

# NEWS LETTER

Number 126

August 2003

## CONTENTS

- PRONOUNCEMENT OF THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS ON THE TRAGIC DEATHS OF 17 MEMBERS OF THE UNITED NATIONS IN BAHGDAD, IRAK
- THE PRESIDENT OF THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS COMMISSION MET WITH THE SECRETARY GENERAL OF AMNESTY INTERNATIONAL
- RECOMMENDATIONS  
Recommendation 32/2003 to 37/2003
- DOMESTIC RELATIONS  
The Mexican National Commission for Human Rights signed a collaboration Agreement with the Swiss Embassy for the realization of a campaign against the discrimination of handicapped persons  
Representation of the CNDH, in Tijuana, Baja California was inaugurated  
Training Courses
- PUBLICATIONS

---

### PRONOUNCEMENT OF THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS ON THE TRAGIC DEATHS OF 17 MEMBERS OF THE UNITED NATIONS IN BAHGDAD, IRAK

On August 19th, 2003, throughout the major daily newspapers the country, the Mexican National Commission for Human Rights (CNDH) issued a pronouncement lamenting the tragic deaths of 17 members of the United Nations peace mission, and of Ambassador Sergio Viera de Mello, United Nations High Commissioner for Human Rights, deed which occurred under violent conditions in Baghdad, Irak.

Regretting the disappearance of such distinguished international Human Rights defenders, the Mexican National Commission for Human Rights joined in the world's condemnation for this criminal act and reiterated its categorical rejection towards any form of violence.

### THE PRESIDENT OF THE MEXICAN NATIONAL COMMISSION FOR HUMAN RIGHTS MET WITH THE SECRETARY GENERAL OF AMNESTY INTERNATIONAL

From August 9th to August 13th, 2003, Mrs. Irene Khan, Secretary General of Amnesty International conducted an official visit to México in order to present the report "Intolerable Deaths: ten years of disappearances and murders of women in Ciudad Juárez, Chihuahua."

During this working visit, the General Secretary had an interview with Dr. José Luis Soberanes Fernández, President of the Mexican National Commission for Human Rights in which both officials coincided with the fact that the performances of the police authorities and the government of México have been, up to the present, insufficient and lacking in effectiveness. In the same manner, during this meeting both representatives agreed to join efforts in order to internationally spread word about the prevailing situation in Ciudad Juárez, Chihuahua, since the number of homicides continues to grow and the characteristics presented by these murders are worrisome; amongst them we can mention the discrimination and violence of gender. The purpose of the internationalization of these issues is to inform and give pressure to the governmental and non-governmental organisms so as to avoid more deaths, obtain technical support, as well as to mobilize the governmental will.

During this meeting, Mrs. Khan received a detailed report about the performance of the CNDH on these cases, as well as the proposals that this National Organism has made concerning the maintenance of the Federal Preventive Police in said city, and about the report which the CNDH will present concerning these events next December.

Finally, Mrs. Irene Khan acknowledge the work and responsibility of the Visitors of the Mexican National Commission in the undertaking a correct follow-up of the cases. Dr. Soberanes Fernández was very satisfied by the investigation made by Amnesty International in the

expectation that, this represent a significant contribution towards the enlightenment of the homicides and the undertaking of concrete actions in order to avoid more crimes.

## RECOMMENDATIONS

Recommendation 32/2003

August 11th, 2003

Case: Appeal presented by Mrs. Esthela Ramos de Treviño

Authority addressed: President of the H. Constitutional Congress for the State of Nuevo León and City Council of Monterrey, Nuevo León.

On February 17th, 2003, the CNDH received the appeal presented by Mrs. Esthela Ramos de Treviño who stated that the neighbors of the housing developments Pedro Lozano, Garza Nieto and Industrial of the Municipality of Monterrey, Nuevo León whom he represents, are in disagreement over the non-acceptance, and behalf of the Municipal President of Monterrey, of Recommendation 165/02 issued by the Human Rights Commission of the same local Federative Entity. In her opinion, the non acceptance of the present recommendation, violates the right to health due to the installation of high voltage towers in housing areas by the company Iberdrola Energía Monterrey, S.A. de C.V. who had permits issued in irregular manner.

From an analysis of the documentation, this National Organism considered that the public servants from the Municipality of Monterrey, Nuevo León who signed the permits issued to the company Iberdrola Energía Monterrey, S.A. de C.V. did not adhere the provided in the Law of Territorial Ordinances of the Human Settlements and Urban Development of the State of Nuevo León; of the Constructions Regulation in the Municipality of Monterrey and of the Traffic and Highways Regulation of the Municipality of Monterrey Nuevo León. Also, this National Organism observed that the Municipal President of Monterrey, Nuevo León, did not act in accordance with the legal ordinances which regulate his performance.

