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Title/Style of Cause:	Rosa Ana Frigerio v. Argentina
Doc. Type:	Resolution
Decided by:	Chairman: Mr. Andrés Aguilar; First Vice Chairman: Luis Demetrio Tinoco Castro; Second Vice Chairman: Marco Gerardo Monroy Cabra; Members: Carlos A. Dunshee de Abranches; Tom J. Farer; Francisco Bertrand Galindo; César Sepúlveda
Dated:	09 April 1980
Citation:	Frigerio v. Arg., Case 3358, Inter-Am. C.H.R., Report No. 12/80, OEA/Ser.L/V/II.50, doc. 13 rev. 1 (1979-1980)
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BACKGROUND:

1. The Commission received the following denunciation in a letter dated June 18, 1978:

“Rosa Ana Frigerio, aged 20, a student of agronomy, was arrested in her parents' house, Olavarría 4521, Mar del Plata, on August 25, 1976. At that time, she was confined to her bed and was unable to move on her own for the following reason:

In April 1976, Rosa Ana entered the '25th of May' Clinic in Mar del Plata, where she underwent an operation on her spinal column, as a result of an accident that occurred on August 24, 1974 when she was coming back from the university. When they took her away, she was wearing a plaster cast, and so they carried her out on a stretcher and took her away in an ambulance from the Naval Base in Mar del Plata, where she remained. Family members went there regularly to find out about her state of health, because when she had been taken away, she was still in a delicate state after her operation; she had a serious infection and seven blood transfusions, but they took her away nonetheless.

When members of her family went to the Naval Base, they were told that they would be advised when they would be able to see her. This never happened. They were never able to see her, nor were they able to take her any clothes, since when they took her away, she only had on her plaster cast. Whenever they went, authorities told them that she was fine but they were never able to verify this.

But at the end of 1976, the authorities at the Naval Base were changed, and from that time on, for what reason I do not know, they were told that she was not being detained there. A writ of habeas corpus was then filed (photocopy attached) on which a reply was received on March 1, 1977, to the effect that she was being held at the disposal of the Executive (PEN).

This means, then, that Rosa Ana was on the Naval Base up to the first days of March 1977, more than seven months.

What happened next was this: On March 23, 1977, Rosa's parents summoned to an interview with the Commander of the Navy Base and other individuals. After some talk about Rosa, the Commander told them that Rosa had died in a confrontation, that the country was at war, and that Rosa knew people. He

gave them a note (photocopy attached) showing the number of her grave.”

2. In a note dated December 30, 1978, the Commission transmitted the pertinent parts of this denunciation to the Government of Argentina, asking it to supply the corresponding information.

3. During its on-site observation in Argentina in September 1979, the Commission heard testimony from the claimants, and further information on the initial data received. The text read, as follows:

"On August 25, 1976, Rosa Ana FRIGERIO, aged 20 years, was arrested in her parents house located at Olavarría 4521, Mar del Plata, Province at Buenos Aires.

The victim, who was a student of Agronomy at INTA, located in Balcaro and a branch of the National University of Mar del Plata, had been in an automobile accident when coming from that city to Mar del Plata on August 24, 1974. As a result of that accident, she suffered injury to her spinal column, the attending physician recommended an operation. The operation took place on April 26, 1976. Following hospitalization, which lasted for three months because of an infection, she was given a graft. During this period her condition was serious. Around July of that year she returned home wearing a plaster cast from the waist to below the knee, with the result that except for her arms she was completely immobilized. Such was her condition on the day she was arrested. On at least three occasions earlier, personnel who said they belong to the security forces had come to the victim's house to interrogate her, which they did with no one else present. Finally, on August 26, five or six civilians came with an ambulance, and took her away on a chair. They told the claimant and her mother that they were taking her to the Naval Base in Mar del Plata. While the victim was hospitalized in the sanatorium, other persons who also said they came from the security forces searched her room without apparently finding anything of interest.

Following the transfer, the complainant went to the Naval Base several times; there he was given evasive answers in the guard-room. On September 10 the complainant received a telephone call from the Base, from a lieutenant judge-advocate, who told him that his daughter was being held at the Base at the disposal of the Executive. From then on the complainant frequently went to the Base where he was received by various officers, including the above-mentioned judge-advocate and other officers, including the officers.

In late 1976 the commandants and officers of the Base were changed. From then on the complainant began to be told that Rosa Ana was not at the Base; he was not received by any senior officer, apparently because the previous ones had been changed.

In view of these circumstances, the complainant filed a writ of habeas corpus in February 1977 with the federal Court of Mar del Plata (Judge Ana María Teodori). In connection with that action, which bears the number 768, a communication was received on March 1, 1977 from the Base Commander, which reads as follows: "I am pleased to inform you with respect to your official letter on March 3, 1976, issued in Case No 768, entitled 'Contessi de FRIGERIO, Antonieta s/filing of a writ of habeas corpus in favor of FRIGERIO Rosa Ana', that this person is being held at the disposal of the Executive because she is guilty of involvement in subversive activities." The Communication is dated February 25, 1977.

