

# NEWSLETTER

Mexican National Human Rights Commission (CNDH)

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## CONTENTS

**14 MILLION INDIGENOUS PEOPLE IN NEED OF ASSISTANCE AND PROTECTION**  
**CNDH CALLS FOR THE TIMELY DELIVERY OF DRUGS AGAINST HIV**  
**A CONTINENTAL EFFORT IS NEEDED IN ORDER TO PROTECT MIGRANTS: CNDH**  
**HUMAN RIGHTS WILL BE BROADCASTED THROUGHOUT 20 THOUSAND INDIGENOUS COMMUNITIES**  
**RAÚL PLASCENCIA CALLS FOR A FIGHT AGAINST HUMAN TRAFFICKING**  
**CNDH ASKS FOR PRECAUTIONARY MEASURES FOR HUNGER STRIKE PARTICIPANTS**  
**CNDH ASKS FOR MORE SERVICES FOR HANDICAPPED PEOPLE**  
**CNDH STRENGTHENS MEASURES TO PROTECT MIGRANTS**  
**CNDH DEMANDS THAT JOURNALISTS FROM THE "LAGUNERA" REGION BE FOUND**

RECOMMENDATION 41/2010, **ABOUT THE RECOURSE OF IMPUGNATION OF "V1" AND OTHERS**

RECOMMENDATION 42/2010, **ABOUT THE CASE OF "V1"'S TORTURE**

RECOMMENDATION 43/2010, **ABOUT THE CASE OF THE LIFE THREATENING ATTACK AGAINST "V1"**

### CGCP/177/2010

#### **14 MILLION INDIGENOUS PEOPLE IN NEED OF ASSISTANCE AND PROTECTION**

Mexico needs mechanisms which enable it to assist and protect around 14 million indigenous people who constitute one of the most vulnerable and least cared for groups. The defense and safekeeping of indigenous people's rights which focus on respecting their dignity, culture and language is of vital importance to the Mexican National Human Rights Commission.

It is because of this that it has performed 29 visits to indigenous communities and executed 87 educational activities regarding the protection and defense of the guarantees of such groups.

It has held workshops, courses and conferences in various states throughout the country in order to recognize and vindicate the more than 300 indigenous communities, respecting their freedom and guarantees.

During the commemoration of the adoption of the ILO's Convention 169, the CNDH, which is presided by Dr. Raúl Plascencia Villanueva, ratified and its commitment and renewed its priorities to defend, protect, promote and guarantee all of the indigenous people's rights which are contemplated within such Convention to the best of its abilities.

Oaxaca, Chiapas, Veracruz, Puebla, Guerrero, Chihuahua, Michoacán, Yucatán and the Federal District are the states which have the most indigenous population in the entire republic.

### CGCP/186/2010

#### **CNDH CALLS FOR THE TIMELY DELIVERY OF DRUGS AGAINST HIV**

The Mexican National Human Rights Commission declared that the untimely delivery of antiretroviral drugs is to blame for 60% of the complaints it receives from people with HIV. As a result, it underlined the importance of ensuring the availability of these drugs in pharmacies when prescriptions are issued. The National Commission considers this lack of supplies to be an administrative and budgetary issue which affects the right to health protection of people with HIV, as established by the 4<sup>th</sup> article of the constitution, related international texts and applicable secondary legislation.

Therefore, the CNDH expressed its concern in light of the possibility that thousands of patients may be at risk of not receiving medication to control their infection due to HIV.

#### **CGCP/187/2010**

##### **A CONTINENTAL EFFORT IS NECESSARY IN ORDER TO PROTECT MIGRANTS: CNDH**

The Mexican National Human Rights Commission, which is presided by Raúl Plascencia Villanueva, and the Office of the Ombudsman of Peru, lead by Beatriz Merino Lucero, who is also the president of the Ibero-American Federation of Ombudsman (FIO), signed a collaboration agreement for the protection and promotion of the human rights of migrants.

Through such treaty, the institutions of Mexico and Peru will fight against the increasing risk of extortion and vulnerability faced by migrants. They will also provide support in case they are affected by organized crime and any abuses which authorities from both countries may incur upon. They will offer legal counseling and advice services to migrants so that they are informed about their rights and so they may exercise them freely. The treaty will allow for the exchange of information and will encourage actions in favor of defending and protecting migrants and their relatives within their respective national territories.

