

NEWS LETTER

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MEETING OF THE BOARD OF DIRECTORS AND VIII INTERNATIONAL CONFERENCE OF THE INTERNATIONAL OMBUDSMAN INSTITUTE (IOI)

From the 3rd to the 6th of September of this year, the members of the Board of Directors of the IOI, represented by the Executive Committee, the Regional Vice-Presidents and the Directors, held their annual meeting in which the members approved the work reports of the exercise 2003-2004 of the Institute, as well as held discussions on the format of the World Conference which took place upon the end of this meeting.

Then, from September 6th to September 10th, the International Conference of the IOI took place, its subject being: "Maintaining the equilibrium between the obligations of the citizen, and the recognition of the rights and responsibility of individuals - the role of the Ombudsman". During this Conference which gathered 430 representatives of Ombudsman institutions from 77 different countries, thirty speakers guided the deliberations which versed on the challenges which the Ombudsman and society must face in times of globalization, the privatization of public functions, and on the need for the governments to guarantee public safety within a framework of violent terrorist acts.

On September 10th, the General Assembly was held, with the participation of all the members of the Institute. Dr. José Luis Soberanes, President of the Mexican National Commission of Human Rights (CNDH) was present in the General Assembly, as well as in the meeting of the Board of Directors, and in his capacity of Regional Vice-President of Latin America and the Caribbean participated as a member with the right to vote, and presented the regional report for Latin America. During this Assembly the budget for the Institute covering the period 2004-2005 was approved, and elections were held in order to establish the new Board of Directors, being approved in the following manner:

Mr. William P. Angrick II, Citizens' Aide/Ombudsman for the State of Iowa, USA, was elected as President and Mr. Lethebe Amos Maine, Ombudsman for the Republic of Botswana as Vice-President. The Dean David Percy, from the Law Faculty of the University of Alberta, Canada, was re-elected as Treasurer, and Mrs. Alice Yuen Ying Tai, Ombudsman from Hong Kong, was newly designated as Secretary. Also, it befits mentioning that Dr. José Luis Soberanes Fernández was unanimously re-elected as Regional Vice-President for Latin America and the Caribbean.

RECOMMENDATIONS

General Recommendation No.8

September 17 th , 2004

Case: Discrimination in the schools towards minors

carrying HIV or who have AIDS

Authority Addressed: Governors of the Federative Entities, the Head of Government for the Federal District , and the Secretary of Federal Public Education.

The Mexican National Commission issued its General Recommendation number 8, in relation to the frequent discriminatory situations in public and private schools against minors who live with the HIV virus or who have AIDS, these children being expelled from their classrooms, are separated from their studies, or are denied enrollment, which has caused their parents as well as themselves to be stigmatized in the scholastic environment, as well as in society.

Due to the above, in its General Recommendation the CNDH requests from the Federative Entities, the Head of Government of the Federal District , and the Secretary of Federal Public Education the following:

- Instructions be issued so that the educational authorities abstain from expelling, separating from their studies, or impede the enrollment of the students who live with HIV or AIDS, and establish the necessary mechanisms in order to guarantee them the right to education.
- Instructions be issued so that the educational authorities safeguard the confidentiality in regard to the health condition of the minors carrying VIH or AIDS, and offer them the necessary supports so that they may continue with their studies and participate in the school activities, under conditions of equality.
- Training courses be implemented, in an urgent manner, and in coordination with the health authorities on HIV/AIDS for the public officers who make up the educational system, whose objective must be to fight ignorance and lack of information surrounding this illness, in order to avoid discriminatory and violated practices to the human rights of the minors.
- Teaching campaigns be undertaken on information addressed to boys, girls and adolescents, for the purpose of making public the respect to the rights of the persons living with AIDS/HIV, as well as informing the adolescents, parents and professors about the ways of preventing the virus.

RECOMMENDATIONS

Recommendation 63/2004

September 2, 2004

Case: Appeal presented by Mr. Gregorio Otero Ruiz and his son, Mario Alberto Otero Moreno

Authority addressed: Constitutional Town Council of Monterrey, Nuevo León

On September 10 th , 2003, this CNDH initiated a file in relation to the appeal presented by Mr. Gregorio Otero Ruiz and his minor son, Mario Alberto Otero Moreno, due to the insufficient fulfillment of Recommendation 189/02 which the State Commission for Human Rights of Nuevo León addressed on November 13 th , 2002, to the Secretary of the Municipal Preventive Police of Monterrey, Nuevo León.

