



# Comisión Nacional de los Derechos Humanos

## México

### **Recommendation 85/2011**

*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, December 21st, 2011**

**SUBJECT: ABOUT THE CASE OF V1, WHO DIED INSIDE THE FERBER MINE SITUATED IN THE SAN JUAN SABINAS MUNICIPALITY OF COAHUILA STATE**

**AUTHORITY RESPONSIBLE: SECRETARY OF LABOR AND SOCIAL WELFARE SECRETARY OF ECONOMY**

On November 23rd 2009, the complaint filed by Q1, Q2, Q3, Q4, Q5 and Q6 was received by the Mexican National Human Rights Commission. In it, they stated that V1 died on September 11th 2009 inside the Ferber Mine, situated in the municipality of San Juan de Sabinas, Coahuila State, and requested an investigation into the responsibility held by the Secretariat of Labor and Social Welfare, the Secretariat of Economy and the Mexican Social Security Institute over the denounced events. They added that on August 13th 2009, staff of the Federal Labor Delegation in Coahuila visited the work place run by Company 1 and performed a Periodic Inspection of General Safety and Hygiene Conditions, leading them to initiate file 125/000626/2009. In the latter, it was determined that such place did not comply with various safety measures and a company representative was therefore told that workers' access to the interior of the mine would be restricted until the employer or legal representative complied with the cited safety measures.

It wasn't until September 17th 2009 that civil servants from the Federal Labor Delegation in Coahuila revisited and performed an Inspection to Verify the Fulfillment of Immediate-Application Measures, only to certify that they had not been entirely complied whilst also realizing that the workers continued to work in the mine. In response to the allegedly human rights violating events reported, the National Commission initiated complaint file CNDH/2/2009/5633/Q; and, in order to log possible violations, assistant visitors performed various tasks to gather information. Additionally, the Secretariat of Labor and Social Welfare, the Secretariat of Economy and the Mexican Social Security Institute (IMSS) were asked to hand in reports; they were also asked to implement precautionary measures in order to safeguard the integrity of the workers of the Ferber Mine. From the logical-legal analysis performed on the entirety of the evidence contained within complaint file number CNDH/2/2009/5633/Q, the Mexican National Human Rights Commission confirmed violations of the human rights to legality and legal certainty to the detriment of V1 and all other workers of the Ferber Mine. These resulted from actions consisting in the improper provision of public service which

are attributable to civil servants from the Secretariat of Labor and Social Welfare and the Secretariat of Economy

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

**To you, Mr. Secretary of Labor and Social Welfare:**

**First.** Instruct whomever it may concern so that the necessary steps are taken to pay compensation for and repair the damage inflicted upon the relatives of V1 or anyone who proves to be more lawfully entitled, due to the institutional responsibility incurred by the civil servants of such Secretariat. This procedure is to be fueled by the considerations set forth within the recommendation at hand and proof of compliance must be sent to the National Commission.

**Second.** Order the immediate execution of effective preventive actions with the aim of improving the safety, hygiene and health conditions of mines nationwide and particularly of those within the Coal Mining Area of the state of Coahuila. This must be done in accordance with the obligations legally conferred upon such Secretariat on the subject of monitoring the safety, hygiene and health conditions of work places.

**Third.** Instruct whoever it may concern so that underground coal mines are subjected to periodic inspections with the aim of verifying the safety and hygiene conditions of such work places and to request the documents needed to certify that companies have the concession and authorization to perform mining work. Proof of compliance must be sent to the National Commission once this has been done.

**Fourth.** Act as needed to periodically evaluate the personality profile and the knowledge about human rights and about the safety and health condition inspections performed at the mines of the inspectors assigned to such Secretariat. This will single out the civil servants who place society in grave danger and hinder the proper execution of public duties, thus avoiding the reoccurrence of conducts such as those which caused the current recommendation. Proof of compliance must be sent to the National Commission.

**Fifth.** Take the necessary steps to reinforce the procedures regarding professional civil service in order for staff to be selected and hired considering the needs of the position, background, education, training and the evaluation of the officials or civil servants in charge of safety and hygiene inspections. This will ensure that the law is enforced properly; proof of compliance must be sent to the national commission.

**Sixth.** Collaborate amply with the National Commission during the processing of the complaint it files before the Internal Affairs Department of such Secretariat against the civil servants who intervened in the events condemned herein. The National Commission must be continuously informed from the beginning of the investigation up until the procedure is concluded.

**Seventh.** Instruct whoever it may concern so that actions are carried out and measures are implemented to properly assemble the National Business Directory in order to promptly locate and carry out inspections at the mines to avoid future accidents at companies which have mining concessions. Proof of compliance must be sent to the National Commission once this has been done.

**Eighth.** Issue the instructions needed to provide the Federal Labor Delegations of the Mexican Republic with sufficient material, financial and human resources so that the necessary measures for preventing work related accidents and illnesses are determined. The goal of this is to ensure that the activities performed at companies which have mining concessions are executed under safe and hygienic conditions, and within an environment suitable for the workers. Proof of compliance must be sent to the National Commission.

**Ninth.** Instruct whoever it may concern to establish an information exchange system between such Secretariat and the Secretariat of Economy in order to detect the work hazards and accidents which have occurred at mining lots throughout the Mexican Republic. This information must then be used to perform inspections to verify the safety and hygiene conditions of those workplaces.

**To you, Mr. Secretary of Economy:**

**First.** Instruct whomever it may concern so that the necessary steps are taken to pay compensation for and repair the damage inflicted upon the relatives of V1 or anyone who proves to be more lawfully entitled, due to the institutional responsibility incurred by the civil servants of such Secretariat. This procedure is to be fueled by the considerations set forth within the recommendation at hand and proof of compliance must be sent to the National Commission.

**Second.** Issue instructions in order for effective preventive actions to be immediately carried out with the aim of combating the illegal exploitation of mines throughout the country and improving the safety, health and hygiene conditions in which miners work, specially within the Coal Mining Area of the state of Chihuahua. This must be done in accordance with the obligations legally conferred upon such Secretariat on the subject of mining.

**Third.** Order the execution of inspections throughout the Mexican Republic so as to detect or verify the existence of mining lots at which mineral exploitation, exploration or processing activities are performed in order to keep the Public Mining Information Register and the Mexican Mining Cartography up to date.

**Fourth.** Collaborate amply with the National Commission during the processing of the complaint it files before the Internal Affairs Department of such Secretariat against the civil servants who intervened in the events condemned herein. The National Commission must be continuously informed from the beginning of the investigation up until the procedure is concluded.

**Fifth.** Instruct whoever it may concern to establish an information exchange system with the Secretariat of Labor and Social Welfare in order to detect the work hazards and accidents which have occurred at mining lots throughout the Mexican Republic. This information must then be used to perform inspections to verify the safety and hygiene conditions of those workplaces.