

# NEWS LETTER

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WORKSHOP ON THE FOLLOWUP FOR THE PLAN OF ACTION FOR THE PROMOTION AND PROTECTION OF THE HUMAN RIGHT TO EDUCATION.

On May 17<sup>th</sup>, in the city of Managua, Nicaragua, the Mexican Ombudsman and the Secretary General of the Network of National Institutions for the Promotion and Protection of the Human Rights of the Americas, Dr. José Luis Soberanes Fernández, urged his counterparts from 13 countries to promote institutional mechanisms which make the right to education and the possibility of its full exercise a reality. "It is an ethical demand", he maintained.

Upon participating in the inauguration of the Workshop on the Followup for the Plan of Action for the Promotion and Protection of the Human Right to Education, in the city of Managua, Dr. Soberanes Fernández considered that for the cause of human rights the classroom is as important as the tribunal.

In the presence of the Minister of Education for Nicaragua, Miguel de Castilla, and the Human Rights Defense Attorney, Omar Cabezas Lacayo, the Mexican Ombudsman highlighted that in Latin America it has been accepted that the legal work of human rights defense must be accompanied by the no less important work of education. "In the strengthening of the culture of human rights," he said, "we have the best tools for giving real value to them".

In this ceremony, where Mr. Vernor Muñoz, Special Clerk of the Right to Education for the United Nations Council on Human Rights, and Dr. Teresita Escotto from UNESCO were both also present, Dr. Soberanes Fernández reminded that in June of last year, in Nuevo Vallarta, Nayarit, Mexico, the 15 members of the Network of Institutions signed the Plan of Action for the Promotion and Protection of the Right to Education in the American Continent, a commitment which today was reaffirmed, in view of the fact that education is a right which makes possible the exercise of all the rest.

As part of his working trip, Dr. Soberanes Fernández underwrote with his Nicaraguan counterpart an agreement for technical support between the CNDH and the Human Rights Defense Attorney's Office for Nicaragua, by which both institutions will develop activities designed for the promotion and protection of the rights of migrants, specifically those coming from that country who cross through Mexican territory.

As part of his working trip in Managua, Dr. Soberanes Fernández, who was accompanied by the Executive Secretary of the CNDH, Dr. Javier Moctezuma Barragán, and the Fifth Visitor General, Mr. Mauricio Farah Gebara, met also with Dr. Ana Isabel Morales, Minister of Government, and with professor Miguel de Castilla Urbina, Minister of Education in Nicaragua.

## RECOMMENDATIONS

The following is the synthesis of the recommendations emitted by the CNDH during the month of May. The complete version can be consulted on the web page of this institution.

### Recommendation 10/2007

May 10 th , 2007

Case: Of Mr. EGZ.

Addressee Authority: Mexican Institute of Social Security (IMSS).

On February 17 th , 2006, the complaint by Mr. MARPS was received in this National Commission, wherein it stated that Mr. EGZ, carrier of HIV/AIDS, on February 2, 2006, entered the General Hospital of Zone 2 of the Mexican Institute of Social Security (IMSS) in Tuxtla Gutiérrez, Chiapas, where he was prescribed the medication named ganciclovir, which he had yet to receive by the date in which his complaint was filed, and for which he solicited the urgent intervention of this National Organism, owing to the risk that he was going to lose his eye and ear which were both healthy. In broadening their complaint, on February 21, 2006, Mr. MARPS and JCBR stated that, owing to the deficient medical attention which Mr. EGZ received beginning August 8, 2005, he lost vision in one eye, as well as hearing in one ear, since it was detected late that he suffered from HIV and, as a consequence, did not receive in a timely manner the treatment and adequate control of his illness.

As a result of the preceding, on May 10 th , 2007, this National Organism issued the Recommendation 10/2007, directed to the Director General of the Mexican Institute of Social Security, wherein he is requested to inform the Internal Organ of Control in the IMSS, so that an administrative proceeding of investigation may begin against those public servants cited in the Recommendation in question, and to inform this National Commission from the start until its corresponding resolution.

