

# NEWS LETTER

Number 134

April 2004

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### PARTICIPATION OF THE CNDH WITHIN THE FRAMEWORK OF ACTIVITIES OF THE 60th SESSIONS PERIOD OF THE UNITED NATIONS HUMAN RIGHTS COMMISSION

As in previous years, the Mexican National Commission for Human Rights participated in the works of the United Nations Commission for Human Rights, which took place in the city of Geneva, Switzerland, under subject 18 b of the agenda, dedicated to the National Institutions with a presentation of a report which included the main activities developed by each institution during the preceding year.

In said document, presented by the Executive Secretary of the Mexican National Commission for Human Rights, information is given on the activities and achievements attained by this Commission during the past year, drawing special attention to the reports presented to the authorities and public opinion, on situations of particular seriousness and transcendence for Mexican society, as are the homicides and disappearances of women in Ciudad Juárez, Chihuahua, and the situation of the human rights of the interns in the Detention Centers for Minors in the Mexican Republic.

In like manner, on the 13th to 15th of April within the framework of the annual meeting of the International Coordination Committee (ICC), the Mexican National Commission for Human Rights under its position as Pro Tempore Secretary of the Network of National Institutions for the Promotion and Protection of the Human Rights of the Americas, presented the activities report of this regional mechanism. During this meeting elections were held for the positions of President and Vice-President of the ICC where Mr. Morten Kjaerum, President of the Danish Institute of Human Rights, was elected as President and unanimously once again Dr. José Luis Soberanes Fernández, President of the Mexican National Commission for Human Rights was elected as Vice President.

At the end of the ICC meeting on April 17th and 18th, the third meeting of the Board of Directors of the Special Fund for the Defenders of the People and Human Rights Institutions in Latin America and the Caribbean was held, and Dr. Germán Mundaraín, Defender of the People of the Bolivarian Republic of Venezuela was elected as Secretary. Also, in this meeting the situation of the financial and action plan of the Special Fund was analyzed.

Afterwards, and considering of the presence of several members of the Iberoamerican Federation of Ombudsman (FIO) in Europe, on April 19th a meeting was held in the headquarters of the Defender of the People of Spain, in the city of Madrid in which the Executive Secretary of the CNDH participated and in which several subjects such as methodology for the next FIO Congress and future activities for the rest of the year, were discussed.

In that same city, the Executive Secretary participated in a meeting with the Secretary of the Iberoamerican Cooperation, Mr. José Alberto Lozoya, in which were analyzed possible cooperation mechanisms with the Iberoamerican Summit of Presidents and Heads of State, and finally participated in a meeting with

Mr. Virgilio Zapatero, Dean of the University of Alcalá of Henares.

### RECOMMENDATIONS

Recommendation 18/2004

April 1st, 2004

Case: Death of Mr. Abel Aranda Mendoza in the Federal Center for Social Rehabilitation Number 1 "La Palma", Almoloya de Juárez, State of México.

Authority Addressed: Federal Public Safety Secretary

On December 30th, 2003, the Mexican National Commission for Human Rights, received a written complaint from Mr. Ramel Aranda Morales, in which he stated that on December 29th of last year, he received in his home a telephone call from the Federal Center of Social Rehabilitation Number 1 (CEFERESO 1), in which he was informed that his father who at that time was interned in that establishment, had died without receiving any indication of the motives of his decease; also, he said that his father probably died because he was ill, and if this be the case, he holds responsible to the Director of the afore-mentioned Internal Center and the medical personnel, all the while that they sent medication for his father, and he was afterwards informed that these substances were in the Civil Claims Department in the Medical Service or in the Legal Department, although they had been sent weeks before the afore-mentioned intern died.

As a result of the visits undertaken by personnel of this Institution, it was proven that adequate medical attention was not given to the aggrieved during the time he was interned, and therefore he died on December 29th, 2003, violating his human rights related to life and protection of health.

Based on the above, on April 1st, 2004, this Mexican National Commission for Human Rights issued Recommendation 18/2004 addressed to the Federal Public Safety Secretary, for the purpose of authorizing the corresponding Internal Control Organ, so that it may initiate and determine an investigation to establish the administrative responsibilities which the public servants responsible for the inadequate medical attention provided Mr. Abel Aranda Mendoza incurred; that authorization be given to the Public Prosecutor's Office of the Federation that he may begin the prior corresponding investigation; that payment be ordered and made by concept of resulting indemnities, and that instruction be issued to whom ever it corresponds, so that the necessary actions be taken in the future to provide oportune and adequate medical attention to each and everyone of the interns in the Cefereso Number 1.

