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Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1683
Session:	Twenty-Ninth Ordinary Session (16 - 27 October 1972)
Title/Style of Cause:	Olavo Hansen v. Cuba
Doc. Type:	Decision
Decided by:	President: Dr. Justino Jimenez de Aréchaga (Uruguay) Vice-President: Dr. Carlos A. Dunshee de Abranches (Brazil) Members: Prof. Manuel Bianchi (Chile); Dr. Gabino Fraga (Mexico); Mr. Robert F. Woodward (United States); Dr. Genaro R. Carrio (Argentina); Dr. Andrés Aguilar (Venezuela); All members attended the twenty-ninth session.
Dated:	14 March 1973
Citation:	Hansen v. Cuba, Case 1683, Inter-Am. C.H.R., OEA/Ser.L/V/II/.29, doc. 41 rev. 2 (1972)
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[1] Case No. 1683, of June 9, 1970, pertains to a denunciation of the arbitrary arrest, torture, and murder of Mr. Olavo Hansen, a labor leader, said to have occurred in the city of São Paulo between May 1 and 9, 1970.

[2] In a note dated June 17, 1970, the Commission requested the corresponding information from the Government of Brazil, in conformity with Articles 42 and 44 of its Regulations.

[3] This case has been under consideration since the Twenty-Fourth Session (October 1970), at which time it was decided to appoint Dr. Durward V. Sandifer as rapporteur of this case (and of other communications pertaining to the situation regarding human rights in Brazil), and to request that the government of that country give its consent so that the rapporteur and the Executive Secretary of the Commission might visit that country in order to obtain the information necessary for carrying out their duties. This request was addressed to the Government of Brazil on October 26, 1970, and reiterated on December 10 of that year.

[4] In a note dated January 11, 1971 (AAA/1602.60 (20), the Government of Brazil answered the request of June 17, 1970, refusing the consent requested and enclosing the following information on the case:

- a. That Mr. Hansen, age 25, had been arrested by the Military Police of the State of São Paulo on May 1, 1970, while distributing subversive pamphlets at the "Villa María Zélia" stadium, during a workers' rally, and was taken to the so-called "Operação Bandeirantes" of that city.
- b. That on the following day he was taken to the headquarters of the Political and Labor Police (DOPS), where he became ill and was admitted to the Military Hospital of the Army, where he died.
- c. That an autopsy performed at the Institute of Legal Medicine resulted in a medical-legal finding that the cause of death was unknown.

d. That, according to the report of the police investigation (inquest) carried out, Mr. Olavo Hansen had committed suicide by ingesting parathion, a product used in the industry in which he had worked until April 30, 1970, and

e. That after the police investigation had been referred to the Judicial Branch, the latter had closed the file until such time as new objective information was presented which would modify the findings of the investigation.

[5] At its Twenty-Fifth Session (March 1971) the Commission--after considering the denunciation and the information supplied by the Government of Brazil, and on the basis of the recommendations presented by the rapporteur--decided (Second Report, Doc. 37-25, res.) to transmit the pertinent parts of the reply of the Government of Brazil to the petitioners, requesting that they provide "all information available to them that might help to clarify the case."

[6] In a communication dated August 20, 1971, the petitioners supplied additional information and made observations on the statements of the Government of Brazil, indicating "that the imprisonment, physical violence, and death inflicted on Mr. Hansen should be considered apolitical and labor crime, and the thesis of suicide should be rejected." They reiterated that the Commission should investigate the facts, in loco, in order to verify their truth.

[7] At the Twenty-Sixth Session (October-November 1971), the rapporteur submitted a third report on this case (Doc.14-26) in which he recommended postponement of a decision since the new data provided by the petitioners called for more detailed study of the matter.

In accordance with this recommendation, the Commission decided--with an opposing vote cast by Dr. Carlos A. Dunshee de Abranches--to postpone consideration of Case No. 1683 until its Twenty-Seventh Session. This decision was communicated to the Government of Brazil in a note dated November 17, 1971, and to the petitioners on December 3 of that year.

[8] At its Twenty-Seventh Session the Commission continued to consider the case on the basis of the fourth report prepared by the rapporteur, Dr. Durward V. Sandifer, which contained several recommendations and a draft resolution. However, after considering this material, the Commission decided at that session--at the request of the rapporteur--to again postpone a decision on the case until its special session. Likewise, it requested the rapporteur to prepare a new report, taking into account the observations and comments of its members.

The rapporteur prepared a document entitled "Fifth Report on Case No. 1683 (Brazil): (Doc. 5- 28, rev. 1) which, in accordance with the decision adopted at the Twenty-Seventh Session, included a complete account of the procedures carried out, the subject matter of the denunciation, the prior questions involved in the case--with observations on some technical aspects of the reply of the Government of Brazil--and, finally, conclusions and recommendations, on the basis of which he submitted a draft resolution.

[9] The Commission considered Case No. 1683 at its Twenty-Eighth Session (May 1-5) on the basis of the rapporteur's report.

Inasmuch as Case No. 1683 is an "individual case" of violation of human rights, requiring compliance with the provision of paragraph d) of Article 9 (bis) of its Statute and Article 54 of its Regulations, the Commission considered, as a matter for prior decision, whether in this case the internal legal procedures and remedies of Brazil had been duly applied and exhausted. As a related question, it also considered of whom the Commission could require fulfilment of this requirement, in the event that such internal legal procedures and remedies had not been exhausted.

Following a discussion, the majority of the members of the Commission decided at that session--with an opposing vote cast by Dr. Carlos A. Dunshee de Abranches--to declare itself competent to consider the substance of Case No. 1683, as the internal legal procedures and remedies of the State of Brazil had been exhausted in this case.

On the basis of the draft presented by the rapporteur, the majority of the members approved--with an opposing vote cast by Dr. Dunshee de Abranches--a resolution pertaining to Case No. 1683 (OEA/Ser.L/V/II.28, Doc. 15).

Dr. Dunshee de Abranches presented an explanation of his vote.

[10] In accordance with the provisions of that resolution, the Commission addressed the Government of Brazil in a note dated May 5, 1972, and the petitioners on May 12 of that year.

[11] At its Twenty-Ninth Session (October 16-27, 1972) the Commission again considered this case with regard to whether or not the Government of Brazil had supplied information on action taken on the recommendations contained in the resolution of May 3, 1972.

As the 180-day period established in Article 51 of its Regulations for the government concerned to supply the corresponding information on the measures that it had adopted, had not yet expired, in conformity with the aforementioned resolution the Commission decided to postpone consideration of Case No. 1683 until its next session.