In the same way, order those responsible to complete the respective administrative applications to the effect that Mr. EGZ be compensated in accordance with the law and his generated expenses be covered, by virtue of the considerations laid out in the cited Recommendation. Furthermore, direct instructions to the corresponding areas of the IMSS to carry out the processes designed to regularize the necessary supply, so that the proper reserves of medications are had. Similarly, give instruction to those responsible so that training courses may be imparted permanently to those doctors adscribed to the General Hospital of Zone Number 2, in Tuxtla Gutiérrez , Chiapas .

### Recommendation 11/2007

May 10 th , 2007

Case: Of Mrs. Patricia González Sandoval.

Addressee Authority: Institute of Security and Social Services for State Workers (ISSSTE).

On November 10th, 2006, this National Commission opened the file 2006/5051/I/Q motivated by the complaint presented by Mrs. Patricia González Sandoval, through which she declared presumed Human Rights violations committed in detriment to her by public servants from the ISSSTE. In view of the fact that on September 4th, 2006, she gave birth to her third child in the "General Ignacio Zaragoza" Regional Hospital, she was discharged the following day, but reentered the same hospital on September 8th, 2006, when she also received surgical intervention, and was operated on again on September 11th, 2006, in order to extirpate her uterus and ovaries, as a consequence of the omission in prescription of the adequate treatment, to which the aggrieved expressed her disagreement.

As a result of the preceding it emerges that, with his action, the medical personnel of to the ISSSTE violated the right to freedom of procreation of the aggrieved, which implies a free, responsible, and informed decision about the number and spacing of her children in view of the fact that an obstetric hysterectomy was performed on her, it materially deprived her of the possibility of becoming pregnant again; the preceding by virtue of the fact that this suffering was foreseeable, and as it turned out, the surgical procedure, unnecessary.

Based on the above this National Commission, on May 10 th , 2007, released the Recommendation 11/2007, directed to the General Director of the ISSSTE, so that the corresponding measures may be taken, and that the payment be realized which proceeds by the concept of reparation of the damage caused to Mrs. Patricia González Sandoval, as a consequence of the institutional responsibility derived from the inadequate medical attention she was given, in accordance with that which is posed in the legislation applicable to the subject matter; similarly, send to this National Commission the documentation with that which accredits your compliance; at the same

time, send instructions to the effect that through the corresponding area in the ISSSTE the aggrieved be given psychotherapeutic treatment, with the object of diminishing the psychological damage which can result from the impossibility of being able to procreate again; similarly, begin, in accordance with the law, the administrative proceeding for investigation against those public servants attached to the "General Ignacio Zaragoza" Regional Hospital; finally, instruct the corresponding person so that training courses be imparted in order to avoid the occurrence of future omissions such as those referred to in the chapter of observations for this Recommendation.

Recommendation 12/2007

May 11 th , 2007

Case: Appeal by Mr. Sergio Rodríguez Alegre.

Addressee Authority:

H. Constitutional City Council of the Municipality of Apizaco , Tlaxcala.

On June 7 th , 2006, the appeal presented by Mr. Sergio Rodríguez Alegre before the State Commission for Human Rights of Tlaxcala was received in this National Commission, in view of the fact that the Constitutional City Council of Apizaco, Tlaxcala, did not accept the Recommendation that the Local Organism directed to it.

On June 23 rd , 2005, Mr. Sergio Rodríguez Alegre presented a complaint before the State Commission of Human Rights for Tlaxcala, for acts probably in violation of Human Rights committed in detriment to him by public servants from the Constitutional City Council of Apizaco, Tlaxcala, in view of the fact that in the last week of January, 2005, without preliminary proceedings, his amusement rides that he had installed in the central park of the city of Apizaco, Tlaxcala were removed.

