

Lysias Fleury et al. v. Haiti

ABSTRACT¹

On June 24, 2002, Mr. Lysias Fleury, a human rights defender, was accused of stealing a water pump by authorities. Mr. Fleury denied the accusation and invited the agents to search his home. Instead, the policemen arrested Mr. Fleury without a warrant. The Court found that the State violated the American Convention on Human Rights.

I. FACTS

A. Chronology of Events

June 24, 2002: Lysias Fleury, a thirty-nine-year-old Haitian man, lives in Lilavois, with his wife, Rose Lilienne Benoit Fleury, and his three children, Rose, Heulingher and Flemingkov.² Mr. Fleury works for the National Episcopal Commission for Justice and Peace as a human rights defender and legal advisor, where he has been a supervisor of legal affairs since 2002.³ He also works as a consultant to a law firm that specializes in rural conflict.⁴

As a human rights defender, Mr. Fleury represents victims of domestic violence, sexual assault, child kidnapping, and illegal detention within the Haitian jurisdiction.⁵ Mr. Fleury also investigates police detentions and illegal arrests, which allows him to collect information that he uses in reports and recommendations regarding human rights violations in Haiti.⁶ Some of his other responsibilities include investigating detentions in Haitian prisons and police stations, including the Bon Repos Police Station in Port-au-Prince (“Bon

1. Sarah Frost, Author; Jennifer Barrera, Elise Cossart-Daly, Erika Green, Melissa Kurata, Monica Rodriguez, and Shamin Rostami, Editors; Laura Ybarra, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. *Fleury v. Haiti*, Merits and Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 236, ¶ 31 (Nov. 23, 2011).

3. *Id.*

4. *Id.*

5. *Id.* ¶ 32.

6. *Id.*

Repos”).⁷

At around 7:00 p.m., two uniformed officers of the Haitian National Police (“HNP”) and three officers in plainclothes arrive at Mr. Fleury’s home and inform him in the presence of his wife and children that he possesses a stolen water pump.⁸ Mr. Fleury denies the accusation and invites the men to search for the pump in his home.⁹ Instead, the officers arrest Mr. Fleury without a warrant.¹⁰

During the arrest, Mr. Fleury identifies himself as a lawyer and a human rights defender.¹¹ He also presents his employee identification card, to which the officers respond with threats and intimidation.¹² A uniformed officer states, “You work for human rights? You’ll see.”¹³ Another officer in plainclothes grabs Mr. Fleury by the throat and forces him at gun-point into a pick-up truck.¹⁴ The officers repeatedly hit Mr. Fleury in the head with a gun.¹⁵ Such treatment continues until they arrive at the Bon Repos Police Station.¹⁶

Throughout the ride and even when they arrive at the police station, the police never inform Mr. Fleury of the reasons for his arrest.¹⁷ Instead, the police immediately place Mr. Fleury in a damp, dirty, and unventilated cell for seventeen hours.¹⁸ This cell measures only six-feet by four-feet, has no seating, and is shared among seven other occupants.¹⁹ The police never provide Mr. Fleury with food or water.²⁰

Mr. Fleury also experiences physical abuse by the police.²¹ In one incident, an officer points a gun at Mr. Fleury and orders him to clean human waste out of his cell with his bare hands.²² In another incident, a different officer tells Mr. Fleury that if he had run into him on the street he would have killed him for being a human rights activist.²³ The

7. *Id.*

8. *Id.* ¶ 33.

9. *Id.*

10. *Id.*

11. *Id.* ¶ 34.

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.* ¶ 35.

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.* ¶ 36.

22. *Id.*

23. *Id.*

officers repeatedly kick and beat Mr. Fleury outside of his cell.²⁴ After sixty-four blows to his body and fifteen severe hits to both sides of his head, Mr. Fleury's body is covered with bruises and fractures, and both of his eardrums are ruptured.²⁵

June 25, 2002: The police force Mr. Fleury to sign a declaration that the police did not abuse him, but that personnel from another department of the State (*Conseil d'Administration des Sections Communales*, "CASEC") committed the abuse.²⁶ The police then request a bribe in exchange for releasing him.²⁷ The HNP officers release Mr. Fleury around noon.²⁸ When his wife, accompanied by Father Jan Hanssens and other members of the Episcopal Commission for Justice and Peace, arrive to pick him up, they find him disoriented and barely able to stand.²⁹ They photograph Mr. Fleury's injuries and take him to the Haitian University Hospital where a doctor examines him.³⁰ The exam reveals a closed fracture to his left forearm, pain and deafness in his right ear, and large bruises on his left thigh and buttock.³¹ After receiving treatment, Mr. Fleury stays for a short period at the Villa Manrèse under medical supervision, and thereafter at Father Hanssens' house for several months.³²

