

NEWS LETTER

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FOURTH WORKSHOP ON THE APPLICATION OF THE ISTAMBUL PROTOCOL

On August 28th and 29th of the present year, in San Miguel Regla, Hidalgo, the Fourth Workshop on the Application of the Istanbul Protocol was held by the National Commission of Human Rights, in coordination with the Office in Mexico of the United Nations High Commissioner for Human Rights (OHCHR) and the Ministry of Foreign Affairs.

This workshop was oriented toward the state commissions of the central region of the country with the objective of training the personnel of these organisms in the knowledge pertaining to the Istanbul Protocol, so as to have them qualified in the investigation for diagnosing and detecting the elements of torture.

Functionaries of the public organisms of human rights of the states of Guanajuato, Hidalgo, Querétaro, San Luis Potosí and the Federal District participated.

In this Fourth Workshop experts of the CNDH participated, as well as the Ministry of Foreign Affairs, the General Attorney's Office of the Republic, and Physicians for Human Rights.

Among the themes of notable character which were addressed were torture from the stand point of the international system of protection against torture; the objectives of an investigation of torture; related principles to investigation; techniques for carrying out interviews, effective documentation and evaluation; psychological signals and aftereffects of torture; legal standards for combating torture within Mexican Law; victim reparations for torture, mistreatment, among others.

The inauguration of this workshop was attended by Dr. Javier Moctezuma Barragán, Executive Secretary of the CNDH; the President of the State Commission of Human Rights from Hidalgo, Mr. Alejandro Straffon Ortiz; Dr. Alejandro Moreno Jiménez, expert from the OHCHR and member of Physicians for Human Rights; and Ms. Marcela Mora Córdoba, Director of Cooperation and Promotion in the subject of Human Rights from the Ministry of Foreign Affairs.

RECOMMENDATIONS

Recommendation 29/2006

August 2nd, 2006.

Case: Treatment Center for Males of the Federal District of the Ministry of Federal Public Security (CTVSSP).

Addressee Authority: Ministry of Federal Public Security.

On January 24th, 2006, the National Commission received a written complaint from family members of the interned persons of the CTVSSP, who stated aspects related to the dire situation in the mentioned establishment, among others, that some interned persons physically harassed their fellow interned persons and in some cases sexually abuse them.

Such was the case of the adolescents EERG and FJSP, subjected to a treatment measure of internment in that center, who were raped by other interned persons from the same establishment on October 28th and December 20th, 2005, respectively; while on December 27th of the same year, the adolescent CRS was beaten in several parts of his body by the interned person ACHP for having refused to

masturbate him; in the same fashion, over January and February of 2006, 27 incidents of physical aggression occurred between interned persons, of which three were collective fights.

On different occasions, the adolescents EERG, FSJP, and CRS told of the events to public servers ascribed to the Department of Security and Surveillance of the CTVSSP, which motivated the Interdisciplinary Technical Board to impose upon the aggressors the corresponding disciplinary measures.

As well, personnel of the Legal Sub direction of the establishment brought the accusations of the events of rape against the interned person EERG before the Central Prosecutor of the Investigation of Sexual Crimes of the Public Prosecutor's Office of the Federal District, which registered the preliminary investigation FDS/FDS-2/T1/574/05-11, where criminal action was exercised against LARR and EARA, as probable responsible elements in committing the crime of aggravated rape, corresponding to the jurisdiction of the sixteenth judge of criminal matters of the Superior Tribunal of Justice of the Federal District, who on June 28th, 2006, issued a sentence of fourteen years seven months of prison to LARR upon considering him criminally responsible for the illicit act of aggravated rape (committed with the direct intervention of two people).

As for the rape of which the adolescent FJSP was subject, the personnel itself of the CTVSSP presented the accusation before the prosecutorial authority, initiating the investigation FDS/FDS-2/T1/660/05-12, which was consigned before the fourth unitary counselor of the above mentioned Council against EAAM for the probable crime of rape, authority which on March 15th, 2006, imposed upon him the measure of treatment in internment of four years, two months, twenty one days; determination which was passed on to the corresponding Superior Chamber, which revoked the mentioned resolution upon considering that the body of the crime had not been accredited.

Based on the above, on August 2nd, 2006, the National Commission issued Recommendation 29/2006, directed to the Ministry of Federal Public Security, with the purpose that the corresponding internal organ of control be informed so that an investigation may be initiated, in adherence to the law, to determine the administrative responsibility in which the public servants of CTVSSP, who were involved in the described events, may have incurred; that the Public Prosecutor's Office may be indicated to initiate the corresponding preliminary investigation with regards to the conduct revealed by the interned person ACHP against CRS, and inform the National Commission over this topic; that the corresponding party be instructed, to the effect that in the most efficient manner the necessary measures be undertaken for the protection of the integrity of the interned persons of the CTVSSP, and prevent in subsequent occasions, acts which affect their physical and mental integrity from occurring; that sufficient personnel from security and surveillance may be assigned to cover the necessities of the meritorious institution, principally in order to guarantee the human rights of the interned persons, which must have at its disposal the necessary equipment for fulfilling its function, and that the corresponding persons be instructed to offer psychological attention with as little delay as possible to the interned persons EERG, FJSP, and CRS, in relation to the events described above, in accordance with the principle of greatest interest of the adolescent and their character as victims of crime.