In regard to the harm to health which the magnetic fields might cause and its biological effects on the human body, this Mexican National Commission cannot make a statement since it does not deal with technical and scientific aspects. However, the article 8, section VI, of the General Law of Ecological Balance and Protection of the Environment it falls to the Municipality of Monterrey, Nuevo León to request from the Secretariat of Environment and National Resources that an investigation related to the electromagnetic fields which might be generated, by the electric energy cables laid out.

Consequently, this Mexican National Commission declares the insufficiency in the carrying out of the Recommendation issued by the State Commission for Human Rights of Nuevo León, and in regard to that already stated, considers that the motive for the inconformity set by the appellant Esthela Ramos de Treviño and others is accredited and, therefore, issued Recommendation 32/2003 addressed to the President of the H. Congress of the State of Nuevo León that he may give his instructions to whomever it corresponds so that an administrative procedure be instructed for the irregularities committed by the public servants of the Municipality of Monterrey.

Also, recommended to the members of the City Council of Monterrey, Nuevo León, that it be corroborated by the company Iberdrola Energía Monterrey, S.A. de C.V. did not fulfill the legal dispositions set forth in the present document and that an administrative investigation procedure be initiated against the public servants Gerardo Jesús Leal Uribe and José Carlos Campos Riojas for the irregularities committed during the exercise of their functions, and in due course a determination be reached according to law.

Lastly, to instruct who corresponds so that a study on the environmental impact in regard to the laying out of the electric energy cables, can be undertaken.

Recommendation 33/2003

August 11th, 2003

Case: Appeal presented by Mr. Angel Gómez Chapa

Authority addressed: Municipality of Tepoztlán, Morelos.

On October 24th, 2002, this Mexican National Commission received the appeal of Mr. Angel Gómez, against the definitive resolution issued on October 1st on the same year by the State Commission for Human Rights of Morelos, in which it expressed as injustices that the authorities of the Municipality of Tepoztlán, Morelos, in spite of having a constructions license, suspended and temporarily shut down the construction site.

Also, he indicates that the State Commission for Human Rights of Morelos did not make a declaration on the in-observance which the Municipal Authority gave the order of provisional suspension of the act granted in his favor by the Administrative Litigious Court of that Federative Entity.

From the analysis of the facts, the CNDH considered that the Recommendation 33/2003 addressed to the Municipality of Tepoztlán, Morelos recommended: failed to comply with the resolutions and sentence issued by the Administrative Litigious Court notwithstanding the sanctions imposed by the same Court as a means of applying pressure, with which it violates the injured party against his human rights of legality and legal safety all this derived from the non-execution of resolution or sentence by the public servants of the H. Municipality of Tepozotlán, Morelos.

Consequently, this Mexican National Commission for Human Rights presented the following recommendations to the H. Municipality of Tepozotlán:

- Instructions be given so that the seals be removed and to agree the lifting of the suspension of the construction site in accordance to the Administrative Litigious Court of the State of Morelos as well as to initiate the administrative procedure of responsibilities, and the respective prior investigation regarding the performance of the public servants who failed to take care of, on its terms, the resolutions and the definitive sentence dictated by the Administrative Litigious Court of the State of Morelos, and if it be the case the corresponding acts and procedures be complete until its correct conclusion.

Recommendation 34/2003  
August 26th, 2003

Case: Mrs. Maribel Domínguez de Nova  
Authority addressed: General Director of the Mexican Social Security Institute.

On January 27th, 2003, this National Organism received the written complaint of Mrs. Maribel Domínguez de Nova and Mr. Pedro Martín Luna Rivera in which they denounced presumably events in violation of the right to life of their deceased daughter and to the protection of the health of the plaintiff, committed by public servants of the Mexican Social Security Institute consisting of inadequate rendering of the public health service.

From an analysis of the facts and evidence, this National Organism considered that the Human Rights of Mrs. Maribel Domínguez de Nova and of her deceased daughter, due to acts and omissions which constituted and inadequate medical service which she received, from which medical and administrative responsibility of the doctors assigned to the case and other medical personnel who attended the injured party, is derived.

Consequently this National Organism issued Recommendation 34/2003 addressed to the General Director of the Mexican Social Security Institute in which the recommendation is made to authorize the Internal Control Organ of the Secretariat of Public Function in the Mexican Social Security Institute so that an administrative procedure of investigation according to law can be initiated against the doctors and medical personnel who attended the case.

Recommendation 35/2003  
August 26th, 2003

Case: Mr. Héctor Peña Montoya  
Authority addressed: General Director of the Institute of Safety and Social Services of State Workers.

