

NEWS LETTER

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THE SENATE OF THE REPUBLIC APPOINTED DR. JOSÉ LUIS SOBERANES FERNÁNDEZ TO HOLD THE POSITION OF PRESIDENT OF THE CNDH FOR A SECOND FIVE-YEAR PERIOD

In compliance with that which is established in item 102, paragraph B, of the Political Constitution of the United Mexican States, as well as 10 and 11 of the Human Rights National Commission Law, The Senate of the Republic appointed Dr. José Luis Soberanes Fernández on October 28 of the current year, to hold the presidency of the CNDH for a second five-year period as of November 16 of the current year.

Dr. Soberanes Fernández was elected through a voting process which was carried by more than two thirds of the members attending the session which took place today in the Senate, following the proposal of his name through a report provided by that legislative organization to the Human Rights Commission. Out of a the total of 108 votes issued, 81 -equal to 75% of the total number of votes- were in favor and 27 either against or abstentions.

Dr. Soberanes Fernández, who presides over the CNDH as of November of 1999, obtained his Law degree from the UNAM (National Autonomous University of Mexico) and carried out his post-graduate Law doctorate studies at the University of Valencia in Spain .

He has been a University professor for 31 years and is a Level III national investigator within the National System of Investigators.

He has received 37 academic awards both from national as well as foreign institutions and he is the author and co-author of 40 published books, mainly on legal topics, legal history and philosophy.

Among the many academic-administrative positions he has held we should mention: General Secretary of the Association of Latin American Universities, UDUAL, and Director of the Institute of Legal Research of the National Autonomous University of Mexico (UNAM).

RECOMENDATIONS

Recommendations 71/2004

October 29, 2004

Case: Appeals Process by the students of Elementary school
"Baltasar R. Leyva Mancilla", in the Municipality of Pie de la Cuesta , in the state of Guerrero.

Responsible Authority: The Governor of the State of Guerrero.

On May 21, 2004, this National Commission opened file 2004/176/GRO/1/I, as a result of the Appeals Process interposed by Mr. Joaquín Valdez Montes and others, stating offenses such as non-compliance by the Department of Education of the State of Guerrero regarding Recommendation 14/2004, issued by the state Organization on March 1, 2004, while processing complaint file CRA-CODDEHUM/359/2003-II, where the following was stated: the alleged offense, according to one parent, is that her children are "alienated" by the Director and teachers of Elementary School "General Baltasar R. Leyva Mancilla", in addition to the fact that they are not taken into consideration for their participation in tributes, in the selection of guard ceremonies, cultural events nor in the forthcoming course closing ceremony.

Once the evidence for this Recommendation was analyzed, we found enough elements to establish the legal legitimacy of the offense denounced by the appellants, in view of the fact that the Department of Education of the State of Guerrero did not take the necessary measures to comply with the terms of the first item of Recommendation 14/2004, submitted to them on March 1, 2004 by the Human Rights Defense Commission of the State of Guerrero. Although the complainants, after the Recommendation was issued, continued to attend classes within the educational institution, this was the result of a decision taken independently by the parents, who led their children into school, and not as a result of a process that should have been carried out by the Department of Education; in addition there was evidence that the minors were discriminated upon by the Director of Elementary School "General Baltasar R. Leyva Mancilla", at the time, since said authority refused to endorse the set of official documents that prove that they had completed the school year, which infringed the human rights of minors in terms of receiving dignified and equal treatment, as established by clause 1., paragraph three, of the Political Constitution of the United Mexican States; as well as that which is established in clause 2 of the Children's Rights Convention and 43 of Law 415 for the Protection and Development of Minors in the State of Guerrero.

Consequently, on October 29, 2004 this National Organization issued Recommendation 71/2004, addressed to the Governor of the State of Guerrero, directing him to take the appropriate measures in order to start an administrative investigation process against the former Director, for having violated, through her behavior and actions, the right to fair and respectful treatment of the grieved minors.

Recommendation 72/2004

October 29, 2004

Case: Appeals Process by Mr. Daniel Rubio Vela.

Responsible Authority: The Honorable Town Council of Tlaltenango de Sánchez Román, in the state of Zacatecas.

On June 8, 2004, this National Commission opened file 2004/201/ZAC/1/I, of the Appeals Process interposed by Mr. Daniel Rubio Vela, in which he denounced

the fact that the Recommendation issued by the Human Rights State Commission of Zacatecas on April 14, 2004 was rejected in the process of handling complaint file CEDH/012/2004.

The examination of evidence produced by this Recommendation provided sufficient elements to establish the legal legitimacy of the offense denounced by the complainant, who pointed out the existence of human rights violations committed by several civil servants attached to the Public Security Office of the Municipality of Tlaltenango de Sánchez Román, in the state of Zacatecas, since the complainant was not duly referred by the members of the Municipal Preventive Police to an administrative authority familiar with his situation; in addition, they neglected to inform him that he had the right to choose between a fine or serving time under arrest, depriving him of his freedom.

In addition, he was not informed of the reason behind the offense he had allegedly committed, nor the punishment it warranted: thus affecting his lawful rights as well as his right to legal security as stipulated in clauses 14, 16 and 21 of the Political Constitution of the United Mexican States.

This National Commission found that, in this specific case, there were shortcomings in the public service provided by the community court of the Municipality of Tlaltenango de Sánchez Román, in the state of Zacatecas, as well as ignorance regarding the appropriate application of administrative disciplinary measures by civil servants, who, during the absence of the community judge, take part in matters relevant to their area, specially when they impose administrative-related fines.

