

NEWS LETTER

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THE FIO RULING COUNCIL DECLARES THAT IT IS AGAINST THE CONSTRUCTION OF THE WALL ALONG THE MEXICAN-AMERICAN BORDER

On March 28, in Tijuana, Baja California, the Ruling Council of the Iberoamerican Federation of Ombudsman (Spanish initials – FIO), held a Press Conference to announce the Tijuana Declaration, in which it declared that it was against the construction of the wall in the Mexican-American border. The participants were: Dr. Omar Cabezas Lacayo, President of the FIO, Dr. Javier Moctezuma, Technical Secretary of FIO, Mon. Rafael Romo, Archbishop of Tijuana; Mr. Mauricio Farah Gebara, Fifth General Visitor of the CNDH; and the rest of the members of the Ruling Council.

The participants also walked along the Border Wall from Garita de Otay to the beach area in Tijuana, in order to carry a visual inspection of it.

RECOMMENDATIONS

The following presents a synthesis of the recommendations issued by CNDH during the month of April. The complete version can be seen on our website.

Recommendation 9/2008

April 10, 2008

Case: Mr. Israel Eduardo Espinoza González

Addressee Authority: Secretary of Federal Public Security

On October 11, 2007, this institution received a complaint from Mrs. Gabriela García Quevedo, who stated that her husband, Mr. Israel Eduardo Espinoza González, had been imprisoned in the North Male Preventive Prison in DF in Distrito Federal and was serving two prison sentences: one of State Jurisdiction for one year, eleven months and eleven days; and the other one of Federal Jurisdiction for three years and three months. Because of this, he motioned for the simultaneous imprisonment for both penalties, as stated in article 25 of the Federal Penal Code. Therefore, a resolution on February 13, 2007 determined the inmate should be granted the time he was in preventive imprisonment (one year, nine months and two days) as part of his imprisonment time. The execution of such a measure was supposed to be verified by the Non-centralized Prevention and Social Re-adaptation Administrative Body of the Secretary of Federal Public Safety; nevertheless, the body failed to comply with the resolution and grant him his freedom.

The complaint was denounced to the National Commission, and given file number 2007/4293/3/Q. On analyzing the records and evidences, it was observed that the Secretary of Federal Public Safety, who was the authority in charge of supervising the execution of the plaintiff's sanction, violated the Human Rights of personal freedom, legality and juridical security, since Mr. Israel Eduardo Espinoza González was illegally held in the North Male Preventive Prison in DF for a time longer than that corresponding to the actual federal sentence.

Mr. Israel Eduardo Espinoza González was arrested on September 2, 2002 and sentenced to 1 year, 11 months and 11 days in prison; as well as to 3 years and 3 months in prison according to cases 164/2002 in the index of the 43rd Penal Courthouse and 97/2002 in the index of the 3rd District Courthouse of Federal Penal Processes, both in Mexico City. The sentence given in case 164/2002 of Common Matters had been served fully on August 13 2004 and because of this, the second sentence began on August 14 2004. This was announced to the Non-centralized Prevention and Social Re-adaptation Administrative Body of the Secretary of Federal Public Safety.

Consequently, the aggrieved initiated the application of the hypothesis in article 25 of the Federal Penal Code before the District Courthouse of Federal Penal Processes, so as to simultaneously comply the penalty of preventive imprisonment. As a result, it was concluded that the time he had been in preventive imprisonment (one year, nine months and two days) should be taken into account, and that The Executive Federal Authority for Sanctions was to see that this was done.

The Executive Federal Authority for Sanctions was told of the resolution on February 14, 2007; nevertheless, the Non-concentrated Prevention and Social Re-adaptation Administrative Body of the Secretary of Federal Public Safety did not issue the completion record until October 16 2007, that is, more than eight months later.

As the file was processed, the Non-concentrated Prevention and Social Re-adaptation Administrative Body of the Secretary of Federal Public Safety presented the facts to the corresponding Internal Affairs Organ in order to begin an investigation to establish the administrative responsibility of public servants in the institution. It also issued a facts report before the Federal Public Secretary with a view to restarting the prior investigation about the way in which the offended was deprived of his liberty.

Based on the above, on April 10, 2008, the National Commission issued Recommendation 9/2008 to the Secretary of Federal Public Safety, so that he would order and carry out damage repair payments in line with the applicable legislation for the damage caused to Mr. Israel Eduardo Espinoza González through his unjustified imprisonment. He should also take any necessary measures to make sure that the execution of imprisonment sanctions belonging to this Administrative Body are strictly applied so inmates' Human Rights violation

10/2008 Recommendation

April 11 2008

Case: Mrs. Marcela Santiago Mauricio

Responsible Authority: National Defence Secretary

A letter of complaint signed by Mrs. Q1 was received on May 25, 2007. In this letter, she states that public servants from the National Defence Secretary's Women's Specialties Clinic allegedly violated the Human Rights of Mrs. Marcela Santiago Mauricio.