Recommendation 30/2006

August 21st, 2006.

Case: Appeal submitted by, Mrs. Felicidad Flores Solano.

Addressee Authority: Constitutional Government of the State of Querétaro.

On February 27th, 2006, the National Commission opened the file 2006/90/1/RI, as an appeal submitted by Mrs. Felicidad Flores Solórzano, in which she stated that Recommendation 163/03/2006, issued by the State Human Rights Commission of Querétaro on January 31st, 2006, was not addressed to the Governor of that Federative Entity, and that there existed an insufficient restitution of her human rights.

From the analysis of the documentation which made up the appeal, the National Commission observed that on June 17th, 2003, the State Commission of human rights of Querétaro received the written complaint from Mrs. Felicidad Flores Solórzano, in which she claimed presumed violations to Human Rights committed against her by the attorney Lucero Santana García, the General Director of the State System of Cultural and Educational Communication of Radio Querétaro at the time of that Federative Entity, as, stemming from the indications of that public server, she stopped working as the conductor for the program La Hora Nacional after being explained to that "a male voice was required". In virtue of this, the file CEDH/1474/2003/SA was opened.

On November 11th, 2004, the Local Organism notified Mrs. Felicidad Flores Solórzano of the conclusion of the mentioned file, having been resolved in conciliation, against which determination the petitioner interposed an appeal before the National Commission of Human Rights, which, on November 25th, 2005, issued the Recommendation 38/2005 to the Local Organism for it to revoke its resolution and, based on the considerations within the contents of the chapter of observations of that document, to issue the

determination in adherence to the corresponding law, and to permit the reestablishment of the rights which were violated to the detriment of the victim to be attained.

The State Commission, in compliance with the Recommendation issued by this National Organism, and upon accrediting the violation by Lucero Santana García, General Director of the State System of Cultural and Educational Communication of Radio Querétaro at the time, of human rights protecting the principle of no-discrimination and equality in detriment to Mrs. Felicidad Flores Solórzano, on January 31st, 2006, issued Recommendation 163/03/2006, to the General Director of the State System of Cultural and Educational Communication of Radio Querétaro, in which it suggested that administrative proceedings be initiated against the attorney Santana García and that the curriculum vitae and personal trajectory of Mrs. Flores Solórzano be evaluated to the effect that she may enter into the conduction of the program La Hora Nacional in equality of her conditions and without impairing her personal conditions.

From the evidence that makes up the submitted appeal, this National Commission considered that the behavior of the State Commission, upon issuing the mentioned Recommendation, derived from the discriminatory act that Mrs. Lucero Santana García, then General Director of the State System of Cultural and Educational Communication of Radio Querétaro, committed in detriment to the complainant, conductor of the La Hora Nacional and not from the laboral relation between that public server and the petitioner, as both the Local Organism and this National Commission lack the competency to decide on a conflict of this nature.

In relation to the inconformity of Mrs. Felicidad Flores Solórzano, in the sense that with the event alluded to in Recommendation 163/03/2006 that the restitution of her violated human rights was not proportioned, the National Commission estimated that the State Commission, upon issuing that recommendation, acted in terms provided in article 44 of the law which regulates it, as it suggested that the curriculum vitae and personal trajectory be evaluated to the effect that she might accede to the conduction to the program La Hora Nacional in equality of conditions and without impairing her personal condition; however, from the documentation that integrates the appeal, as well as from the information offered by the General Director of the State System of Cultural and Educational Communication of Radio Querétaro, it was established that to this date in which the present pronouncement is being issued, the mentioned General Director has not given fulfillment to the second point of the Recommendation, as Flores Solórzano was only informed that "the curriculum vitae of Mrs. Flores Solórzano was evaluated, as she provided her professional services to "Radio Querétaro" and the possibility that she may be recontracted as provider of services remains pending".

In consequence of the previous, it was demonstrated that the total fulfillment of the recommendation from the Local Organism of the above General Director, has not been carried out, as the evidence, guidelines or bases taken into consideration have not been presented in analyzing the curriculum vitae and personal trajectory of Mrs. Felicidad Flores in equality of conditions, to demonstrate that the person to occupy the position is endowed with the capacity and specialized knowledge to accede to the conduction of La Hora Nacional.