The State Commission proceeded to the processing of the file CEDHT/145/2005-1, and on April 5 th , 2006, directed to the Constitutional City Council of Apizaco, Tlaxcala, the respective Recommendation, by virtue of the fact that the violation accredited to the Human Rights of legality and judicial certainty in detriment to Mr. Sergio Rodríguez Alegre, the same that was not accepted by the municipal authority.

By such virtue, on May 11 th , 2007, this National Commission issued the Recommendation 12/2007, the same which was directed to the Constitutional City Council of the Municipality of Apizaco, Tlaxcala, confirming the Recommendation of April 5 th , 2006, emitted by the Local Organism, issuing them the instructions so that they would speedily comply with the Recommendation emitted by the State Commission of Human Rights for Tlaxcala, in the file CEDHT/145/2005-1.

Recommendation 13/2007

May 15 th , 2007

Case: Of Mrs. María Auxilio Bautista Mesa

Addressee Authority:

Constitutional Government of the State of Jalisco and the Mexican Institute of Social Security (IMSS).

On August 11 th , 2006, this National Commission opened the file 2006/4005/1/Q, motivated by the complaint presented on October 18, 2005, by Mr. José de Jesús Jiménez Ramos before the State Commission of Human Rights for Jalisco, in which he reported that on September 1 st , 2005, his wife, Mrs. María Auxilio Bautista Mesa, was bitten by a bat, for which they went to the medical service where public servants from the State Ministry of Health attend to patients, who informed them that they did not have the required medications and that there was no doctor that could attend to them, for which they spoke with a doctor in Ocotlán, Jalisco, by radio who told them that he did not have the medications either, but assured them the aggrieved was not running any risk.

Finally, and after returning numerous occasions to different clinics of the IMSS, the aggrieved continued to be troubled to the point of not being able to see nor hold herself up, for which they took her to the emergency room, on October 7 th , 2005, in the Clinic Number 46 of said Institute, where she was admitted and died October 10 th , 2005. Finally, the plaintiff specified that numerous doctors from the IMSS told him that the cause of death was owed to the fact that she was not attended to on time and from complications from the animal bite.

As a result of the preceding, on May 15 th , 2007, this National Commission issued the Recommendation 13/2007, directed to the Constitutional Governor of the State of Jalisco, so that he may issue instructions to the Secretary of Health for the State, to begin and bring about, in conformity to law, the administrative procedure of investigation against the public servants adscribed to the Health Center of this federative entity; furthermore, instruct the Secretary of Health for the State to carry out the processes designed to regularize the necessary and opportune supply of medications, so that they be available in the ideal quantity to satisfy the demand from all the health centers for the state; similarly, order the corresponding person to complete the administrative procedures corresponding

in effect to the family members of the aggrieved, that they be repaired of the damage conforming to law; moreover, issue necessary administrative instructions designed to give professional, effective, and opportune medical attention to the patients who turn to the health centers dependent on the Secretary of Health for Jalisco.

Furthermore, it was recommended to the General Directory of the IMSS that he begin and bring about, conforming to law, the administrative procedure of investigation against the public servants that were involved with attending to Mrs. María Auxilio Bautista Mesa; similarly, issue the administrative instructions designed so that quality attention be paid to the patients who turn to the dependent hospitals of the IMSS.

Finally, give the order to complete the corresponding administrative procedures, to the effect that the family members of the aggrieved be repaired of damages in conformity with the law.

Recommendation 14/2007

May 16 th , 2007

Case: Appeal of Mr. Palemón López Hernández.

Addressee Authority: H. Constitutional City Council of the Municipality of Apizaco , Tlaxcala.

On November 18 th , 2005, this National Commission received the appeal which Mr. Palemón López Hernández presented before the State Commission for Human Rights of Tlaxcala, in which he reported as grievance that the Municipal President of Apizaco, Tlaxcala, did not accept the Recommendation 12/2005 which the Local Organism directed to him.

