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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 41/82; Case No. 2650
Session:	Fifty-Fifth Session (1 – 9 March 1982)
Title/Style of Cause:	Luc Deselmours 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:	Deselmours v. Haiti, Case 2650, Inter-Am. C.H.R., Report No. 41/82, OEA/Ser.L/V/II.61, doc. 22 rev. 1 (1982-1983)
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BACKGROUND:

1. In a communication dated November 24, 1977, the Inter-American Commission on Human Rights received the following denunciation:

Mr. Luc Deselmours, a Haitian citizen 35 years of age, was arrested in Port-au-Prince in July, 1976. He was moved to the Fort Dimanche prison on October 4, 1976. He was placed in cell No. 2 of that prison. Luc Deselmours has been detained for more than one year in flagrant violation of the Haitian Constitution which stipulates:

No one may be kept under arrest more than forty-eight (48) hours, unless he has appeared before a judge who is assigned to rule on the legality of the arrest and the judge has confirmed the arrest by a decision giving reasons therefore. (Article 17)

Luc Deselmours should be released or, if some charges have been placed against him, he should be tried immediately by a jury of his peers.

2. On March 16, 1978, the Commission addressed the Government of Haiti and transmitted to it pertinent parts of the petition and requested it to furnish the information it considered appropriate in connection with the facts charged.

3. On April 14, 1978, the Commission received from the Haitian Government a communication dated April 5 in which the government acknowledged receipt of the letter of March 16 and stated the following:

The Chancellery hastens to reiterate once again that there are no political prisoners in Haiti. It also requests you to not take into consideration any more petitions and accusations of this type that are lodged against the Haitian Government. Moreover, all persons having such petitions may always address the Department of Justice which is required to provide them with all necessary information.

4. In a communication dated February 17, 1979, the petitioners sent additional information about the case of Mr. Luc Deselmours, which information was transmitted to the Government of Haiti in a note dated March 5, 1979. The Commission has not received any reply in this connection.

5. Since in its communication dated April 5, 1978, the Haitian Government confines itself to denying in a general fashion the existence of political prisoners in Haiti and does not refer specifically to the status of Mr. Luc Deselmours, whose personal identification and place of detention were made known to the government when the pertinent parts of the petition were transmitted to it, and since it has not received any reply to the request for information made in the communication of March 5, 1979, the Commission decided to request the Government of Haiti once again and for information to warn it of the eventual application of Article 39 of the Regulations, which it did in a note dated December 21, 1981, to which no reply has been received to date.

WHEREAS:

1. In its note dated April 5, 1978, the Government of Haiti confined itself to denying in a general fashion the existence of political prisoners in the country, and did not refer specifically to the status of Mr. Luc Deselmours.

2. That the term stipulated in Article 31 of the Regulations of the Commission has lapsed and the Government of Haiti has not replied to repeated requests for information made by the IACHR in connection with the status of Mr. Luc Deselmours, and this leads to the presumption that there are no further remedies under domestic law that must be exhausted (Article 46 of the American Convention) in accordance with the procedures established in that 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

1. 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 facts denounced in the communication of November 24, 1977, relating

to the status of Mr. Luc Deselmours, arrested in September, 1976, and located, at the time of the denunciation, in cell No. 2 of the Fort Dimanche prison, and about whom there has been no information of his being released or placed under the orders of competent authorities for due processing.

2. To declare that these facts constitute a grave violation of the following rights protected in 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 release of Mr. Luc Deselmours;

b) that it provide full and impartial investigation to determine who is responsible for the facts denounced;

c) that in accordance with Haitian laws, it punish those responsible for the facts denounced;

d) that it inform the Commission within a term of ninety days of the measures it has taken to put these 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 of the General Assembly of the Organization of American States.