During the signing of the treaty in the city of Lima, Peru, Raúl Plascencia Villanueva, president of the CNDH, vented his concern about the open and systematic violations to the fundamental rights of migrant workers who do not have identification papers, victims of persecutions, exploitation, extortion and humiliations. Moreover, he stressed the need to engage in a continental effort in order to protect migrants.

The Ombudsmen of Mexico, Raúl Plascencia Villanueva, and Peru, Beatriz Merino Lucero, agreed to work with all of the national human rights defenders in the region assisting migrants without identification papers and fighting against human trafficking.

#### **CGCP/191/2010**

##### **HUMAN RIGHTS WILL BE BROADCASTED THROUGHOUT 20 THOUSAND INDIGENOUS COMMUNITIES**

The Mexican National Human Rights Commission, the National Institute of Indigenous Languages (INALI) and Distribuidora CONASUPO S.A. (DICONSA) teamed up in favor of 14 million indigenous people throughout the country with the aim of disseminating human rights, in their native languages, in 20 thousand communities living in poverty and extreme poverty.

They will also come up with schemes to prevent and eradicate the crime of human trafficking which, due to the effects it has on the victim, is considered as "modern slavery".

For this purpose, the CNDH will provide the data, the INALI will translate it into various indigenous languages and the materials will be handed out in the 23 thousand 400 locations where the Rural Replenishment Program headed by DICONSA operates.

The treaty stipulates that the signees will each utilize their own human, material and financial resources in accordance with their budgetary allowances in order to guarantee the proper execution and development of the activities which they have vowed to carry out.

During the signing of the treaty, Raúl Plascencia Villanueva, president of the CNDH, emphasized on the effects on the personal and psychological spheres of the victims of human trafficking which are devastating and severely damaging to their dignity.

#### **CGCP/195/2010**

##### **RAÚL PLASENCIA CALLS FOR A FIGHT AGAINST HUMAN TRAFFICKING**

Raúl Plascencia Villanueva, president of the Mexican National Human Rights Commission, called for joining efforts in order to fight and punish human trafficking which is an alarming problem in some areas of the country. He denounced that the lack of legislative harmonization within the Mexican legal system broadens the extent of impunity and hinders coordinated actions amongst authorities in charge of public safety and the procurement of justice.

He also pointed out that the lack of means and public policies to provide protection and adequate assistance to the victims of such crime is another obstacle. The compensation they are entitled to never comes through as it is not easy to denounce the trafficker or to fight against the legal inertia, he said.

During the setup of the Regional Committee against Human Trafficking, Western Region (Colima, Jalisco and Nayarit), the national Ombudsman pointed out that the eradication of this crime presents many challenges, saying that the CNDH is convinced that progress on the issue will only be possible through a collaborative framework. He explained that the Committee's objective is to prevent human trafficking, for which purpose it will coordinate inter-institutional efforts between different government levels, civilian society, public institutions which defend human rights as well as national and international organizations

#### **CGCP/199/2010**

##### **CNDH ASKS FOR PRECAUTIONARY MEASURES FOR HUNGER STRIKE PARTICIPANTS**

Today, the Mexican National Human Rights Commission asked the Government Secretary, Francisco Blake Mora and the Government Secretary of the Federal District, José Ángel Ávila Pérez, to adopt precautionary measures for an undetermined amount of time in order to preserve the right to life of the members of the Syndicate of Mexican Electricians (SME) who have engaged in a hunger strike. As part of their campaign of protests against the Decree of the 11<sup>th</sup> of October 2009 by means of which Luz y Fuerza del Centro was extinguished, SME members are taking part in a hunger strike.

The national Commission presided by Raúl Plascencia Villanueva asked of public officials that dialogue and political negotiation are favored during the emplacement of such measures in order to reach an agreement and solve the conflict in accordance with the law, without affecting the rights of third parties. The request for precautionary measures stems from what is stipulated by article 40 of the Mexican National Human Rights Commission Law as well as by articles 116, 117 and 118 of its Internal Regulations. This request does not judge the responsibility of the authorities involved beforehand.

#### **CGCP/202/2010**

##### **CNDH ASKS FOR MORE SERVICES FOR HANDICAPPED PEOPLE**

The Mexican National Human Rights Commission helps people with disabilities achieve an independent and self-sufficient lifestyle, as well as to fulfill their goals in equalitarian conditions. It is thereby encouraging the unification of criteria for the provision or supply of goods, services, facilities, programs and activities. Through this, the aim is to achieve the recognition of handicapped people regarding the enjoyment and exercise of their fundamental freedoms.

