



Comisión Nacional de los Derechos Humanos

México

Recommendation 73/2011

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, November 30th, 2011

SUBJECT: ABOUT THE CASE INVOLVING V1, V2, AND Q1 AS VICTIMS OF A CRIME

AUTHORITY RESPONSIBLE: CONSTITUTIONAL GOVERNOR OF THE STATE OF QUINTANA ROO, MUNICIPAL PRESIDENT OF BENITO JUÁREZ, CANCUN, QUINTANA ROO STATE

On July 18th 2010 V1, who was at the municipality of Benito Juárez (Cancun) in the company of her family, died as a result of the injuries inflicted on her when she was run over on the 17th day of the same month and year by a vehicle which was carrying two people (P1 and P2). As a result, two preliminary investigations were initiated; the first by an agent of the Public Prosecutor's Office with general jurisdiction over the hotel district (AR2), for the crimes of personal injury and damage. This investigation was then attached to a second one, initiated by an agent of the Public Prosecutor's Office attached to the Mesa VI, specializing on crimes against life (AR3), for the crime of unintended murder to the detriment of V1. Both offices are part of the Quintana Roo District Attorney's Office.

On August 2nd 2010, the head of the 1st agency of the Public Prosecutor's Office with general jurisdiction, 6th Unit, in the state of Quintana Roo, began a criminal proceeding without detainee against one of the individuals travelling onboard the vehicle (P2) for being a likely suspect of committing the crime of unintended murder to the detriment of V1. He therefore sent the files pertaining to the second preliminary investigation, as well as those of the investigation attached to it, to the first criminal judge of the First Instance Court (Trial Court) in Quintana Roo; this lead to the initiation of the corresponding judicial inquest, which is currently underway.

From the logical-legal analysis performed on the entirety of the evidence contained within file CNDH/1/2010/3918/Q initiated in response to these events, the National Commission was able to gather sufficient proof to confirm violations of the rights to legality and legal certainty of Q1 and V1 due to the unrighteous procurement of justice, whilst also determining that their rights as victims of a crime were violated as well. These actions are attributable to staff of the District Attorney's Office and the Municipal Secretariat of Public Safety and Traffic of Benito Juárez, both within the state of Quintana Roo, respectively.

Due to these events, the Mexican National Human Rights Commission has considered it appropriate to issue the following **Recommendations**:

To you, the Constitutional Governor of the state of Quintana Roo:

First. Instruct the district attorney of Quintana Roo state to take the necessary steps in order for the agents of the Public Prosecutor's Office to fully observe and guarantee the rights of the victims of crime. They should also refrain from acting in ways which hinder their full enjoyment and should perform their duties as defenders of victims, making sure that they do not encounter any difficulties which represent an obstruction or impediment to the timely fulfillment of their rights. This is in accordance with what is stipulated by article 20, paragraph B, of the Political Constitution of the United Mexican States and by the international agreements on the matter. Proof of compliance must be sent to the National Commission.

Second. To compliment the previous point, you should order the district attorney of Quintana Roo state to ensure that agents of the public prosecutor's office receive the necessary training for them to perform preliminary investigations lawfully and with respect for human rights, guaranteeing the rights of victims of crime. Proof of compliance must be sent to the national commission.

Third. Collaborate amply with the National Commission during the filing and processing of the complaint it submits to the Internal Control and Examination Body of such office to initiate an administrative investigation against the agents of the Public Prosecutor's Office with general jurisdiction over the hotel district (AR2) and the head of the Mesa VI, specializing on crimes against life (AR3), due to their involvement in the events mentioned within this recommendation. Proof of compliance must be sent to the national commission as requested.

Fourth. Duly collaborate with the investigations arising from the complaint submitted by the Mexican National Human Rights Commission to the Quintana Roo District Attorney's Office in response to these events, as the case involves local civil servants. Proof of compliance must be sent to the national commission as requested.

To you, the Municipal President of Benito Juárez, in Quintana Roo state:

First. Collaborate amply with the National Commission in the filing and processing of the complaint brought before the Internal Affairs Department of the Municipal Secretariat of Public Safety and Traffic of Benito Juárez so that an administrative investigation is initiated against the police officer assigned to the appraiser's department of such Secretariat (AR1). Proof of compliance must be sent to the National Commission as requested.

Second. Duly collaborate with the investigations arising from the complaint submitted in light of these events by the Mexican National Human Rights Commission to the Quintana Roo District Attorney's Office against (AR1) due to his

involvement in the events which lead to the recommendation at hand. Any proof of compliance requested must be sent to the national commission.