

República de Colombia



Vicepresidencia

OFI08-00013594 / AUV 20000

Bogotá D.C. February 13, 2008

Congressman
GEORGE MILLER
Chairman
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C.

Dear Chairman Miller:

I would like to extend my most sincere gratitude and appreciation for your interest in Colombia, and for the constant support of the U.S. Congress as we continue our progress toward eradicating violence and impunity in Colombia and establishing peace, prosperity and justice for our people. We welcome the opportunity to work with you and your colleagues to enhance our domestic efforts to strengthen our judicial system and promote a culture of accountability and judicial efficiency which are key elements of a strong democracy.

Let me first point out that the judicial branch, much like the judicial branch in the United States, is completely independent from the executive branch in Colombia. Thus many of the answers to the questions you raised lie with them. Still, because of the importance of the issues you raised and our strong interest in promoting governmental transparency President Uribe instructed me to work with the *Consejo Superior de la Judicatura* in providing a response to the specific questions that you posed in your letter. We hope that they will be useful to you. If there are any additional areas where you would like to have further clarification or expanded information, please do not hesitate to contact us. I would also like to take this opportunity to express our sincere desire to continue our dialogue as to how we can best work together to promote a strong independent and responsive judiciary in Colombia. We welcome your ideas and input into this on-going effort.

It is important to view the progress which has been made in Colombia in context. At the beginning of this decade Colombia was wracked by very high levels of violence. As a result, our judicial system was under considerable strain, which unfortunately led to unacceptable

República de Colombia



Vicepresidencia

levels of impunity. The over-haul of the system, which began in 2004 with a reform to the Constitution, will be concluded in 2008 on a nation-wide basis with the support of the U.S.

Congress through the Department of Justice. This reform replaced the old inquisitorial written-based system with an accusatory system. This change, and increased funding and investment in training and capacity building are crucial steps in meeting the challenge of achieving an efficient and fully operational modern judicial system.

Our commitment to strengthening our judicial system is deep and long-standing. It is useful to recall that overall the resources for both the judicial branch and the office of the Prosecutor General have been increased every year since 2002 and the total increase will be over 75 percent by the end of 2008. Even though the decreasing levels of violence achieved in the last six years lessen the pressure on the system, the backlog is still such that we know it will take continued and sustained efforts to reach our objectives. The financial and technical aid that the U.S. Congress has approved for Colombia to further develop the system of justice is of great support to this goal, and we greatly value and appreciate your willingness to continue to support these efforts as we move forward. Be assured that Colombia's commitment in this regard is unwavering.

During your recent visit, you witnessed the specific efforts made in the area of violence against labor unionists in particular. These efforts include strengthening of the vulnerable population protection program, creation of the special Sub-Unit within the Human Rights Unit in the Office of the Prosecutor General, and the assignment of three judges who are dedicated full time to these cases.

As you mentioned in your letter, in the framework of the tri-partite agreement, the National Government agreed to finance three backlog or decongestion judges strictly for cases of violence against union members. The budgets for 2007 (US\$ 192,066) and 2008 (US\$ 370,000) for these judges have been allocated, and the Government has made a commitment to maintain their financing until the end of President Uribe's term in 2010.

I would now like to address each one of your specific questions:

1. Why did the Colombian government allow the judicial positions for the three specialized labor judges to expire in December 2007? And will the government allow the same interruption of the judicial process again six months from now?

República de Colombia



Vicepresidencia

To answer your question, it would be useful to explain how the system for appointment of backlog judges works in Colombia. A backlog judge represents the dedication of an additional resource targeted to help ensure that a category of cases is handled expeditiously. To ensure that the practice is only used to alleviate genuine backlog, in view of the costs involved, and in light of the inherently temporary nature of a backlog elimination initiative, by law all such judges serve for six month terms, subject to renewal. The judges hearing the priority unionist homicide cases fall under that law.

The executive branch has made possible the creation and maintenance of these three backlog judge positions by ensuring adequate funding, as noted above. While Article 132 of Law 270 of 1996 requires that the term of these judges be renewed at six month intervals, my government is committed to ensuring that appropriate resources are made available to ensure that this important work continues.

Nonetheless, the legal requirement for six-month renewal has not caused any significant delay. Judges Lola Elsa Rivera de Jiménez and Maria Judith Duran were reappointed in January 2008. Judge Teresa Castillo de Casa was appointed at the same time to replace Judge Sánchez. Hearings that were scheduled for early January were all rescheduled for later in January or February. Judge Castillo de Casa has served for 19 years with distinction and is well prepared to handle the current cases.