On January 16th, 2003, this Mexican National Commission for Human Rights received the written complaint presented by Mr. Ismael Francisco Peña González, in which he denounced events presumably in violation to the rights of health protection committed against his father, Mr. Héctor Peña Montoya by public servants of General Hospital " Dr. Darío Fernández Fierro" of the Institute of Safety and Social Services of State Workers (ISSSTE) in México City, consisting of inadequate rendering of the public health service.

From an analysis and evidence contained in the file, this Mexican National Commission accredited factors in violation of the Human Rights of Mr. Héctor Peña Montoya, consisting in the violation to the right to life in protection of health by the public servants of the ISSSTE due to the inadequate rendering of the public health service, medical negligence and professional responsibility upon not fulfilling the obligations foreseen by the legislation which rules their functions, all due that the public servants acted in an incorrect manner and did not give the injured party the correct attention and adequate medical vigilance, opportune, and quality assistance, as it prescribed.

Hence, this National Organism issued Recommendation 35/2003 addressed to the General Director of the ISSSTE so that he authorizes the Internal Control Body of the Secretariat of Public Function in that Institute, the possible administrative responsibility of the public servants who attended the person injured be investigated and order the payment of the proper indemnity according to law, in favor to the relatives of Mr. Héctor Peña Montoya, due to his death.

Recommendation 36/2003  
August 29th, 2003

Case: Appeal of Mrs. Quetzalli Carolina Vázquez Hernández  
Authority addressed: Constitutional Governor of the State of Veracruz.

On August 9th, 2001, Mrs. Lorena Amacalli Vázquez Hernández was admitted to the General Civil Hospital of Minatitlán, Veracruz; however, she died on the following day because of a "hemorrhage of the large placenta"; situation which motivated Mrs. Quetzalli Carolina Vázquez Hernández, sister of the deceased, to present a complaint before the State Commission of Human Rights of Veracruz on September 20, 2001, resulting from this the issue of Recommendation 69/2002.

Derived from this, the Secretary of Health and Assistance of the State of Veracruz requested the State Commission for Human Rights in Veracruz to reconsidered the meaning of Recommendation 69/2002 without specifying if he accepted or not.

From an analysis of the facts on August 2th, 2003, this National Organism issued Recommendation 36/2003 addressed to the State Governor of Veracruz so that the necessary adjustments be made in the General Civil Hospital of Minatitlán, Veracruz, the indispensable and ideal personnel for the attention of needs in the matter of health be contracted, with the finality that the service of clinical file consultation be available 24 hours a day.

Also it was recommended that an administrative procedure of investigation against the public servant responsible be initiated and determined, and lastly that payment of the proper indemnity be order and made.

Recommendation 37/2003  
August 29th, 2003

Case: Appeal presented by Mrs. Gerardina Graciela Garza Villalón  
Authority addressed: H. Constitutional City Council of Monterrey, Nuevo León

On September 25th, 2002 this National Organism received the appeal presented by Mrs. Gerardina Garza Villalón regarding the no acceptance of Recommendation 81/02, issued by the State Commission of Human Rights of Nuevo León, addressed to the then Constitutional Governor of the State of Nuevo León, and to the Municipal President of Monterrey.

From a logical-juridical analysis of the evidence contained in file 2002/292-2-I, due to the appeal presented by Mrs. Garza Villalón against the no acceptance of Recommendation 81/02, we found that the company Sanitarios Azteca, S.A. de C.V., installed an intermittent tunnel type oven adjacent to the housing development Juana de Arco in Monterrey, Nuevo León which caused the crack of the construction as well as exogenous sources of heat besides the emission of a great quantity of dust, derived from an authorization for the enlargement of installations of said factory, which was granted in an irregular fashion by the state and municipal authorities.

In this respect, this National Organism observed that although the State Government argued this matter was not within its field, it was also possible to accredit that the state authority made on the ecological matter, everything necessary in order to avoid harm in the state's environment, applying the corresponding preventive and safety measures within the scope of its competency to the company Sanitarios Azteca, S.A. de C.V.; and therefore the Recommendation issued by the State Commission of Human Rights of Nuevo León, was not confirmed to the State Government. As refers to the Recommendation made to the City Council of Monterrey, Nuevo León, this National Organism only partially agrees with the point of Recommendation 81/02, the above in virtue of an omission by the referred City Council was accredited pertaining to attributions conferred by articles 115, Section II of the Political Constitution of México, and 7 of the Law of Ecological Equilibrium and Protection of the Environment of the State of Nuevo León, which establishes that: "It corresponds to the Municipalities with the assistance according to the case, of the Government of the State, within its respective territorial circumscriptions to conserve and restore the ecological equilibrium and the protection to the environment, as well as preventing and controlling the contamination originated by gases, smoke, noises, vibrations and thermal energy harmful to the ecological equilibrium or the environment".