Recommendation 19/2004

April 1st, 2004

Case: Mr. Sergio Iniestra Gutiérrez

Authority addressed: General Director of the Mexican Social Security Institute (IMSS)

On October 3rd, 2003, this National Commission initiated file 2003/2778/1, in compliance with the complaint presented by Mr. Sergio Iniestra Gutiérrez, in which he pointed out deeds presumably in violation of the rights to the protection of health and physical integrity committed against him, by public servants of the IMSS.

From an analysis of the evidence integrating the file, enough elements where found to establish the legal origins of the grievances proven by the plaintiff since the medical attention provided to Mr. Sergio Iniestra Gutiérrez, was inadequate by not acting with due diligence which the discharge of his position requires.

Derived from the above, the Mexican National Commission for Human Rights issued Recommendation 19/2004 addressed to the General Director of the IMSS in which the following requests are made:

FIRST. Payment be ordered and made by concept of the corresponding indemnity and that the harm caused be repaired, under the terms of the consideration set forth in the body of the present document.

SECOND. The necessary documentation be delivered to the Internal Control Organ in the State Delegation of the IMSS in San Luis, Potosí for the necessary investigation of file QU/287/03/SLP; also, that these petition be authorized so that the irregularities in the integration of the clinical file, be analyzed in attention to the consideration set forth in the observations chapter of this document.

Recommendation 20/2004

April 1st, 2004

Case: Appeal presented by Mr. Jorge Humberto Chávez Jiménez

Authority addressed: Town Council of Chihuahua, Chihuahua

On September 24th, 2003, this Mexican National Commission for Human Rights, received the appeal presented by Mr. Jorge Humberto Chávez Jiménez against the lack of fulfillment, by the Municipal President of Chihuahua, of Recommendation 29/03 issued on July 10th, 2003, by the State Human Rights Commission of Chihuahua. From the analysis of the evidence, the CNDH accredits the source of the damage expressed by the appellant, since the Municipal President of Chihuahua, Chihuahua in spite of having expressed his acceptance on July 29th, 2003, has not carried out the same, and, consequently the violations to the rights of legality and legal safety persist upon not undertaking the actions suggested by the local organism to return to the person harmed his registration as contributor of the real state tax.

From the analysis of the evidence, the Mexican National Commission for Human Rights, totally coincided with the criteria maintained by the State Commission and therefore, on April 1st, 2004 this Mexican National Commission for Human Rights issued Recommendation

20/2004 addressed to the Town Council of Chihuahua, Chihuahua, so that it may instruct whomever corresponds to give fulfillment to Recommendation 29/03 issued by the State Commission of Human Rights of Chihuahua, in such a way so as to provide and undertake an effective restitution of the affected person in his rights.

Recommendation 21/2004

April 1st, 2004

Case: Appeal presented by Mr. Andrés Hernández Molina and another

Authority addressed: Town Council of Guadalupe, Nuevo León

On December 16th, 2003, this Mexican National Commission for Human Rights, initiated file 2003/473-1-1, in relation to the appeal presented by Messrs. Andrés Hernández Molina and Delfina Reyna Montejano in which they stated their unconformity for the non-acceptance of Recommendation 201/03 issued by the State Commission of Human Rights of Nuevo León on behalf of the Municipal Presidency of Guadalupe, in that federative entity, since, in their opinion upon not being accepted a lack of interest was held by the Municipal Authority in regard to the human rights of the citizens, and they indicated that possible protection to the public servants of the Secretariat of Urban Development and Ecology, was noted since these acted in a manner contrary to law.

From the analysis of the documentation it is clear for this Mexican National Commission for Human Rights, that violations existed to the rights to legality and legal safety for the undue rendering of the public service by the authorities of the Municipality of Guadalupe, Nuevo León, which is why on April 1st, 2004, this National Organism issued Recommendation 21/2004, addressed to the Town Council of Guadalupe, Nuevo León, so that they may instruct whomever corresponds to give fulfillment on its terms to Recommendation 201/03 issued by the State Commission for Human Rights of Nuevo León upon the solution of the complaint file CEDH/200/2002 and the State Commission be informed of the actions undertaken.

Recommendation 22/2004

April 2nd. 2004

Case: Appeal presented by Mr. Mario Moreno González

Authority addressed: Constitutional Governor of the State of Chiapas

On April 25th, 2003, this Mexican National Commission for Human Rights received the appeal which Mr. Mario Moreno González presented before the State Commission for Human Rights of Chiapas, against the partial non-acceptance by the Justice Attorney General's Office for the State of Chiapas and of the lack of acceptance by the Secretariat of Social Security of that entity, of Recommendation CEDH/006/203 addressed amongst others, to the Public Safety Secretary for the State of Chiapas, for not having fully comply with the precautionary measure MPC/179/2001, and in this way, violated the human rights of Mr. Mario Moreno by not guaranteeing the safety of his property, considering that violent or aggressive acts have been noticed previously, and in fact occurred, which is why the Sectorial Police did not carried out the attributions and objectives which confers the Law which regulates it.