The national Commission also promotes the construction of adequate access routes in government buildings and facilities. It also supports the elimination of the architectural, transport and communication obstacles which make it more difficult for handicapped people to use them.

The Mexican government is obliged to abide by the international treaties regarding people with disabilities and execute the legislative reforms which allow them to create an environment in which they may truly exercise their fundamental rights.

#### **CGCP/204/2010**

##### **CNDH STRENGTHENS MEASURES TO PROTECT MIGRANTS**

The Mexican National Human Rights Commission maintains that the coming into effect of the SB1070 Law in Arizona represents a threat to the unrestricted exercise of migrants' human rights. This legal instrument infringes upon the principles of no discrimination, legal equality and freedom against arbitrary detention.

The national Institution also regrets that Florida, Michigan, Alabama, Nebraska, Pensilvania, Carolina del Sur, Dakota del Sur, Virginia and Texas are in favor of the SB1070 Law.

The CNDH has been tracking the course of these events regarding the human rights violations which such ordinance may represent.

It has therefore instructed staff from its regional offices in Tijuana, Baja California; Nogales, Sonora; Ciudad Juarez, Chihuahua and Reynosa, Tamaulipas, to be at the border crossings where the deportations are most likely to take place. Furthermore, they will watch over the National Migration Institute personnel who receive our deported countrymen to ensure that their fundamental rights are respected.

The Mexican National Human Rights Commission is working jointly with organizations such as Ángeles de la Frontera, Humane Borders, American Civil Liberties Union (ACLU) and Network Borders for Human Rights in order to articulate timely and expedite actions in favor of the Mexican migrants without identification papers who are in the United States.

The CNDH reiterates that the Foreign Ministry and its network of consulates throughout the United States are obliged to offer orientation, support and legal advice to our countrymen in accordance with their responsibilities in order to safeguard and defend their human rights.

### **CgCP/206/2010**

#### **CNDH DEMANDS THAT JOURNALISTS FROM THE "LAGUNERA" REGION BE FOUND**

The Mexican National Human Rights Commission, presided by Raúl Plascencia Villanueva, expressed its indignation over the disappearance of four journalists in the country's "lagunera" region and demands that authorities execute actions to find them. The national Institution considers it urgent to end impunity, demand effectiveness from justice procurement authorities and guarantee the safety of journalists.

The CNDH believes it is the State's duty not only to respect freedom of speech, but also to guarantee its practice. It is the duty of the Mexican State to investigate these offences in order for the judicial authorities to sanction those responsible in accordance with the law.

The increased number of attacks against the journalistic trade has provoked the direct harassment of victims as well as intimidation, thereby affecting society's right to information. The CNDH points out that the lack of investigations about the attacks against journalists has made them vulnerable whilst practicing their trade.

According to available information about the individuals who allegedly went missing on Monday, July 26<sup>th</sup>, these are a reporter from *Multimedios*, two cameramen from *Televisa Gómez Palacio* and a reporter from the newspaper *El Vespertino* from Gómez Palacio, Durango.

### **RECOMMENDATIONS**

Below is a summary of the Recommendations issued by CNDH during July 2010. The complete version can be found on the institution's website: <http://www.cndh.org.mx/cartnews/cartnws.htm>

#### **RECOMMENDATION 41/2010**

Mexico City, July 6<sup>th</sup>, 2010

**SUBJECT: ABOUT THE RECOURSE OF IMPUGNATION OF "V1" AND OTHERS**

**AUTHORITY RESPONSIBLE:**

**HONORABLE CONGRESS OF THE STATE OF OAXACA AND**

**HONORABLE TOWN HALL OF MAGDALENA APASCO, ETLA, OAXACA**

On August 24<sup>th</sup> 2009, the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca received V1's complaint due to alleged human rights violations

committed to his detriment and that of V15, V4 and V14, attributable to civil servants of the Town Hall of Magdalena Apasco, Etlá, Oaxaca, causing the initiation of complaint file CDDH/1125/(06)/OAX/2009.