In the documentation sent to this CNDH it is apparent that there existed a violation of the rights to legality and legal safety of the minor, Mario Alberto Otero Moreno, detained close to his home, and who presented blows caused by members of the Secretary of the Municipal Preventive Police of Monterrey, Nuevo León, reason for which this National Commission issued Recommendation 63/2004, addressed to the Constitutional Town Council of Monterrey, Nuevo León, in which it confirms Recommendation 189/02 issued by the State Commission of Human Rights of Nuevo León, so that an administrative procedure of investigation may be initiated before the Commission of Honor and Justice of the Corps of Public Safety, Police and Traffic from the Municipality of Monterrey, Nuevo León, as

well as advise the agent from the Public Prosecutor's Office of the conduct incurred by the ex public officers who intervened in this case.

Recommendation 64/2004

September 2, 2004

Case: Appeal presented by Mr. Carlos Velasco Coello

Authority addressed:

Constitutional Governor of the State of Chiapas

On January 19th, 2004, this CNDH initiated a file in relation to the appeal presented by Mr. Carlos Velasco Coello for the non acceptance of Recommendation CEDH/065/2003 which the State Human Rights Commission of Chiapas addressed, on November 24th, 2003, to the Justice Attorney General of the State.

From the legal-logical analysis of the facts it is seen that the Second Judge of the Criminal Branch of the Judicial District of Tuxtla, Gutiérrez, Chiapas, issued arrest warrants against those persons probably responsible for the commission of the crime of rustling, which were cancelled in view of the fact that protection from the law against such orders, was sought, and therefore, the jurisdictional organ ordered arrests, whose executions are still pending.

Due to the above, on September 2, 2004, the CNDH issued Recommendation 64/2004, addressed to the Constitutional Governor of the State of Chiapas, in which it confirms Recommendation CEDH/065/2003, issued by the State Commission of Human Rights of Chiapas, and invites the authorities to completely fulfill it on its terms.

Recommendation 65/2004

September 9, 2004

Case: Appeal promoted by Mr. Oscar Alberto García Grimaldo

Authority addressed:

Constitutional Governor of the State of Nuevo León

On October 21st, 2003, the CNDH initiated a file in relation to the appeal presented by Mr. Oscar Alberto García Grimaldo, in reference to the unsatisfactory fulfillment given to Recommendation 150/02, which the State Commission of Human Rights of Nuevo León addressed on September 30th, 2002, to the General Director of Public Safety in the State of Nuevo León.

From the logical-legal analysis of the documentation sent, the CNDH observed that Mr. Oscar Alberto García Grimaldo was arrested by elements of Public Safety from the State of Nuevo León when he was driving his bicycle, with the argument of practicing a "routine exam", these persons then accused him of possessing two packets of cocaine, and was then beaten so that he would accept that they were his, and they then placed him at the disposition of the Qualifying Judge attending.

Due to the above, on September 9th, 2004, the CNDH issued Recommendation 65/2004, addressed to the Constitutional Governor of the State of Nuevo León, in which he is requested to issue his instructions to whomever it corresponds, so that based on the observations contained in the present Recommendation, he order the initiation of an administrative procedure of responsibility to the public officer responsible for undertaking the procedure, and to integrate and solve the file before the Commission of Honor and Justice of the Sub-Secretariat of Safety in the State of Nuevo León, against the personnel of Public Safety, for having failed to attend the legal dispositions of the Political Constitution of México, the Law of Responsibilities of the Public Officers, and the Law of the System of Public Safety of that federative entity.

Recommendation 66/2004

September 22, 2004

Case: Mr. Fernando Solís Carpio

Authority addressed: General Director of the Institute for Safety and Social Services of the Workers For the State (ISSSTE)

On March 29th, 2004, this CNDH received a file related to the complaint presented by Mr. Wilebaldo Solís Moreno, in which he pointed out deeds presumably in violation of the rights to the protection of life and health, committed against his son, Mr. Fernando Solís Carpio, by public servants of the ISSSTE.

Based upon an analysis of the facts, the CNDH detected deficiencies in the infrastructure of the General Hospital "Vasco de Quiroga" of the ISSSTE, in Morelia, Michoacán, and therefore, issued the present Recommendation, addressed to the General Director of the ISSSTE in Morelia, Michoacán, requesting to comply the following specific recommendations:

FIRST. Instructions be issued so that authorization be given to the Internal Control Organ of the Secretariat of Public Function in the ISSSTE, so that an administrative procedure be initiated and determined, according to Law, against the medical personnel assigned to the General Hospital "Vasco de Quiroga" of the ISSSTE in Morelia, Michoacán, who took care of the person aggrieved.

SECOND. Payment be ordered and made by concept of the indemnity which proceeds, under the terms of the considerations set forth in the body of the present document.

THIRD. Instructions be issued so that training courses be given on the contents of the laws and official Mexican norms, on the matter of health, to the medical personnel assigned to the General Hospital "Vasco de Quiroga" in Morelia, Michoacán.

