



Comisión Nacional de los Derechos Humanos

México

Recommendation 012/2010

The following is a synopsis of the recommendation emitted by the CNDH . The complete version may be consulted on this institution's web page.

Mexico City, March 2, 2010

Subject: On the failure to comply with Environmental Standards to the detriment of V1.

Authority Responsible:

Director General of the National Water Commission

On February 6, 2008, the Mexican National Human Rights Commission received a fax filing a complaint from Q1 in which he stated alleged human rights violations to the detriment of V1, a 9 year-old minor, attributable to public servants from the National Water Commission (CONAGUA). The complaint was ratified by Q2, mother of V1, on March 6, 2008.

With regard to the above, it is described that on January 25, 2008, V1 fell into the Santiago river in Guadalajara, Jalisco, and developed an acute intoxication from arsenic, as a result of which he was transferred to the Western General Hospital of the Secretariat of Health in Jalisco, where he remained until his death, on February 13 of that year. As a result of the above, Q2 filed a complaint before the Unit Specializing in the Investigation of Offenses committed against the Environment that are provided for in Special Laws of the Office of the Attorney General of the Republic, where the prior investigation was filed and which is currently in the process of being compiled.

Together with the above and with the legal logical analysis carried in conjunction with evidence that makes up the file, the CNDH has elements that confirm violations of environmental conservation rights, protection of health and life to the detriment of V1, attributable to public servants of the National Water Commission, given that such authority, in accordance with the powers conferred on it by law, has not complied with the responsibility of treating and cleaning up polluted water in the Santiago river, causing, not only the death of V1, but also affecting the health of people living in the vicinity of the river.

Consequently, the high levels of pollution of the Santiago river in the State of Jalisco, place the health and therefore, the life of people living in the vicinity of the river at risk, as well as all others who may have occasional contact with its waters, a situation that, if not corrected by the authorities in charge of keeping them in optimal conditions and free of pollution, represents a clear and evident violation of both the right to health protection and environmental conservation by omitting to

establish the measures for the reestablishment of the river and by not complying with sanitation, treatment, precautionary seizure of dangerous materials and wastes or pollutants.

Due to the above, the National Institution presents the Director General of the National Water Commission with the following Recommendations:

To issue instructions to the person responsible so that in terms of the known precepts of the Declaration of basic principles of Justice for Victims of Crime and Abuse of Power, he proceeds to compensate the family members of V1 or those who hold this right, as a consequence of the institutional responsibility in which the public servants of the National Water Commission incurred, based on the considerations put forward in this recommendation, and that evidence of its compliance is sent to the National Commission.

To fully cooperate with CNDH in the filing of the complaint that this public institution will promote against personnel of the National Water Commission as the latter has not cleaned up the waters of the Santiago river, according to the facts recorded in this case, sending the requested evidence.

To cooperate extensively with the investigations stemming from the prior investigation filed by the CNDH before the Attorney General of the Republic's Office (PGR) as a result of these facts, since it involves federal public servants, sending proof of this as required.

To issue instructions to take the necessary urgent measures in order to warn the inhabitants of the State of Jalisco, mainly those who live in the vicinity of the Santiago river, of the existing pollution of its waters and the risk they run if they have contact with the latter as well as intensifying the work of clean-up and restoration of the affected environment and send the National Institution evidence of compliance.

That effective environmental protection guidelines are issued as part of the public policies in connection with the environment, mainly those regarding protection of the waters within its jurisdiction throughout the country, training the personnel of the National Water Commission in its contents and scope, verifying their updating and observance and that it send the National Institution evidence of compliance