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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 37/82; Case No. 2401
Session:	Fifty-Fifth Session (1 – 9 March 1982)
Title/Style of Cause:	Alphonse Bazile, Emmanuel Cauvin, Paul Gaboton and Ernst Sabalat v. Haiti
Doc. Type:	Resolution
Decided by:	Chairman: Mr. Tom J. Farer; First Vice Chairman: Marco Gerardo Monroy Cabra; Second Vice Chairman: Francisco Bertrand Galindo; Members: Andres Aguilar; Carlos A. Dunshee de Abranches; Luis Demetrio Tinoco Castro; César Sepúlveda.
Dated:	09 March 1982
Citation:	Bazile v. Haiti, Case 2401, Inter-Am. C.H.R., Report No. 37/82, OEA/Ser.L/V/II.61, doc. 22 rev. 1 (1982-1983)
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BACKGROUND:

1. By means of a communication dated December 12, 1977, the Inter-American Commission on Human Rights transmitted to the Government of Haiti the following pertinent parts of a denunciation that reached the Commission in connection with alleged violation of human rights in that country:

Alphonse Bazile, 51 years of age, was arrested in Jeremie in 1965 and has been held without any charges being placed against him or being put on trial. Emmanuel Cauvin, an attorney who routinely defended political prisoners and who is the former president of the Bar Association, was arrested in April, 1963, in Port-au-Prince, and has been held without charges or trial of any kind. Paul Gaboton, attorney, was arrested in April, 1973, and is now detained without charges or trial of any kind. Ernst Sabalat, was arrested in April, 1973, and has been detained without charges or trial of any kind.

2. On December 22, 1977, the Commission received from the Haitian Government a communication in which it acknowledged receipt of the aforementioned letter of December 12 and stated the following:

The Chancellery hastens to send you under this cover the text of the complete decree on Haitian Positive Law in the area of legally proven disappearance.

The text of the aforementioned decree did not arrive attached to the government's note and the Commission so informed the Government of Haiti in a communication dated January 9, 1978.

Since the response of the Haitian Government limited itself to acknowledging receipt of the communication of December 12, 1977, and to stating that it was attaching the text of a decree, which, in fact, never reached the Commission, and did not refer specifically to the situation of Messrs. Alphonse Bazile, Emmanuel Cauvin, Paul Gaboton and Ernst Sabalat, the IACHR decided to request the

Government of Haiti once again to furnish information about the case in question, which it did in a communication dated January 3, 1979, the pertinent parts of which read:

On behalf of each of the following persons, namely: Alphonse Bazile, Emmanuel Cauvin, Paul Gaboton and Ernst Sabalat, we request the Government of Haiti to remit to us specific information in connection with the following matters:

- a. Have these persons been arrested or imprisoned and what were the dates of their arrests or imprisonments?
- b. If these persons have been detained or imprisoned, what is the date or dates of their release and what legal provisions have been invoked?
- c. If these persons have been detained or imprisoned, what have they been charged with and what was the decision handed down in the case?
- d. According to allegations received by the Commission, these persons died during the course of their detention and, should such be the case, what were the dates and the causes of their deaths?

3. The Government of Haiti did not answer this new request for information even though it was repeated in another note dated October 19, 1981. This note also warned of the eventual application of Article 39 of the Regulations of the Commission if the information requested was not received within a reasonable time.

WHEREAS:

1. In its note of April 5, 1978, the Government of Haiti confined itself to acknowledging receipt of the communication dated December 12, 1977, and to stating that it was attaching the text of a decree issued by the government in connection with judicially acknowledged disappearances, but did not refer specifically to the status of Messrs. Alphonse Bazile, Emmanuel Cauvin, Paul Gaboton and Ernst Sabalat.

2. That the Government of Haiti has not replied to repeated requests for information prepared by the Commission in connection with the status of Messrs. Alphonse Bazile, Emmanuel Cauvin, Paul Gaboton and Ernst Sabalat, which leads to the presumption that there are no further remedies under domestic law which must be exhausted (Article 46 of the American Convention) in accordance with the procedures set out in that same Convention.

3. Article 39 of the Regulations of the Commission reads:

Article 39

The facts reported in the petition whose pertinent parts have been transmitted to the government of the state in reference shall be presumed to be true if, during the maximum term set by the Commission under the provisions of Article 31 paragraph 5, the government has not provided the pertinent information, as long as the other evidence does not lead to a different conclusion.

4. Article 1 of the American Convention on Human Rights reads:

Article 1. Obligation to Respect Rights

The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth or any other social condition.

5. The Republic of Haiti is a State Party to the American Convention on Human Rights.

Therefore, in view of the foregoing information and the considerations made, and since the Commission does not have other information that would lead it to conclude otherwise, on the grounds of Article 39 of its Regulations.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLVES:

1. To presume to be true the events denounced relative to the status of Messrs. Alphonse Bazile, arrested in January, 1975, Emmanuel Cauvin, arrested in April, 1963, Paul Gaboton, arrested in April, 1973, and Ernst Sabalat, arrested in April, 1963, considering that to date there has been no information as to whether they have been released or placed under the order of a competent authority, or, in the event that they have died in prison, what the dates and the causes of their deaths were.
2. To declare that these events constitute a grave violation of the following rights protected by the American Convention on Human Rights: right to personal liberty (Article 7); right to humane treatment (Article 5); right to a fair trial (Article 8).
3. To recommend to the Government of Haiti:
 - a) that it provide for the immediate freedom of Messrs. Bazile, Cauvin, Gaboton and Sabalat;
 - b) that in the event that these men have died in prison, that it report the dates on which their deaths occurred and the causes of them.

Furthermore, to recommend to the Government of Haiti:

- a) that it call for a full and impartial investigation to determine who is responsible for the facts charged;
 - b) that it punish, in accordance with Haitian law, the persons responsible for the facts denounced;
 - c) that it report to the Commission within ninety days on the measures it has taken to put the foregoing recommendations into practice.
4. To communicate this resolution to the Government of Haiti and to the petitioner.
 5. To include this resolution in its Annual Report to the General Assembly of the Organization of American States in accordance with the terms of Article 59 (g) of the Regulations of the Commission, if the Government of Haiti does not put into practice the recommendations made within the aforementioned term.