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Institution:	Inter-American Commission on Human Rights
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Session:	Sixty-Third Session (24 September – 5 October 1984)
Title/Style of Cause:	Vladimir Roslik v. Uruguay
Doc. Type:	Resolution
Decided by:	Chairman: Mr. César Sepúlveda; First Vice Chairman: Dr. Luis Demetrio Tinoco Castro; Second Vice Chairman: Dr. Luis Adolfo Siles Salinas; Members: Dr. Andrés Aguilar; Dr. Marco Gerardo Monroy Cabra; Dr. Gilda Maciel Russomano; Mr. Bruce McCollm
Dated:	03 October 1984
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## BACKGROUND:

1. On April 19, 1984, the Inter-American Commission on Human Rights cabled the Government of Uruguay to transmit the following denunciation that had been received by telephone:

CASE 9274 - INTER-AMERICAN COMMISSION ON HUMAN RIGHTS HAS RECEIVED THE FOLLOWING DENUNCIATION: "IN THE EARLY MORNING OF APRIL 15, 1984, TEN PERSONS WERE ARRESTED IN SAN JAVIER AND REMOVED TO THE NINTH CAVALRY REGIMENT IN FRAY BENTOS. ON APRIL 16, THE WIFE OF CITIZEN AND SURGEON VLADIMIR ROSLIK WAS INFORMED THAT HER HUSBAND HAD DIED. THE COMMANDER IN CHIEF OF THE ARMY DECLARED THAT MISTER ROSLIK HAD BEEN DETAINED FOR QUESTIONING AND THAT HE DIED OF CARDIAC ARREST. THERE IS CONCERN FOR THE SAFETY OF THE OTHER DETAINEES: ESTEBAN BALACHIR, ROMAN KLISOV, JUAN CHAMALOV, PEDRO MARSCENIOK, BASILIO JACINA, GMORENKI AND THREE OTHERS."

WE REQUEST THAT YOUR EXCELLENCY KINDLY SUPPLY THE INFORMATION YOU DEEM APPROPRIATE AT YOUR EARLIEST CONVENIENCE. WE WISH TO ADVISE YOUR EXCELLENCY THAT ACCORDING TO ARTICLE 31 OF THE REGULATIONS OF THE COMMISSION, THIS REQUEST FOR INFORMATION DOES NOT CONSTITUTE A PREJUDGMENT ON THE ADMISSIBILITY OF THE PETITION.

I TAKE THIS OPPORTUNITY TO CONVEY TO YOUR EXCELLENCY THE EXPRESSIONS OF MY HIGHEST CONSIDERATION.

CESAR SEPULVEDA EDMUNDO VARGAS CARRECO  
CHAIRMAN EXECUTIVE SECRETARY

2. On May 8, 1984, the Commission sent the Government of Uruguay the following additional information that has been received from the claimants:

The death of Vladimir Roslik was not due to natural causes, nor to an accident while undergoing torture. Vladimir Roslik, a 35-year-old physician, was arrested on April 14, 1984, by members of the Uruguayan army and his corpse was returned to his family two days later.

Some days ago, an autopsy carried out at the request of the family by a medical team that included representatives of the relatives of the deceased confirmed that the death had been brought about by torture. According to the claimants, the autopsy revealed that Roslik's lungs contained water and presented signs of asphyxia resulting from immersion; this pointed to the fact that he had been subjected to a form of torture known as THE SUBMARINE, which consists of submerging the victim in buckets of water.

They added, however, that the vast amount of water found in the lungs confirmed that it had not been caused by an unexpected development during a torture session, for experience with other deaths caused by the SUBMARINE torture shows that the victims' lungs never retain such a large volume of water.

The conviction that death resulted from torture was arrived at on the basis of the conclusions reached by the five doctors in charge of the autopsy: Doctors Mojoli, Montaubam, Burgel, Zuast and Laluz. The five physicians all agreed that the Mr. Vladimir Roslik's corpse showed unmistakable signs of having been subjected to diverse forms of extreme violence.

3. In the months that followed, the Commission continued to receive additional denunciations concerning these same facts under investigation. Furthermore, since the case had aroused much interest among the press, the Commission was urged to demand of the Uruguayan Government "an urgent public explanation and an exhaustive investigation to define responsibilities in this case."