A report of the medical malpractice suffered by Mrs. Marcela Santiago Mauricio is issued in this letter. The malpractice was committed by management personnel, specialist doctors and nurses of the National Defence Secretary's Women's Specialties Clinic. By the end of April 2007, both the person who issued the complaint and the plaintiff knew that the offended would have a Caesarean section. Due to a mistake carried out by the personnel or from whoever gave her blood of a different type, she had heart trouble and brain swelling which caused irreversible damage, and is the reason that she is currently in the Central Military Hospital. The person who issued the complaint also indicates she has not received any information regarding the future of the plaintiff's health. She therefore asked for the National Commission's intervention in order to begin an investigation of any crimes that may have been committed against Mrs. Marcela Santiago Mauricio's integrity.

This recommendation was issued because Mrs. Marcel Santiago Mauricio's rights to health protection and to receive proper medical attention were violated, and because her life was put in severe danger by public servants of the National Defence Secretary's Women's Specialties Clinic who gave her an inadequate public health service.

Among the evidence in the file, lies the proof that the medical attention given to Mrs. Marcela Santiago Mauricio at the National Defence Secretary's Women's Specialties Clinic was inappropriate, since on May 2, 2007, at 11:15 hrs after suffering a tear during her Cesarean section, she began receiving a transfusion of two globular packages (instead of using "O" Positive type, they used "A" Negative). The transfusion was stopped at 11:25 (10 minutes after it had started) because she had a Grade IV Reaction to the transfusion, and she received CPR until she was stabilized. Nevertheless, at 15:30 hrs of the same day, she had a cardio respiratory arrest and received extreme resuscitation aid. In addition, during Mrs. Marcela Santiago Mauricio's CPR the two Ambu devices (artificial-respiration device to manually ventilate the patient) which had been given to the medical personnel were not working. The staff of internal medicine at the Central Military Hospital, where she was transferred for further attention, found she had severe neurological damage.

Because of the above, and according to the medical opinion issued by the Coordination of Official Investigation Services of the National Commission, the conclusion is that the personnel at the National Defence Secretary's Women's Specialties Clinic were negligent in attending to their medical duties to the detriment of Mrs. Marcela Santiago Mauricio's health. This put her life at risk and caused her a physical handicap. The personnel did not act with the appropriate praxis for their charges, and they violated the plaintiff's fundamental right to health protection.

As a result, the National Commission issued Recommendation 10/2008 on April 11, 2008 to the National Defence Secretary:

First: to draw up instructions to whom it may concern in order to make all necessary procedures for the immediate payment to Mrs. Marcela Santiago Mauricio.

Second: instruct the head of the Central Military Hospital to assure that the patient will continue receiving language, psychological, psychiatric and physical therapy in Central Military Hospital or in another hospital. These therapies should be mainly for the upper and lower body members, neurological, medical and clinical rehabilitation. She should also receive general nursing care until she is healthy again and therapy should be provided by people who specialize in Mrs. Marcela Santiago Mauricio's condition in order to avoid complications or more severe consequences. In addition, she should also be granted transportation, food and housing expenses as necessary, and her relatives should receive attention such as psychotherapy and medicine.

Third: to ensure this document will be received by the Inspection Unit and General Attorney of the Mexican Army and Air force in order to begin an administrative investigation procedure against the military personnel who took part in the facts of the present Recommendation, whether it was by action or omission as stated in the observations chapter of this document. The National Commission should be informed from the beginning of the investigation to the end of the procedure.

Fourth: to ensure this document will be seen by the Public Military Ministry Agent who is compiling prior investigation SC/100/2007/XIV against the military personnel who participated in the facts of this Recommendation; and when the determination is issued, the Public Ministry will consider the evidence and observations referred to in this document and, when the moment comes, will inform this National Commission.

Fifth: to instruct the Inspection Unit and General Attorney of the Mexican Army and Air Force to begin an administrative investigation procedure against the military personnel who is in charge of keeping the medical machines in good, working conditions. The irregularities, actions and omissions should be investigated and, given the case, sanctioned. This National Commission should be informed of the actions taken from the beginning of its intervention to the end of the procedure.

Sixth: to instruct the Head of the National Defence Secretary's Women's Specialties Clinic to keep emergency, medical equipment and the red carts for patient attention in adequate conditions in order to avoid cases such as the one highlighted in this Recommendation from reoccurring. The National Commission should be informed about the actions taken from the beginning of its intervention to the end of the procedure.

Seventh: to instruct the Head of the Women's National Defence Secretary's Women's Specialties Clinic to adopt the necessary measures so the military personnel in charge of obtaining blood samples from patients, taking said samples to the Blood Bank, and carrying out the corresponding cross tests do their appropriately, so that in the future an event such as the one that originated this file will not happen again.

Eighth: to instruct the Inspection Unit and General Attorney of the Mexican Army and Air Force to settle the corresponding administrative procedures of responsibility against the public servants who obstructed the investigative work of the National Commission when they failed to provide a certified photo copy of the required investigation.

