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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 27/91; Case No. 10.120
Session:	Eighty-First (3 – 14 February 1992)
Title/Style of Cause:	German Ventura Hernandez 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:	Ventura Hernandez v. Guat., Case 10.120, Inter-Am. C.H.R., Report No. 27/91, OEA/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 27, 1987, to the effect that:

We hereby report the capture and disappearance, on the morning of October 22, 1987, of German Ventura Hernandez (a Guatemalan refugee in Mexico), former labor leader at the Telecommunications Company, exiled in Mexico. He was taken at the El Talisman (Mexico-Guatemala) border crossing, by immigration authorities who turned him over to troops of the elite counterinsurgent Kaibiles battalion. The latter took him to some unknown destination, in a car bearing license plates No. P203232. There were witnesses to his abduction. The legal measures taken have produced no results.

2. The note of October 30, 1987, transmitting a copy of this denunciation to the Government of Guatemala and requesting that it provide the information that it deemed pertinent.

3. The note, of that same date, forwarding a copy of that letter and the pertinent parts of the denunciation to the Mission of the Government of Guatemala to the OAS.

4. The communications sent on March 18, 1988, and July 18, 1988, repeating the content of the note sent to the Government of Guatemala on October 30, 1987.

5. The note sent July 19, 1990, repeating the request for information and advising the Government of Guatemala that if that information was not supplied the facts would be presumed to be true (pursuant to 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 27, 1987, concerning the abduction of German Ventura Hernandez on October 22, 1987.
2. To declare that the Government of Guatemala has failed under Article 1.1 of the American Convention on Human Rights to ensure the free and full 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 grave acts, and that it pay fair compensation to the victim'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 provision 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 to publish this report.