Recommendation 67/2004

September 23, 2004

Case: Sexual abuse of minor "Y" in the day nursery Number 48 of the Mexican Social Security Institute (IMSS)

Authority addressed: General Director of the IMSS

On May 20th, 2004, the CNDH initiated a file in relation to the complaint presented by Mrs. "X", in which she pointed out deeds presumably in violation of her daughter, the minor "Y", by public officers of the IMSS.

Based upon the analysis of the facts, the CNDH issued the present Recommendation, addressed to the General Director of the IMSS in which the following specific recommendations were made:

FIRST. "X" and "Y" be given the psychological attention and care they require.

SECOND. Instructions be issued so that authorization be given the Internal Control Organ of the Secretariat of Public Function in the IMSS, so that an administrative procedure of investigation be initiated and determined, according to Law, against the Director of the Day Nursery 48 of the IMSS.

THIRD. The necessary precautions be taken so that henceforth the tasks assigned to Mr. "Z" do not include any dealing with minors.

FOURTH. The necessary documentation be turned over to the Internal Control Organ of the Secretariat of Public Function in the IMSS, for the correct investigation of the file which was initiated against the personnel who result responsible, in regard to the deeds here set forth.

FIFTH. The necessary proofs be given to the Social Representation of the Federation, so that as soon as possible the investigation 1957/DDF/2004 be resolved, according to Law.

SIXTH. The necessary instructions be issued so that the public officers of that office, in any case of child abuse, assume their responsibilities of information and immediate collaboration in order to prevent and take care of them, and that the necessary measures be taken in order to safeguard, in said cases, the integrity of the minors who attend the nurseries of that Institute.

Recommendation 68/2004

September 23, 2004

Case: Mrs. Estrella Abigail García Palacios

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

The State Commission for Human Rights of Oaxaca received on April 7, 2004, the complaint of Mrs. Estrella Abigail García Palacios, and for reasons of competency sent it to this CNDH, where it was received on the 23 rd of the same month and year, in which she stated presumed violations to the Human Rights committed against her, by public officers of the Rural Hospital "Opportunities" of the IMSS, in Tlaxiaco, Oaxaca, consisting in medical negligence and undue exercise of the public function.

Based on an analysis of the facts which integrates the complaint file, this CNDH issued the following specific recommendations to the General Director of the IMSS:

FIRST. Authorization be given to the Internal Control Organ of the Secretariat of the Public Function in the IMSS, so that an administrative procedure be initiated and resolved, according to Law, against the doctor who attended the case.

SECOND. Payment be ordered and made, according to Law, by concept of indemnity, under the terms of the considerations set forth in the body of the present document.

Recommendation 69/2004

September 24, 2004

Case: Appeal promoted by Mr. Juan Antonio Ortiz Rivera

Authority addressed: Constitutional Town Council of Chihuahua, Chihuahua

On April 21, 2004, the CNDH initiated a file in reference to the appeal presented by Mr. Juan Antonio Ortiz Rivera, for the non acceptance of Recommendation 006/2004, which the State Commission for Human Rights of Chihuahua addressed, on January 21, 2004 to the Municipal President of Chihuahua , Chihuahua .

Based on the analysis of the facts, the observation is made that the responsible authority undertook an illegal search in the interior of the home of the plaintiff, as well as the arbitrary and illegal arrest of the same, and, therefore, on September 24, 2004, this CNDH issued Recommendation 69/2004, addressed to the Constitutional Town Council of Chihuahua, Chihuahua, in which it confirmed Recommendation number 006/2004, issued by the State Human Rights Commission of Chihuahua, and invite the authorities to completely fulfill on its terms.

Recommendation 70/2004

September 30, 2004

Case: Mrs. Nelly Xitlaly Montes González

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

On June 3, 2004, the CNDH initiated a file in reference to the complaint presented by Mrs. Nelly Xitlaly Montes González, in which she pointed out presumed violations to the rights to the protection of life and health, committed against her and her newborn baby who died, by public servants of the IMSS.

Based on an analysis of the facts, sufficient elements were found to establish the legal provenance of the damages made valid by the plaintiff.

Therefore, the Mexican National Commission for Human Rights issued the present Recommendation, addressed to the General Director of the IMSS, in which the following specific recommendations were made:

FIRST. Payment be ordered and made, by concept of indemnity and according to Law, to Mrs. Nelly Xitlaly Montes González, under the terms of the considerations set forth in the body of the present document.

SECOND. All the proofs concerning the case be sent to the Internal Control Organ of the Secretariat of the Public Function in the IMSS, so that an administrative procedure against the medical personnel who attended the plaintiff be determined, according to Law, taking note of the considerations set forth in the observations chapter of this document.

THIRD. Instructions be issued, so that training courses on the Mexican contents of the law and official norms on matters of health be given to the medical personnel assigned to the Family Medicine Unit Number 95 of the IMSS in Poncitlán, Jalisco, in order to avoid future transgressions, as in the present case.

