

# NEWS LETTER

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### THE NATIONAL HUMAN RIGHTS COMMISSION SENT A CLEMENCY PETITION FOR THE MEXICAN JOSÉ ERNESTO MEDELLÍN ROJAS, SENTENCED TO DEATH PENALTY

Last July 17, the National Human Rights Commission sent the Texas Board of Pardons and Paroles, in the U.S., a clemency petition for the Mexican José Ernesto Medellín Rojas, sentenced to death penalty to be executed next August 5, and solicited the members of the Executive Clemency Committee to recommend Governor Ricky Perry to commute that sentence for one of prison.

By means of an official letter addressed on July 16 to the president of that Board, Rissie L. Owens, the National Ombudsman, Dr. José Luis Soberanes Fernández, stated that, in that issue, it must be taken into account that on March 31, 2004, in the file known as "Case Averna and Other Mexican Nationals", the International Court of Justice determined that Mr. Medellín Rojas's right to the due notification and consular assistance, appearing in article 36 of the Convention of Vienna on Consular Relations was violated.

"The United States of America –states the text sent to the Texas Board of Pardons and Paroles — has recognized this international obligation, and the Supreme Court of Justice in the case "Medellín vs Texas", held that the Congress must legislate to fulfil this kind of compromises. So that, if the execution of the sentence is performed and our countryman does not receive the guarantee to which he is entitled according to the Convention of Vienna, without any doubt the authority of the institutions that watch over the fulfilment of the international legislation, and the countries which were compromised to comply to it would weaken."

Dr. Soberanes Fernández emphasizes that the rights to life, dignity and personal integrity are pillars of the catalogue *ius cogens*, which is constituted by a group of principles that are essential for the civilized living together and the harmonic coexistence among individuals and nations. Such international law principles, he adds, constitute an imperative that obliges nations to protect and respect the human rights.

The Mexican Ombudsman points out that the dispositions of articles 3rd and 5th of the Universal Declaration of Human Rights; 1st of the American Declaration of the Rights and Duties of Man; 4th of the American Convention of Human Rights; 2nd of the Declaration on the Protection of People against Torture and other Cruel, Inhuman or Degrading Treatments or Punishments; and 7th of the International Covenant on Civil and Political Rights, must be fulfilled, since such articles recognize the right to life and to the fact that no one could be subject to torture of cruel, inhuman or degrading punishments or treatments.

It was established that the decision adopted on behalf of Mr. Medellín Rojas would be recognized, without any doubt, by the international community, "as an unequivocal sign of the compromise of the government of the State of Texas for the respect to life, to human dignity, as well as to the enforcement and development of the human rights."

A Copy of this document was sent to the Secretary of Foreign Relations of Mexico, Patricia Castellanos, and to the members of the Texas Board of Pardons and Paroles, Juanita González, Linda García, Conrith Davis, Jackie Denoyelles, Charles Aycocock and José L. Aliseda.

## RECOMMENDATIONS

The following presents a synthesis of the recommendations emitted by the CNDH during the month of July. The complete version can be consulted on the website of this institution.

### Recommendation 27/2008

July 2, 2008

Case: Of Mr. José Ignacio Trujillo Cortázar and Mr. Alfonso Muñoz Moreno

Addressee Authority: H. Municipal City Council of Minatitlán, Veracruz

On June 9, 2006, this National Commission received the complaint presented to this National Organism by Mr. José Ignacio Trujillo Cortázar and Mr. Alfonso Muñoz Moreno, respectively the President and the Secretary of the Council of the National Commerce, Services and Tourism Chamber of Minatitlán, Veracruz, in which it is stated that the authorities of the Municipal City Council of Minatitlán, Veracruz, as developing works of leveling and construction of the highway Las Lomas-El Jagüey, damaged several lots that conform the archeological site called Las Lomas de Tlacojalpa, situated in the city of Minatitlán, Veracruz.

