

Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1967
Session:	Forty-Second Session (31 October – 12 November 1977)
Title/Style of Cause:	Alvaro Balbi v. Uruguay
Doc. Type:	Resolution
Decided by:	President: Mr. Andrés Aguilar Vice-President: Carlos A. Dunshee de Abranches Members: Tom J. Farer, Gabino Fraga, Carlos García Bauer, José Joaquín Gori and Fernando Volio Jiménez
Dated:	12 November 1977
Citation:	Balbi v. Uru., Case 1967, Inter-Am. C.H.R., OEA/Ser.L/V/II.43, doc. 21, corr. 1 (1977)
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WHEREAS:

[1] In communications dated August 5 and 16, 1975, it was denounced that a young man, Alvaro Balbi, had died in prison;

[2] The Inter-American Commission on Human Rights, in a note dated August 8, 1975, transmitted the pertinent parts of the denunciation to the Government of Uruguay and requested that it provide the appropriate information;

[3] Not having received a response from that Government, the Commission repeated its request for information by a note dated October 14, 1975;

[4] The IACHR, at its 36th session, decided to forward to the Government the pertinent parts of additional information provided by the claimant;

[5] The Commission, in a note dated December 1, 1975, transmitted to the Government of Uruguay the pertinent parts of that additional information:

"Alvaro Balbi, office worker, 30 years of age, married, and father of four children. He was arrested by the police on July 29, 1975, together with the other participants in a meeting (to which reference will be made in the points to follow). He was taken to the barracks of the Coraceros (Avenida Battle y Ordoñez), where he died within 24 hours of his arrest. His body was turned over to his relatives, who were given contradictory and improbable explanations: asthma due to the cold (the victim did not have that illness and had a coat with him), a traffic accident, and others. According to the death certificate, the military physician diagnosed his death as a result of a cardiovascular crisis. The external part of his body showed obvious signs of violence, visible to a number of individuals who attended the wake and in whose presence the coffin was opened. The father of the victim, Professor Selmar Balbi, filed a detailed complaint on the matter before the Civil Examining Magistrate of Fifth Term. However, this judge could

not act upon the case since the Military Court reclaimed jurisdiction from him. The background information went to the Military Judge of First Instance and after that nothing further happened: no investigation is under way nor has any punishment (criminal or administrative) of any kind been applied."

[6] The Government, in a note dated May 20, 1976, reported the following to the Commission:

"Alvaro Balbi, was arrested on July 29, 1975, during a clandestine meeting of the Secretariat of Region 3 of the proscribed Communist Party with other important leaders, who were responsible for the many documents on the disruptive activities that that illegal group had been carrying out. He was confined in a local police station on July 31, 1975, without a guard within sight but with a guard posted outside and periodic control checks; at one point, an officer entered the cell and found Balbi fallen face forward, doubled over, with his knees and elbows supported on the ground, at a distance of some four or five meters from the place where the chair on which he had been left sitting had been; he was apparently dead. The Military Examining Judge of the First Term was immediately asked to intervene and appeared on the premises accompanied by the forensic physician. The acting magistrate ordered that the autopsy be conducted and that the corresponding summary proceedings begin."

The autopsy was conducted by Professor Dr. José A. Mautones who established the cause of death as "acute pulmonary cardiac insufficiency due to stress" on the corresponding death certificate. On August 29, 1975, at the prosecutor's request, the Military Examining Magistrate of the First Term ordered the proceedings closed, in accordance with the provisions of Article 245 of the Military Criminal Procedure Code.

The proceedings were sent to the Supreme Military Tribunal by the Military Judge of First Instance of the Fourth Term, who on December 30, 1975, ordered that the proceedings be closed."

[7] The Inter-American Commission on Human Rights, at its 39th session, continued its examination of the case, together with the information provided by the Government of Uruguay, and decided to request that Government to send a copy of the complete autopsy conducted on the deceased, Mr. Alvaro Balbi;

[8] The Commission forwarded that decision to the Government of Uruguay through a note dated March 3, 1977, and requested the corresponding information in the following words:

"In fulfillment of that decision, we ask that Your Excellency be so kind as to take such measures as you may deem appropriate so that the Commission might have the requested information as soon as possible in order that it might be considered at its next session."

[9] To date, the Government of Uruguay has not provided the Commission a copy of the complete protocol of autopsy conducted on the deceased, Mr. Alvaro Balbi, and

[10] Article 51.1 of the Regulations of the Commission establishes the following:

"Article 51

1. The occurrence of the event 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 5.1 of the Regulations, to presume the events denounced in connection with the death of Mr. Alvaro Balbi to be confirmed, which are:

"The corpse of Alvaro Balbi showed externally obvious signs of violence."

2. That there is strong evidence to the effect that Mr. Alvaro Balbi, 30 years of age, who had been detained by the authorities and was found dead two days later in prison, died as a consequence of acts of violence, which the Commission presumes to be true.

3. To point out to the Government of Uruguay that the events denounced constitute very serious violations of the right to life, liberty and personal security (Article I of the American Declaration of the Rights and Duties of Man); to the right to a fair trial (Article XVIII); and to the right to due process of law (Article XXVI).

4. To recommend to the Government

a) that it order a thorough and impartial investigation to determine who is responsible for the events denounced and, in accordance with Uruguayan law, that it punish those responsible for those acts;

b) that it report to the Commission on the measures taken to implement the recommendations contained in the preceding section, within a period of no more than thirty days.

5. To forward this resolution to the Government of Uruguay and to the claimants.

6. To include this resolution in its Annual Report to the General Assembly of the Organization (Article 9 (bis) c, iii of the Statute), if within thirty days the Government has not advised the Commission of the measures it has adopted to carry out the investigation recommended under operative paragraph 3.

Adopted at the 555th meeting, November 12, 1977 (42nd Session) and forwarded to the Government of Uruguay on November 17, 1977.