



Comisión Nacional de los Derechos Humanos

México

Recommendation 57/2011

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, October 6th, 2011

SUBJECT: ABOUT THE CASE OF TORTURE TO THE DETRIMENT OF V1, V2, V3 AND V4

AUTHORITY RESPONSIBLE: SECRETARY OF NATIONAL DEFENSE

On April 16th 2008, "V1", "V2", "V3" and "V4" were at the car washing business called *El Coyote* when Mexican Army personnel entered the locale. They interrogated them and passed electric current through their body using a device known as *chicharra*, applying it on their abdomen and back. From there, the soldiers entered the old house and later took the offended to that same house, where they showed them firearms and drugs and continued interrogating them. During the early hours of April 17th 2008, the offended were taken to the Secretariat of National Defense's base of operations in Caborca, Sonora. At 18:00 hours on April 17th 2008, the agent of the Public Prosecutor of the Federation's Office initiated "AP1" in response to "AR1"'s declaration of events in the presence of detainees. In it he expressed the commission of health crimes resulting from the possession of the drug known as cocaine chlorohydrate as well as others for resale purposes and, on April 19th 2008, he took legal action against "V1", "V2", "V3" and "V4"

On August 13th 2008, the Fourth District Judge of the State of Sonora acquitted "V1", "V2", "V3" and "V4", a decision which was ratified on October 28th 2008 by the Fourth Single Magistrate Tribunal of the Fifth Judicial Circuit, located in Hermosillo, Sonora. In response to the statements given by "V1", "V2", "V3" and "V4" to the agent of the Public Prosecutor of the Federation's Office and the Fourth District Court of the State of Sonora, both authorities forwarded the details of "AP1" and "CP1" to the civilian representative of the army assigned to the Army Detachment stationed in Caborca, Sonora. Consequently, he began "AP2" and, on November 12th 2008, the General Attorney of Military Justice decided to archive the investigation.

From the logical juridical analysis of the evidence which is included in complaint file CNDH/5/2008/2851/Q, it was determined that the right to freedom, legality, legal certainty as well as to personal integrity and safety were violated in this case to the detriment of "V1", "V2", "V3" and "V4" as a result of acts consisting in torture, arbitrary detention and unlawful retention, committed by civil servants of SEDENA.

In light of these events, the Mexican National Human Rights Commission considers it necessary to issue the following **Recommendations**:

To you, Mr. Secretary of National Defense:

First. Repair and compensate “V1”, “V2”, “V3” and “V4” for the damage caused by means of the medical, psychological and rehabilitation assistance required to return their physical and psychological health to the way it was before their human rights were violated, informing the National Commission about the result.

Second. Extract “AP2” from the archives, keeping in mind what has been mentioned in the observations chapter of the document at hand, and conclude the investigation in accordance with the law, informing the National Commission about the procedure which the prosecuting authority’s investigation is subjected to and about the way it is resolved.

Third. Instruct whoever it may concern in order for administrative procedure of investigation 1 (P.A.I.1) to be initiated, taking into account the investigation performed in this recommendation and informing the National Commission about its resolution when it is concluded.

Fourth. Issue instructions to whomever it may concern so that there ample collaboration during the presentation and follow up of the declaration of events which the national commission presents before the Attorney General’s Office, in order for it to initiate the legally corresponding prior investigation in accordance with its jurisdiction, given that the actions of federal civil servants caused this recommendation. Any proof of compliance requested must be sent to the national commission.

Fifth.Instruct whoever is responsible in order to guarantee that people detained in flagrante are brought before the corresponding prosecuting authority immediately, without previously being taken to military facilities.

Sixth.Instruct whomever it may concern so that the application of the “Human Rights Program, Secretariat of National Defense (S.D.N.) 2008-2012” and the “Program for the Promotion and Strengthening of Human Rights and International Humanitarian Law S.D.N. 2010” is intensified. These programs must be aimed at the middle ranks and lower ranks and control indicators must be created to evaluate the beneficial impact of this training on respect for human rights. Proof of compliance must be sent to the National