Due to the above, this Mexican National Commission for Human Rights confirms the legality of Recommendation CEDH/006/2003 issued March 10th, 2003, by the State Commission for Human Rights of Chiapas, and recommended that the Constitutional Governor of the State of Chiapas to instruct the State Public Safety Secretary that he may proceed to give complete fulfillment to Recommendation CEDH/006/2003 issued by the State Commission for Human Rights of Chiapas.

Recommendation 23/2004

April 5th. 2004

Case: 36 Migrants of the Northern Border

Authority addressed: Military Justice Attorney General

On September 27th, 2002 and February 11th, 2003, this Mexican National Commission for Human Rights initiated complaint files 2002/2585 and its accumulated 2003/584 respectively since by means of the reports sent to this National Commission by the Attorney General's Office for Human Rights and Citizens Protection from the State of Baja California, reference was made that on June 14th, 2002 a group of 23 migrants who were trying to enter the United States of America as illegals, aboard a Suburban type vehicle, this was discovered by elements of the Mexican Army who ordered them to stop; however, upon not stopping, the military personnel fired their weapons against the vehicle in which they traveled; once upon American territory the migrants who were hurt were helped by personnel of the border patrol who transferred them to different hospitals in the United States of America.

To the deeds denounced, it was also added the written complaint of Mr. José Trinidad Valdés Bimbela in which he denounced that a group of 13 migrants on their way to the United States of America and who were travelling in a van station wagon, were intercepted on February 4th, 2004 by a vehicle Hummer type of the Mexican Army and in virtue of having refused to obey the detention order, the elements of the Army Services Institute secured them and placed them face down and single line for the purpose of obtaining the confession about the person who was driving the vehicle; they were victims of abuse such as kicks and blows with the boots and rifles of the soldiers from the Mexican Army.

Derived from the legal and logical analysis undertaken of the evidence integrating complaint file 2002/2585 and its accumulated, for this Mexican National Commission for Human Rights it was made clear that the right to legality and legal safety as well as the respect to physical integrity and human dignity, was transgressed, upon observing excessive use of force.

Due to the above, on April 5th, 2004, this Mexican National Commission for Human Rights issued Recommendation 23/2004 addressed to the Military Justice Attorney General, requesting to initiate the corresponding administrative investigation against the military personnel who intervened in such deeds; that in this regard, he authorized the Inspection and General Comptroller of the Army and Air Force, and render accounts to this National Commission on the actions practiced since the beginning of its intervention until the conclusion of the same; in like manner, the previous investigation 22M/37/2002 which on May 31st, 2000, the Agent from the Military Public Prosecutor assigned to the Second Military Zone in Tijuana, Baja California was determined with proposal of file and with due consideration to Law, be re-opened and this Mexican National Commission for Human Rights be render accounts of the acts practiced; on the other hand that issue his instructions so that the previous investigation GNTECATE/01/2003 be integrated and determined upon as soon as possible according to Law; also, that issue its instructions so that the members of the Mexican Army be instructed in the respect which they must observed to the human rights, upon applying the military normativity to the exterior of the Armed Forces and that they abstained from participating in operations of detentions of migrants, except in the collaboration cases requested specifically by the competent authorities.

Recommendation 24/2004

April 22nd, 2004

Case: Decease newborns in Comitán, Chiapas

Authority addressed: Constitutional Governor of the State of Chiapas

On January 3rd, 2003, the State Commission for Human Rights of Chiapas settled by official communication the complaint CEDH/COM/0002/01/2003 by the denouncement which appeared in a radio program of the local station in which information was given on the presumed medical negligence of the General Hospital of Comitán de Domínguez, Chiapas which during December 2002 caused the death of at least 18 newborns.

On January 30th, 2003, this Mexican National Commission for Human Rights, agreed to handle the complaint file given the seriousness of the deeds, which because of its importance transcended State interest and affected national public opinion. All the while that they were about the rights to life and the protection of health aside from the fact that by that date the number of dead newborns had grown to 35.

As a result of the integration of file 2003/221-1 it was found that in eight cases the persons harmed were not given adequate rendering of the public health service, as consequence of the acts and omissions incurred by the medical personnel assigned to that hospital in the exercise of their functions.

Also, the relatives were not given adequate procurement of justice, due to the evident delay incurred by the public officers assigned to the Justice Attorney General's Office for the State in charge of expediting and solving the investigations leaving them defense less.