Late 2002: Mr. Fleury resumes his work, but lives separately from his family out of fear that he will endanger their lives.³³ During this period, he lives in Despinos while his family lives in Les Cayes.³⁴ During the two years following the incident, he visits his family once at their home and sees his wife only seven times when she visits him at the office of the NGO.³⁵ Mr. Fleury's fear is justified; on several occasions following his release, unidentified individuals visit his neighborhood, monitor his movements, and ask where he works or where he can be found.³⁶

January 2002: Mr. Fleury moves back into his home with his family,

24. *Id.*

25. *Id.*

26. *Id.* ¶ 37.

27. *Id.*

28. *Id.* ¶ 38.

29. *Id.* ¶ 39.

30. *Id.* ¶ 40.

31. *Id.*

32. *Id.* ¶ 41.

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

but when a police officer asks the neighbors if he has returned, Mr. Fleury immediately goes back into hiding, taking refuge with priests and friends until December 2006.³⁷

June 27, 2002: Father Jan Hanssens files a complaint with the HNP Inspector General to investigate the officers responsible for Mr. Fleury's torture.³⁸ He receives no response to this request.³⁹

August 1, 2002: Mr. Fleury presents a brief to the *Commissaire du Gouvernement* in Port-au-Prince, describing the events of June 24 and 25, 2002, and requesting that the responsible officers be prosecuted.⁴⁰

February 22, 2003: Mr. Fleury meets with Inspector John Prèvest, HNP General Inspectorate.⁴¹ He identifies the three police officers who arrested and beat him.⁴² In spite of this, none of the officers are prosecuted.⁴³ In fact, one of the officers continues to work at Bon Repos.⁴⁴

October 1, 2007: An official of the Ministry of Foreign Affairs invites Mr. Fleury to a meeting to discuss his case.⁴⁵ A Ministry representative informs him that an investigation will be opened.⁴⁶ The representative also warns that he should not leave his home after 6 p.m. since the Ministry will not take responsibility for his safety.⁴⁷

October 22, 2007: Mr. Fleury travels to the United States to attend a hearing before the Commission and decides not to return to Haiti for fear of his life.⁴⁸ He receives status as a refugee and works in Philadelphia as an unskilled laborer to send his earnings to his family.⁴⁹

May 2009: Mr. Fleury's family joins him in the United States.⁵⁰

37. *Id.* ¶ 42.

38. *Id.* ¶ 45.

39. *Id.*

40. *Id.* ¶ 46.

41. *Id.* ¶ 47.

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.* ¶ 48.

46. *Id.*

47. *Id.*

48. *Id.* ¶ 43.

49. *Id.*

50. *Id.*

November 23, 2011: As of the date of the Judgment on the Merits, there is no indication that the State has opened an investigation or punished those responsible for violating Mr. Fleury's rights.⁵¹ No case has been filed against those responsible.⁵²

B. Other Relevant Facts

In determining the scope of the violations and making its judgment of the case, the Court took into consideration the context in which the facts of this case took place in 2002.⁵³ According to the United Nations Independent Expert on the situation in Haiti, the Secretary-General of the United Nations, and the Inter-American Commission, Haiti suffered from political polarization, public insecurity, and institutional shortcomings, which allowed the HNP to commit crimes without punishment.⁵⁴ Officers of the HNP often carried out illegal detentions, abused their power, and inflicted torture and ill treatment on those detained during arrests and detentions.⁵⁵

HNP officers responsible for these crimes were rarely disciplined.⁵⁶ Investigations into abuses committed by the officers infrequently led to punishment.⁵⁷ Complaints filed by alleged victims were often overlooked and did not result in prosecutions.⁵⁸ According to the United Nations Independent Expert, the HNP was seen as an entity that enjoyed total immunity without any effective accountability mechanism by the State.⁵⁹

The reports of the United Nations Independent Expert, the Inter-American Commission, and the United Nations Stabilization Mission in Haiti also found that human rights defenders often suffered from threats and harassments as a result of their work.⁶⁰

II. PROCEDURAL HISTORY

A. Before the Commission

51. *Id.* ¶ 49.

