

NEWS LETTER

Number 141

November 2004

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The IX Annual Congress of the Iberoamerican Federation of Ombudsman (FIO) was held in the city of Quito , Ecuador , from November 8 to 11 of 2004.

At this Congress the topic focused on Clarity and Democracy: Challenges to Insure the Protection of Migrants, the Situation of the People and State Activities.

Within the same framework, and in a parallel manner, the meeting of the Network of Women of the FIO also took place. The conference entitled "Education in Human Rights: a way of counteracting violence against women" was presented on behalf of the CNDH.

Upon closing of the FIO meeting, the Executive Secretary of the CNDH took part in the Meeting of the Special Fund for Ombudsman and National Human Rights Institutions in Latin America and the Caribbean, where the Network of National Institutions for the Promotion and Protection of Human Rights of the Americas presented a proposal to hold an International Seminar about the Illegal Traffic of Migrants.

RECOMENDATIONS

Recommendation 74/2004

November 8, 2004

Case: Appeals Process presented by Mr. Arturo Vázquez Razo.

Responsible Authority: The Constitutional Governor of the State of Chiapas .

On August 5, 2004 this National Commission received a dispute appeal filed by Arturo Vázquez Razo, Coordinator of the Assistance Program for People Living With HIV/AIDS, of the Integral Group for Family Support, in representation of a female minor identified as SH in order to maintain a confidential profile, as agreed upon by the National Commission. The appeal regards non-compliance with Recommendation CEDH/013/2004, issued on June 14, 2004 by the State Human Rights Commission of the State of Chiapas , specifically, Director- General of Education Services for that Federative Body. The complainant declared that by refusing to comply with this recommendation, not only is discrimination being condoned, but it is also being promoted, thus violating national and international laws and agreements.

The analysis of evidence compiled in the file revealed that the Recommendation has valid motivations and foundations, and there was also confirmation of the violations to the equality and education rights of the minor SH, who, due to her VIH positive/AIDS condition, was denied access to study the first year of grade school, a measure for which the Director of Federal Primary School "Lic. Emilio Rabasa Estebanell", and the Sub-Director of this educational institution, located in Ocozocoautla de Espinosa, in the state of Chiapas , were made accountable.

This National Commission considered that the civil servants involved did not guarantee full and comprehensive development of the minor SH, since she was deprived of the opportunity of receiving a physical, mental, emotional, social and moral formation under equal conditions as her peers, as a result of their serious violation of her fundamental rights.

Due to the above, on November 8, 2004 this National Commission issued Recommendation 74/2004, addressed to the Constitutional Governor of the State of Chiapas, in order for him to issue instructions to the Director-General of Education Services for this federative entity, seeking to have them take the necessary and sufficient measures to comply fully with Recommendation CEDH/013/2004, issued on June 14, 2004 by the Human Rights State Commission of the state of Chiapas, and to keep this local Organization and National Commission informed regarding the activities that are carried out.

A copy of General Recommendation General 8/2004 regarding cases of discrimination in schools against minors who are HIV positive or have AIDS, issued by the National Commission, should be distributed among all educational systems of the State, so that it will be disseminated among teaching and administrative personnel.

In the specific case of Federal Primary School "Lic. Emilio Rabasa Estebanell", they will be instructed to offer an informative workshop regarding HIV, the manners in which the disease is transmitted and the prevention of discrimination against individuals who must live with HIV, which will be addressed to administrative and teaching personnel.

Recommendation 75/2004

November 9, 2004

Case: Appeals Process by Mr. Francisco Javier Barbosa Gutiérrez.

Responsible Authority: The Constitutional Governor of the State of Jalisco .

On July 6, 2004, this National Commission opened file 2004/234/JAL/1/I as a result of the contest document presented by Mr. Francisco Javier Barbosa Gutiérrez, who declared his disagreement with the rejection of Recommendation 1/2004, issued by the Human Rights State Commission of Jalisco. The Recommendation was rejected by the Comptroller, as well as the Director-General of the State Council for Sport Promotion and Youth Support (CODE), both of them members of this federative entity, since they have, in fact, prevented him from working in the cafeteria within the CODE.

