



# Comisión Nacional de los Derechos Humanos

## México

### **Recommendation 74/2011**

*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 OF THE VIOLATION OF V1'S RIGHT TO OWNERSHIP AND AN ATTEMPT ON THE LIFE OF V2 IN DURANGO, DURANGO STATE.**

**AUTHORITY RESPONSIBLE: SECRETARY OF NATIONAL DEFENSE**

The complaint filed by Q1 at the State Human Rights Commission of Durango on December 17th 2008 was received by the National Commission on December 22nd 2008. In it, it was stated that at approximately 06:00 of the day its filing, Mexican Army personnel entered V1's house in the city of Durango, in Durango State without a warrant. It was there that V2 and T1 were sleeping in the company of their two youngest children, causing them to think that they were being robbed when they heard noises inside their house. This prompted V2 to take a shotgun to protect his family; however, upon emerging from the bedroom, he was shot at by military personnel and was severely wounded in his right shoulder.

Q1 added that Mexican Army personnel began interrogating V1 and T1 after wounding V2 and told them they had received a report which said that there were armed individuals in their house. Complaint file number CNDH/2/2009/77/Q was initiated on December 23rd 2008 due to these events with the aim of logging the denounced human rights violations and assistant visitors carried out a variety of tasks to gather information, testimonials, photographs and other evidence.

From the logical-legal analysis performed on the entirety of the evidence contained within file CNDH/2/2009/77/Q, the National Commission was able to confirm violations of the human rights to legality and legal certainty, to personal integrity and safety and to proper treatment. They were the result of entering a residence without showing a search warrant, unlawful execution of public duties, arbitrary use of public force and inhumane and cruel treatment; resulting in failure to help, alteration of the crime scene, arbitrary detention and unrighteous attribution of actions.

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

**To you, Mr. General and Secretary of National Defense:**

**First.** Instruct whoever it may concern to take the steps needed to pay compensation for and repair, in a law abiding manner, the damage caused to V1 and V2, as well as their children and relatives who were present on the day of the events. If necessary, they must also jointly be given the appropriate physical and psychological attention for as long as needed. This is due because of the institutional responsibility incurred in by the civil servants of the Secretariat of National Defense as detailed by the considerations set forth in the recommendation at hand and proof of compliance must be sent to the National Commission.

**Second.** Instruct the necessary persons in order for the civil servants of the Secretariat of National Defense to refrain from manipulating crime scenes or ordering them to be manipulated and/or distorting their historical and legal facts. They must also be trained on the preservation of criminal evidence and, once this has been done, proof of compliance must be forwarded to the national commission.

**Third.** Issue the instructions needed to enforce the measures required to tackle certain actions executed by Army personnel such as those detailed within the observations chapter of the current recommendation, as well as to take the necessary steps to ensure they are not repeated. Proof of compliance must be submitted once this has been done.

**Fourth.** 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 and lower ranks and effectiveness 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 commission.

**Fifth.** Generously collaborate with the Mexican National Human Rights Commission during the filing and processing of the complaint submitted to the General Inspection and Comptrollership Unit of the Mexican Army and Air Force against the civil servants of the Secretariat of National Defense involved in the events condemned herein. Any evidence requested must be delivered together with proof of compliance.

**Sixth.** Amply collaborate with the filing and follow up of the declaration of events which the National Commission submits to the Office of the Attorney General and the Office of the General Attorney of Military Justice, respectively, in order for them to initiate the legally corresponding preliminary investigation in accordance with their jurisdiction, given that the actions of federal civil servants caused this recommendation. Any proof of compliance requested must be sent to the national commission.