Recommendation 11/2008

April 15 2008

Case: Mr. Arturo Flores Alcaraz

Responsible Authority: Distrito Federal Government

On March 2 and 7, 2007, the National Commission received a petition in which Mrs. María Apolonia Hernández Flores states that her brother, Arturo Flores Alcaraz; her son, Jesús Ricardo Meza Hernández and her neighbour Ernesto Mendoza García had been arrested by personnel from the Secretary of Public Safety in Distrito Federal, and later turned over to officers of the Federal Department of Preventive Police, who subsequently took them to the Federative Public Ministry Agent. Mrs. Hernández's brother felt sick at the Public Ministry's office and required his medicine for diabetes and bronchial-pneumonia. The arrested men were later taken to the North Male Preventive Prison in DF, accused of several crimes. When Mrs. Hernández was able to talk to her brother, he mentioned he was feeling bad, but he had only received an injection for the pain; later, her son Jesús Ricardo Meza Hernández said that they could not get the medicines within the prison, and the guards had asked the arrested men if they had the medicines themselves. On March 3, 2007 his health had not improved. The prison security staff therefore took Mr. Arturo Flores Alcaraz to La Villa General Hospital, part of Distrito Federal Secretary of Health, where he died the same day.

On analyzing the evidence in this file, it is possible to prove that Mr. Arturo Flores Alcaraz' Human Rights to life and to the protection of health were violated through the denial to provide public health services, and because of the inadequate performance of public service on the part of the prison staff, more specifically the staff of the medical unit in the prison centre. Mr Flores Alcaraz had insulin-dependent diabetes and needed insulin in order to control his diabetes mellitus type I despite any other diseases he might have

had. However, from the moment he entered the prison centre on February 25 2007, he was not classified as a patient who needed adequate, prompt and immediate medical attention.

In connection with the above, it is important to highlight that the staff of the North Male Preventive Prison's medical unit did not do their job since they did not notice and treat Mr. Arturo Flores Alcaraz's condition.

As a consequence, on April 15 2008, the National Commission issued Recommendation 11/2008 to the

Head of the Distrito Federal Government. This Recommendation solicits the relevant necessary administrative procedure to be made in order to pay the damages caused to the relatives of the plaintiff as a result of the lack of medical attention as stated in the content of the Recommendation, and that proof of this payment is sent to the National Commission. Also, the heads of the Government and Health Secretary of the Federal District should be asked to issue the agreements, rules and any necessary legal procedures to assure an effective coordination among the personnel of preventive prisons and their medical services which may lead to the timely detection of any inmate whose health is at risk from a medical or sanitary point of view, so that the inmate can immediately receive the necessary medical attention so events like the one presented in this Recommendation do not happen again.

In addition, the Federal District Government should allow the corresponding Internal Comptroller to begin to determine the legal administrative procedure to investigate the responsibility of any public servant regarding the control and administration of the North Male Preventive Prison and of its medical unit, and more specifically, to the lack of surveillance and of internal control in attending to Mr. Arturo Flores Alcaraz's medical needs, as is exposed in the observation chapter of this document. The National Commission should be informed of this procedure from its beginning to its resolution. The Public Ministry should also be notified of the events in this Recommendation so it can adopt the corresponding prior investigation in order to corroborate whether any crime was committed through the public servants not fulfilling their responsibilities related to the lack of medical attention given to Mr. Arturo Flores Alcaraz. The National Commission should also be informed from the beginning of this investigation to its conclusion.

Recommendation 12/2008

April 21 2008

Case: Mr. Armando Prida Huerta, Chairman of the Press Association Síntesis.

Responsible Authority: Secretary of Public Function and Secretary of Public Education

On August 16 2007, the National Commission opened file 2007/3416/5/Q, because of the complaint issued by Mr. Armando Prida Huerta, Chairman of the Press Association Síntesis, in which he explains the following:

He owns several companies, among them three newspapers called Síntesis in Puebla, Tlaxcala and Hidalgo. In these media, Mr. Prida Huerta denounced mistaken procedures from the National Commission of Free Textbooks (Conaliteg in Spanish), which disqualified two of his printing companies from participating in contests promoted by the institution.

From this moment on, he became the object of a systematic persecution by several authorities such as Conaliteg itself and the National Council for Culture and Arts (Conaculta in Spanish), which accused him of fraud before the Secretary of Tax and Public Credit, which has audited Mr. Prida Huerta 25 times since 2003 and which has pushed several of the companies Mr. Prida Huerta had commercial deals with to stop dealing with him.

From the evidence in file 1007/3416/5/Q it was proved that public servants from the Secretary of Public Function, from the National Commission of Free Text Books and from the National Council for Culture and Arts violated the plaintiff's rights to legality, to juridical security, to information and to freedom of expression because of the following:

In November 2001 the Conaliteg published an invitation to a national public contest to which Mr. Prida Huerta signed his company Encuadernaciones Oriente, S. A. de C.V. up. The Conaliteg discarded the company's proposal arguing that the project did not fulfil the requirement specified in number VI.2 of the contest's bases.