Once the documents which comprise this contest were examined, it was clear to this National Committee that there existed violations to the right to lawfulness and legal security as a result of the inappropriate performance of a public service, attributed to civil servants of the CODE, who acted in an irregular manner by depriving Mr. Francisco Javier Barbosa Gutiérrez of his ownership of the "restaurant-cafeteria".

Therefore, on November 9, 2004 this National Organization issued Recommendation 75/2004, addressed to the Constitutional Governor of the State of Jalisco, so that, in turn, he would order the appropriate official to comply with Recommendation 1/2004, issued by the State Commission of Human Rights of Jalisco on January 14, 2004.

Recommendation 76/2004 November 10, 2004

Case: Appeals process by Mr. Félix Roblero Vázquez

Responsible Authority: The Constitutional Governor of the State of Chiapas

On February 18, 2004, this National Commission received the appeals process which Mr. Félix Roblero Vázquez submitted before the Human Rights Commission of the State of Chiapas, stating non-compliance from the General Justice Agency of Chiapas regarding Recommendation CEDH/058/2003.

As a part of this case, this National Commission compiled a contest file, and as a result, we came to the conclusion that, in detriment to the complainant, the rights to lawfulness and legal security were violated by civil servants of the General Justice Agency of the state of Chiapas

As a result of the facts stated above, on November 10, 2004 this National Commission issued Recommendation 76/2004, which was addressed to the Constitutional Governor of the State of Chiapas, confirming in its content the terms of Recommendation CEDH/058/2003, and requesting, as a first item, that he instruct the General Justice Representative of the State of Chiapas to comply with the terms of Recommendation CEDH/058/2003, dated November 5, 2003, issued by the State Commission of Human Rights of the state of Chiapas, and as a second item, that he instruct the General Justice Representative of the state of Chiapas to examine internal control activities in that Institution in order to begin an administrative investigation process against the party responsible for the delay in the compliance with the arrest warrant issued on January 3, 2002, drawn for penal case 039/2001 by the Third Penal Judge from the Judicial District of Soconusco.

Recommendation 77/2004 November 15, 2004

Case: Mr. Jesús Alberto Núñez López and others.

Responsible Authority: The Department of Marine Matters and the Minister of Agriculture, Livestock, Rural Development, Fishing and Nutrition.

On August 19, 2004, this National Commission received from the State Commission of Human Rights of Baja California Sur a written complaint by Mr. Jesús Alberto Núñez López, where he denounced that, on August 13, 2003, upon reaching, along with other people, the Port of San Carlos in the state of Baja California Sur in a boat, civil servants of the National Commission of Aquatic and Fishing Matters (Conapesca), as well as members of the Mexican Army, ordered them to stop; however, they did not obey but rather increased the speed of their boat, and, as a result, they were persecuted by said civil servants. During the persecution, members of the Mexican Army shot several times, injuring one of the crew members.

The logical-legal analysis of the evidence obtained by this National Organization confirmed that the human rights of lawfulness and legal security were violated, in direct injury of Mr. Norberto Vladimir Flores Ramírez, Noé and Moisés Roiz Betancourt, Pedro Antonio Medina García, Jesús Alberto Núñez López, Ernesto Alonso Montoya López, Antonio Guadalupe León Espinoza, Hernán Rodríguez Redona and Rubén Aguilar Osuna.

As a result of the facts stated above, on November 15, 2004, this National Commission issued Recommendation 77/2004, addressed to the Minister of Marine Matters and the Minister of Agriculture, Livestock, Rural Development, Fishing and Nutrition, recommending, as its first item, that the corresponding official be instructed to provide the elements necessary in order to carry out a prior investigation begun by an agent of the Military Attorney General's Office of the 3rd Military Zone in La Paz , in the state of Baja California Sur against those who participated in the events described in the complaint, which should be processed and solved in compliance with the Law. In addition, the previously mentioned authorities must instruct the appropriate sectors to ensure that the members of the Mexican Army receive the appropriate training regarding the thorough compliance with basic principles for the use of force or firearms by law-enforcement officers. In addition, guidelines for operative unit commanders who carry out inspections in Mexican waters must be reviewed and their content adjusted in order to ensure that they adhere to the Political Constitution of the United Mexican States, since there is no reason nor legal basis in the judicial Mexican System for civil servants to ignore the rights of physical integrity and life to which private citizens are entitled.

