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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 26/91; Case No. 10.113
Session:	Eighty-First (3 – 14 February 1992)
Title/Style of Cause:	Domingo Morente Gomez v. Guatemala
Doc. Type:	Report
Decided by:	Chairman: Marco Tulio Bruni Celli; First Vice Chairman: Oscar Luján Fappiano; Second Vice Chairman: Michael Reisman; Members: Oliver H. Jackman; Leo Valladares Lanza; Patrick L. Robinson; Alvaro Tirado Mejía.
Dated:	04 February 1992
Citation:	Morente Gomez v. Guat., Case 10.113, Inter-Am. C.H.R., Report No. 26/91, Ser.L/V/II.81, doc. 6 rev. 1 (1991)
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BACKGROUND:

1. The petition received by the Inter-American Commission on Human Rights on October 26, 1987, to the effect that:

On October 22, 1987, at 2:00 in the morning, in the La Vega district, Sacualpa, Quiche, Domingo Morente Gomez, a peasant, 46 years of age, married and the father of six children, was taken away by uniformed members of the army. They took him to the military post in the area. He was also vice president of the village Catholic group. The army fired their weapons to disperse the eyewitnesses. The apparent motive for the abduction was that he asked to patrol 12 hours in the civil defense patrols, rather than the 24 hours that they wanted him to patrol.

2. The transmission of this complaint to the Government of Guatemala, via cable, on October 26, 1987, requesting that it provide any information it considered relevant.

3. The copy of the cable and of the pertinent parts of the complaint which the Commission sent to the Mission of the Government of Guatemala to the OAS.

4. The transmissions sent to the Government of Guatemala on March 18, 1988, and July 18, 1988, repeating the request sent on October 26, 1987.

5. The communication repeating the request for information, this time in a note dated July 19, 1990, reminding the Government of Guatemala that if the information was not supplied the information reported would be presumed to be true (in accordance with Article 42 of the Regulations).

CONSIDERING:

1. That the Government of Guatemala has not responded to the Commission's request for information on this case, in spite of an express written reminder.
2. That the Government's failure to respond precludes application of the friendly settlement procedure in the instant case.
3. That Article 42 of the Regulations of the Commission reads as follows:

Article 42. Presumption

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 34 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. To presume as true the facts reported in the communication dated October 26, 1987, concerning the abduction of Domingo Morente Gomez, on October 22, 1987, in the La Vega district, Sacualpa, Quiche, Guatemala.
2. To declare that the Government of Guatemala has failed under Article 1.1. of the American Convention on Human Rights to ensure the full and free enjoyment of the right to personal liberty (Article 7 of the said Convention, of which Guatemala is a State Party).
3. To recommend to the Government of Guatemala that it order an exhaustive investigation into the events denounced in order to identify those responsible and bring them to trial so that they may receive the penalties called for under the law, that it adopt the necessary measures to prevent a recurrence of such acts, and that it pay fair compensation to the victims's family.
4. To request that the Government of Guatemala advise it of the measures which it has adopted in order to evidence compliance with this recommendation within a period of 90 days.
5. To transmit this report to the Government of Guatemala, in accordance with the provisions of Article 50 of the American Convention.
6. To consider at the next regular meeting of the Commission whether the measures taken by the Government of Guatemala are in compliance with the recommendations set forth above and to decide at that time whether or not publish this report.