Because of this, the plaintiff filed his inconformity officially at the Comptrollership and Administrative Development Secretary in which he showed that the content of the contest's bases contained an illegal supposition.

When the disagreement was solved, it was proved that the Conaliteg had added requirements which were obstacles for Mr. Prida Huerta's company to enter such contests. The referred institution imposed an annulment trial which also went against Mr. Prida Huerta's interests since the Federal Court of Tax and Administrative Justice found that the Commission did not have the legal power to promote the trial. Because of this resolution the Conaliteg promoted a protection trial in which constitutional protection was denied and the resolution of the Federal Court of Tax and Administrative Justice was confirmed.

Mr. Armando Prida Huerta denounced the irregularities committed by public servants of the institution to the Internal Auditing Body of the Conaliteg. Nevertheless, it was also proven that public servants of the institution also delayed and omitted to solve the complaints they had received.

On the same date that Mr. Armando Prida Huerta's companies were disqualified by Conaliteg, the General Director of that institution used his power as an authority to pressure the Chairwoman of Conaculta to send documents about Mr. Prida Huerta and his companies to the Tax and Public Credit Secretary, with the objective that this authority would then revise his tax situation.

It is evident then that the public servants at Conaliteg who participated in the process of excluding the plaintiff's companies in the contests mentioned above, along with the public servants from Conaculta who provoked persecution and harassment, as well as those from the Public Function Secretary who did not act according to the legal dispositions that rule their function, systematically violated Mr. Armando Prida Huerta's rights to legality and to juridical security.

Moreover, the head of the National Commission of Free Text Books gave several interviews in which he made comments about Mr. Prida Huerta's person and about the way his companies work. In addition, he pushed several other companies which had commercial deals with Mr. Prida Huerta to not grant him any more contracts, and this is indirect harassment because it limits the freedom of expression and the exercise of the Mr. Prida Huerta's profession.

Besides the above, the head of the Conaliteg, as stated above, asked the chairwoman of Conaculta to ask the Tax and Public Credit Secretary to revise Mr. Prida Huerta and his companies' tax situation, including the Press Association Síntesis, S. A. de C. V., which, according to the plaintiff, was the economic support of the aforementioned newspapers at that time. It is then possible to consider that these actions were intended to obstruct the commercial operation of the aforementioned companies, which indirectly persecutes the exercise of his profession.

Because of the above, on April 21, 2008, Recommendation 12/2008 was issued to the Secretaries of Public Function and of Public Education:

To the Secretary of Public Function:

The Internal Affairs Office of the Public Function Secretary is to be advised to begin the administrative procedure against the public servants in the institution who did not investigate the facts denounced by the plaintiff.

Mechanisms should be implemented that lead to the efficient verification of the fulfillment of the sentences dictated as a result of disagreements in national public contests that the Public Function Secretary may know of.

To the Secretary of Public Education:

The head of the Internal Auditing Body of the Public Function Secretary should begin an administrative procedure at the National Council of Culture and Arts with a view to determining responsibilities in this case.

The head of the Internal Auditing Body of the Public Function Secretary should begin an administrative procedure at the National Commission of Free Textbooks with a view to begin the administrative procedures against the public servants involved in this case.

The National Commission of Free Text Books should be instructed that from now on, the national contest processes should strictly respect the previously established procedures.

The Internal Auditing Body of the Public Function Secretary should begin an administrative procedure at the National Commission of Free Textbooks with a view to determine the responsibilities of the public servants who delayed answering the National Commission of Human Rights.

The General Attorney of the Republic should be advised so that they determine the penal responsibility of the public servants involved in this case.

Recommendation 13/2008

April 23, 2008

Case: Appeal of Mr. Felix Balcazar Ulin

Responsible Authority: H. Congress, State of Veracruz of Ignacio de la Llave, Constitutional County of Agua Dulce, Veracruz.

On January 28, 2006 an argument took place between Mr Gerardo Sánchez Barriga, Qualifying Officer of the Local Police in Agua Dulce, Veracruz, and Mr. Felix Balcazar Ulin and Jesus Orocio Celaya. Members of the Local Police arrested Mr. Felix Balcazar Ulin and Mr. Jesus Orocio Celaya and took them - using violence - to the county jail. After several hours and after paying a fine, the two gentlemen were freed again.

Because of the above, on February 1, 2006, Mr. Felix Balcazar Ulin presented a complaint to the Investigating Public Ministry Agent in Agua Dulce which began the ministry's investigation with file number AGUA/035/2006. Mr. Felix Balcazar Ulin also presented a

complaint at the State of Veracruz Human Rights Commission because he felt his rights to integrity and to personal security had been violated.

