



# Comisión Nacional de los Derechos Humanos

## México

### **Recommendation 45/2011**

*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, August 12th, 2011**

**SUBJECT: ABOUT THE CASE OF THE DEATHS OF JAVIER FRANCISCO ARREDONDO VERDUGO AND JORGE ANTONIO MERCADO ALONSO, STUDENTS AT THE INSTITUTO TECNOLÓGICO Y DE ESTUDIOS SUPERIORES DE MONTERREY, CAMPUS MONTERREY**

**AUTHORITY RESPONSIBLE: SECRETARIAT OF NATIONAL DEFENSE  
ATTORNEY GENERAL'S OFFICE GOVERNOR OF THE STATE OF NUEVO LEÓN**

On the 21st and 22nd of March 2010, articles were published in different informational media both nationally and in the state of Nuevo León. They spread the news of Javier Francisco Arredondo Verdugo and Jorge Antonio Mercado Alonso's death on the 19th of March 2010 within the facilities of the Instituto Tecnológico y de Estudios Superiores de Monterrey, Monterrey Campus, during a clash between Mexican Army personnel and alleged organized crime members.

As a result, this human rights protecting Body auto-initiated file of complaint CNDH/2/2010/1508/Q based on article 6, section II, clause a) of the Mexican National Human Rights Commission Law and article 89 of its Internal Regulations. It did so with the aim of investigating alleged human rights violations in accordance with what is stipulated by article 39 of the Law which governs it and it performed an investigation to gather information and documents. Moreover, it asked for reports from the Secretariat of National Defense; the Attorney General's Office, the District Attorney's Office of the state of Nuevo León, the Public Safety Secretary of Nuevo León, the municipal president of Monterrey and the dean of the Instituto Tecnológico y de Estudios Superiores de Monterrey.

As per articles 70 and 72 of the Mexican National Human Rights Commission Law, the national commission has noticed that the lack of cooperation between the civil servants of the District Attorney's Office of the state of Nuevo León, the Attorney General's Office and the Office of the General Attorney of Military Justice during the integration of the case at hand demonstrates a lack of interest and collaboration in the noble duty of investigating human rights violations. Such attitude must not be tolerated within the framework of a State of Law such as the one which must prevail in our country.

Because of the obstacles mentioned in preceding paragraphs, it is necessary to clarify that the National Commission does not have sufficient proof to determine

who is responsible for the deaths of students Javier Francisco Arredondo Verdugo y Jorge Antonio Mercado Alonso; however, the evidence gathered does prove that the arbitrary use of public force by the Unit "Nectar Urbano 4", under the command of the Secretariat of National Defense, failed to protect the physical integrity of the people who were present during the clash, provoking their death either directly or indirectly.

From the logical juridical analysis performed on the entirety of the evidence which is a part of file CNDH/2/2010/1508/Q, it is possible to determine the occurrence of violations to the human rights to legality and legal certainty, to integrity and personal safety, to dignified treatment, to information, access to justice and to honor. These violations were caused by acts consisting in the arbitrary use of public force, as well as the improper exercise of civil service to the detriment of Javier Francisco Arredondo Verdugo, Jorge Antonio Mercado Alonso and their relatives, the community of the Instituto Tecnológico y de Estudios Superiores de Monterrey and Mexican society in general.

In light of these events, the Mexican National Human Rights Commission respectfully presents you, Mr. Secretary of National Defense, Mr. Attorney General and the governor of the state of Nuevo León with the following:

### **Recommendations**

To you, Mr. Secretary of National Defense

**First.** Instruct whomever it may concern so that the necessary steps are taken to pay compensation to the relatives of Javier Francisco Arredondo Verdugo and Jorge Antonio Mercado Alonso, or whoever is better entitled to receive it, due to the institutional responsibility incurred upon by the civil servants of the Secretariat of National Defense, in light of the considerations set forth in the body of the current recommendation. If necessary, appropriate physical and psychological aid must also be provided for as long as needed and proof of compliance must be sent to the National Commission.

**Second.** Issue instructions to whoever is responsible in order for the civil servants of the Secretariat of National Defense refrain from manipulating or giving orders to alter the crime scenes and/or distort their historical and legal truth; also training them on the preservation of criminal evidence and, once this has been done, proof of compliance must be sent to the national commission.

**Third.** Instruct whomever it may concern so that the implementation of the "Human Rights Program S.D.N. 2008-2010" and the "Program for the Promotion and Strengthening of Human Rights and International Humanitarian Law S.D.N. 2010" is intensified and so they are aimed at the middle ranks such as general troops. Evaluation methods must also be put in place in order to gauge the positive impact of training regarding the respect of human rights and proof of compliance must be sent to the national commission.

**Fourth.** Collaborate generously with the National Commission in the processing of the complaint it presents before the General Inspection and Comptrollership Unit of the Secretariat of National Defense against the soldiers who participated in the events condemned in this case, supplying all evidence requested by the Commission as well as proof of compliance.

**Fifth.** Collaborate amply in the presentation and follow-up of the declaration of events which the national commission files before the Attorney General's Office and the Office of the General Attorney of Military Justice, respectively, in order for them to begin a preliminary investigation in accordance with the law and with their jurisdiction, supplying the national commission with all proof of compliance requested.

**Sixth.** Instruct whomever it may concern so that the necessary measures are implemented to fight against the execution of actions such as the ones described in the observations chapter of the recommendation at hand by Army personnel, as well as taking the necessary action to guarantee that they do not happen again.

Proof of compliance must be provided once this has been done

To you, Mr. Attorney General

**First.** Consider this recommendation's observations to ensure the proper integration of prior investigation AP/PGR/DGCAP/DF/027/201 and do what is needed to elucidate the events which led to the current recommendation in order to give the relatives of the offended complete access to justice.

**Second.** Recognize the relatives of Javier Francisco Arredondo Verdugo y Jorge Antonio Mercado Alonso as criminal victims in order for them to have access to all of the rights granted by the Political Constitution of the United Mexican States, international treaties and national legislation, sending proof of compliance to the National Commission.

To you, the Governor of the State of Nuevo León:

**First.** Instruct the district attorney of the state in order for the agents of the Public Prosecutor's Office of such state to assemble their reports and prior investigations caused by events such as the ones described here thoroughly, objectively and impartially; so that they adequately preserve the crime scene with the aim of finding out the historic and lawful truth of the facts. All evidence requested must be submitted to the National Commission together with proof of compliance.

**Second.** Collaborate amply with the Mexican National Human Rights Commission in the administrative procedure of investigation initiated before the internal affairs department of the District Attorney's Office against the civil servants assigned to such Office who were involved in the events which led to this recommendation. All evidence requested must be submitted to the National Commission together with proof of compliance.