We asked the Minister of Agriculture, Livestock, Rural Development, Fishing and Nutrition to begin an administrative investigation process against civil servants Yrvin Ramírez Hernández and Carlos Amador Zambrano, who took part in the events stated in the complaint, based on the group of observations contained in this Recommendation. The investigation process must be put together and solved in compliance with the Law, and this National Commission must be kept informed regarding the progress of this matter. In addition, the appropriate measures must be taken in order to ensure that the civil servants of the National Commission of Aquatic and Fishing Matters receive proper training regarding the thorough compliance with the Human Rights of private citizens and to make certain that they carry out processes destined to verify the compliance with that institution's regulations.

Recommendation 78/2004 November 18, 2004

Case: Appeals Process presented by Mr. Pedro Arnoldo Monárrez López.

Responsible Authority: The Constitutional Governor of the State of Sinaloa .

On January 26, 2004, this National Commission opened file 2004/248/SIN/2/I, as a result of the appeals process interposed by Mr. Pedro Monárrez de la Vega, due to non-compliance with Recommendation 037/04, submitted by the State Commission of Human Rights of the state of Sinaloa on May 19, 2004 to the government of the State of Sinaloa.

After the logical-legal analysis of the documents presented before this National Organization, it was verified that, the Government of the State of Sinaloa, through the decentralized Organization named Urban Development Tres Ríos, violated the Human Rights of lawfulness, legal security, and possession, thus damaging Mr. Pedro Arnoldo Monárrez López.

As a result of the above violation, on November 18, 2004 this National Commission issued Recommendation 78/2004, addressed to the Constitutional Governor of the State of Sinaloa, which confirmed Recommendation CEDH/II/019/04, issued by the State Commission of Human Rights of that federative entity, seeking to ensure that the Governor instruct the corresponding official to investigate the degree of good or bad faith that might have existed between the complainant Pedro Arnoldo Monárrez López and the Head of Urban Development Tres Ríos at the time, in order to carry out the appropriate investigations, and, consequently, assess them and provide the corresponding compensations in terms of the rights and duties that should have entered into effect as a result of the dissolution and expropriation decrees mentioned several times in this principle. Once this was determined, we requested that the necessary orders be issued so that, as soon as possible, the appropriate measures are taken to comply with that which is specified in the Agreement signed by both Parties, under the terms and conditions specified in the aforementioned agreement. In addition, the relevant party within the Board of Directors of Public Sector Urban Development Tres Ríos should be instructed to assess the civil damage that might have been inflicted upon Mr. Pedro Arnoldo Monárrez López due to omissions such as failing to carry out the necessary studies in order to determine the corresponding compensations in a timely and appropriate manner, and, if such should be the case, make the corresponding indemnities. The proper party must be instructed to start an investigation process against Architect Enrique González Guereña, whom, at the time, held the position of Director of Urban Development Tres Ríos, in addition to all those civil servants who took part both in topographic and territorial studies, as well as in estimates and appraisals of said real estate, in addition to the formal execution of the transaction contract, in order that responsibilities may be defined and, should it proceed, the corresponding sanction may be executed.

Recommendation 79/2004 November 29, 2004

Case: Appeals process presented by Mr. Rodolfo Eduardo Gordillo Cervantes.

Responsible Authority: The Constitutional Governor of the State of Morelos.

On April 29, 2004 the National Human Rights Commission received the appeals process presented by Mr. Rodolfo Eduardo Gordillo Cervantes against the decision taken by the Head of the General Justice Agency of the State of Morelos, failing to comply with the Recommendation issued on the 5th day of the month and year specified by the Human Rights Commission of that federative entity.

The appeals process was carried out in the National Organization and once the array of evidence of which it is comprised was fully analyzed, it was revealed that the Recommendation adheres to legal stipulations, and this National Commission considers that the activities of said civil servant allowed the confinement of Mr. Gordillo Cervantes on March 12, 2004, disregarding the request issued by Attorney at Law Manuel Hernández Franco, Second Visitor of the Human Rights State Commission.

