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Institution:	Inter-American Commission on Human Rights
File Number(s):	Communication No. 1870
Session:	Thirty-Sixth Session (6 - 24 October 1975)
Title/Style of Cause:	Nibia Zabalgagara, Juan Felipe Gómez, Rubén Bello, Agustín Tapia and Humberto de los Santos Viera v. Uruguay
Doc. Type:	Report
Decided by:	President: Dr. Andrés Aguilar (Venezuela) Vice-President: Dr. Carlos A. Dunshee de Abranches (Brazil) Members: Professor Manuel Bianchi (Chile); Dr. Gabino Fraga (Mexico); Dr. Justino Jimenez de Aréchaga (Uruguay); Mr. Robert F. Woodward (United States); Dr. Genaro R. Carrio (Argentina)
Dated:	6 - 24 October 1975
Citation:	Zabalgagara v. Uru., Comm. 1870, Inter-Am. C.H.R., OEA/Ser.L/V/II.37, doc. 20, corr. 1 (1975)
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[1] 1870, presented through a communication dated August 22, 1974, denounces the death of Professor Nibia Zabalgagaray of an army base in Montevideo, and the arbitrary arrest of a number of union leaders in Uruguay.

[2] In a note of October 8, 1974, the Commission requested the Government of Uruguay to provide the appropriate information, in accordance with Articles 42 and 44 of its Regulation. A copy of that note was sent to the Uruguayan Mission to the OAS on October 8, 1974.

[3] In a note of May 23 (mentioned in previous cases), the Government requested a 90-day extension for transmittal of the corresponding information.

[4] As in case 1842, when considering the request made by the Government of Uruguay, at its thirty-fifth session (May 1975), the Commission decided to grant that Government a 30-day extension for transmittal of the information requested. The Government of Uruguay was informed of this decision on June 12, 1975.

[5] The Government of Uruguay, in a note dated July 12, 1975 (No. 235/75), provided the following information, within the required period of time:

"I. Death of Ms. Nibia Zabalgagaray

"The above-named individual was arrested on July 29, 1974 and within 24 hours of her arrest, she committed suicide in her cell.

"The competent judge intervened, and ordered a statement from the forensic physician. His report shows the cause of death to be 'strangulation by hanging'.

"The intervening judge closed the proceedings on August 2, 1974, since there was no evidence of foul play."

"II. Status of Juan Felipe Gómez, Rubén Bello, Agustín Tapia

The individuals in question were arrested on August 15, 1974, by the Guardia Republicana for an impromptu demonstration before the Ministry of Labor and Social Welfare, and were held under the control of the Executive Power by authority of the Prompt Security Measures (Constitution of the Republic Art.168 paragraph 17) until September 16, 1974 when they were released.

III. Status of Humberto de los Santos Viera

"1. On October 26, 1974, the Joint Forces ordered through communiqué No. 1174, the capture of the above named individual, known to be linked with seditious organizations and to have gone underground.

"His case is No. 986.

"2. On May 26, 1975, this individual was arrested together with a number of seditioners and confessed his association with the following seditious movements: '26 de marzo' the "Agrupación 36' as an officer, the so-called Revolutionary Government Party, and the so-called National Liberation Movement "Tupamaros".

[6] The Secretariat acknowledged receipt to the Government of Uruguay on July 16, 1975, and through a letter of July 18, 1975, the pertinent parts of the information provided by the

[7] Government were transmitted to the claimant.

[8] Through a letter dated July 8, 1975, the claimant had provided information on this very matter, summarized as follows:

- 1) Nibia Zabalzaray was arrested, tortured, and killed within a period of 10 hours on June 28, 1974;
- 2) She was arrested by three men in military uniform and two civilians;
- 3) They questioned her as to her political convictions, and refused to reveal their identity and the place to which she was being taken;
- 4) Ten hours later they reported that she had died and they called her relatives to claim her body from the Military Hospital;
- 5) There her family members were informed that Nibia was dead on arrival at the hospital and that her personal effects (she was nude) should be claimed at the Engineering Battalion No.5;
- 6) The death certificate stated death by suicide;
- 7) Members of the family were denied permission for another autopsy;
- 8) Death was attributed to a method of torture known as "submarine seco" ;
- 9) No judicial proceedings have resulted from the death of Miss Zabalzaray.

[9] During the thirty-sixth session (October 1975) the Commission considered this communication together with the information provided by the Government of Uruguay and decided the following:

- a) To address a note to the Government, transmitting to it the pertinent parts of the reply received from the claimant;
- b) To address a note to the Government requesting a copy (or photocopy) of the complete proceedings and of the autopsy report (Zabalzaray case) ;
- c) To file without prejudice the case of Juan Felipe Gómez, Rubén Bello and Agustín Tapia, and
- d) To separate the material pertaining to Mr. Humberto de los Santos Viera as a separate case.

[10] Pursuant with this decision, the Commission addressed the Government of Uruguay through a note dated October 24, 1975. A copy of that note was transmitted to the Uruguayan Mission to the OAS on October 28, 1975. The claimant was informed of this decision through a letter of January 26, 1976.