52. *Id.*

53. *Id.* ¶ 27.

54. *Id.* ¶ 28.

55. *Id.*

56. *Id.* ¶ 29.

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.* ¶ 30.

October 11, 2002: Mr. Fleury presents a petition on behalf of himself to the Inter-American Commission on Human Rights and requests precautionary measures, which are issued by the Commission four days later.⁶¹

October 15, 2002 – March 10, 2003: The State fails to carry out the precautionary measures that were granted to protect Mr. Fleury's life and personal integrity.⁶²

March 13, 2003: The Commission requests the Court to order the State to carry out the provisional measures.⁶³

March 18, 2003: The President of the Court orders the State to promptly carry out the provisional measures.⁶⁴ The State fails to do so.⁶⁵

February 26, 2004: The Commission adopts Report on Admissibility 20/04.⁶⁶ The State fails to contest admissibility, so the Commission declares the case admissible.⁶⁷

March 16, 2009: The Commission adopts Report on Merits No. 06/09.⁶⁸ In its report, the Commission concludes that the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhuman or Degrading Treatment), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 7(4) (Right to Be Informed of Reasons of Arrest and Charges), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection), all in relation to Article 1(1) (Obligation to Respect Rights).⁶⁹ The Commission advises the State to conduct a thorough and

61. Fleury v. Haiti, Petition No. 12.459, Inter-Am. Comm'n H.R. (Oct. 11, 2002); *see also* Fleury v. Haiti, Application to the Court, Inter-Am. Comm'n H.R., Case No. 12.459, ¶ 10 (Aug. 5, 2009).

62. Fleury v. Haiti, Petition No. 12.459, ¶ 11.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.* ¶ 16.

68. *Id.* ¶ 23; Fleury v. Haiti, Merits and Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 236, ¶ 1 (Nov. 23, 2011).

69. Fleury v. Haiti, Merits and Reparations, n.3.

impartial investigation to establish responsibility for the crimes committed against Mr. Fleury and to prosecute and punish those found responsible under the ordinary criminal jurisdiction of Haiti.⁷⁰ In addition, the Commission finds that the State should grant full reparations to Mr. Fleury, take measures to prevent and punish illegal and arbitrary detention in Haiti, and ensure that steps are taken to prevent violence against Mr. Fleury and other human rights defenders.⁷¹

B. Before the Court

July 17, 2009: The Commission submitted the case to the Court, after the State failed to adopt its recommendations.⁷²

1. Violations Alleged by Commission⁷³

To the detriment of Mr. Fleury:

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)

Article 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law)

Article 7(3) (Prohibition of Arbitrary Arrest or Imprisonment)

Article 7(4) (Right to Be Informed of Reasons of Arrest and Charges)

Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights) of the American Convention.

To the detriment of Mr. Fleury's wife and children:

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

70. *Id.*

71. *Id.*

72. *Id.* ¶ 1.

73. *Id.* ¶ 3.

Article 1(1) (Obligation to Respect Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victims⁷⁴

Same Violations Alleged by the Commission, plus:

To the detriment of Mr. Fleury and his family:

Article 16 (Freedom of Association)

Article 22 (Freedom of Movement and Residence)

all in relation to:

Article 1(1) (Obligation to Respect Rights) of the American Convention.

February 1, 2010: The Court decides that the State should be given additional time to respond to the petition due to the earthquake in January 2010, which seriously affected the functioning of the State.⁷⁵ The Court continues the case until March 4, 2011.⁷⁶

May 20, 2011: The Court decides that it is unnecessary to hold a hearing due to the State's failure to respond to the petition or participate in the proceedings.⁷⁷

June 1, 2011: Mr. Ariel Dulitzky from the Human Rights Clinic of the University of Texas, Austin School of Law submits an *amicus curiae* brief to the Court.⁷⁸

III. MERITS

A. Composition of the Court

Diego García-Sayán, President

Leonardo A. Franco, Vice President

Manuel E. Ventura Robles, Judge

Margarette May Macaulay, Judge

74. The victim is represented by Meetal Jain, Andrea Pestone, and Smita Rao from the International Human Rights Legal Clinic at American University. *Fleury v. Haiti, Merits and Reparations*, ¶ 5.

75. *Id.* ¶ 6.

76. *Id.*

77. *Id.* ¶¶ 6-8.

78. *Id.* ¶ 9.