The complaint file was opened in this National Commission with the number 2006/2968/5/Q, and from the analysis of the gathered information resulted that, in effect, the authorities of the Municipal City Council of Minatitlán, Veracruz developed works of leveling, fixing, and paving of the segment of the rustic road going from El Jagüey to Ojochapa, and which goes through the archeological site known as Las Lomas de Tlacojalpa, without the authorization of the National Institute of Anthropology and History, and caused irreversible damages to the archeological site.

Due to the aforesaid, on August 18, 2006, the staff of the Center INAH-Veracruz presented a report of facts before the Delegation of the General Attorney's Office of the Republic, opening the statement of facts A.C./PGR/VER/CTZ/III/238/2006, which was turned into the preliminary investigation A. P./194/2006, sent to the site on June 30, 2007. This fact caused the disagreement of the staff of the INAH, and the Social Representative asked them to show more elements of evidence to continue the investigation.

This National Commission could establish that the performance of the municipal authorities violated the right to the preservation of common heritage of all humanity against Mr. José Ignacio Trujillo Cortázar and Mr. Alfonso Muñoz Moreno, as well as against the society, thus issuing on September 21, 2007, a conciliation proposal to the municipal authority, which was not accepted.

Based on the facts exposed, on July 2, 2008, this National Commission issued Recommendation 27/2008, addressed to the H. Municipal City Council of Minatitlán, Veracruz, so that instructions are given to whom it is relevant to start and solve, according to Law, an administrative inquiry procedure against the public officers of that City Council who have authorized, planned and performed the works of leveling, construction, expansion and paving of the highway that joins the communities of El Jagüey and Ojochapa, Veracruz, which goes through the archeological site called Lomas de Tlacojalpa, and ignored the recommendations of the National Institute of Anthropology and History.

### Recommendation 28/2008

July 8, 2008

Case: Of the minor Eduberto López Pérez, Guatemalan

Addressee Authority: Commissioner of the National Institute of Migration

On April 13, 2007, personnel of the General Consulate of Mexico in Nogales, Arizona, delivered a minor who said to be Mexican and to be called EVG, to a Federal Migration officer of the Local Office of the National Institute of Migration (INM), in Nogales, Sonora, in order to incorporate him to the program of repatriation of minors who travel alone. To do this, moments later, public officers of that Institute took him to the Module for the Attention of Repatriated Minors of the System for the Integral Development of the Family (DIF), in Nogales.

That same day, hours later, the coordinator of the Module of the DIF took the minor affected back to the migration authorities, having found out that his real name was ELP, and a Guatemalan. Therefore, the Chief of the Department of Migratory Regulation of the Local Office of the INM, in Nogales, Sonora, at the 19:00 hours, instructed a Federal Migration officer to reject the minor affected, delivering him to the authorities of the United States of America, without the filling of any form whatsoever in which the identity of the American officer in charge of the Guatemalan minor was proven, nor the hour and the day in which the rejection was held.

From the logical-judicial analysis of the pieces of evidence that constitute file 2007/2074/5/Q, this National Commission considered that violations to the rights to protection of the physical integrity, to legality and to the juridical safety of the minor were developed, against the minor ELP, of Guatemalan nationality, by public officers of the local office of the INM, in Nogales, Sonora.

Consequently, on July 8, this National Commission, issued Recommendation 28/2008 to the Commissioner of the INM, in which it was requested to involve the Internal Auditing Body of the Ministry of the Public Function in the National Institute of Migration to start the corresponding administrative procedure against the public officers of the INM in Nogales, Sonora, in order not to repeat violations to the Human Rights as the ones described in this Recommendation. It was also requested to give instructions to whom it is relevant to establish the procedure that the public officers of the INM must follow, since the moment of the reception from the custody of any foreign authority of minors who travel alone, to guarantee that the rejection has an established cause, motivated and with juridical certainty, observing the respect to the Human Rights at all times. And, Finally, to involve the Internal Auditing Body of the Ministry of the Public Function in the INM, in order to perform a management auditing process in the premises of the Local Assistant Office of the INM, in Nogales, Sonora, to check the controls and registers of the illegal migrants that are put in charge and that are rejected afterwards.