On March 31, 1977, the complainant received a summons from the Navy telling him that he should appear on the following day by order of the Commander of that unit. On appearing the following day at 9 a.m. the claimant was received by the above-mentioned Commander, who was accompanied by a captain. The Commander told him something along the following lines: "Rosa Ana is (or was) held at the Base and has been killed by her comrades in a confrontation that took place on March 8."

Since he was not satisfied with the reply, the complainant went to the Civil Registry Office one month later and obtained a death certificate that states that Rosa Ana had died from "cardiac arrest, cardiothoracic traumatism." That is to say, a cause of death completely different and inconsistent with the cause given by the Commander; this gave rise to other doubts.

On March 31, the above-mentioned officers delivered to the complainant an unsigned paper stating: "Parque Cemetery, Grave 1133 - Temporary Burial Section, sector 'B'. They told him that the victim was buried at that place. The claimant has endeavored to obtain the exhumation of the body in order to verify

the accuracy of what he was told by the above-mentioned officers, but so far has been unsuccessful. During the above-mentioned interview, the complainants reacted violently, and told the officers they were talking to that they had killed Rosa Ana and the officers did not reply. The captain merely said that the country was at war and the victim "knew people."

4. This information was brought to the attention of the Government in the preliminary report that the Commission submitted to the Government of Argentina in December 1979.

5. In a note received by the Commission on March 27, 1980 the Argentine Government replied as follows:

In reply to the communication to the Government of Argentina from the Inter-American Commission on Human Rights, relating to the above-mentioned case, we wish to inform you of the following:

That Rosa Ana Frigerio was arrested by legal forces in August 1976; this action and the place of detention was made known to her relatives by official reports provided by the corresponding authorities. The purpose of the arrest was to investigate her possible links with a group of terrorists. Because the person concerned confessed that she was a member of that group but had not committed offenses and also because of her decision to leave it and to collaborate by providing information, the authorities detaining her considered it necessary to protect her and similarly her family by not informing them of her situation because of the possibility that they might be attacked by the terrorist organization to which Rosa A. Frigerio had belonged, as a reprisal for her defection.

Accordingly, Rosa Ana was kept in an establishment where she collaborated with the personnel responsible for counter-terrorist activities.

On March 8, 1977, on the basis of information obtained by the authorities a number of visits were made to places which Rosa Ana Frigerio and another detainee had stated were hideouts of the terrorist group and places where weapons and explosives were stored. On that occasion, the two detainees accompanied the legal forces and, on arriving a short distance from a house they pointed out in Calle Mario Bravo on the corner of Esteban Echeverría, Mar del Plata, Province of Buenos Aires, they were met with a heavy volley of gunfire from large caliber weapons coming from the interior of the house, which caused the death--in situ--of Rosa Ana Frigerio. In the same operation the other detainee died and an officer was seriously wounded. It should be stated that neither of the circumstances were reported at that time through the normal information media because tactical measures of counter information were in force.

Subsequently, the authorities informed the family of Rosa Ana Frigerio of what had happened and told them where her body was buried. It should be noted that on April 25, 1979 the Federal Judge of Mar del Plata authorized the family to exhume the body of Rosa Ana Frigerio and take it to whatever cemetery they wished, although so far this transfer has not taken place.

This regrettable episode, which is typical of the unconventional attack to which Argentina has been subject, should be construed within the framework of a struggle which the entire Argentine people as well as its authorities had to wage against the terrorists.

WHEREAS:

1. The above-mentioned information shows that Miss Rosa Ana Frigerio was detained by legal forces on August 25, 1976 and was so detained when she died on May 8, 1977.

2. The reply of the Government of Argentina does not elucidate the facts reported nor does it deny the allegations made by the claimant.

3. The Government of Argentina has not provided the Commission with any information that enables it to conclude that a legal investigation on the case took place to elucidate the confused circumstances in which Miss Rosa Ana Frigerio died.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLVES:

1. To observe to the Government of Argentina that such acts constitute very serious violations of the right to life, liberty and personal security (Art. I); of the right to a fair trial (Art. XVIII) and of the right of protection from arbitrary arrest (Art. XXV) of the American Declaration on the Rights and Duties of Man.
2. To recommend to the Government of Argentina:
 - a. that it order a complete, impartial investigation to identify the perpetrators of the acts reported;
 - b. that it punish the persons responsible for those acts in accordance to the laws of Argentina; and
 - c. that it report to the Commission within a period of not more than sixty days on the steps taken to implement the recommendations included in this Resolution.
3. To transmit this Resolution to the Government of Argentina and to the claimants.
4. To include this Resolution in the Annual Report to the General Assembly of the Organization of American States, pursuant to Art. 9 (bis), paragraph c iii, of the Statute of the Commission, although the Commission, in the light of the steps taken by the Government of Argentina, may reconsider the decision adopted.