

WorldCourts™

Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1944
Session:	Forty-First Session (11 – 27 May 1977)
Title/Style of Cause:	Unknown v. Haiti
Doc. Type:	Resolution
Decided by:	President: Dr. Andrés Aguilar Vice-President: Dr. Carlos a. Dunshee de Abranches Members: Prof. Tom J. Farer; Dr. Gabino Fraga; Dr. Carlos García Bauer; Dr. José Joaquín Gori; Mr. Fernando Volio Jiménez
Dated:	27 May 1977
Citation:	Unknown v. Haiti, Case 1944, Inter-Am. C.H.R., OEA/Ser.L/V/II.43, doc. 21, corr. 1 (1977)
Terms of Use:	Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm

WHEREAS:

[1] In a communication dated May 30, 1975, the general situation of human rights in Haiti was denounced and a list was attached containing the names of 74 individuals who, with two exceptions had not been brought to trial, despite the fact that in most cases they had been detained for a number of years;

[2] The Commission, in a note dated August 12, 1975, transmitted to the Government of Haiti the pertinent parts of the denunciation and requested that it provide the corresponding information;

[3] The Government, in a note dated August 28, replied as follows:

The Ministry of Foreign Affairs feels compelled to emphasize the malicious intent of the anonymous claimant, who did not act out of a desire to cooperate with the Inter-American Commission on Human Rights in order to uphold respect for the basic attributes of man in the hemisphere, but rather decided to sully the reputation of a government that has made the restoration of the Haitian nation in all spheres the pivot of its overall policy.

He has also invented names and includes on his list individuals who have been released such as Jean Bernadel, or individuals who are beneficiaries of an order of clemency issued by the President for Life of the Republic by virtue of which their punishments were reduced, such as Raymond Toussaint, Scritch Douge, Clemard Joseph Charlas, Fernand Prosper, Edmond Pierre Paul and Hubert Legros.

The Ministry of Foreign Affairs feels that it is useful to recall that one of the first measures taken by the President for Life of the Republic was to form a commission to study the files of all prisoners.

It was concluded that the legal guarantees have been afforded to prisoners during trials, at the conclusion of which they have been sentenced to penalties provided by Haitian penal law for the offenses committed. The Ministry of Foreign Affairs wishes to request the Inter-American Commission on Human Rights that it first judge the grounds of a denunciation before bringing it to the attention of the governments of the hemisphere. Otherwise, it will lose any credit that it might deserve and the result will be to counteract the purposes for which the Commission was established.

[4] The claimant, in a communication dated September 24, 1975, made the following observations regarding the reply sent by the Government of Haiti:

The information provided by the Haitian Government is far from exhaustive and of the list of 74 prisoners submitted to Your Excellency on May 30, 1975, reference is made only to the case of Maotre Hubert Legros.

The Haitian Government has not provided information on 73 of the 74 individuals on our list, who have not been given the right to the judicial process to which they are entitled under the Constitution of Haiti. We urge the Inter-American Commission on Human Rights to reiterate its request for information on these cases.

[5] On the basis of this background information, at its 36th session the Commission decided to request the Government of Haiti to kindly provide the information on the case and forwarded that decision to the Government by note dated October 20, 1975;

[6] At its 38th session, the Commission again decided to send a note to the Government of Haiti, in order to forward it supplementary information that it had received from the claimants:

[7] This decision was forwarded to the Government of Haiti by note dated October 20, 1976;

[8] At its 39th session, the Commission decided to repeat its request and to request additional information from the Government;

[9] In a note dated March 3, 1977, the Commission addressed the Government of Haiti as follows:

During its 39th session, the Inter-American Commission on Human Rights followed up the study on this case and decided to confirm the request for information sent to the Haitian Government by note dated October 20, 1976.

Likewise, the Commission decided to inform the Haitian Government that it had received other complaints from a number of claimants on one aspect of that same case. It also wished to point out that in the communication sent to that Government in response to its note of August 12, 1975, it cited only one of the parties in this case.

Finally the Commission set March 31, 1977, as the deadline for the Government of Haiti to provide the requested information. Once the deadline in question had passed the Commission would consider itself obligated to consider possible application of Article 51 of its Regulations.

[10] In a note dated March 18, 1977, the Government replied to the note sent by the Commission, in the following words:

In response to your communication Ref: Case 1944, dated 3 March 1977, permit me to inform you that an in-depth investigation conducted by the competent government service revealed that the name of one Hubert Legros has been used to attempt to accuse the Haitian Government of a violation of human rights. The Ministry of Foreign Affairs once again calls attention to the damage that acceptance of such denunciations will do to the prestige of the Inter-American Commission on Human Rights.

[11] Although the Government of Haiti, in notes dated January 21, 1977 and March 15, 1977, has provided accounts of individuals who have been granted clemency by the Government, those communications, which made no mention of the case being examined, cannot be regarded as adequate replies to the request for information made by the Commission; further Article 51.1 of the Regulations of the Commission establishes the following:

Article 51

1. The occurrence of the events on which information has been requested will be presumed to be confirmed if the Government referred to has not supplied such information within 180 days of the request, provided always, that the invalidity of the events denounced is not shown by other elements of proof.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. In application of Article 51.1 of the Regulations, to presume the events denounced in the complaint to be confirmed, which concerned the unjustified detention of the individuals named in the denunciation of May 30, 1975, and whose names do not appear on the lists provided to the Commission by the Government of Haiti in its notes of January 21, 1977, and March 15, 1977.

2. To point out to the Government of Haiti that such events constitute very serious violations of the right to liberty and personal security (Article I of the American Declaration of the Right and Duties of Man); of the right to a fair trial (Article XVIII); of the right of protection from arbitrary arrest (Article XXV), and the right to due process of law (Article XXVI).

3. To recommend to the Government that it immediately releases the detainee in question or brings them to trial.

4. To recommend the Government that it punish, in accordance with Haitian law, those responsible for the events denounced, and that, within sixty days, it inform this Commission of the measures taken.

5. To forward this resolution to the Government of Haiti and to the claimant.

6. To include this resolution in its Annual Report to the General Assembly of the Organization (Article 9 (b bis), c), iii. of the Statute).

Adopted at the 539th meeting held on May 27, 1977 (41st Session), and forwarded to the Government of Haiti on September 22, 1977.