After the corresponding investigation, the State of Veracruz Human Rights Commission proved that members of the Local Police in Agua Dulce had violated Mr. Felix Balcazar Ulin's right to personal integrity and issued Recommendation 19/2007 to the Municipal President in Agua Dulce, Veracruz in March 2007. The Municipal President in Agua Dulce, Veracruz did not accept this recommendation for almost five months. Because of this, Mr. Felix Balcazar Ulin appealed to this National Commission on August 10 2007, in file 2007/280/4/RI.

After the logical and juridical analysis of the present evidence, the National Commission came to the same conclusion as the State of Veracruz Human Rights Commission in Recommendation 19/2007. The National Commission found violations to the human rights of integrity and personal security of the plaintiff, as well as lack of observation to the principles of legality, efficiency, professionalism and honesty of police institutions. Because of this, the National Commission considers the appeal valid and well sustained.

This conclusion was made because the public servants of the mentioned county did not perform according to the required bases and motivation of any action of an authority, and also because their behaviour was abusive, their force excessive and their omissions serious.

It is important to highlight the fact that on August 22, 2007, the National Commission requested the Municipal President of Agua Dulce to present a report about the acceptance of Recommendation 19/2007, or, if it were the case, to send the proof that it had been fulfilled. Nevertheless, even though the mentioned authority received the petition of this National Commission, it did not answer it. Due to the above, this National Commission is highlighting this omission, as it is linked to the administrative responsibilities of the public servants that may have committed said omissions.

As a consequence, on April 23, 2008, this National Organism issued Recommendation 13/2008, as follows:

To the Chairwoman of the Board for the LXI Legislation of the H. Congress at the State of Veracruz de Ignacio de la Llave: draw the necessary instructions to determine the responsibility of the public servants in the County of Agua Dulce, Veracruz, who did not answer the information petition of the National Commission, and, if it is the case, to agree to whatever may legally proceed and to send this National Commission the proof of the fulfilment of this recommendation.

To the members of the H. Constitutional County of Agua Dulce, Veracruz: instruct the complete fulfilment of Recommendation 19/2007, issued on March 9 2007 by the State of Veracruz Human Rights Commission, and send this National Commission the proof of such fulfilment.

Recommendation 14/2008

April 14 2008

Case: Fumigations at the ISSSTE Children's Welfare and Development Centres.

Responsible Authority: Secretary of Health and General Director of the Institute of Security and Social Services for the State Workers.

On June 7, 2006, the National Commission opened file 2006/2843/1/Q because of the complaint presented by Dr. Jorge Arturo de Leon Rodriguez and Dr. Josefina Hernandez Cervantes, in which they stated that since the end of 2004, there have been periodical fumigations at the ISSSTE Children's Welfare and Development Centre (Spanish Initials - EBDI) Number 97 in Distrito Federal. They added that the chemical products that have been used for the fumigations are toxic for the children who attend this Centre, and the doctors indicated they also know these fumigations happen in other EBDIs all over the country. The parents at this Centre asked the plaintiff for his professional aid, since he is a professor at the Pharmacology Centre of the Medicine School at UNAM. He offered this aid pro bono to the Director of EBDI Number 97, but she did not accept it.

The plaintiffs also indicated that at different meetings with the parents and ISSSTE authorities, they asked for these fumigations to be stopped, but they were told the ISSSTE fumigation plan would not be changed, and were given no further explanation. Finally, the plaintiffs stated that the mentioned Director was the only one who answered their requirements and informed them she would continue doing the fumigations as the authorities had planned.

From the analysis of the evidence, the National Commission proved there were violations to the right to the protection of health. These violations were committed by the public servants of the ISSSTE and of the Health Secretary against the students at the Children's Welfare and Development Centres of ISSSTE.

As a consequence, on April 28, 2008, the National Commission issued Recommendation 14/2008 to the Secretary of Health and to the General Director of ISSTE, requesting that the necessary administrative instructions be drawn up, so that the staff of the Federal Commission for the Protection against Sanitary Risks verify that the fumigations at the EBDIs are justified and that the necessary preventive measures and hygienic actions have been done to eliminate dangerous faunas before the use of toxic substances.

Instructions should also be drawn up, so that the Federal Commission for the Protection against Sanitary Risks, coordinated by the competent authority, makes and issues the official Mexican norm to regulate and control the use of toxic substances in fumigations when children are in contact with such procedures.

Preventive sanitary measures should be adopted in order to avoid the presence and spreading of dangerous fauna inside the EBDIs of ISSSTE, and the fumigation procedure should become the last option.

The necessary administrative instructions should also be drawn up, so that the personnel of the Children's Welfare and Development Centres receive courses about the content and the compulsory observance of the Mexican Official Norms of the Health Sector, as well as alternative cleaning methods that could be employed and which avoid the use of active toxic substances.