As well, the National Commission, in relation to the offence mentioned by Mrs. Felicidad Flores Solórzano, where it is stated that the State Commission must address the Recommendation to the governor of the State of Querétaro and not to the General Director of the State System of Cultural and Educational Communication of Radio Querétaro, considers that, in terms of the afforded in article 8, fraction III, of the law which regulates its activity, the Local Organism has at its disposal the autonomous faculty for formulating the Recommendation to the respective authority, for which, the National Commission, with respect to this in particular, issues no pronouncement.

Based on the above, on August 21st, 2006, this National Organism issued Recommendation 30/2006, addressed to the constitutional governor of the state of Querétaro, so that instructions may be served to the corresponding persons so that with greatest haste point number two of Recommendation 163/03/2006, issued by the State Commission of Human Rights of Querétaro on January 31st, 2006, may be carried out with a proceeding that permits the participation and evaluation on equality of circumstances to achieve the reestablishment of the human rights of the victim.

Recommendation 31/2006

August 13th, 2006.

Case: of RGE.

Addressee Authority: General Attorney's Office of the Republic (PGR).

On June 12th, 2004, the National Commission opened the file 2004/1726/HGO/1/SQ, motivated by the complaint formulated by the T1, through which it was manifested that presumed violations of human rights, were committed in detriment to RGE, attributable to elements of the Federal Agency of Investigations (AFI) of the PGR and to the Direction of Public Security and Transit of the Municipality of Tula de Allende, Hidalgo, stating that on May 22nd, 2004, an operation was carried out by elements of the above said corporations,

who introduced themselves within various apartments, causing damage from firearm discharges to their properties, and depriving RGE of life.

From the analysis of the documentation which comprises the complaint file, the National Commission observed that on May 22nd, 2004, upon the completion of an operation for the fulfillment of an order of arrest, with the participation of elements of the AFI and of the personnel of the Direction of Public Security and Transit of the Municipality of Tula de Allende, Hidalgo, Mr. RGE lost his life owing to lesions provoked by multiple projectiles shot by fire arm which penetrated the thorax, which brought about acute secondary anemia; in the same manner, during the development of the events, there was an illegal introduction into the domiciles of various persons, and damages to the properties; as well, there was a loss of evidence of the crime of homicide in detriment of RGE, as the crime site had not been adequately preserved, causing the alteration of the site; despite having been brought to the attention of the agent of the Public Prosecutor's Office of the Federation ascribed to the Sub delegation of Criminal Proceedings –B–, of the Delegation of the General Attorney's Office of the Republic in Tula de Allende, Hidalgo, the deprivation of life of a person in an operation in which elements of the AFI were in charge, only the investigation T/106/2004, for the crime of violation of the Federal Law of Fire Arms and Explosives, was brought against the death, in character of victims of the elements of the AFI and the Direction of Public Security and Transit in the Municipality of Tula de Allende, Hidalgo; in parallel, the General Prosecutor's Office of that federative entity determined to initiate the preliminary investigation 16/III/923/2004 for the crime of homicide, without either investigation having been determined as of the date of emission of the present document.

At the same time, the National Commission received a notification, underwritten by the deputy prosecutor of Human Rights, Attention to Victims and Services to the Community of the PGR, to which the text signed by the General Director of Internal Supervision and Inspection for the AFI of that Prefecture's Office was attached which requested from this National Organism "information through which it may be accredited that elements of the AFI picked up and intentionally lost evidence; which demonstrates that, on the day of the events, the victim was found sleeping in his house when the elements entered his domicile, as well as the testimonials of various persons that make it evident that the present issue is one of extrajudicial execution"; as well, the response was added from August 11, 2006, by the deputy prosecutor himself, through which he expresses to the National Commission that the Internal Organ of Control determined an absence of elements of proof sufficient for permitting the assigning of administrative responsibility of the public servers involved.

From the evidence which integrates the complaint file, the National Commission had at its disposal the elements for accrediting violations to the right to life, as well as to legality and judicial certainty, motivated by an illegal entrance upon various domiciles, with inappropriate exercise of public function, irregular integration of the preliminary investigation and delays in the administration of justice attributable to the public servers of the PGR and the elements of Direction of Public Security and Municipal Transit of Tula de Allende, Hidalgo in the area of their respective competencies.

For this reason, on August 23rd, 2006, the National Commission issued Recommendation 31/2006, addressed to the General Attorney of the Republic and to the Municipal President of Tula de Allende, Hidalgo; to the former so as to send instructions, based on the legal faculties within the power of the Public Prosecutor of the Federation, to request the indagation 16/III/923/2004 which is compiled in the Table of Crimes Against Life and Personal Health of the General Attorney's Office in the state of Hidalgo; to accumulate it to the preliminary investigation T/106/2004, and to promptly determine the case in adherence to the law.