Rhadys Abreu Blondet, Judge
Alberto Pérez Pérez, Judge
Eduardo Vio Grossi, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. Decision on the Merits

November 23, 2011: The Court issued its Judgment on Merits and Reparations.⁷⁹

The Court found unanimously that Haiti had violated:

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention, to the detriment of Mr. Fleury, Ms. Benoit Fleury, Rose M. Fleury, Flemingkov Fleury, and Heulingher Fleury,⁸⁰ because:

A violation of Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), discussed below, necessarily implies a violation of Article 5(1).⁸¹ Further, the Court found that Haiti violated Article 5(1) specifically to the detriment of Mr. Fleury's family for the following reasons: (1) his wife and older daughter witnessed him being mistreated during his arrest; (2) his wife witnessed his condition upon being released; (3) his wife and children suffered anxiety from being separated from him during the years he was forced to remain in hiding; and (4) his wife and children had to leave Haiti in order to reunite with Mr. Fleury, which meant leaving behind their culture and his wife's career.⁸² Thus, the Court determined that the State violated Mr. Fleury's next of kin's right to humane treatment.⁸³

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) of the Convention, to the detriment of Mr. Fleury,⁸⁴ because:

79. Fleury v. Haiti, Merits and Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 236, ¶ 31 (Nov. 23, 2011).

80. *Id.* ¶¶ 82, 87, 89.

81. *Id.* ¶ 68.

82. *Id.* ¶¶ 68-89.

83. *Id.*

84. *Id.* ¶¶ 82, 87.

Article 5(2) specially prohibits States from subjecting their citizens to torture or cruel, inhumane or degrading treatment.⁸⁵ Article 5(2) also guarantees that all persons deprived of their liberty shall be treated with respect, as this is an inherent rule of human dignity.⁸⁶ The Court found a violation of Article 5(2) to the detriment of Mr. Fleury as a result of: (1) the acts of torture and other cruel, inhumane and degrading treatment perpetrated against Mr. Fleury; and (2) the conditions in which Mr. Fleury was detained.⁸⁷ First, Mr. Fleury was intentionally beaten, and he suffered severe physical and mental injury.⁸⁸ The police threatened him when he was arrested, forced him into a truck by grabbing him by the throat, pistol-whipped him in the head, and forced him to handle human excrement with his bare hands.⁸⁹ He also received over sixty blows to his head and body and fifteen blows to both sides of his head, which caused massive bruising, ruptured eardrums, and broken limbs.⁹⁰ Second, the State kept Mr. Fleury in a crowded, unsanitary, and poorly ventilated cell without a bed or furniture.⁹¹ Therefore, the State violated Mr. Fleury's right to humane treatment.⁹²

Article 7 (Right to Personal Liberty), in relation to Article 1(1) of the Convention, to the detriment of Mr. Fleury,⁹³ because:

The Court noted that Article 7 contains two different kinds of provisions: a general right to personal liberty in Article 7(1) (Right to Personal Liberty and Security) and provisions for specific violations in Articles 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), and 7(4) (Right to Be Informed of Reasons of Arrest and Charges).⁹⁴ Because the Court found a violation of Articles 7(2), 7(3), and 7(4), discussed below, it also necessarily found a violation of Article 7(1).⁹⁵

85. *Id.* ¶ 68.

86. *Id.*

87. *Id.* ¶¶ 82-87.

88. *Id.*

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.* ¶ 64.

94. *Id.* ¶ 53.

95. *Id.* ¶¶ 53-64.

Article 7(2) relates to the illegal detainment of the victim.⁹⁶ The Court found that the State unjustly arrested Mr. Fleury because it did not have a valid warrant for his arrest at the time of his detention, nor was Mr. Fleury caught in the act of committing a crime, which would have allowed an arrest without a warrant.⁹⁷

Similarly, the Court determined that the State violated Article 7(3), which governs the arbitrariness of the detention.⁹⁸ The State's purpose in arresting Mr. Fleury was not to prosecute him for a crime he had committed, but rather to extort or threaten and punish him for being a human rights advocate.⁹⁹ The State intended to "intimidate and dissuade him from carrying out his work."¹⁰⁰

Likewise, the Court found that the State violated Article 7(4), which requires the State to inform the victim of the reason for his arrest.¹⁰¹ The State failed to provide Mr. Fleury with an oral or written notice regarding the reason for his arrest when he was detained.¹⁰² Based on the foregoing, the Court found that the State violated Article 7(1) – (4) to the detriment of Mr. Fleury.¹⁰³

