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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 5/83; Case No. 7319
Session:	Fifty-Ninth Session (6 – 15 April 1983)
Title/Style of Cause:	Juan José Munguía Medina v. Nicaragua
Doc. Type:	Resolution
Decided by:	Chairman: Marco Gerardo Monroy Cabra; First Vice-Chairman: Cesar Sepulveda; Second Vice-Chairman: Luis Demetrio Tinoco Castro Members: Andres Aguilar; Tom J. Farer; Francisco Bertrand Galindo
Dated:	15 April 1983
Citation:	Munguía Medina v. Nicar., Case 7319, Inter-Am. C.H.R., Report No. 5/83, OEA/Ser.L/V/II.61, doc. 22 rev. 1 (1982-1983)

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BACKGROUND:

1. On February 6, 1980 the following complaint was presented to the IACHR:

We denounce the arrest of Mr. Juan José Munguía Medina, chief of a shrimp hatchery in the city of Chinandega, Nicaragua. The victim is 33 years old. He was captured on July 24, 1979, in the city of Chinandega and remained for 5 days at the Command Post located in the Cosiguina Hotel, under the authority of Comrade Hernán and his assistant Comrade Carolina. He was then taken from there to an unknown destination. Since then, no one knows the whereabouts of Juan José. To date, we have visited all the jails in Chinandega as well as in Managua without positive results. We fear for his life.

2. In a written communication of June 10, 1980, the Commission transmitted the pertinent parts of this complaint to the Government of Nicaragua, requesting that it provide the appropriate information.

3. In a written communication of January 27, 1981, the Commission reiterated the request for information to the Government of Nicaragua indicating that if that information was not provided within the legal deadlines established, the facts reported in the petition, whose pertinent parts have been transmitted to the government, would be presumed to be true, in application of Article 39 of the Regulations.

CONSIDERING:

1. That, to this date, the Government of Nicaragua has not responded to the Commission's requests for information relating to the foregoing case.

2. That from the absence of an answer by the Government of Nicaragua to the Commission's requests for information, it is inferred that there are no grounds to hold the hearing to reach an amicable settlement as provided for in the Commission's Regulations.

3. That Article 39 of the Regulations establishes the following:

Article 39
The facts reported in the petition whose pertinent parts have been transmitted to the government of the state in reference shall be presumed to be true if, during the maximum period set by the Commission under the provisions of Article 31, paragraph 5, the government has not provided the pertinent information, as long as other evidence does not lead to a different conclusion.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLVES:

1. Based on Article 39 of the Regulations, to presume to be true the facts denounced in the communication dated February 6, 1980, with respect to the arrest and disappearance of Juan José Munguia Medina.

2. To declare that the Government of Nicaragua violated Article 4 (right to life), Article 7 (right to personal liberty) and Article 8 (judicial guarantees) of the American Convention on Human Rights.

3. To recommend to the Government of Nicaragua that it conduct the most exhaustive investigation to determine those responsible for the denounced facts, in order that the corresponding legal sanctions be applied, and communicate to the Commission, within sixty days, the decision adopted.

4. To communicate this resolution to the Government of Nicaragua and to the complainants.

5. If the Government of Nicaragua does not submit its observations by the expiration of the deadline established in paragraph 3 of this resolution, the Commission will include this resolution in its Annual Report to the General Assembly of the Organization of American States, in accordance with Article 59, paragraph (g) of the Commission's Regulations.