Regarding these events, V1 declared that on August 24<sup>th</sup> 2009, the municipal president and the municipal representative of this municipality, together with some inhabitants, dug trenches in the vicinity of their homes and, with the help of heavy construction equipment, they cut V1, V3 and V18's drinking water supply; furthermore, they closed the accesses to the community therefore keeping the victims from entering the area.

On January 14<sup>th</sup> 2010, the state commission also received the complaint filed by V2, in light of alleged human rights violations to his detriment and that of V5, V6, V7, V8, V9, V10, V11, V12, V13, V14, V15, V16, V17 and V18, attributed to the municipal representative of the Town Hall of Magdalena Apasco, Etlá, Oaxaca. Complaint file CDDH/046/(06)/OAX/2010 was therefore initiated.

Regarding these events, V2 declared that on November 27<sup>th</sup> 2009, a group of about 200 of the community's inhabitants, lead by the municipal representative, presented itself at the homes of each one of the victims and cut their drinking water supply. The representative explained that their situation had to be presented before a general assembly in order for the town to decide whether or not their supply would be restored.

Given that the events mentioned in both complaint files were considered to be related, on the 9<sup>th</sup> of February 2010, the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca decided to combine them.

After assembling the complaint file and the file it was combined with, the state human rights protecting body issued recommendation 04/2010 on March 10<sup>th</sup> 2010, addressed at the members of the Town Hall of Magdalena Apasco, Etlá, Oaxaca, in the following terms:

**First.** *Instruct the person responsible to immediately proceed with the reestablishment of the drinking water supply in favor of citizens V1, V3, V2, V5, V6, V7, V8, V9, V10, V11, V12, V13, V14, V15, V16, V17 and V18.*

**Second.** *Issue instructions to the Municipal President and the Municipal Representative of Magdalena Apasco, Etlá, Oaxaca so that they refrain from engaging in acts of deprivation or discomfort which are not rightfully justified or approved by the law against the offended or their families, homes, properties, possessions, assets, rights or against any other citizen who stands by what they represent.*

On April 16<sup>th</sup> 2010, the National Commission received the official missive VG/96/2010, through which the human rights commission of Oaxaca forwarded the recourse of impugnation due to the unacceptance of recommendation 04/2010 by the Town Hall of Magdalena Apasco, Etlá, Oaxaca.

The recourse was lodged within file CNDH/4/2010/101/RI, to which the report and evidence supplied by the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca were added.

From the logical-juridical analysis of the entirety of the evidence which makes up the present recourse of impugnation, it was possible to see that the Human Rights to legality and legal certainty, to health, freedom of movement and to no discrimination were violated to the detriment of V1, V2, V3, V4, V5, V6, V7, V8, V9, V10, V11, V12, V13, V14, V15, V16, V17 and V18. These were committed by the municipal authorities of Magdalena Apasco, Etlá, Oaxaca.

As a result, the state Human Rights Commission declared that the human rights of the offended were indeed infringed upon when they were deprived of drinking water by the municipal authorities of Magdalena Apasco, Etlá, Oaxaca without any justification whatsoever, although this was probably done in retaliation for running and exploiting the marble and onyx mines located within that community.

Along these lines, the National Commission declared that the human rights to no discrimination, health, freedom of movement, legality and legal certainty of the offended, contained in articles 1, third paragraph, 2, section A, 4, third paragraph, 11, 14, second paragraph

and 16, first paragraph of the Political Constitution of the United Mexican States, were transgressed.

In light of these events and based on what is stipulated in articles 65 and 66, clause a), of the Mexican National Human Rights Commission Law, as well as article 168 of its internal regulations, the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca's final resolution is confirmed. The following recommendations are thereby respectfully made:

**TO YOU, MADAME PRESIDENT OF THE BOARD OF DIRECTORS OF THE HONORABLE CONGRESS OF THE STATE OF OAXACA:**

**FIRST.** Issue the appropriate instructions in order for whomever is responsible to begin an investigation, as stipulated by the law, in order to define the responsibilities in which civil servants from the municipality of Magdalena Apasco, Etlá, Oaxaca may have incurred after failing to comply with recommendation 04/2010 issued by the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca, as well as failing to respond to a request for information. Proof of compliance must be sent to the National Commission.

**SECOND.** Urge the town hall of Magdalena Apasco, Etlá, Oaxaca to present the reports requested by the Mexican National Human Rights Commission in order to abide by what is stipulated by the law of this institution dedicated to the defense of human rights.