Recommendations 29/2008 to 36/2008

July 11, 2008

On the cases of Mr. José Fausto Gálvez Munguía; Mr. Óscar Cornejo Tello; Mr. Fausto Ernesto Murillo Flores; Mr. Jesús Picazo Gómez; Mr. Antonio Paniagua Esquivel; the minor Víctor Alfonso de la Paz Ortega and Carlos Peñaloza García; Sergio Meza Varela and José Antonio Barbosa Ramírez and, on the facts happened on March 26, 2008 in the community of Santiago de los Caballeros, in the municipality of Badiraguato, Sinaloa, respectively.

The National Human Rights Commission issued, last July 11, eight Recommendations addressed to the Minister of National Defense, General Guillermo Galván Galván, for the facts happened in Badiraguato, Sinaloa; Reynosa, Tamaulipas; Morelia, Huetamo, Uruapan and Tanhuato, Michoacán; Naco and Sonoyta, Sonora, in which seven civilians – among them a minor – were killed and others were victims of acts of torture, arbitrary detention, confinement and housebreaking, performed against them by military privates during the operations in those cities.

As a result of its investigations, the CNDH agreed that in the cases mentioned, acts that violate the fundamental guarantees appearing in the national juridical order were performed. The guarantees violated were, among others, the right to life, to physical integrity, to legality and to juridical safety of the deceased victims and the aggrieved.

The National Ombudsman, Dr. José Luis Soberanes Fernández, stated that, in every case, they are not only tragic and regrettable facts due to the number of victims and the consequences that any tragedy uses to have in the lives of third parties, but also – he said – because “they are facts that could have been avoided with more suitable information, with better training for the military privates and with an adequate exercise and supervision of the commands.”

“The command – he added – distinguishes and privileges those who exert it, but in the armed forces the command implies – mainly – a responsibility and a compromise. The very citizenry, awake and alert, which recognizes and agrees the supreme effort of the Mexican Army against the organized crime, is an active citizenry that sees, hears and judges, and which is not indifferent when some people abuse, such as in the case that the CNDH must point out this time. To the fair claims of a society more and more communicated, it is not possible to respond with indifference of subterfuges.”

The National Ombudsman emphasized that a hesitant and weak Army is only useful for the organized crime, for those who pretend to get political changes by means of violence or those who promote a prosperous industry of public abuse and political pressure sponsored by some groups of pressure in Mexico and abroad. Mexico needs a modern and vigorous State, able to impose the Law and to place as a shield between criminals and citizens, he stated.

Along with the Second General Visitor, Susana Thalía Pedroza de la Llave, Soberanes Fernández highlighted that the temporal presence and participation of military personnel in tasks of public security, necessary to stop the advance and violence of the organized crime in some regions of the country, creates the need that the Ministry of National Defense (Sedena) deploy its capacities of intelligence to prevent privates to make mistakes and act with lethal force against the occupants of a vehicle that seemed suspicious, and that later on it was demonstrated that they would not make anything that could represent a danger and were unarmed when they met the soldiers.

After recognizing the collaboration and support of the State Human Rights Commissions of Michoacán, Sinaloa, Sonora and Tamaulipas, for their thorough performance in the establishment of the facts, he expressed his sympathy for the aggrieved and the relatives of those who were victims of terrible abuses, and for the absurd of being affected by facts that could have been prevented.

Soberanes Fernández underlined that the thoroughness with which every fact that violates the human rights is documented does not have to be to the liking of those who, in the extreme and without any respect and witnessing cases as pitiful as these, hurry to accuse

the government to promote and conceal a "State Terrorism". "We oppose categorically to those soothsayers who bet for the failure of policies or for the weakening of the Mexican juridical order or of its institutions."