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), in relation to Article 1(1) of the Convention, to the detriment of Mr. Fleury,¹⁰⁴ because:
The State failed to investigate Mr. Fleury's torture after it became aware of his situation.¹⁰⁵ Further, the State did not discipline or prosecute the police officers who tortured Mr. Fleury, but allowed them to remain employees of the police department.¹⁰⁶ The only action taken by the State occurred when Mr. Fleury identified the officers who perpetrated the crimes; but even then, the police inspector told him that no investigation would be opened.¹⁰⁷ Based on these failures, the Court found that the State violated Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the

96. *Id.* ¶ 54.

97. *Id.*

98. *Id.* ¶ 58.

99. *Id.*

100. *Id.*

101. *Id.* ¶ 60.

102. *Id.* ¶¶ 53-64.

103. *Id.*

104. *Id.* ¶ 114.

105. *Id.* ¶¶ 109-12.

106. *Id.* ¶ 109.

107. *Id.* ¶¶ 105-14.

*American Convention.*¹⁰⁸

Article 16 (Freedom of Association), in relation to Article 1(1) of the Convention, to the detriment of Mr. Fleury,¹⁰⁹ because:

The State prevented Mr. Fleury from freely associating with human rights organizations by threatening him and torturing him severely for being a human rights advocate, along with forcing him to remain in hiding for fear of retaliation if he identified his attackers.¹¹⁰ Thus, the Court found that the State violated Mr. Fleury's freedom of association protected under Article 16 of the American Convention.¹¹¹

Article 22(1) (Right to Move Freely Within a State), in relation to Article 1(1) of the Convention, to the detriment of Mr. Fleury and his wife and children,¹¹² because:

Although there was no evidence that the State actually restricted the freedom of movement and residence of the Mr. Fleury and his family, the Court found that the State violated Article 22(1) because the State did not provide Mr. Fleury the appropriate means to exercise this freedom.¹¹³ Specifically, Mr. Fleury was tortured and prevented from returning safely home after his release due to threats and harassment.¹¹⁴ Moreover, he was forced to remain in hiding for five years, which involved moving frequently in order to prevent his persecutors from finding him.¹¹⁵ He was also later forced to flee Haiti with his wife and children and seek asylum in the United States out of fear for their safety in Haiti.¹¹⁶ As a result of these events, the Court found that the State violated the right to freedom of movement and residence of Mr. Fleury and his family.¹¹⁷

Article 25 (Right to Judicial Protection), in relation to Article 1(1) of the Convention, to the detriment of Mr. Fleury,¹¹⁸ because:

108. *Id.*

109. *Id.* ¶ 102.

110. *Id.* ¶¶ 99-102.

111. *Id.*

112. *Id.* ¶ 96.

113. *Id.* ¶¶ 93-94.

114. *Id.* ¶ 95.

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.* ¶ 114.

The State did not provide effective judicial remedies to Mr. Fleury when he alleged that he was a victim of human rights violations.¹¹⁹ The State failed to investigate Mr. Fleury's torture after it became aware of the situation.¹²⁰ Further, the State did not discipline or prosecute the police officers who tortured Mr. Fleury, but instead allowed them to remain employed by the police department.¹²¹

The Court did not rule on:

Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), in relation to Article 1(1) of the Convention,¹²² because:

The Court declined to analyze a violation of Article 7(5) because the Commission and the Representatives did not advance facts or specific arguments on this point.¹²³

C. Dissenting and Concurring Opinions

[None]

IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)

1. Removal of Legal and Factual Obstacles

The State must remove all legal and factual obstacles to the continued impunity of those responsible for the torture of Mr. Fleury, and conduct investigations within a reasonable time to find and punish them.¹²⁴ Any result of these investigations must be published so that the

119. *Id.* ¶ 109.

120. *Id.*

121. *Id.*

122. *Id.* ¶ 63.

123. *Id.*

124. *Id.* ¶ 120.

