



# Comisión Nacional de los Derechos Humanos

## México

### **Recommendation 036/2010**

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, June 16th, 2010**

**Subject: About the case of the events which took place to the detriment of minors Martín Almanza Salazar,**

**Brayan Almanza Salazar and others in the state of Tamaulipas**

**Authority responsible:**

**Secretary of National Defense and Attorney General of the Republic**

The Mexican National Human Rights Commission learned on April 5, 2010, through news reports published in various national daily papers as well as by local Tamaulipas news media, that in the afternoon of April 3, 2010, in Ciudad Mier, Tamaulipas, 13 people traveling in an van were assaulted with firearms and grenades as the vehicle reached kilometer 117 of the Nuevo Laredo-Reynosa highway, along the Ciudad Mier-Nueva Ciudad Guerrero stretch. This resulted in the death of two minors, Martín and Brayan Almanza Salazar, aged 9 and 5, and the injury of V1, V2, V3, V6, and V9.

In response to this, the Commission initiated complaint CNDH/2/2010/1836/Q out of its own accord and, in order to investigate the human rights violations, assistant visitors and appraisers from the Commission worked on compiling information and relevant documents. Moreover, reports were solicited from the Secretariat of National Defense and the Attorney General's Office, as well as the District Attorney's Office of Tamaulipas, whose logical juridical assessment is discussed in the observations chapter of this recommendation.

The human rights protecting body considers it necessary to make clear that, while investigating this case, it encountered obstacles and lack of cooperation from the Secretariat of National Defense, which partially refused to provide information requested to clarify the historical truth of the facts.

From the logical juridical analysis of the evidence included in complaint file CNDH/2/2010/1836/Q, the Commission observed violations of the human rights to life, physical integrity and personal safety; to dignified treatment; and to access to justice, legality and legal certainty. These are in addition to the violation of the human right of minors to the protection of their integrity. Violations cited are due to actions consisting of deprivation of life; attacks on personal integrity and safety; arbitrary use of law enforcement powers; cruel, inhuman, and degrading treatment;

failure to provide protection; alteration of a crime scene; noncompliance with search warrant issuance formalities; and abuse of public office, all to the detriment of Martín and Brayan Almanza Salazar, V1, V2, V3, V4, V5, V6, V7, V8, V9, V10, and V11 and attributable to civil servants of the Secretariat of National Defense.

The Mexican National Human Rights Commission therefore makes the following Recommendations to the Secretary of National Defense:

First. Issue instructions to whomever it may concern in order to take the necessary steps to repair the damages inflicted and compensate the relatives of Brayan and Martín Almanza Salazar, due to the institutional liability incurred upon by the public servants of the Secretariat of National Defense, following the considerations presented in the current recommendation and sending proof of compliance to the Commission.

Second. Issue instructions to whomever it may concern to compensate for physical and psychological injury to V1, V2, V3, V4, V5, V6, V7, V8, V9, V10 and V11, with the aim of reducing the suffering of each individual through medical and psychological treatment as necessary in order to reestablish the physical and mental health of each victim and put their lives back on track, sending proof of compliance to the Commission.

Third. Issue instructions in order for the public servants of the Secretariat of National Defense to refrain from altering crime scenes and/or misrepresenting the legal and historical truth of said circumstances; furthermore, personnel should be trained on the preservation of criminal evidence. Once this is carried out, proof of compliance should be remitted to the Commission.

Fourth. Issue instructions to whomever it may concern in order to implement an effective mechanism to effectively carry out periodic toxicological and psychological examinations of Mexican Army personnel. Furthermore, such examinations should be conducted on the personnel who participated in the events of this particular case, including these results in the preliminary investigations. Proof of compliance should be sent to the Commission.

Fifth. Fully cooperate with the Mexican National Human Rights Commission so that within the Secretariat of National Defense a Comprehensive Training and Education Program on Human Rights is designed and implemented, directed at the upper and middle ranks and officers of the armed forces, so that the carrying out of functions in the course of their regular work conforms with legality and respects human rights, sending evidence of compliance to the Commission.

Sixth. Cooperate generously with the Mexican National Human Rights Commission in the processing of the complaint which the commission brings before the General Inspection and Comptrollership Unit of the Secretariat of Defense against the military personnel who were involved in the actions of this case. Proof of compliance should be remitted to the Commission.

Seventh. Cooperate fully in the presentation and follow-up of the complaint that this public body brings before the Attorney General's Office and the Office of the Attorney General of Military Justice, respectively, so that they initiate the prior investigation required by law in accordance with their different jurisdictions given that this case involves the behavior of federal civil servants. Proof of compliance should be remitted to this Commission as requested.

To you, Mr. attorney general of the Republic:

First. Consider the observations of this recommendation for due integration into file AP/PGR/DGCAP/DF/050/2010 and undertake appropriate action to clarify the facts of this recommendation, in order for the families of the aggrieved to have full access to justice and so those responsible are punished. Proof of compliance should be sent to the Commission.

Second. Recognize V1 and V2, and the survivors of these events in general, as crime victims so that they may access all rights available to them as outlined by the Political Constitution of the United Mexican States, international texts and national legislation, sending evidence of compliance to the Commission.

Third. Amply collaborate with the Mexican National Human Rights Commission in the investigative administrative procedure initiated before the Internal Control Body of the Attorney General's Office against the personnel involved in the events of this case, and remit proof of compliance to the Commission.