Recommendation 15/2008

April 29 2008

Case: Mrs. Alicia Guillen Araos

Responsible Authority: Secretary of Health

On July 20, 2007, the National Commission opened file 2007/30111/Q on receiving Mr. Antolin Cruz Casillas's complaint, in which he states that on July 14, 2007, around 11:15hrs, he was at the "Salvador Zubiran" National Institute of Medical Science and Nutrition's Emergency Room with 81 year old Mrs. Alicia Guillen Araos, whose vital signs were failing. He also states that, in the mentioned institute, Mrs. Alicia Guillen Araos did not receive the necessary emergency attention and because of this she died on the same day, at 17:45 because of a septic shock and because of a urinary tract infection.

From the evidence in the file, and from the medical opinion of the National Commission's Coordination of Official Investigation Services, it was proven that the doctor in charge of the "Salvador Zubiran" National Institute of Medical Science and Nutrition's Emergency Room, as well as the doctors at the medical unit that receives residents at this Institute, did not fulfil their obligation to supervise the resident doctors who took care of Mrs. Alicia Guillen Araos on July 14, 2007, violating her right to life and to the protection of health.

Mrs. Alicia Guillen Araos' medical treatment was the responsibility of 2nd and 3rd year Internal Medicine residents, who did not give an adequate emergency treatment, nor did they send the lady immediately to an intensive care unit. The residents were not supervised by the Unit's doctors. Mrs. Guillen Araos was left waiting for two hours and forty-five minutes, and at 14:00 of the mentioned day she received 125 cc of solution and then had diagnostic tests carried out. It was only then that Mrs. Guillen Araos's emergency situation was attended. She went into shock and then died, which was a predictable situation that was not foreseen by this Institute. It is important to highlight that at 16:00 she was given 3,000 ml. of solution, adrenaline, two shots, atropine, another two shots and bicarsol and a further shot. A central catheter and a Foley tube were administered, and she received advanced CPR. These actions were carried out too late, and as a consequence the patient did not respond further and deteriorated until her death at 17:45 under the diagnosis of a septic shock and urinary tract infection.

Because of the above, on April 29 2008 the National Commission issued Recommendation 15/2008 to the Secretary of Health to order the damage repair payment, to the relatives of Mrs. Alicia Guillen Araos as stated in the observations chapter of this Recommendation and according to the applicable law about this matter. The National Commission should receive proof of the fulfilment of this recommendation. Instructions should be directed to the Body of Internal Affairs of the Secretary of Health to begin and determine an administrative procedure against the doctor responsible for the "Salvador Zubiran" National Institute of Medical Science and Nutrition's Emergency Room, and against the doctors who belong to the medical unit that receives resident doctors at this Institute, and who did not supervise the resident doctors who took care of Mrs. Alicia Guillen Araos on July 14, 2007 as exposed in the observations chapter of this recommendation. The National Commission should be informed about this procedure from the beginning to its conclusion. Any necessary measure should be also taken so events such as those previously mentioned in this Recommendation never happen again in emergency cases at said Institute. Finally, instructions should be drawn up, so that training courses for the organization and function of the medical residences are given to the personnel of the National Institute of Medical Science and Nutrition "Salvador Zubiran" so omissions such as the ones mentioned in the observations chapter of this Recommendation never happen again.

Recommendation 16/2008

April 29 2008

Case: Mr. Rodolfo Franco Ramirez, Presenter of the Programme "Comentando La Noticia"

Responsible Authority: Constitutional Government of the State of Aguascalientes

On March 28, 2007, the National Commission received a formal complaint from Mr. Rodolfo Franco Ramirez. In this letter, Mr. Franco Ramirez states that the Human Rights of both himself and Mrs. Maria del Refugio Martínez were violated by public servants of the State Government.

The plaintiff expressed that, during his radio show "Comentando la Noticia" (Comments on the News), of Radiogrupo Cooperation in Aguascalientes, he read a news item published in El Centro newspaper. The news item was headed "Aguascalientes, narco, futbol y familia" (Aguascalientes, drug traffic, football and family). As a consequence of that reading, his show was taken off the air that very

same day. After this, Mr. Franco Ramirez's image was tarnished by the official news channel in Aguascalientes, Aguascalientes TV; in which the presenter talked about Mr. Franco Ramirez and Mrs. Maria del Refugio Martinez Guardado using adjectives that damaged both their honorability and their professional prestige.

Moreover, in an internet interview the Coordinator of the Aguascalientes Government Social Communication Department, mentioned that the plaintiff was a criminal and that he was running away from justice. A few days after this declaration, there was an order of appearance against Mr. Franco Ramirez in relation to a penal accusation from the State Government because of his failure to fulfil a construction contract in 2003.

The plaintiff also mentioned that there were several harassment acts against people who have helped him and Mrs. Martinez Guardado to expose their case through their own media spaces.

The analysis of the evidence in the file shows violations to the rights to freedom of expression and information against Mr. Rodolfo Franco Ramirez and Mrs. Maria del Refugio Martinez Guardado. These rights were violated by the Governor of Aguascalientes and by the Coordinator of Social Communication, who had, at different times, used their influence over the owners of the radio broadcasting company to stop the show "Comentando la Noticia". This violated the plaintiffs' right to freedom of expression as well as society's right to receive information and opinions.