Haitian public can become familiar with the facts of this case, and also as punishment for those responsible.¹²⁵ The State must follow the Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (“Istanbul Protocol”) in conducting and documenting the investigations.¹²⁶

2. Publication

The State must publish a summary of this judgment in the Official Gazette and in a paper of wide national circulation, and make the full text of this judgment available for one year on an official State website.¹²⁷

3. Implementation of Mandatory Education to HNP

The State must implement a mandatory course as part of the general and continuing education of the HNP for all employees at all levels.¹²⁸ The course must integrate national and international human rights standards, particularly regarding the proper use of force by State security forces, the proper treatment of detained persons, and the investigation and punishment of cruel, inhumane and degrading acts and torture.¹²⁹

4. Implementation of Mandatory Education to Haitian Judicial Officials

The State must implement a mandatory course for Haitian judicial officials that is part of their general and continuing education.¹³⁰ It must include instruction on national and international human rights standards, particularly regarding arrests, detentions, investigation and punishment of illegal arrests and detentions, and cruel, inhumane and degrading acts and torture.¹³¹

5. Adoption of International Standards on Human Rights Violations

The State must adopt the international standards on human rights

125. *Id.*

126. *Id.* ¶¶ 120-21.

127. *Id.* ¶ 125.

128. *Id.* ¶¶ 129-30.

129. *Id.*

130. *Id.* ¶ 131.

131. *Id.*

violations and issue corresponding instructions to revise and strengthen the mechanisms for accounting for members of the HNP who are involved in human rights violations.¹³²

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The court awarded \$65,000 to Mr. Fleury for the cost of transportation when he and his family moved to the United States, for the cost of phone calls to his family while he was still in Haiti, and for the money he sent to his family from the U.S.¹³³

2. Non-Pecuniary Damages

The Court awarded \$50,000 to Mr. Fleury; \$15,000 to Mrs. Rose Benoit Fleury; and \$3,000 each to Rose Fleury, Flemingkov Fleury, and Heulingher Fleury for the following reasons: Mr. Fleury was subjected to torture and cruel treatment in the Bon Repos Police Station, he suffered from being separated from his family for several years, and was forced to leave his profession as a human rights lawyer and enter into exile.¹³⁴ Mr. Fleury also continues to suffer physically from the torture inflicted on him.¹³⁵ Further, Mr. Fleury's family suffered because they were prevented from seeing Mr. Fleury for years; they witnessed his violent and humiliating arrest; they had to leave their county, culture and standard of living for safety; and Mrs. Benoit Fleury had to leave her small businesses and her professional activity.¹³⁶

3. Costs and Expenses

The Court awarded \$1,500 to Mr. Fleury for the costs and expenses related to his case.¹³⁷ The Court also specified that during the procedure of monitoring compliance with this Judgment, the Court may decide that the State must reimburse Mr. Fleury or his representatives

132. *Id.* ¶ 132.

133. *Id.* ¶¶ 136-37.

134. *Id.* ¶ 143.

135. *Id.*

136. *Id.*

137. *Id.* ¶ 152.

the expenses related to that procedural stage.¹³⁸

4. Total Compensation (including Costs and Expenses ordered):

\$134,500

C. Deadlines

The State must publish the judgment and make it available on an official State website within six months from the date of the Judgment.¹³⁹ The State must pay damages and costs within one year from the date of the Judgment.¹⁴⁰ Regarding the other measures ordered without a specific deadline, the State must comply within a reasonable time from the date of the Judgment.¹⁴¹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations, and Costs

[Fleury v. Haiti, Merits and Reparations, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 236 \(Nov. 23, 2011\).](#)

3. Provisional Measures

138. *Id.*

139. *Id.* ¶ 125.

140. *Id.* ¶¶ 136-38, 143-46, 150-58.

141. *Id.* ¶¶ 129-31.

[Fleury v. Haiti, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 25, 2008\).](#)

[Fleury v. Haiti, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Dec. 2, 2003\).](#)

[Fleury v. Haiti, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 7, 2003\).](#)

Fleury v. Haiti, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) (Mar. 18, 2003).

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Fleury v. Haiti, Petition No. 12.459, Inter-Am. Comm'n H.R. (Oct. 11, 2002).

2. Report on Admissibility

[Fleury v. Haiti, Admissibility Report, Report No. 20/04, Inter-Am. Comm'n. H.R., Case No. 12.459 \(Feb. 26, 2004\).](#)

3. Provisional Measures

[None]

4. Report on Merits

Fleury v. Haiti, Report on Merits, Report No. 06/09, Inter-Am. Comm'n H.R., Case No. 12.459 (March 16, 2009).

5. Application to the Court

[Fleury v. Haiti, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.459 \(Aug. 5, 2009\).](#)

VIII. BIBLIOGRAPHY

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