On May 17 th , 2005, Mr. Germán and Mr. Alday Palemón López Hernández, both with the last name of López Carcaño, presented a complaint before the State Commission of Human Rights for Tlaxcala for presumed violations of their Human Rights, committed by elements of the Directorate of Public Security, Roadways, and Transportation for Apizaco, Tlaxcala, in view of the fact that they forced the aggrieved persons to submit violently under the argument they had suspicious attitudes, their radio transmitters, cellular telephones, wallets, and \$1,500.00 (one thousand five hundred pesos 00/100 cents) property of Mr. Palemón López Hernández, which was returned later with the exception of the money in cash.

The State Commission opened the file CEDHT/109/2005-1, and on September 28 th , 2005, issued the Recommendation 19/2005, directed to the Municipal President of Apizaco, Tlaxcala, by virtue of the fact that the violation was accredited to the Human Rights of legality and judicial certainty of the aggrieved, the same that was not accepted by the municipal authority.

By that which this National Commission issued on May 16th, 2007, the Recommendation 14/2007, directed to the H. Constitutional City Council of the Municipality of Apizaco , Tlaxcala, confirming the Recommendation issued by the local organism, so that compliance with Recommendation 19/2005 be ordered which the State Commission for Human Rights for Tlaxcala issued. Similarly, may the administrative procedure be started against C. Reyes Ruiz Peña, municipal President, and against the head of the Directorate of Public Security, Roadways, and Transportation, both from Apizaco, Tlaxcala, the same who failed to yield the report to this National Commission for the incompletion which they incurred with respect to the petition from the State Commission of Human Rights for Tlaxcala, in order to carry out active proceedings of confrontation between the aggrieved and the elements of that police body.

## DOMESTIC AFFAIRS

"International Tour for the human right to health protection, Hepatitis C and HIV/AIDS, for a dignified health without borders."

On May 21 st , the green light was given for the International Tour for the human right to health protection, Hepatitis C and HIV/AIDS. The route was through numerous cities of the country, whose objective was the promotion and defense of the right to health protection, as an integral part of human rights.

Said event was organized by the CNDH, together with the Network of National Institutions for the Promotion and Protection of Human Rights of the American Continent, in collaboration with diverse organizations of the civil society, and companies from the private sector.

During the tour in each city, diverse institutions and health centers were visited from the public and private sectors, as well as media outlets. Similarly, information and printed material was distributed about the human right to health protection, including orientation for the patients with HIV/AIDS and Hepatitis C.

The Tour ended in Mexico City, with a round of conferences and workshops and included participation from national and international experts in the field, among those who stuck out, Dr. Lisbeth Quesada, Defender for the Inhabitants of the Republic of Costa Rica, and Dr. Ernesto Guerrero Camilo, Coordinator of Country for Panama and Mexico from UNAIDS, who presented the document Manual on HIV and Human Rights for the National Institutions of Human Rights.

#### FOREIGN AFFAIRS

The CNDH joins in solidarity with the Special Clerk of the UN for Human Rights of Migrants.

On May 16 th of the present year, the National Commission for Human Rights expressed its solidarity with the doctor Jorge Bustamante, Special Rapporteur for the United Nations for Human Rights of Migrants, and laments that the authorities of the United States have rejected his official visit to the migrant detention centers of Don Hutto, in the state of Texas, and of Freehold, in New Jersey.

More lamentable still is that the United States Government relinquishes the great opportunity that the visit of the Special Rapporteur signifies to send concrete and unequivocal signals of its commitment to human rights of migrants, Mexicans being the majority, whose state of vulnerability has made them victims of every type of abuse, especially in recent years, when more has been spoken about the need for migrant reform in that country.

The CNDH expresses its absolute support for the mandate and the activities of the Special Rapporteur and underlines the pressing necessity that, in both the United States and in Mexico alike, there exist a policy of transparency with respect to the functioning of migrant detention centers in order to safeguard their human rights and guarantee that the receiving countries of migrants carry out their migratory control actions in full respect for fundamental rights which must not be restricted for reasons of an administrative character.

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