4. On May 16, 1984, the Commission received the following written report in support of the previous telephoned denunciation by the claimants regarding Dr. Roslik's arrest and death:

It is reported that at approximately 4:00 a.m. on Sunday, April 15, 1984, a military command from the 9th Cavalry Regiment of Fray Bentos, the capital of the Department, came to the home located in Colonia San Javier (Riño Negro, Uruguay), in order to arrest Vladimir Roslik.

Husband and wife were resting with their 4-month-old son. When they rang the bell, the husband got up and opened the door. There he was informed by the officer in charge of the unit that they had come to arrest him for questioning. He got dressed and, without offering any resistance, was hooded and led away in handcuffs by the soldiers.

The members of the command made a rapid search of the house and, on being asked what they were looking for, answered that they had come to see if there were any arms. They found nothing and all they took away was a medical kit belonging to Roslik, who was a doctor and practised medicine in that area.

Later on, when she realized that Roslik was not carrying any documents, Mrs. Roslik went to the Police Station and handed her husband's identity card to the officer who had taken part in the process. She was there informed that the events under investigation occurred before 1980. She expressed concern at that, for her husband had been arrested at that time and subjected to torture by the same unit, being tried by the Military Justice for the crime of Aiding the Subversive Association.

On Monday, April 16, at 6:00 a.m. they informed her through the Police Station that she could come by the Fray Bentos Hospital to take away her husband's body, for he had died. Once in the hospital, she demanded an explanation of what had happened from Dr. Sainz, the doctor of the Fray Bentos Barracks, without obtaining any reply. From what the nurses told her, her husband was already dead upon arrival at the hospital. An autopsy was performed there, the findings of which are as shown on the death certificate.

She immediately asked the Commanding Officer for a new autopsy, to be performed by doctors who could offer some guarantees; thus was authorized. She then spoke with Dr. Jorge Burgel in

Paysandu and travelled to Paysandu with her husband's body. The second autopsy, performed with judicial authorization, took place in the Morgue with Dr. Burgel's participation. The results of the autopsy were not made known to her at the time, but she was aware that minutes had been taken whose contents were kept confidential for the time being.

5. A copy of the death certificate issued by the military physician, Dr. Eduardo Sainz, certifying that the cause of death resulted from a "cardiac-respiratory arrest", was submitted to the IACHR as evidence together with the above additional information. The certificate in question has several formal errors. It does not show the time, date or place of death; it does not state whether an autopsy was performed; it does not indicate whether death occurred in a public institution and neither does it bear the signature of the physician who attended Roslik.

6. This additional information was transmitted to the Uruguayan Government on June 4, 1984, with the request that it provide a copy of the autopsy performed on doctor Roslik within a term of 60 days. The Uruguayan Government did not respond to this new request for information, despite the fact that it was repeated in a note dated July 9, 1984, which also notified the Government of the possible application of Article 30 of the Regulations of the Commission, if the information requested was not received within a reasonable period of time.

7. At the same time, the Commission also asked the claimants for a copy of the autopsy performed, in a letter dated June 4, 1984.

8. In a communication dated September 10, 1984, the claimants provided copies of the autopsies performed on Doctor Roslik.

#### WHEREAS:

1. The period of time specified in Article 31 of the Regulations of the Commission has elapsed without a reply from the Uruguayan Government to the request for information made by the Commission by cable dated April 19, 1984 and repeated in communications dated June 4 and July 9, 1984, all of which leads to the assumption that there are no domestic remedies to be exhausted.

2. Article 39 of the Commission's Regulations provides as follows:

#### 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.

3. The remaining facts support the conclusion that the events denounced truly occurred, as shall be seen below.

a) The forensic doctor, Dr. Eduardo Sainz, "supernumerary police physician" carried out the first autopsy on April 16, 1984, at 5:45 a.m., at the Fray Bentos Hospital. Dr. Sainz' conclusion was as follows: "To summarize: the autopsy only reveals very slight, unspecific signs of asphyxia, without violence, compatible with a death resulting from cardiac-respiratory arrest."

b) The second autopsy was performed in Paysandu, also on April 16, 1984, at 17 hours, by Aníbal J. Mojoli, public service physician, Dr. Adolfo Maontauban, physician of the Police Health Department, and Dr. Gonzalo Zuast, the Public Service Supernumerary. The second autopsy was carried out in the presence of Doctors Eduardo Laluz and Eduardo Sainz, physicians of the Military Health Department, and Dr. Jorge Burgel, who attended at the request of the family. The second autopsy found "direct and indirect signs of asphyxia"; according to this autopsy "cause of death: acute anaemia; asphyxia syndrome". In a second autopsy performed under the conditions stated, it is impossible to determine which of these two elements was responsible, or whether their damage-inducing association may have

been ultimate cause of death."