In its Recommendations, the CNDH requests from the Minister of National Defense that the physical, psychological and medical damages caused to the aggrieved are amended; that the General Inspection and Control Unit of the Mexican Army and Air Force is involved to investigate the military personnel who took part in every one of the facts, for their actions and omissions, as well as those who tried to block the tasks of investigation of this National Commission. It is requested to the Minister of National Defense to involve the Public Prosecutor for the acts that constitute probable felonies and, according to Law, to inform this National Commission of the beginning and the conclusion of the investigations.

It is also requested to the Minister to order the measures for the facts as the ones happened do not happen again and to train the elements of the Mexican Army who are involved in operations of public security, in order to perform all the tasks according to law and respect to the human rights.

It is requested, as well, that systematic actions are developed for the adequate prevention of acts as the ones described, by means of the training and enabling of the military personnel in the use of fire arms, training that should be extensive to the commands, apart from instructing both troops and officers who serve in the different organisms of the Ministry of National Defense to allow the access to the active staff of the CNDH to the military premises when they are in functions, in order to fulfill the principles of immediacy and swiftness established in the juridical framework of this national Organism to perform its activities.

Recommendation 37/2008

July 15, 2008

Case: Appeal of Mrs. Catalina del Toro Saucedo

Addressee Authority: President of the Human Rights Commission of the State of Colima

On January 14, 2008, Mrs. Catalina del Toro Saucedo put up a complaint before this National Commission, for acts which allegedly violated the Human Rights attributable to authorities of the State of Colima, which was remitted, for reasons of competence, to the Human Rights Commission of that federative entity, Organism that issued an agreement on February 7 of that same year, by means of what it rejected the respective instance. Due to this, on March 10, 2008, the plaintiff put on an impugnation resource before such Local Organism, same that, by means of an agreement on the same date was not admitted for considering it untimely, so that on March 19 of the same year, she settled an inconformity before this National Organism, thus giving origin to the file CNDH/1/2008/126/RI.

From the analysis held in the set of evidence that this National Commission gathered, it could be observed that the agreement dated on February 7, 2008, issued by the Human Rights Commission of the State of Colima, unfulfilled the contents provided in articles 14, second paragraph, and 16, first paragraph, of the Political Constitution of the Mexican United States, in the fact of not settling correctly the determination of inadmissibility of the written complaint presented by Mrs. Catalina del Toro Saucedo; such determination was limited to pointing out that the instance was clearly unfounded, because it did not correspond to the competence of that Local Organism, leaving the aggrieved in a state of defenselessness, apart from the fact that no juridical consult was given to instruct her to the competent authority to solve the case, as it is stated in article 32 of the Law of the Human Rights Commission of the State of Colima.

Likewise, the aforesaid Local Organism did not expressed the cause for which the instance was considered untimely, in spite of the fact that, in the written complaint dated on January 10, 2008, the aggrieved mentioned that the facts that caused her the grievance had been happening since October, 2006 and were in progress to the time of presentation of her complaint, referring that she was victim of threatens and anonymous calls, as well as ill treatment by the authority allegedly in charge of the facts that jeopardize her integrity, which was clearly identified, without any investigation performed by the State Commission related to the facts contained in the complaint, so that its acting bars the mechanism of protection of the Human Rights.

In consequence, this National Commission issued, on July 15, 2008, addressing the President of the Human Rights Commission of the State of Colima, the following recommendations: to give instructions in order to overrule the agreements issued on February 7 and March 10, 2008, in the file CDHEC/035/08, by personnel for the Human Rights Commission of the State of Colima; as well, once accomplished the aforesaid ordered, to admit for process the complaint made by the aggrieved by means of her document dated on January 10, 2008, for the purpose of performing the respective investigation and, as soon as possible, the issue is solved according to Law.

Recommendation 38/2008

July 15, 2008

Case: Of the minor A1

Addressee Authority: Constitutional Governor of the State of Michoacán

On November 29, 2007, this National Human Rights Commission received the official document DGPL/2.-2206, of same date, by means of which the Vice-president of the Directive Board of the Senate of the Republic exhorted this National Commission to exert its

power of ancillary jurisdiction in the case of the violation of the Human Rights of the minor A1, student of the distance junior high school of Charapendo, municipality of Gabriel Zamora, Michoacán. This petition was the cause by which the President of this National Organism agreed on the exertion of ancillary jurisdiction for the complaint file CEDH/MICH/429/11/07, in charge of the Regional Visitor of Uruapan, of the State Human Rights Commission of that federative entity, taking into account the severity of the facts and because it transcended the interest of that State and affected the national public opinion.

