

60 Russell Square
London
WC1B 4HP
United Kingdom

Señor Juan Manuel Santos Calderón
Presidente de la República de Colombia
Carrera 8 No. 7 – 26
Palacio de Nariño
Bogotá
Colombia

22 March 2013

Dear President Santos,

I am writing to you on behalf of the UK members of the International Caravana of Jurists. During visits to Colombia in 2008, 2010 and 2012, we called upon the Colombian government to protect lawyers' ability to represent their clients and to refrain from any interference in their work in order to comply with Colombian legislation, and International Law.¹

We write to express our grave concerns for the safety of Alfamir Castillo and her family. On 8 February 2008 Ms Castillo's son and his friend Alex Hernandez Ramirez Hurtado were murdered in a 'false positive' extrajudicial execution by serving members of the Colombian army, near the city of Manizales. In May 2012, seven soldiers were found guilty of participating in the murders. In May 2012, seven soldiers were found guilty of participating in the murders. Two army officers are currently being tried in this matter, and a preliminary hearing is due to take place shortly in relation to two army generals whom it is alleged had command responsibility for the murders.

We also are deeply concerned for the safety of the Judge, prosecutor, lawyers and witnesses involved in this case. We understand that there have been threats against all the above people. The two lawyers: German Romero and Jorge Molano. Sandra Zulaga, prosecutor in the case, were threatened on the day of the case.

I respectfully remind you of my previous letter dated 16 November 2012 regarding threats to Alfamir Castillo and the above lawyers involved in this case. It is therefore particularly troubling to hear that they are not being afforded adequate protection now.

Since the criminal investigation in this matter began, Ms Castillo and her family have experienced repeated harassment, violence and threats against their lives. On at least four occasions since December 2011 Ms Castillo has been threatened by gunmen. On 18 February 2013, two men, one armed with a gun, attempted to kidnap Ms Castillo and her daughter, who managed to escape on a passing bus. On 10 October 2012, 48 hours before a hearing in the trial of two battalion commanders in this matter, a gunman approached Ms Castillo, pushed a gun into her chest and stated that both she and her lawyer were going to die.

In October 2012, the Colombian National Human Rights Unit classified the risk against Ms Castillo as 'Extraordinary', and the Inter American Commission on Human Rights requested that the Colombian government impose precautionary measures to protect her.² Ms Castillo

¹ Law 1426 of December 29 2010

² CIDH Medidas Cautelares 225/12 (<http://www.oas.org/es/cidh/decisiones/cautelares.asp>)

welcomed this request, but raised with the Colombian National Protection Unit (UNP), the responsible state agency, her concerns over the security of information provided to it. Ms Castillo's concerns arose from prior incidents in which men purporting to be from the UNP, and with official UNP documentation, had attempted to force their way into her house. Upon contacting the UNP after these incidents, the UNP had confirmed that these men were not UNP employees; accordingly, Ms Castillo is concerned that individual(s) at the UNP are leaking information which may compromise her and her family's safety. Despite these concerns, the UNP has refused to provide any protective measures to Ms Castillo unless she discloses to it information including all travel arrangements and her future location. Ms Castillo has requested the written policy on which this decision is based and has sought to discuss this matter further with the UNP, but has received no response to her correspondence. Therefore Ms Castillo is not currently in receipt of any protective measures from the UNP, despite being recognised by the Colombian government as being at extraordinary risk of harm.

We are deeply concerned that the Colombian government is failing in this matter to comply with its obligations arising under the international and regional human rights agreements to which it is party to protect both Alfamir Castillo and her family and the lawyers, prosecutor and Judge in this case.

We therefore initially draw your attention to Articles 16 (a), 17 and 18 of the Basic Principles on the Role of Lawyers adopted in 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.³

Moreover, the Inter-American Commission on Human Rights, by reference to the UN Declaration on Defenders,⁴ has held that the right to life under Article 4 of the American Convention on Human Rights gives rise to a number of enforceable obligations upon the state, under the state's general duty to respect rights (ACHR Article 1):

*It is essential that the states, pursuant to their obligations to prevent and protect the right to life, offer adequate protection to human rights defenders, bring about the conditions for eradicating violations by state agents or private persons, and investigate and sanction the violations of that right...*⁵

The UNP's objective, as provided in its founding decree, is to provide such protection:

³ Which state that:

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; ... 17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities. 18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions

⁴ *The respective rights and responsibilities of the individual and the state applying to Human Rights Defenders are set out in the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the 'Declaration on Defenders'). The obligations upon the state includes, 'To take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.'* (Article 12.3)

⁵ *First Report on the Situation of Human Rights Defenders*, IACHR 2006, OEA/Ser.L/V/II.124, para 45. The UN Human Rights Committee has held that a similar obligation arises under the Covenant on Civil and Political Rights, Article 2 (HRC General Comment No 31, para 8)



The objective of the National Protection Unit (UNP) is to organise, coordinate and implement the provision of opportune, efficient, and appropriate protection services to such persons as the National Government considers require them as a result of their activities, condition or situation...⁶

The UNP's functions, as provided in this founding decree, include (inter alia), to,

'maintain open channels of communication with the target populations of the protection programmes and respond to their concerns.'⁷

We respectfully request that the Colombian government take all necessary steps to ensure the safety of Ms Castillo, her family, witnesses, the two lawyers, prosecutor and judge mentioned above. Specifically, we respectfully request that the UNP recognises the heightened risk presented to all involved in this case in light of the ongoing proceedings against high ranking army officers accused of the murder of Alfamir Castillo's son. We also ask that the threats and violence against all of the above persons concerned in this case are the subject of a prompt and thorough investigation with the intention of bringing those responsible to justice.

The Colombian Caravana will continue to monitor the developments in this case, and we respectfully request that immediate action be taken, in light of the continued and grave level of threat to Alfamir Castillo her family, witnesses, the Judge, lawyers and prosecutor. We also ask to be informed when measures have been taken to protect all those at risk in this case, and to be kept informed regarding the progress of the investigation into the above threats and violence, and in bringing those responsible to justice.

Yours sincerely,

Professor Sara Chandler
Chair, Colombian Caravana UK Lawyers Group
cc.
Vice-Presidente Angelino Garzón
La Fiscalía General de la Nación
Colombian National Protection Unit
His Excellency, Ambassador Mauricio Rodríguez Múnera
Lawyers for Lawyers
Lawyers Without Borders, Canadá
Asociación Colombiana de Abogados Defensores "Eduardo Umaña Mendoza" (ACADEHUM)
Sarah Smith, Law Society of England and Wales
Gabriela Carina Knaul de Albuquerque e Silva, UN Special Rapporteur on the Independence of Judges and Lawyers
Margaret Sekaggya, UN Special Rapporteur on the Situation of Human Rights Defenders

⁶ Decree Number 4065, 31 October 2011, Article 3

⁷ Ibid. Article 17.10