c) On April 17, 1984, Dr. Eduardo Sainz made a study of the signs observed in both autopsies and concluded as follows: "Hepatic docimasy should have been present if we speak of acute anaemia. The elements of asphyxia are unspecific and are to be found in death from cardiac-respiratory arrest." On April 19, 1984, doctors Montaubanm Zuasti and Mojoli responded to a request from the Court by insisting that "In the autopsy report issued earlier by the undersigned, it is clearly stated that signs of an asphyxia syndrome are present and not that death was caused exclusively by asphyxia, but rather that the association of the lesions found concurred, through acute anaemia and asphyxia syndrome, and determine the ultimate causes of death."

4. On May 7, 1984, doctors Jose Mutone and Augusto Soisa, appointed forensic doctors by writ of the Military Tribunal of the 5th Instance, concluded as follows:

In view of the foregoing and in reply to the questions posed by the Judge, we conclude that:

1. It was a violent death brought about by multiple causes:

a) a fluid similar in aspect to that found in the stomach had entered the bronchial tubes; when the subject inhaled it while still alive, this fluid obstructed the windpipe and resulted in acute asphyxia, which quickly proved fatal.

b) there was a laceration in the liver, like a sub capsular hematoma, that resulted in a withdrawal of blood from the general circulation.

c) the marks of multiple superficial and deep traumatisms were detected.

2. All of the above causes contributed to bring about death; they are so interrelated that it is impossible to separate them.

3. The external and internal signs on the corpse that are the basis of these conclusions have been described in the transcripts of the autopsy reports and the forensic medical considerations to which we refer.

a) Although it is not prudent in forensic medicine to deduce functional facts on the basis of physiological (...) and psychological (...) substantiations, any sudden intake of liquid into the windpipe, however slight, may, besides bringing on asphyxia as a result of the obstruction of the windpipe, also lead to an unleashing of abnormal reflexes from the larynx and the bronchial tubes which, upon clashing against the vital centers (respiratory, cardiovascular), could end in a respiratory arrest.

b) the withdrawal of blood from the general circulation acts with great speed and because of its volume (the loss of one liter of blood is more serious if it occurs over a period of hours than days) has the effect of a clashing accident, acting as an additional injury that further destabilizes the condition of the individual.

c) it is understood that in a state of critical lack of equilibrium and danger to life any other lesion, however insignificant of itself, will contribute to aggravation and death.

These experts believe that all of these causes acted to a greater or lesser degree to bring about such a state of organic disequilibrium that they finally led to the death of the individual.

5. On May 29, 1984, Col. Federico Silva Ledesma, President of the Supreme Military Court, at a press conference publicly confirmed the indictment of two army officers charged with the death of Dr. Vladimir Roslik. The indictments were drawn up on the basis of half proof of the alleged crimes. The names of the officers were not revealed, but the press indicated that they are the Head of the Fray Bentos Barracks, Col. Mario Olivera, and Major Sergio Caubarrere, who directed the operation carried out on April 15 in San Javier. One of the officers was indicted for "ultra intentional homicide" and the other for "irregularities in the service". Up to now, September 1984, it is not known whether sentence has been passed in either of these two trials.

6. The results of the first autopsy were contradicted by the second one which was carried out the same day of Dr. Roslik's death at the request of his relatives. The analysis submitted to the Court concludes that Dr. Roslik's death was caused by violent acts which were not refuted by the Government, since Col. Silva Ledesma himself acknowledged the Government's responsibility when he announced on May 29, 1984, that two officers had been indicted because of that death.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To consider that enough facts exist to demonstrate that the Government of Uruguay is responsible for the torture and death of Dr. Vladimir Roslik.
2. To declare that such an act and the way in which it was carried out constitute a grave violation of Article I (Right to life, liberty and personal security), Article IX (Right to inviolability of the home), Article XVIII (Right to a fair trial) and Article XXV (Right of protection from arbitrary arrest) of the American Declaration of the Rights and Duties of Man.
3. To recommend that the Government of Uruguay inform the Commission of the results of the investigation and the punishment applied to the parties responsible.
4. To transmit this Resolution to the Government of Uruguay.
5. If the Government of Uruguay does not supply information regarding the measures adopted within 90 days, the Commission shall include this Resolution in the Commission's Annual Report to the General Assembly, pursuant to Article 59 (g) of the Regulations of the Commission.