From the contents of file CDH/MICH/429/11/07, it was noticed that on November 7, 2007, before the Regional Visitor of Uruapan of the State Human Rights Commission of Michoacán, the mother of the minor aggrieved appeared to present a complaint against the PR1, teacher of first grade of the distance learning junior high school of Charapendo, municipality of Gabriel Zamora, in the same federative entity. By means of the complaint, it was manifested that her youngest daughter was studying the first grade of junior high school and on November 6, 2007, approximately at the 11:30 hours, when the girl was inside to premises of the distance junior high school, the afore mentioned teacher "tied" her daughter with pieces of cloth to a chair "fastening her tightly from the wrists of her hands and ankles of her feet" (sic), apart from "tying a piece of cloth to her mouth not to let her speak", not knowing the period of time that the girl was under such conditions, but noticing that it was long, due to the fact that, when the minor got home she complained of having pain in hands, feet and mouth.

From the analysis of the evidence gathered by this National Commission, it could be proved that the teacher PR1, public officer appointed to the distance learning junior high school of Charapendo, municipality of Gabriel Zamora, Michoacán, dependant of the Ministry of Education of that federative entity, incurred in violations to the Human Rights to physical integrity and to education, as well as to the articles 1st, third paragraph, 3rd, second paragraph, fraction II, point c), and 4th, sixth and seventh paragraphs of the Political Constitution of the Mexican United States, as well as the article 139 of the Political Constitution of the State of Michoacán, perpetrated against the minor A1, due to the degrading treatment she was subject to.

Likewise, it could be proven that the authorities of the Ministry of Education involved in the facts omitted to give the minor aggrieved the support needed to solve the emotional problem caused by the acts in which she resulted aggrieved.

Besides, the authorities of the Justice General Attorney's Office in that federative entity omitted to provide this National Commission with the certificates that credit to have supplied the psychological support to the minor aggrieved, as a victim of crime.

Due to the aforesaid, on July 15, 2008, this National Commission recommended the Constitutional Governor of the State of Michoacán to give instructions to the Justice General Attorney of the State in order to give the crime, that may allow her to grow up fully and integrally, informing this National Commission of the results obtained; besides, to involve the Coordination of the Internal Auditing Body of the State of Michoacán, to start and solve, according to Law, an administrative procedure against the Principal of the distance highschool of Charapendo, municipality of Gabriel Zamora, Michoacán, for the administrative irregularities referred in the chapter of observations of the afore mentioned Recommendation, and informing this National Commission from the beginning of the process to its solution.

Likewise, it is requested to the Governor to instruct the Minister of Education to issue an agreement or memorandum by means of which it is instructed to the public officers of that Ministry, thoroughly, on the immediate actions that they have to assume when knowing of this kind of facts in order to give immediate protection to whom have been victims due to unlawful acts. As well, to inform in suitably and timely of facts related to child abuse or ill treatment to the administrative authorities of the Coordination of the Internal Auditing Body and to the Public Prosecutor of Common Issues, with the duty of informing this National Commission the results obtained; also, it is requested to give instructions to the Minister of Education of the State, in the performance of his faculties and duties, to collaborate with the Human Rights Protector Organisms, providing, timely and suitably, the information and documentation required due to the integration of the complaint files. Moreover, to take the measures that lead to implement a program that prevents and assists the child ill treatment in its different forms with an interdisciplinary group of experts, to give attention, support, help, orientation and prevention to the educative community affected by these facts; finally, to give instructions to the Minister of Education of the State, in the exertion of his attributions, to settle the rules for the attention to complaints for ill treatment or abuse in basic education schools of the State, in order to preserve the physical and psychological integrity of the students, thus eradicating such practices.

