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Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 2662
Session:	Forty-Sixth Session (5 – 9 March 1979)
Title/Style of Cause:	Alberto Samuel Falicoff v. Argentina
Doc. Type:	Resolution
Decided by:	Chairman: Carlos A. Dunshee de Abranches Vice-Chairman: Tom J. Farer Members: Carlos García Bauer; Marco Gerardo Monroy Cabra. Andrés Aguilar, Gabino Fraga and Fernando Volio Jiménez were unable to attend for either personal or health reasons.
Dated:	5 March 1979
Citation:	Falicoff v. Arg., Case 2662, Inter-Am. C.H.R., OEA/Ser.L/V/II.47, doc. 13 rev. 1 (1978)
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## BACKGROUND:

1. In a communication dated March 7, 1978, the Commission received public testimony on the arrest, imprisonment and torture of Mr. Alberto Samuel Falicoff by security forces. This took place at his home, in the presence of his wife, who was also detained and subsequently released. Mr. Falicoff signed the testimony in reference.

2. In a note dated April 5, 1978, the Commission transmitted to the Government of Argentina the pertinent parts of this denunciation, and asked it to provide the corresponding information. The public testimony in reference was attached.

3. In a note of May 5, 1978, the Government of Argentina replied to the Commission, but failed to refer to the events denounced, and reported in the following terms:

"...

B. Persons on whom there is no record of arrest, and whose present situation and whereabouts are unknown:

...

26. FALICOFF, Alberto Samuel (Case 2662).

...

75. CORNALEA DE FALICOFF, Estela Maria (Case 2662).

4. In a note of May 4, 1979, the Commission transmitted to the Government of Argentina additional information submitted by the complainant, and repeated its request for additional information. The Government has not yet responded.

5. The Commission transmitted to the complainant the pertinent parts of the information provided

by the Government of Argentina, and asked her to make observations on the response.

6. In a letter dated September 7, 1978, the complainant repeated the initial denunciation, but it was based on points that were from Mrs. Falicoff's public testimony, once she had been released and was living in London.

7. In a note of April 5, 1977, the Commission requested the Government of Argentina to provide additional information on the events, and to add any points that would enable the Commission to assess whether or not domestic legal remedies had been exhausted; the Government's silence on this matter might lead to the conclusion that there are no more domestic remedies to be exhausted.

8. On March 5, 1979, the Commission sent a cable to the Government of Argentina, reiterating its urgent request made in its note of May 4, 1978, and asking for a reply prior to March 10, 1979. The Government of Argentina did not provide the Commission with the information requested.

#### WHEREAS:

1. In light of the background information given above, it is deduced that Mr. Alberto Samuel Falicoff and his wife Estela Maria Cornalea de Falicoff were arrested and tortured by agents of the Government of Argentina, who are still holding Mr. Falicoff;

2. The Government of Argentina has failed to mention the events specifically denounced, and particularly the note of May 4, 1978, transmitted by the Commission;

3. Article 51.1 of the Regulations of the Commission provides as follows:

#### Article 51:

The occurrence of the events 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 51.1 of the Regulations, to presume the material facts of the denunciation to be confirmed, as regards the arrest and torture of Alberto Samuel Falicoff and of his wife Estela Marla Cornalea de Falicoff.

2. To declare that the Government of Argentina violated the right to life, liberty and personal security (Article I); the right to a fair trial (Article XVIII) and the right of protection against arbitrary arrest (Article XXV) of the American Declaration of the Rights and Duties of Man.

3. To recommend to the Government of Argentina:

a) that it order a complete, impartial investigation to determine responsibility for the events denounced;

b) immediately to release Mr. Alberto Samuel Falicoff, or if appropriate, and if justified, to submit him to due process of the law, and guarantee him that the conditions of his imprisonment do not violate his right to humane treatment, upheld in Article XXV quoted above;

c) to sanction those responsible for the events denounced, under Argentina law;

d) to inform the Commission within a maximum of 60 days as to the measures taken to put into practice the recommendations contained in the present Resolution.

4. To communicate this Resolution to the Government of Argentina and to the claimant.
5. To include this Resolution in the Annual Report to the General Assembly of the Organization of American States pursuant to Article 9 (bis), paragraph c. iii of the Statute of the Commission, without prejudice to the Commission's being able to reconsider the case at its next session, in the light of such measures as the Government may have taken.

(Approved at the 607th Meeting of March 5, 1979 (46th session) and transmitted to the Government of Argentina on March 23, 1979).