In that sense, this National Organism informed that the Municipal Authority committed acts in violation of the Human Rights of the appellant as well as his family and neighbors of the housing development Juana de Arco, specifically the right to enjoy a healthy and ecologically balanced environment upon not complying with that foreseen in articles, 4°, fourth paragraph and third paragraph of the Political Constitution of Mexico; 11, point 1 and 2 of the Additional Protocol of the American Convention on Human Rights in matters of Economical, Social and Cultural Rights, "Protocol of San Salvador" and 12.1, paragraph 2 subparagraph b) of the International Pact of Economical, Social and Cultural Rights which establish that all persons have the right to live in a healthy environment, and that the States promote the protection, preservation and betterment of the environment.

Due to the above, on August 29, 2003, this Mexican National Commission issued Recommendation 37/2003 addressed to the Constitutional City Council of Monterrey, Nuevo León, in which it recommended to give instructions to the Secretary of Urban and Ecological Development and the Director of Land Use of the Municipality of Monterrey, so that all the necessary measures may be taken and the affectations they may have on negative environment impact ceased regarding those which have caused ecological unbalance in the surrounding environment where the industrial installations of Sanitarios Azteca, S.A. de C.V. is located; informing this Mexican National Commission for Human Rights for the measures taken and the results obtained. On the other hand, to authorize the

Secretariat of the Comptroller of the Municipality of Monterrey so that it may begin the administrative procedure of investigation against the public servants who violated the rights of the plaintiff informing this National Commission of the corresponding resolution to said procedure and authorize the agent of the public defenders office so that he may determine the criminal responsibility which corresponds. Also, issue its orders to the Municipal Director of Citizens Protection so that he may proceed to help and guide the residents of the housing development Juana de Arco in Monterrey, Nuevo León, as well as to the Directors of the Company Sanitarios Azteca, S.A. de C.V. for the purpose of preserving an ecologically balance and healthy environment, in relation to the surrounding shared with this industry, and informed them of their rights and obligations which correspond to them according to law, and informing this Mexican National Commission on the actions taken in this regard.

## DOMESTIC RELATIONS

The Mexican National Commission for Human Rights signed an agreement with the Swiss Embassy for the realization of a campaign against the discrimination of handicapped persons.

The President of the Mexican National Commission for Human Rights, Dr. José Luis Soberanes Fernández and the Swiss Ambassador in México, Marcus Kaiser, signed a Collaboration Agreement for the second launching of the Campaign "We unite for the respect to persons with some kind of disability" .

With this agreement, the CNDH is committed to disseminating informative booklets about the rights of this vulnerable group and to hold a seminar of experts.

An Office of the CNDH, in Tijuana Baja California was inaugurated

Last August 15th, the Mexican National Commission in an act presided by the President of México, Vicente Fox Quesada, inaugurated a regional office in Tijuana, Baja California, for the attention of migratory affairs. The establishment of this office respond to the constant violations to the Human Rights made in this border crossing against the migrants.

During the act the President of the Mexican National Commission for Human Rights pointed out that the abuses against migrants "must give place to administrative responsibilities and even criminal against those who commit them". Emphasizing that the same justice demanded in the northern border of the country must coincide with that given in the southern border of México.

The President of the CNDH also mentioned the interest and commitment acquired by the Local and Federal authorities to make the Human Rights be respected, better the functioning of the competent bodies in migratory matters and give incentives to the dialogue with their American homologues.

### Training Courses

In attention to the activities of promotion and dissemination of a culture of Human Rights, the CNDH during the month of August held a total of 40 courses, workshops and conferences addressed to systems to basic and higher education, groups in vulnerable situations, public servants and non-governmental organizations and religious associations.

## PUBLICATIONS

Gaceta, Official publication of the Mexican National Commission for Human Rights, Number 154, corresponding to the month of May, 2003.

Political Constitution of the Mexican United States. México, CNDH, August, 2003, (Book). Second printing of the fifth edition.

National campaign for young people sexual rights. Lets make a treat with our rights. México, CNDH., August 2003. 1st reimpression.

OFFICERS

President  
José Luis Soberanes

First Visitor  
V́ctor Manuel Mart́nez Bullé-Goyri

Second Visitor  
Raúl Plascencia Villanueva

Third Visitor  
José Antonio Bernal Guerrero

Fourth Visitor  
Rodolfo Lara Ponte

Executive Secretary  
Salvador Campos Icardo

Technical Secretary of the Council  
Susana Thalía Pedroza de la Llave

Executive Secretariat  
Editor: Laura Sanabria  
Deputy Director of  
E-mail:lsanabria@cndh.org.mx

Periférico Sur No. 4118, 2º piso, Jardines del Pedregal, Delegación Álvaro Obregón, México D.F., 01900  
Teléfono : (52) 51 35 05 94  
Fax: (52) 51 35 05 95  
<http://www.cndh.org.mx>