Recommendation 39/2008

July 16, 2008

Case: Appeal of Mr. Ramón Betancourt Audelo

Addressee Authority: Constitutional Governor of the State of Baja California

On March 23, 2006, this National Human Rights Commission received the impugnation resource of Mr. Ramón Betancourt Audelo, against the inadequate fulfilling of Recommendation 12/2005, issued by the Human Rights and Citizenry Protection Attorney's Office of the State of Baja California and addressed to the Justice General Attorney's Office of that federative entity, so that the file 2006/132/5/RI was opened.

From the analysis of the documents integrating the impugnation resource, this National Commission observed that on November 15, 2004, the Human Rights Attorney's Office of that State received the complaint of Mr. Ramón Betancourt Audelo, in which several

violations to his Human Rights were settled, perpetrated by public officers of the Justice General Attorney's Office of that federative entity, due to the delay of the integration of the Preliminary investigation 1948/03/206, open for the disappearance of his son Édgar Adrián Betancourt García. Firstly, on January el 27, 2004, the social representative exerted a penal action, requesting the arrest order against Mr. FJT as alleged perpetrator of the crime of aggravated kidnapping, which was denied by the Judge, and was returned to the Public Prosecutor to build up with new elements. In spite of the aforesaid and after passing approximately seven months, the social representative did not deliver the investigation again.

Derived from that investigation, the Local Organism proved violations to the Human Rights to legality and juridical safety, as well as to freedom, consisting in the forced disappearance of people, against Mr. Édgar Adrián Betancourt García; therefore, on August 5, 2005, Mr. Ramón Betancourt Audelo addressed the Recommendation 12/2005 to the Justice General Attorney of the State of Baja California, and which was not accepted in its terms.

On May 31, 2006, the Public Prosecutor for Crimes of Violent Homicides decided to exert penal action against Ulises Espinoza López, former public officer appointed to the Ministry of Public Security of Baja California, and recorded in the preliminary investigation 1948/03/206 before the Judge of First Instance of Criminal Matters in duty for the crime of aggravated kidnapping. Derived from the aforesaid, on August 14 of the same year, Mr. Ulises Espinoza López appeared before the Second Court for Criminal Matters and on August 18, 2006, he was sentenced to formal prison; however, the Justice General Attorney's Office of the State of Baja California did not start the administrative procedure against him, because it was not accepted that he had been a public officer appointed to the institution at the time the facts h was accused of happened, in spite of the fact that the Human Rights and Citizenry Protection Attorney's Office of the State of Baja California ratified that he actually was.

In that sense, for this National Commission it was proven that in the case of Mr. Édgar Adrián Betancourt García, the rights to legality and juridical safety, as well as to freedom were violated, by means of the forced disappearing of people. Consequently, on July 6, 2008 this National Commission issued the Recommendation 39/2008, addressing the Constitutional Governor of the State of Baja California, in order to give instructions to whom it is relevant to fulfill the first part of the first point, related to involve the Internal Auditing Body of that Attorney's Office to start and determine, according to Law, the corresponding disciplinary administrative procedure against Mr. Ulises Espinoza López, former officer of the Ministerial Police, as well as the second point, dealing with the amendment of the damages made to the aggrieved, both points of the Recommendation 12/2005, issued by the Human Rights and Citizenry Protection Attorney's Office of the State of Baja California, addressed to the Justice General Attorney's Office of that federative entity on August 5, 2005.

Recommendation 40/2008

July 23, 2008

Case: Of Mr. JCRC and Mr. CHC, from Honduras

Addressee Authority: Commissioner of the National Institute of Migration

On April 16, 2007, the Preventive Federal Police detained Mr. CHC and Mr. JCRC, both Honduran, and were put in custody of the National Institute of Migration (INM) in Nogales, Sonora.

