



Comisión Nacional de los Derechos Humanos

México

Recommendation 12/2011

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, March 29th, 2011

Case: V1 and V2, who lost their lives in the Lulú Mine, in the municipal district of Escobedo, Coahuila

Authority Responsible: Secretary of Economy, Secretary of Labour and Social Welfare

On September 1st, 2009, the National Commission received the complaint presented by the miners Q1, Q2, Q3, Q4 and Q5, in which they pointed out that on August 6th, 2009 there was an accident inside the Lulú mine, located in the municipal district of Escobedo, Coahuila, in which two workers, V1 and V2, died. They added that since they began the work in the mine, around the year 2005, and up until the day of the accident, the Secretariats of Labour and Social Welfare and Economy inspections had not been carried out regarding safety and hygiene at this work centre. This is despite the fact that the risks to the lives and personal integrity of the miners were imminent. It was not until August 7th, 2009, that is to say, after the accident in which V1 and V2 lost their lives that authorities from the Secretariat of Labour and Social Welfare carried out a special inspection.

However, the Lulú mine, linked to Company 1, continued functioning without implementing safety and hygiene measures for the miners, until February 3rd, 2011. This was when the cited department issued press bulletin 13, in which it published that Company 1 announced the resolution of total closure of the coal mine, given that on February 2nd, 2011 there was another accident in which two more workers died.

Given the events of the reported violations of human rights, the National Commission launched complaint file CNDH/2/2009/4177/Q and, in order to document the violations to human rights, assigned visitors carried out investigations to gather information, as well as requesting reports from the Secretariat of Labour and Social Welfare, the Secretariat of Economy and the Mexican Social Security Institute (IMSS).

A logical legal analysis was carried out on the collection of evidence that makes up complaints file CNDH/2/2009/4177/Q, in accordance with the terms set out in article 14 of the Mexican National Human Rights Commission Law. The National Institution was able to observe violations to the human rights of legality and

legal security to the detriment of V1 and V2 and the other workers of the Lulú mine, due to their providing consistently inadequate public service, attributable to civil servants of the Secretariat of Labour and Social Welfare and the Secretariat of Economy.

Regarding the above, the National Human Rights Commission considers it appropriate the respectful presentation of the following Recommendations:

To the Secretary of Economy:

First. Instruct whom it may concern to carry out periodic inspections to underground coal mines, in order to verify the safety conditions of the work places. This is in conjunction with the Secretariat of Labour and Social Welfare. Once carried out, send the National Commission proof of completion.

Second. Carry out the necessary action to evaluate, periodically, the personality profile and knowledge of the inspectors assigned to the Secretariat regarding human rights and visits to verify completion of the duties imposed by the Mining Law on the concessive companies. This is to identify, if relevant, the civil servants that put society at great risk and that prevent adequate exercise of public function.

Third. Take the necessary measures to reinforce the procedures relating to civil service degrees for hiring and selection, taking into consideration the profile and necessities of the role, education, training and evaluation of the officials or civil servants in charge of activities of inspection in the areas of safety and hygiene. This is to guarantee adequate application of the law. Proof of completion of the above must be sent to the National Institution.

Fourth. Circulate the necessary instruction to provide the General Department of Mines with sufficient material, economic and human resources to carry out inspections to a greater number of companies that have mine concessions, to implement measures that prevent accidents and to verify that the activities are carried out in safety conditions that guarantee the life, integrity and safety of the workers. Proof of completion of this must be sent to the National Commission.

Fifth. Ample collaboration with the National Commission in the processing of the complaint that it presents before the Internal Control Body of the Secretary in question, against the civil servants that intervened in the events stated in this case. The National Commission must be kept informed from the beginning of the investigation to its conclusion.

Sixth. Instruct whom it may concern so that the Secretariat in question establishes an information exchange system with the Secretariat of Labour and Social Welfare in order to draw attention to the safety risks at mine sites across

the Mexican Republic. With this information, carry out inspections and verify the conditions of the work sites.

Seventh. Instruct whom it may concern in order to, whether in autonomous visits from the Secretariat or derived from a petition of the Secretariat of Labour, use the facility regulated in article 43 of the Mining Law to suspend provisionally or completely work in the mines in a situation of imminent danger or damage.

To the Secretary of Labour and Social Provision:

First. Circulate instruction in order to assess, orientate and legally represent the workers and the beneficiaries of V1 and V2 through the Federal Attorney's Office of the Defence of Labour. This is to provide them with the due compensation and so that they consider their work aspirations satisfied. This is in addition to assuring repair through psychological, medical and rehabilitative aid to allow the recuperation of the physical and psychological condition of the relatives of V1 and V2, or whoever is better entitled. Evidence that proves completion of the above must be sent to the National Commission.

Second. Instruct whom it may concern so that periodic inspections are carried out at the underground coal mines, in order to verify the safety and hygiene conditions of these work sites. This is in conjunction with the Secretariat of Economy. Once carried out, proof of its completion must be sent to the National Commission.

Third. Instruct whom it may concern so that in cases of inspection situations that put the workers life or security in danger are detected, so that the procedure discussed in article 512-D of the Federal Labour Law is launched, and so that this is seen by the authorities of the Secretariat of Economy so that, if necessary, the mines that put the lives and safety of workers at risk are closed provisionally. Additionally, due monitoring must be carried out.

Fourth. Carry out the necessary action to evaluate, periodically, the personality profile and knowledge of the inspectors assigned to the Secretariat regarding human rights and visits to verify completion of the duties imposed by the Mining Law on the concessive companies. This is to identify, if relevant, the civil servants that put society at great risk and prevent adequate exercise of public function. This is to avoid incurring actions such as those that brought about this recommendation. Evidence of its completion must be sent to the National Commission.

Fifth. Take the necessary measures so that the General Department of Federal Inspection of Labour increases its staff in order to have sufficient staff to be able to attend immediately and fully the coal mining industry. This is in order to be able to carry out efficiently the inspections and strengthen the procedures

relating to civil service degrees for hiring and selection, taking into consideration the profile and necessities of the role, education, training and evaluation of the officials or civil servants in charge of activities of inspection in the areas of safety and hygiene. This is to guarantee adequate application of the law. Proof of completion of the above must be sent to the National Institution.

Sixth. Ample collaboration with the National Commission in the processing of the complaint that it presents before the Internal Control Body of the Secretary in question, against the civil servants that intervened in the events stated in this case. The National Commission must be kept informed from the beginning of the investigation to its conclusion.

Seventh. Ample collaboration in the presentation of the complaint of the events that the National Commission will form before the Attorney General's Office, in order to launch the preliminary investigation in the competent area and taking into account the evidence described, due to the cause of this announcement being the behaviour of civil servants. Requested evidence must be sent to the national institution.

Eighth. Instruct whom it may concern in order to implement action and measures destined to duly integrate the National Business Directory, in order to detect opportunely and carry out inspections to new work sites and prevent future accidents in concessionary mining site companies, taking as a starting point the Public Register of Mining. Once carried out, evidence of its completion must be sent to the National Institution.

Ninth. Instruct whom it may concern so that the Secretariat in question establishes an information exchange system with the Secretariat of Economy in order to detect the safety risks at mine sites across the Mexican Republic. With this information, carry out inspections and verify the conditions of these work sites.