



Comisión Nacional de los Derechos Humanos

México

Recommendation 3/2011

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, February 1st, 2011

Case: V1 and V2

Authority Responsible: Constitutional Governor of the state of Aguascalientes

On June 3rd, 2009, V1 and V2, presented written complaints before the National Commission, in which they present alleged violations to their human rights, committed by civil servants of the state of Aguascalientes' District Attorney's Office. This was regarding the implementation of various preliminary investigations that were settled by this department concerning the numerous complaints that have been presented. In particular, regarding the preliminary investigation 5, launched due to the incompetency put forward by the Federal Public Prosecutor's Office agent in the preliminary investigation 2. More than ten months passed without any procedure being practiced for its implementation, apart from the unjustified abstention of the prosecution authority for more than six months, having carried out procedures in the preliminary investigation 1 ordered by the Fifth Penal Judge in the state of Aguascalientes.

Additionally, V1 and V2 point out that they have received numerous threats, as well as constant acts of harassment and surveillance of their residences, by people that they suppose are sent by the state government aiming to intimidate them. Amongst these events, V1 and V2 pointed out that they presented penal reports at desk 3 of the department of the Attorney General's Office of Aguascalientes, which served as evidence to settle the preliminary investigations 3 and 4 respectively. Similarly, they state that civil servants of the state Coordination of Social Communication have restricted public information issued by the government, limiting them to the information generated after the events via the state government internet portal. Additionally, they informed that government servants of the state of Aguascalientes intend to affect their moral, ethical and professional status. This is by allowing public transport vehicles of this federative entity to carry advertisements with reference to themselves and journalistic activity, with descriptions that link them to the commission of crimes.

As a consequence, the following reports were requested from the Secretariat of Public Safety and Roads, the Coordination of Social Communication and the

District Attorney's Office, all of the state of Aguascalientes, as well as the Attorney General's Office.

The logical legal analysis of the evidence that compose the complaint file CNDH/5/2009/2585/Q shows that in this case the human rights of V1 and V2 were violated; Their rights to legality, legal security, procurement of justice, as well as freedom of speech, the right to information and to honour and a clear name.

Given the above, this National Human Rights Commission respectfully presents the following Recommendations:

To The Constitutional Governor of the state of Aguascalientes:

First. Ample cooperation with the National Human Rights Commission, from the beginning and during the complaint procedure that the public institution presents before the General Comptrollership of the State of Aguascalientes and the District Attorney's Office of the State of Aguascalientes' Deputy Attorney's Office of the Internal Comptrollership, respectively. This is regarding the government civil servants of this federative entity that intervened in the events that constitute this case. Additionally, it is necessary to provide the autonomous public institution with evidence that proves completion of the above.

Second. Full collaboration with the National Human Rights Commission, from the beginning and throughout the reports process that the public institution presents before the District Attorney's Office of the State of Aguascalientes. This is in reference to the staff that intervened in the events that constitute this case.

Third. Circulate instructions to whom it may concern, in order to provide them with training. Additionally, promote the pressing need for the Public Prosecutor institution to adapt their actions specifically to the guidelines set out in the penal legislation that controls the Mexican legal system, amongst all civil servants responsible for the implementation of preliminary investigations. This will be achieved through training courses and will allow them to carry out their work legally, honourably, faithfully, impartially and efficiently, as is required for this service. The rights of the victims of crime will also be considered at all times.

Fourth. Circulate instructions to Coordination of Social Communication of the state of Aguascalientes, in order to issue the necessary measures to guarantee the media of this federal entity, access to information generated. This is relating to action carried out by the state executive. Provide this autonomous public organism with information of the outcomes of the procedures.

Fifth. Instruct whom it may concern to remove the advertisements exposed on public transport vehicles containing images and text that represent a violation of the right to honour and a clear name of V1 and V2. Additionally, instruct the Secretary of Public Safety and Roads of the state of Aguascalientes to issue the manuals of organisation, procedure and additional necessary material, as specified in articles 26 C, section XL of the Fundamental Law of Administration of the State of Aguascalientes, as well as 24, section XXIV, of this Secretariat's Internal Rules of Procedure. This is to monitor the publicity carried by vehicles that provide a public passenger transport service, with strict observance of human rights. Provide the National Commission with information regarding the progress and outcome of the procedures.