In the work visit developed on April 17, 2007 to the migration station of the INM in Nogales, Sonora, staff of this National Commission proved what had been manifested by the Delegate of that center, that is to say, that the population in custody in the facility was of four migrants; however, when the detained people were interviewed, they assured that they were not the only ones, because there were two more Hondurans. About the issue, public officers of the INM pointed out that the missing people in custody were out of the migration station because they had been taken to perform the medical certification exam, in spite of the fact that Mr. CHC and Mr. JCRC were in the office of the Chief of the Department of Migratory Regulation, which was noticed by the staff in duty of this National Organism, even interviewing them lately in that migration station.

On April 18 of the same year, Mr. JHH told an Adjunct Visitor of this National Commission by telephone that public officers of the INM in Nogales, Sonora, contacted an Honduran friend of his, who dwelled in the United States of America and who was the brother of one of the aggrieved to request 4,000 American dollars to free Mr. CHC and Mr. JCRC, or otherwise they would be deported.

In regards to that, this National Organism could establish that the public officers of the INM had telephone contact with JHH and they gave their cell phone and home phone numbers, as well as the bank account of the wife of one of them, in order to deposit the money, but in not being able to make the deposit in the bank account of one of the public officers, he gave JHH the data of the Money Exchange House Luna, where he made a deposit in cash for the amount of \$28,000.00 Mexican Pesos (Twenty eight thousand Mexican Pesos). The aforesaid was later confirmed by the INM in its report, in which the authority stated that, according to what had been manifested, the amount of the deposit had not been withdrawn, adding a certificate approved by the Public Notary.

That same day, hours later, Mr. JHH, by telephone, manifested to staff of this National Commission that he had received a call from a stranger, made from a public pay phone, in which he was told that the aggrieved had been freed and, later on, they called confirming the fact. Nonetheless the aforesaid, the migration authority informed that on April 18, 2007, the Hondurans JCRC and CHC had

escaped from the migration station in Nogales, Sonora, when they were performing the transportation of five foreigners from Nogales to Imuris, Sonora.

Therefore, on July 23, 2008, this National Commission issued the Recommendation 40/2008, addressing the titular of the INM, in order to involve the Internal Auditing Body of the Ministry of Public Function in the National Institute of Migration to start the corresponding administrative procedure against the Local Assistant Delegate in charge of the Office and the Chief of the Department of Migratory Regulation of the INM in Nogales, Sonora; as well, to involve the Internal Auditing Body of the Ministry of Public Function in the INM, to develop a management auditing to the administrative files integrated due to the custody of foreigners by the Local Office of the INM, in Nogales, Sonora, from January 2007 to date, in order to verify that the formalities of the migratory procedure are fulfilled. Moreover, it is requested to involve the Federal Public Prosecutor to start the corresponding preliminary investigation for the actions and omissions in which the Local Assistant Delegate and the Chief of the Department of Migratory Regulation of the INM in Nogales, Sonora incurred in their alleged responsibility on criminal acts, and finally, to give instructions to whom it is relevant to implement mechanisms to ensure the efficiency of the measures and actions to prevent, detect, sanction and eradicate corruption acts in the exertion of the functions of the public officers of the INM, to prevent that violations to the Human Rights are repeated and to inform this National Commission of the actions taken.

Recommendation 41/2008

July 23, 2008

Case: Appeal of Mr. Lucio Benjamín Chávez Castellanos

Addressee Authority: H. Constitutional City Council of Tingüindín, Michoacán

On October 23, 2007 this National Commission received the impugnation resource presented by Mr. Lucio Benjamín Chávez Castellanos before the State Human Rights Commission of Michoacán, against the lack of response to the Recommendation 079/2007 by the former Mayoress of Tingüindín, Michoacán.

From the logical-judicial analysis of the certificates integrating the file 2007/361/5/RI, it is stated that on December 10, 2006, the minor Alejandra Chávez Torres was injured due to the impact given to the quad-bike that she was driving by a police car, which was driven by the Police Chief of Tingüindín, Michoacán. Due to this, she was taken to the Hospital Memorial, S. A. de C. V., and the same day the Municipal Trustee signed an agreement with the father of the aggrieved, in which, in representation of the municipality, the Trustee agreed all the expenses derived from the injuries caused to the minor, once the bills and invoices of the medical expenses paid for her healing or rehabilitation.

