the RNDDH recognizes that the biggest blockage lies in the fact that the Haitian judiciary, itself very corrupt, has no desire to carry out exemplary trials in order to convict people indexed in acts of corruption. A zoom on the various scandals registered over the past 20 years, that have splashed different entities of the State proves it: only one conviction has been pronounced by the Haitian judicial authorities and only 2 debts have been issued by the CSC / CA.

133. The four (4) institutions that provide a direct service to the population, affected by this report, namely, the DGI, the OAVCT, the ONA and the Directorate of Immigration and Emigration, operate under unacceptable conditions: services are slow, the racketeers organize the reception of the users, the employees denounce the opacity in the management of these boxes by the responsible and the taxpayers accuse of these institutions to function in such a way to favor or tolerate the corruption.

134. For these institutions too, there are many challenges. And their resolution inevitably requires the eradication of the phenomenon of racketeer, the effective reconcentration of directorates and services, a reorganization of the reception of citizens-and a communication strategy enabling everyone to have access to information on both the rates of services and the time required to process the files.

135. Based on the foregoing, the RNDDH recommends that the relevant authorities:

- Make public services available and accessible to all citizens;
- Display service prices in all state institutions;
- Demand the establishment of a reception service within all state institutions;
- Take drastic measures to eradicate corruption in state institutions;
- Punish those involved in corruption;
- Provide resources for employees to perform their duties.

136. The RNDDH also recommends that citizens:

- Refuse to participate in acts of corruption;
- Report cases of corruption within state institutions;
- Require the State to make services available without having to go through racketeers.