The National Commission proved that public servants at Aguascalientes Radio and Television did not observe the established principles of article 3 of the Law that Creates the Decentralized Public Organism "Aguascalientes Radio and Television", which establishes the obligation to objectively reflect the facts that are reported. The public servants have an administrative responsibility to carry out their job. They did not observe, through action or omission, the dispositions of article 70, fraction I of the Law of Responsibilities of Public Servants of Aguascalientes States, by not keeping the legality, honesty, loyalty, impartiality and efficiency of the service entrusted to them. Their comments hindered Rodolfo Franco Ramirez and Maria del Refugio Martinez Guardado's honour since they were exposed to public discredit. This violated their rights to legality and juridical security.

As part of the restriction to the right to freedom of expression suffered by the aggrieved, the National Commission also observed that after the cancellation of the show "Comentando la Noticia", there was pressure to impede Mr. Rodolfo Franco Ramirez, as well as other journalists who had commented on their own shows the cancellation from using public media.

The National Commission also found that, once the Government of Aguascalientes received Mr. Franco Ramirez' complaint and was asked for the necessary information, the Governor asked for an extension to attend the first request and, the Coordinator of Social Communication gave no answer to the recommendation. In addition to the request for preventive measures being put in place which would avoid freedom of expression being limited or inhibited, the State Government answered the recommendation 132 days later. This shows the lack of observance of the dispositions of article 70, fraction XXVI of the Law of Responsibilities of Public Servants in this state, which obligates public servants to give out any data requested by the institution which is legally in charge of the surveillance and defence of Human Rights.

As a consequence, on April 29, 2008, the National Commission issued Recommendation 16/2008 to the Governor of Aguascalientes State, requesting that the Aguascalientes Government Coordinator of Social Communication issue a public declaration expressing the institutional commitment to respect the aggrieved's right to freedom of expression. The respect of freedom of expression should be guaranteed and any action that may inhibit such a right or the right to information should be avoided in order to guarantee political pluralism and the free circulation of ideas and information, which in turn allows the growth of democratic institutions. The General Attorney of the State should begin an administrative investigation conforming to the Responsibilities of Public Servants of Aguascalientes State Law, with a view to beginning an administrative procedure against the public servants of the General Direction of Radio and Television in Aguascalientes.

Finally, the General Attorney of the State, according to the Law of Responsibilities of Public Servants of the State of Aguascalientes, should begin an administrative investigation and, given the case, allow the agent of the Public Secretary of the Common Matters to begin the prior investigation against the public servants of Aguascalientes State who participated in the actions and omissions described in this Recommendation.

Recommendation 17/2008

April 29 2008

Case: Mr. Luis Pallares Vargas's appeal.

Responsible Authority: Constitutional City Council of the County of Chihuahua, Chihuahua.

On March 1 2007; the National Commission opened file 2007/79/5/RI on receiving a written appeal from Mr. Luis Pallares Vargas in which he states his disagreement to the rejection of Recommendation 047/2006. This Recommendation had been issued by the Chihuahua State Human Rights Commission and addressed to the Constitutional President of Chihuahua County in Chihuahua.

From the analysis of all documents in the appeal, the National Commission observed that on June 14 2006 the State Commission received a complaint from Mr. Luis Pallares Vargas, who stated that his Human Rights had been violated by public servants from the Parks and Gardens Department of the Urban Cleaning Management in Chihuahua, Chihuahua. In October 2005, "transit" personnel told him that he had to remove his metal stand which was outside his home. The permit to work in this stand was still not complete, so he had taken the stand to an empty lot on the corner of the streets Batallon de San Patricio and Privada de 24 1/2, in the Santa Rita neighbourhood in Chihuahua, Chihuahua. He had also let down the tires of the stand and used a lock to close it since he kept several objects inside it.

The plaintiff explained that when he realized his stand was not where he had left it, he went to several offices of the County and to the Government Office; he was told to go to the Parks and Gardens Department. There he was told that they had indeed taken his metal stand to the county's warehouse. When Mr. Pallares Vargas went to the warehouse, he found his stand had been damaged, that the floor, window and door were loose and that there were several objects missing.

The State Commission of Human Rights in Chihuahua made the corresponding investigation and said the plaintiff's Human Rights had been violated; therefore on December 11 2006, the Commission issued Recommendation 047/2006 to the Constitutional President of Chihuahua County in Chihuahua, and on February 13, 2007 the aforementioned authority communicated the rejection of the Recommendation.

The National Commission considers that, in this case, the violations to the Human Rights of legality and juridical security of the plaintiff have been proven; since the public servants in the Parks and Gardens Department did not complete the administrative procedure mentioned in article 195 of the County Code for the State of Chihuahua. Such code orders the notification of the subject of intentions (sustained and motivated) of the county's administration or of the person who had asked the institution to act. The subject also has the right to oppose such intention, to offer proof, to state facts and to sustain and discuss his position. It is only after this, that the authority can issue the corresponding resolution – to which the subject must also be notified.