As well, notice must be given to the social representation of the federation so that a preliminary investigation is begun against the agent of the PGR SP6, along with the elements of the AFI SP1 and SP2, based on the pointed observations in the portions B and C of this document, and to promptly determine the same in adherence of the law; to order the responsible persons so that promptly the certifications of the referred preliminary investigations are delivered to the Internal Organ of Control in the General Attorney's Office of the Republic, so that the instance is in a position to determine in adherence of the law the administrative proceedings against the elements of the AFI and the agent of the PGR, for the irregularities mentioned in the present Recommendation.

Moreover, to order the responsible persons so that the certifications of the preliminary investigations in the hands of that Office of the General Attorney and the one that corresponds to the State of Hidalgo are quickly passed to the Direction of Supervision and Internal Inspection of the General Visitorship of that Dependency, to the effect that the resolution is determined, in adherence to the law and completely impartially, to the investigation within the file DII/524/HGO/04. As well, instructions are to be given to the responsible persons so that the reparations of damage may be made to the family members of the person who in life carried name of RGE, as a consequence of the institutional responsibility in this case, in terms of the considerations planted in the body of the recommendation, and that administrative measures are made so as to avoid the repetition of acts such as those which gave origin to the present recommendation, in which the fulfillment of the order of apprehension, owing to faults deriving from the lack of adequate planning of the operatives, ended in the loss of life of the person to be apprehended.

Also, the responsible persons must be instructed so that aid is promptly offered to the victims and witnesses to the narrated events in the chapter of observations of this recommendation. In the same manner, in attention to the high degree of danger that the authors of the homicide of RGE, represent, the corresponding security measures should be taken so as to keep any act of intimidation or reprisals from being undertaken against the witnesses or family members of the deceased, as well to the public servers of this National Commission of Human Rights that participated in the investigation and clarification of the events.

To the mayor of Tula, Hidalgo, to give notice to the Council of Honor and Justice of the City Council, to the effect that the possible administrative responsibility be defined in which elements of Direction of Public Security and Transit of the Municipality Tula de Allende, Hidalgo, may have incurred stemming from their participation, in accordance with the considerations found in the part of observations of the present Recommendation, as well, establish the training courses for elements of Municipal Public Security, relating to the coordination with the federal instances, so as to guarantee an adequate public security and respect for human rights, privileging the employment of non violent means in the performance of their functions.

NATIONAL ISSUES

Cases of Torture in Mexico.

On August 24th of this year, during a press conference where three complaints against agents of the General Attorney's Office of the Republic (PGR) were cited, relating to torture and probable extrajudicial executions- and which have remained unattended-, the National Ombudsman, José Luis Soberanes Fernández, manifested that when such conducts are tolerated, not only the value of the nature of that institution is destroyed, but the function of the Rule of Law itself is as well.

"Torture and other conducts such as extrajudicial executions – he said- are, in other words, the antithesis of democracy and the legitimacy of a political regime".

After noting that the CNDH has publically denounced and demanded with firmness the investigation and total clarification, and the punishment of the responsible persons of each case of torture and extrajudicial execution of persons of whom there has been knowledge, Soberanes Fernández lamented that the PGR has stopped fulfilling its elevated mission as an institution encharged with making order and individual guarantees prevail, upon tolerating conducts of some its servers which are obviously inappropriate.

The first general visitor, Raúl Plascencia Villanueva, informed over the events of the violations to human rights documented in the cases that lead to the recommendations 30/2006 and 13/2006 addressed to the PGR- refused by said institution- and another case, still in the state of compilation, where the victim was made to kneel and executed with a bullet shot in base of the neck.

Upon making reference to the complaints of torture received during the current six year presidential term, Soberanes Fernández pointed out that in the year 2000 there were 30; in 2001, 36; in 2002, 50; in 2003, 39; 2004, 37; 2005, 46; and 16 in what has so far transpired in 2006.

Training Courses

The National Commission of Human Rights, in strict adherence to the spirit promoted by the institution in dissemination of study, teaching, and the spread of human rights, carried out in the month of August of 2005, 86 activities of training oriented toward students of basic, middle, and superior levels, groups in vulnerable situations, among them, elderly adult persons, women and young people, as well as public servants of the armed forces, public security and the procurement of justice, penitentiary personnel, personnel of the public health institutions, public organisms of human rights, non governmental organizations, among others.

At the first opportunity, the president of the Mexican Federation of Public Organisms of Human Rights, Óscar Humberto Herrera, manifested his support of the integrants of that organism to the National Ombudsman and the CNDH, in its efforts to denounce torture and extrajudicial executions, which are included among the most abhorrent of those in which the abuse of power is manifested.

"We express, he added, the unanimous condemnation of the Federation toward these conducts that we believed to have been overcome, yet do nothing but express the fear of those who, being accustomed to operating in shadows, can not tolerate the transparency and the social demands to come clean which the new national epoch demands of all public servers".

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