DOMESTIC AFFAIRS

Homage to Dr. Héctor Fix Zamudio, member of the Consultive Council of the CNDH

Last September 3rd, the CNDH paid homage to Dr. Hector Fix Zamudio, upon the occasion of his eightieth birthday and in recognition of the work and trajectory of a person who has led a life dedicated to teaching and investigation in the fields of procedural law, human rights, and comparative law.

Special Report about 445 Prison Centers dependent on local and municipal governments in the country.

Last September 13th the CNDH presented the Special Report about 445 Prison Centers dependent on local and municipal governments in the country.

In the Special Report elaborated on the findings undertaken during 960 visits of the CNDH to the state and municipal prisons in 32 entities in the country, during the period comprised between 2000 and 2004, the CNDH considers that it is necessary to call the attention of the competent authorities and of society in general, concerning the violations to human rights in the detention centers in the entire country, and for this sets forth the following proposals:

FIRST. The observations of the Special Report be taken into account so that the officials in charge of the prevention and social readaptation, as well as public safety, implement actions in order to eradicate the corruption and "self government" in the prisons, for which the coordination of the Federal Secretariat of Public Safety, is required.

SECOND. In order to eradicate corruption and "self government", measures must be taken through the Executive Secretariat of the National System for Public Safety, and designate resources in order to achieve total division of the big local prisons, to permit the separation and classification of interns.

THIRD. The promotion of sources of work for the interns in the jails must be created so that with their income the interns receive resources and can stop being a burden for the State, since they can then begin to support their families and also, so that they can repay the damage caused their victims with their crimes.

FOURTH. Apply substitutes for prison terms in cases where the crimes do not cause harm to society, in order to diminish the over population and impede these persons from becoming a burden to the public expense. For this, an administrative structure is required which would make the application of alternative sentences possible.

FIFTH. In the prison centers where there is no internal ruling, the corresponding normative instruments must be elaborated, taking into account the fundamental rights established in the national legal order, and international instruments applicable on the matter.

SIXTH. Put in force actions with which the processed and sentenced inmates finding themselves in municipal jails can be relocated in state establishments.

SEVENTH. The state governments must undertake actions so that in the prison centers there exist permanent health programs, of prevention and detection of illnesses, as well as give medical opportune and efficient attention to the internal population. In this task, the intervention of the Federal Secretariat of Health is convenient.

Second National Encounter between the CNDH, State Commissions of Human Rights and Non-Governmental Organizations

During the celebration of the Second National Encounter between the CNDH, State Commissions of Human Rights and ONG's which took place in Playa del Carmen, Quintana Roo from the 8 th to the 10 th of September, 2004, the CNDH underwrote collaboration agreements on matters of training, defense, and promotion of the fundamental guarantees with 32 non-governmental organizations, which will permit the surpassing of more than 70,000 persons on matters of training, which in the past year assisted at 500 courses, workshops, propedeutic courses, conferences, roundtables, forums and seminars in the entire country. The main intention of this is to prevent acts in violation of the human rights, and of difficult reparation on behalf of the authorities and public officers.

Previously, a collaboration agreement was also signed between the CNDH and the Mexican Federation of Public Organisms of Human Rights, for the attention of complaints related to grievances to journalists and communicators, with a tendency to establish an institutional collaboration related to this vulnerable group of the population.

PUBLICATIONS

- Gazette, official monthly publication of the Mexican National Commission for Human Rights, number 166, corresponding to the month of May, 2004, Mexico, CNDH,
- Some notes on torture in Mexico , Mexico , CNDH, September 2004. National Program of Promotion of the Human Rights of the Elderly and the Minors and Young delinquents who receive Treatment in detention centers. "From me to you", Mexico , CNDH, September 2004,
- The Word and the Human Rights, Mexico , CNDH, September 2004,
- Human Rights of Women, Mexico , CNDH, (Dyptic) September 2004,
- We have Rights, México, CNDH, September, 2004, (Cuadriptic)
- Guide to obtain benefits from parole , México, CNDH, September, 2004, (tryptic)
- Travel safety, know the risks of crossing the Northern Border, México, CNDH, September 2004 (Tryptic)
- Program, Promotion and Spreading of the Human Rights, Mexico , CNDH, September, 2004 (Booklet)
- The Rights of Persons of the Third Age in Matters of Social Security, Procurement and Administration of Justice , México, CNDH, September 2004 (tryptic),
- Universal Declaration of Human Rights, Mexico , CNDH, September, 2004 (Tryptic)
- How to present a complaint in the CNDH?, Mexico , CNDH, September,2004 (Notebook)
- Training Program in HR. for Basic Education, Mexico , CNDH, September 2004 (Folder)
- The CNDH and its Competency, México, CNDH, September, 2004 (Diptic)

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