**TO YOU, THE MEMBERS OF THE TOWN HALL OF MAGDALENA APASCO, ETLÁ, OAXACA:**

**FIRST.** Proceed to instruct whomever it may concern so that recommendation 04/2010, issued on the 10<sup>th</sup> of March 2010 by the Commission for the Defense of Human Rights of the Free and Sovereign State of Oaxaca, is fulfilled; proof of absolute compliance must be sent to the National Commission.

**SECOND.** Issue instructions in order to collaborate with the prior investigation initiated as a result of the declaration presented by the National Commission to the Office of the District Attorney of the State of Oaxaca in light of the considerations mentioned within the observations chapter of this document due to their likely involvement in the events which obstructed the points of entry of the community of Magdalena Apasco, Etlá, Oaxaca. All evidence requested must be delivered.

**RECOMMENDATION 42/2010**

Mexico City, July 15<sup>th</sup>, 2010

**SUBJECT: ABOUT THE CASE OF "V1"'S TORTURE**

**AUTHORITY RESPONSIBLE:**

**SECRETARIAT OF NATIONAL DEFENSE**

Due to jurisdictional reasons, on November 3<sup>rd</sup> 2008, the National Commission received the complaint presented by Q1 before the State Human Rights Commission of Michoacán in his position as public defender due to the maltreatments and possible torture which V1 may have been subjected to by Mexican Army personnel. They detained him on the 18<sup>th</sup> of October 2008 whilst he was fishing in the vicinity of the Balsas river, using their feet to hit him in the stomach and testicles, subsequently loading him onto a military vehicle in which they undressed him, continuing the beating, threatening to rape him and accusing him of participating in a kidnapping.

He was then taken to the military facilities at Huetamo where they drenched with cold water, beat him and placed a bag containing chilies with vinegar around his head. He was then presented before the investigative Agency of the state Delegation of the Attorney General's Office in Morelia, Michoacán as he allegedly committed crimes which violated the Federal Firearms and

Explosives Law, was involved in a kidnapping as well as any subsequent findings, resulting in the initiation of Prior Investigation 1 (AP1) against him.

Due to the human rights violations reported, the National Commission initiated complaint file CNDH/2/2008/5431/Q and, with the aim of assembling it properly, personnel from this office carried out plenty of field work in order to collect information, testimonials and documents; it also requested that the Secretariat of National Defense (SEDENA) and the Attorney General's Office (PGR) submit reports.

From the logical-juridical analysis performed on the entirety of the evidence which makes up file of complaint CNDH/2/2008/5431/Q, the national commission came to the conclusion that violations to the human rights to freedom, integrity and personal safety as well as to legality and legal certainty to the detriment of V1 have been confirmed. This was due to acts of illegal detention and torture attributable to army personnel from the 1<sup>st</sup> Special Forces Battalion operating out of the Huetamo Operations Base in Michoacán.

In light of these events the Mexican National Human Rights Commission considers it appropriate to respectfully present you, Mr. Secretary of National Defense, with the following

**RECOMMENDATIONS:**

**FIRST.** Repair and compensate V1 for the damage caused by means of the medical, psychological and rehabilitation assistance required to return his physical and psychological condition to the way they were before his human rights were violated, informing the National Commission about the result.

**SECOND.** Collaborate generously with the National Commission in the processing of the complaint it presents before the General Inspection and Comptrollership body of the Mexican Army and Air Force against the civil servants of SEDENA who participated in the events condemned in this case, sending any evidence requested as well as proof of compliance to the National Commission.

**THIRD.** Amply collaborate with the presentation and follow up of the declaration of events which the national commission presents before the Attorney General's Office and the Office of the General Attorney of Military Justice, respectively, in order for them to initiate the legally corresponding prior investigation in accordance with their jurisdiction due to the violations stated within this recommendation. Any proof of compliance requested must be sent to the national commission.

**FOURTH.** Issue an official missive aimed at military personnel so that people detained in flagrante are brought before the corresponding prosecuting authority immediately and without delay in accordance with article 16 of the Political Constitution of the United Mexican States. This is to keep them from being taken to military facilities in order to perform physical integrity evaluations given that the PGR has its own medical experts to perform such revisions. Once this is done, a copy of such missive must be sent to the national commission.