As a consequence, on April 20, 2008, the National Commission issued Recommendation 17/2008 to the Constitutional Head of Chihuahua County in Chihuahua so instructions are drawn in order to fulfil Recommendation 047/2006, issued by the Chihuahua State Commission of Human Rights on December 11, 2006.

NATIONAL AFFAIRS

At the opening of the Regional Forum for the Homogenization of the National Juridical Framework on People Trafficking on April 16 of this year, the National Ombudsman Dr. Jose Luis Soberanes Fernandez stated that in 11 states of Mexico the amount of children who live in poverty is over 50%. The worst cases are Chiapas and Oaxaca, where seven out of every ten children under 18 live in this situation. The amount in Veracruz, Tabasco and Hidalgo is six out of every ten children.

Migrants deserve the greatest attention as they are vulnerable being far away from their birthplace. This, coupled with their own despair make them potential victims of recruiters who have found children and migrant women to be the best source for their despicable market.

"Migrants from other countries, mostly from Central America, suffer numerous types of abuse derived from the oblivion in which they have been living. Extortion, aggression, rape and now kidnapping of migrants and their recruiting by dealers flourish within indifference," warned the National Ombudsman during the event which was inaugurated by the Chairwoman of the Citizen Consulting Council for DIF System, Mrs. Margarita Zavala Gomez del Campo. The chairman of the Political Coordination Board of the Mexican Senate, Manlio Fabio Beltrones Rivera and the Governor of Sinaloa, Jesus Aguilar Padilla were also present.

The president of CNDH mentioned that this institution had recently documented the case of 80 Chinese working women who worked 17 hours a day at a textile factory in Guanajuato State. "They were kept inside their working place day and night, they were charged fines for everything, they could only go out if they were chaperoned by their kidnappers and they only had two hours to rest every Sunday. Their documents had been taken away by the factory owner. These workers lived in slavery under the eyes of work and migration authorities whose supervision visits only legitimated this situation of exploitation."

Dr. Soberanes Fernandez also mentioned that, according to the data from the Web of Latin American Missing Persons, which is part of Save the Children, one million children and teenagers disappear every year from their homes in Latin America. These children are destined to illegal adoption, organ traffic and sexual exploitation or work. This data represent the painful forced separation from the relatives of approximately three thousand people every day in the mentioned region.

"Human traffic," he said, "should not be allowed anywhere in the world. We shall work to stop it in Mexico. Thousands of lives which have already fallen into the web of human traffic, and hundreds of thousands of lives which are at risk of falling, need and deserve our best effort."

Dr. Soberanes Fernandez also announced the creation of a National Observatory to make sure that public servants work according to the legal framework in the matter of human traffic. Ten regional committees will be created in Baja California, Chihuahua, Sonora, Reynosa, Aguascalientes, Tabasco, Veracruz, Campeche and Chiapas, which will cover all the Republic. He also mentioned that government institutions will work in coordination with civil organizations to promote the prevention of human traffic and to take care of victims.

At the end of the inauguration, Dr. Soberanes Fernandez talked to the media and reiterated the position of the Mexican National Human Rights Commission that, based on the Mexican Constitution, the Army must go back to its quarters and stop doing police work which is part of public security. He also stated that in our country there are about 400 thousand policemen whose labour, preparation, training and equipment is not up to facing organized crime, and this has caused the incorporation of military personnel to do their work.

He also informed that the CNDH continues the integration of the files related to cases in which military personnel have violated fundamental rights of civilians, especially in Badiraguato, Sinaloa and in Ciudad Juarez, Chihuahua in order to issue the corresponding resolutions.

INTERNATIONAL AFFAIRS

Dr. Javier Moctezuma, Executive Secretary of this Public Organism, attended the XX session of the International Coordination Committee (CIC) from April 14 to 18 in Geneva, Switzerland on behalf of Dr. Jose Luis Soberanes Fernandez, president of the CNDH.

The XX session of CIC was one of the most important in the history of the Committee because crucial decisions were made for the institutional life of the group.

The following decisions were made during the meetings: the Group of National Institutions will become an Association within Switzerland; there will be a Working Group to elaborate statues and the Regional Coordinators of Human Rights National Institutions (including the CNDH as the General Secretary of the Web of the American Continent, along with the Chairwoman and the Vice-president of CIC who will also be part of it); the Finance Work Group will analyze and propose other financial options. It is important to mention that CNDH is part of the Working Group; a Representative in Geneva will be permanently hired; a Selection Committee will use a fair and transparent recruitment procedure; the Ninth International Conference of National Institutions for the Promotion and Protection of Human Rights will be held in Nairobi, Kenya, from October 20 to 24.

The XX session of the CIC also held events regarding the INDH and business, the role of INDH in the reduction of poverty and the role of INDH in the Universal Periodical Examination.

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