Due to the facts stated above, on November 29, 2004 this National Commission addressed Recommendation 79/2004 to the Constitutional Governor of the State of Morelos, in order for him to submit a request to the Head of the General Justice Agency of that federative entity and to ensure that he comply with the Recommendation issued by the Human Rights State Commission, in terms of initiating an administrative process and a prior investigation against Assistant Attorney General of Measures Against Organized Crime. The necessary measures to investigate the penal and administrative responsibility of the agent of the Attorney General, holder of the Second Specialized Agency Office regarding Measures Against Organized Crime, should also be taken.

NATIONAL AFFAIRS

Third Exhibition and Sale of Paintings created by imprisoned women entitled "Nuances of Freedom"

The National Human Rights Commission, along with an additional dozen institutions organized the Third Exhibition and Sale of Paintings created by Imprisoned Women, entitled "Nuances of Freedom", where the public had the opportunity to admire the artistic work of 196 prison inmates from 20 States of the Republic who participated with a total amount of 264 pieces.

This is an institutional effort to improve the quality of life of female inmates in the penitentiary facilities of the country, through activities that also call on society to contribute to the development of a work culture and respect towards human rights, thus enabling imprisoned women to feel hope, to earn an income and create a more encouraging reality for themselves.

This exhibition was inaugurated by Victoria Adato Green, Director of the CNDH's Program focused on Women, Children and family, and by Beatriz de la Vega Llanosa, director of Institutional Relations with National and International Organizations of the Department of Public Security (SSP).

Both civil servants agreed that "Nuances of Freedom" instantly captures the heartbreak, the release, the dreams and the hope that reveal a glimpse of the security provided by knowing that work can bring happiness to a home as well as provide a personal income.

The institution has created this project in a effort to establish a social readjustment model that focuses on the individual and his/her context, as well as on his/her interaction within the family, work, and the social, educational and cultural environments, in order to develop a preventive civic culture in terms of women's issues.

Training Courses

As part of the measures taken to promote a Human Rights culture, during the month of November, the CNDH organized 116 activities, among them, courses, workshops and conferences, aimed at workers for the basic and higher educational systems, groups in vulnerable situations, civil servants and social organizations.

PUBLICATIONS

- Gazette 168, corresponding to the month of July, Mexico CNDH, 2004.

- Gazette 169, corresponding to the month of August , Mexico CNDH, 2004.

- Gazette 170, corresponding to the month of September , Mexico CNDH, 2004.

- Bioethics, Legislation, Public Policies and Human Rights, Mexico CNDH, November, 2004 (book).

- Recollection of the Round Table: Acknowledgement of the Application of Women Citizens's Rights Within the Framework of Human Rights, Mexico CNDH, November, 2004 (book).

- Legal Security, Human Rights in Mexican Jurisprudence, Mexico CNDH, November, 2004 (book).

- Seventh National Essay Contest for Youths, Mexico CNDH, November, 2004 (book).

- Compilation of Human Rights' International Tools Signed and Confirmed by Mexico 1921-2003, Mexico CNDH, November, 2004 (book).

- Study of true lies. Review of the abusive use of the polygraph machine, Mexico CNDH, November, 2004 (book).

- Current Challenges Faced by National Institutions dedicated to the Protection and Promotion of Human Rights. Ten Years After the Paris Principles, Mexico CNDH, November, 2004 (book).

- Human Rights and HIV/AIDS: An International Overview , Mexico CNDH, November, 2004 (booklet).

- A Children's Perspective Towards HIV/AIDS, Mexico CNDH, November, 2004 (booklet).

- Human Rights of People who Live with HIV/AIDS in Prison, Mexico CNDH, November, 2004 (booklet).

- Human Rights of People who Live with AIDS, Mexico CNDH, November, 2004 (booklet).

- Basic Aspects of Human Rights, Mexico CNDH, November, 2004 (booklet).

- Human Rights of HIV Carriers and AIDS Patients, Mexico CNDH, November, 2004 (three-page leaflet).

- Medical Services and Human Rights, Mexico CNDH, November, 2004 (three-page leaflet).

- Discrimination, Mexico CNDH, November, 2004 (three-page leaflet).

- Convention on Children's Rights, Mexico CNDH, November, 2004 (Three-page leaflet).

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