It is also necessary to promote the proper training of the town council civil servants in order for them to increase their knowledge regarding administrative processes and the importance of carrying them out in a respectful manner in terms of Human Rights.

In consideration of all of the above, this National Commission decided that the refusal by the Municipal Chair of the Municipality of Sánchez Román, in the state of Zacatecas to accept and comply with the Organization's Recommendation lacked validity, in addition to the fact that said office claimed that the fine imposed on the plaintive was lower to the one that should have been applied, and that the fine did not surpass that which is established by law.

Consequently, on October 29, 2004 this National Organization issued Recommendation 72/2004, addressed to the Honorable Town Council of Tlaltenango de Sánchez Román, in the state of Zacatecas, so that it will provide training to any employee in charge of an administrative investigation process against members of the Municipal Preventive Police, as well as the Municipal Public Security Inspector and the guarding official of the relevant office, as a result of the irregularities that came to affect Mr. Daniel Rubio Vela, which have been explained under the Observations section of the Recommendation document.

In addition, we requested that they provide compliance with items two, three and four of the Recommendation issued by the Human Rights State Commission of the state of Zacatecas in complaint file CEDH/012/2004.

Recommendation 73/2004

October, 2004

Case: Appeals Process of Mr. Martimiano Capilla García.

Responsible Authority: Honorable Town Council of Ahuacuotzingo, in the state of Guerrero.

On July 5, 2004 this National Commission received the Appeals Process presented by Mr. Martimiano Capilla García, claiming non-compliance by the Municipal Town Council of Ahuacuotzingo, in the state of Guerrero, regarding Recommendation 9/2003, issued on March 24, 2003 by the Human Rights Defense Commission of the State of Guerrero.

After analyzing the evidence obtained, the legal basis of the injury filed by the complainant was established, considering that the Municipal President of the Town Council of Ahuacuotzingo, in the state of Guerrero, had accepted the Recommendation on July 14, 2003. However, he did not comply with the request and, consequently, violated the right to lawfulness and legal security, as stipulated in items 14 and 16 of the Political Constitution of the United Mexican States, by failing to Mr. Martimiano Capilla García's and Mr. Amando Capilla Jiménez's alienated rights. There existed evidence that, after the Recommendation was accepted, no other measure was taken in an attempt to comply with it under the terms established by the local organization, in other words, to carry out the construction work necessary to complete the alternate exit from the homes of the complainants, and, it should be pointed out that, to this date, when more than a year has elapsed, the Recommendation provided by the local Commission has still not been complied with.

The document suggested that, in the next Constitutional Municipal Town Council session of Ahuacuotzingo, in the state of Guerrero, the situation should be acknowledged and the necessary steps should be taken in order to solve Mr. Martimiano Capilla García's and Mr. Amando Capilla Jiménez's problem regarding the construction work that does not allow them to enter their homes, located in Xocoyolzintla, within that same municipality, or, should it be the case, the appropriate measures should be taken in order to create an alternative exit from their homes.

On October 29, 2004 this National Commission issued Recommendation 73/2004, addressed to the Town Council of Ahuacuotzingo, in the state of Guerrero, seeking to designate the appropriate official to comply with Recommendation 9/2003, issued by the Human Rights Defense Commission of the State of Guerrero.

INTERNATIONAL AFFAIRS

INTERNATIONAL WORKSHOP "CAUSES, EFFECTS AND CONSEQUENCES OF THE MIGRATORY PHENOMENON IN HUMAN RIGHTS PROTECTION"

The city of Zacatecas hosted, on October 14 and 15, the International Workshop: Causes, Effects, and Consequences of the Migratory Phenomenon in Human Rights Protection, which was inaugurated by the Governor of the State of Zacatecas, and was attended by Dr. José Luis Soberanes Fernández, Chairman of the CNDH. Zacatecas also had the pleasure to welcome representatives of the Mexican senate, the Government of the State of Zacatecas and 25 Mexican State Commissions.

Seventeen national institutions were represented by their leaders or senior members: Albania, El Salvador, Spain, the Philippines, Guatemala, Honduras, India, Mexico, Morocco, Nigeria, New Zealand, Panama, Paraguay, Peru, Thailand, Ukraine and Venezuela. Mr. Orest Nowosad, Head of the Team of National Institutions of the United Nations High Commission for Human Rights, also honored us with his presence

Throughout the meeting, the previously mentioned institutions participated along with state commissions, in the work sessions of the Workshop. In addition, we welcomed the contribution of distinguished personalities who gave fascinating presentations regarding the migrant phenomenon from several points of view: receiving countries, transit countries and abandoned countries.

Among the speakers, we should highlight the presence of the Chairman of the National Commission for the Prevention of Discrimination, the Commissioner of the National Migration Institute, as well as attending National Institutions.

In addition, several NGOs from the State of Zacatecas and representatives of migrant communities from the United States, as well as students from the Autonomous University of Zacatecas, enrolled in different careers, also attended the Workshop.

Upon the closing of the meeting, the National Institutions gathered all the observations and conclusions they had reached during the Workshop and drafted the Final Report titled "Declaration of Zacatecas" which identifies the main focus points and proposals to be followed by National Institutions in the course of the execution of their activities, as well as general conclusions reached as a result of the Workshop.

PUBLICATIONS

- Political Constitution of the United Mexican States (eighth edition), Mexico CNDH, October, 2004

- The Massacre of Agua Fría, Oaxaca: State Ethnocide and Genocide or Community Self-Genocide , Mexico CNDH, October, 2004.

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