Derived from the analysis of the evidences, and for the purpose of undertaking the corresponding actions, the Mexican National Commission for Human Rights issued the Recommendation 24/2000 addressed to the Constitutional Governor of the State of Chiapas, in which it points out:

FIRST. The payment of indemnities be ordered and made in regard to damages and harms caused, proceeding according to law to the relatives of the dead newborns in accordance with that disposed in the applicable legislation.

SECOND. The Justice Attorney General be instructed to take whatever measures are necessary, so that the 26 previous investigations initiated in reference to this events be integrated and determined according to Law, in accordance with the considerations given in the observations chapter of the present document.

THIRD. The Justice Attorney General be instructed to authorized the General Comptrollers Office of that federative entity, so that it may initiate and determine according to Law an administrative procedure of investigation against the Agency from the Public Prosecutor's Office in charge of the integration of the previous investigations and the inadequate administrative responsibility which they incurred, due to the inadequate procurement of Justice be determined.

Recommendation 25/2004

April 27th , 2004

Case: Appeal presented by Mr. Pedro Ramón Gil Zurita

Authority addressed: Constitutional Governor of the State of Chiapas

On January 13th, 2004 Mr. Pedro Ramón Gil Zurita interposed before this National Organism an appeal in which he pointed out as a grievance that on April 14th, 2003, the State Commission for Human Rights of Chiapas, issued Recommendation CEDH/020/2003

addressed to the Justice Attorney General of this State in which he requested the fulfillment of the arrest orders issued within the criminal cause 117/99 without their having been any attention paid to this petition to date.

Once this National Organism integrated the appeal which is being analyzed, it was proven that to date it has been impossible to repay in their rights those persons harmed, but instead the evidence shows that it has not been a firm intention from the responsible authority to fully comply with the obligation which corresponds to him by Law, upon accrediting that the performance of the public servants who have under their charge the execution of the judicial mandate has been remiss, negligent and inefficient and thus not adhere to the obligation which the enactment of their functions imposes, which motivated and caused the violation of the sphere of the human rights of the appellant and Messrs. Jorge, Olivia, Trinidad, Eva and Braulio all of them with the surname Gil Peñate, depriving them of the right to the due rendering of justice.

For this reason, this National Organism considers that the motive for the unconformity stated by the appellant is accredited and on April 27th, 2004 this Mexican National Commission issued Recommendation 25/2004 addressed to the Constitutional Governor of the State of Chiapas, that he may instruct the Justice Attorney General of that State in order that complete fulfillment be given to Recommendation CEDH/020/2003 which was issued on April 14th, 2003 by the State Human Rights Commission.

## DOMESTIC RELATIONS

The CNDH proposes the adoption of an internal ruling type for the Treatment Centers for Minor Delinquents.

Sixteen of the 54 Treatment Centers for Minor Delinquents which exists in the country – more than one fourth – lack and internal ruling which establishes the faculties of the technical administrative and custodial personnel of each center, as well as the rights and obligations of the interns.

Based on a previous study, the CNDH elaborated and proposed to the Federal and State authorities of Social Rehabilitation, the adoption of an internal ruling type for the Treatment Centers for Delinquent Minors, whose intention is to regulate the activities of the public servants and the interns in a framework of respect to Human Rights, taking into consideration the realization of educational, work, recreational activities of medical attention and combat to addictions in each one of this installations.

## Training Courses

As part of the actions to promote a Human Rights culture, the CNDH held during the month of April 54 activities, among them including courses, workshops and conferences, addressed to the personnel assigned to the basic and higher education systems, groups in vulnerable situations, public officers and social organizations.

## PUBLICATIONS

Gaceta, Official monthly publication of the Mexican National Commission for Human Rights, numbers 162 and 163, corresponding to the months of January and February, 2004.

Violence against the Woman in México, México, CNDH, April, 2004. (book).

Past, present and future of the Human Rights, México, CNDH, April, 2004. (book)

Political Alternance or Democratic Transition (vol.1), México, CNDH, April, 2004

Justice and Democracy (vol.2), México, CNDH, April, 2004.

Universal Protection of the Human Rights (vol. 3) México, CNDH, April, 2004

Technological Advances of the Human Rights (vol.4) México, CNDH, April, 2004.

Rights of the Second Generation (vol. 5) México, CNDH, April, 2004.

Migration (vol. 6) México, CNDH, April, 2004

Human Rights and medical services (vol. 7) México, CNDH, April, 2004

How to present a complaint before the CNDH? México, CNDH, April, 2004. (triptych)

What is the Mexican National Commission for Human Rights? México, CNDH, April, 2004. (triptych)

Music for the Rights of the Boys and Girls, México, CNDH, April, 2004. (CD)

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