**FIFTH.** Fully collaborate with the Mexican National Human Rights Commission so that a Comprehensive Educational Program on the subject of Human Rights is designed and executed within the Secretariat of National Defense. It should be aimed at the middle and upper ranks as well as officers of the Mexican Armed Forces in order to teach them to carry out their duties lawfully and respecting human rights. Proof of compliance must be sent to the national commission.

**SIXTH.** In order to guarantee unbiased and objective physical integrity certifications on behalf of army medical personnel, courses must be given in order to insure their compliance with their legal and ethical obligations to abide by the medical examination procedures dictated by the law. They must not fail to describe detected injuries or comply with their obligation to notify an agent of the Public Prosecutor's Office about cases in which mistreatment or torture are thought to have been inflicted. The Mexican National Human Rights Commission must be notified once this has been done.

SUBJECT: **ABOUT THE CASE OF THE LIFE THREATENING ATTACK AGAINST "V1"**

AUTHORITY RESPONSIBLE:

**SECRETARIAT OF NATIONAL DEFENSE**

On the 8<sup>th</sup> of December 2008, the Mexican National Human Rights Commission received the written complaint presented by V1 in which he stated that on the 30<sup>th</sup> of November 2008, at approximately 18:30 hours, he heard a gunshot whose bullet hit the front right rim of his vehicle whilst he was driving on highway which goes from the La Junta intersection to San Pedro in the municipality of Guerrero in Chihuahua, causing him to accelerate in order to get to his home as soon as possible.

He added that as it was getting dark, he was able to see the headlights of a vehicle which was chasing him and from which he was shot at six times; the bullets hit his vehicle, cracked the rear window and two of them hit the passenger's seat. In spite of this, he continued his journey along 5 de Mayo Street until he got to a retail outlet, at which point he lost control of the vehicle and crashed into another car which was parked, hitting himself on the head.

He also mentioned that when he tried to get out of the vehicle, a soldier pointed a gun at him and ordered him to lie down on the ground; subsequently, more soldiers arrived only to kick his ribs and question him whilst others inspected his vehicle. It was then that T1 and T2 arrived and asked the members of the Mexican Army about what was happening, to which they replied that there was nothing wrong, telling them that if they kept this event secret they would not be blamed for the shots fired at V1's vehicle; in the end, the soldiers left onboard two double cab green RAM pick-ups heading toward the town's intersection.

In light of these events, the Mexican National Human Rights Commission initiated complaint file CNDH/2/2008/5913/Q and requested that the Secretariat of National Defense (SEDENA) and the Attorney General's Office (PGR) submit reports in order to investigate the reported human rights violations.

From the logical-juridical analysis performed on the entirety of the evidence which makes up complaint file number CNDH/2/2008/5913/Q, the Mexican National Human Rights Commission confirmed the violation of the human rights to integrity and personal safety, to dignified treatment, and to legality and legal certainty to the detriment of V1 due to actions attributable to SEDENA civil servants consisting in the arbitrary use of force and the failure to aid or care for all people as part of their obligations.

As a result, the Mexican National Human Rights Commission considers it appropriate to respectfully present you, Mr. Secretary of National Defense, with the following **RECOMMENDATIONS**:

**FIRST.** Repair and compensate V1 for the damage caused by means of the medical, psychological and rehabilitation assistance required to return his physical and psychological condition to the way they were before his human rights were violated, informing the National Commission about the result.

**SECOND.** Collaborate amply with the Mexican National Human Rights Commission in the processing of the complaint which this institution brings before the General Inspection and Comptrollership Unit of the Mexican Army and Air Force against the civil servants of SEDENA who were involved in the events mentioned in this case, sending any evidence requested to the National Commission together with proof of compliance.

**THIRD.** Fully collaborate in the presentation and follow up of the declaration of events which this national institution presents before the Attorney General's Office and the Office of the General Attorney of Military Justice, respectively, in order for them to initiate the prior investigation as



stipulated by law in accordance with their jurisdiction, given that the current recommendation was provoked by the behavior of federal civil servants. Any proof of compliance requested must be sent to the national commission.

**FOURTH.** Issue instructions to whomever it may concern so that Mexican Army personnel are trained in order for all duties and actions to be performed adhering to legality and to the respect of human rights; so that respect to life and personal integrity and safety are guaranteed; and so they are trained on the proportional use of force and firearms without putting society in danger. Such training must also be passed on to the upper ranks and having done this, the National Commission must be given a detailed report.

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