On January 31, 2007, Mr. Lucio Benjamín Chávez Castellanos presented a complaint before the State Human Rights Commission of Michoacán for the breach to the aforementioned agreement, opening the file CEDH/MICH/1/077/02/07-II. On July 2, 2007, the State Commission, with a prior investigation of the facts, addressed to the former Mayoress of Tingüindín, Michoacán, the Recommendation 079/2007, which had no response from the municipal authority.

In regards of this, this National Commission integrated the impugnation file, as a result of which, it was concluded that, in damage of the minor aggrieved, her right to the protection of her personal integrity was violated; due to the breach to the agreement dated on December 10, 2006, signed by the plaintiff and the Municipal Trustee of Tingüindín, Michoacán, her right to the protection of health was affected.

Consequently, on July 23, 2008 this National Commission issued the Recommendation 41/2008, addressing the Constitutional City Council of the municipality of Tingüindín, Michoacán, to give instructions to whom it is relevant in order to fulfill the Recommendation 079/2007, issued by State Human Rights Commission of Michoacán on July 2, 2007.

## NATIONAL ISSUES

Presentation of the book National Monitoring Mechanisms of the Convention on the Rights of Persons with Disabilities

As a follow-up of the Panel on the National Monitoring Mechanisms of the Convention on the Rights of Persons with Disabilities, held on October 25, 2007, in the setting of the VI General Ordinary Assembly of the Network of National Institutions for the Promotion and Protection of the Human Rights of the American Continent, on July 15, 2008, the presentation of the book that contains the memoirs of the event was held. In the presentation of the book, Dr. Dr. Javier Moctezuma, Executive Secretary of the CNDH, Mrs. Lilita Valiña, representative a.i. in Mexico of the High Commissioner of the United Nations for the Human Rights Office, Mr. Ernesto Rosas Barrientos, from the NGO Libre Acceso A.C., and Dr. Amalia Gamio Ríos, from the National Council to Prevent Discrimination participated as hosts.

Several personalities from the Federal Public Administration as well as from the Organized Civil Society of and for handicapped people attended the event.

Agreement of collaboration in favor of persons with disabilities between the National Human Rights Commission and the Architects Colleges Federation of the Mexican Republic.

The National Human Rights Commission and the Architects Colleges Federation of the Mexican Republic signed last July 22 an agreement of collaboration, with the aim of carrying out conjunct projects in matter of promotion and protection of the rights of persons with disabilities, to ensure their access, in equality of conditions, to the physical environment, the means of transportation and the media, both in urban as in rural zones.

The National Ombudsman, José Luis Soberanes Fernández, manifested that the Convention on the Rights of Persons with Disabilities – that came into force last May 3 – represents a guide in the path towards a world without exclusions. He explained that the agreement signed is based, among others, in the principles of individual autonomy, independence of people, full and effective participation and inclusion in society and accessibility.

He highlighted that this last principle is included in article 9 of the Convention and has as a finality that persons with disabilities could live independently and participate fully in all the aspects of life.

“Accessibility is –he underlined– a principle and an essential right for persons with disabilities, because without it, it would be impossible to enjoy the other rights included by the Convention.”

Dr. Soberanes Fernández presented the next united step between the CNDH and the Architects Colleges Federation, which will be the elaboration of an analysis of physical accessibility to federal public facilities and its correspondence to the norm. “This way, we hope that we are in conditions to issue a technical report, with recommendation in the matter, that could derive in the elaboration of a model rule about accessibility.”

He pointed out that the coming into force of the Convention on the Rights of persons with disabilities – first international treaty on the matter of human rights in the 21st century— is a cause to celebrate, and remembered that, in this task, Mexico had an important participation. He underlined that, due to the importance of the matter, and in order to avoid different postures in both international and national issues, it will be necessary that the government begin immediately the implementation of the rights included by the Convention.

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