I can reassure you that while the terms of these judges are subject to periodic renewal under the law, these important cases will proceed uninterrupted and the prosecutions will continue. The Government and the judicial branch share a commitment to ensuring that these cases are pursued until final adjudication. My government is committed to addressing the pressing issue of reducing the backlog in this area and is working intensively toward that end in a manner consistent with Colombian law.

2. In what ways were the criminal cases pending before the two specialized labor judges who were ultimately retained by the *Consejo Superior* nevertheless prejudiced by the fact that these judges were temporarily suspended beginning on December 31, 2007?

We are aware of no indication of prejudice to the cases pending before the two specialized labor judges whose terms were renewed. The lapse of a few weeks in their tenure largely coincided with the judicial holiday period in Colombia.

República de Colombia



Vicepresidencia

Enclosed with this letter please find the information you requested regarding the schedule of hearings in the cases currently pending before the backlog judges.

3. What were the specific criteria used by the *Consejo Superior de la Judicatura* when it decided to retain two of the specialized judges, but to replace Judge José Niro Sánchez?

It is important to understand that the *Consejo Superior* itself assigns backlog judges, independent of the Executive branch. The career magistrates that make up the Superior Tribunal of the Judicial District of Bogota are empowered to collectively make decisions on assignments. The *Consejo Superior* selects these judges based upon a peer review process. This process helps protect against a risk of outside influence. While Judge Sánchez has an excellent reputation, so does his successor Judge Castillo de Casa, who has served for 19 years with distinction.

Under the Colombian Constitution, the judicial branch is independent of the executive branch. To maintain the integrity of this process, the judicial branch maintains confidentiality in the process of assigning these judges. Thus, the Colombian government did not influence the decision of the magistrates not to renew the term of Judge Sánchez.

4. In what ways will the criminal cases formerly pending before Judge Sánchez be prejudiced by the fact that they will now be handled by a new judge who has no specific knowledge of these particular cases?

As I indicated, Judge Castillo de Casa is a highly capable, distinguished, and experienced specialized criminal judge. She has moved quickly to pick up the case load of her predecessor. She can count on the support of knowledgeable clerks and legal assistants to ensure continuity. I expect she will proceed carefully and expeditiously with the cases under her responsibility.

5. Finally, given the backlog of assassination cases awaiting adjudication in the specialized labor court system, has the Colombian government considered increasing the number of specialized labor judges?

The caseload of the three specialized labor judges (averaging less than three cases per judge) is actually well below the current norm in Colombia. However, if the need arises due to an increase in indictments from the Office of the Prosecutor General, the Administrative Section of the *Consejo Superior* has indicated that it will request an increase in the number of judges and/or other resources necessary to handle it.

República de Colombia



Vicepresidencia

For the moment, the greater need for resources lies in the Office of the Prosecutor General to enable them to more quickly process the priority labor cases to send to the judges. As a reflection of the importance attached to this issue, on January 21, 2008 President Uribe signed the Decree with extraordinary funding that opens the way for 2,166 new posts in the Prosecutor General's office, in order to combat impunity and promote a faster and more effective justice system. This increase will expedite processes under the Peace and Justice Law and Human Rights related investigations. This is equivalent to an increase of 12 percent in human resources, and implies an investment of over US \$49 million. Of the 2,166 new posts, 418 will be new prosecutors (equivalent to a 12 percent increase), and 545 are new investigators (14 percent increase).

The Government of Colombia concurs with what has already been expressed by the Administrative Section of the *Consejo Superior de la Judicatura*, and reiterates its commitment to ensuring a timely justice system, supporting the increased celerity in the judicial process, and in particular in setting strategies that allow immediate response to homicides and acts of violence against union members and leaders.

We appreciate your interest in improving the Colombian justice system and our fight against impunity. We hope to work with you and look forward to receiving any input or assistance that can support our objective of giving peace to the family members of the many victims of violence in Colombia, by discovering the circumstances of their deaths and bringing the perpetrators to justice.

Sincerely,

FRANCISCO SANTOS CALDERÓN
Vicepresident of Colombia

ATTACHMENT
Cases of violence against union members currently
under consideration by the three back-log judges

Original list received in Spanish (unofficial translation follows)

No.	PROCESADO	VICTIMA	FECHA RECIBO	ESTADO - ENERO
1	JUAN CARLOS RODRIGUEZ AGUDELO	JOSE CESPEDES - RICARDO ESPEJO - GERMAN BERNAL - MARCO ANTONIO RODRIGUEZ - WILSON QUINTERO - CAMILO PULIDO	24-Ene-08	AUDIENCIA PREPARATORIA PARA EL 13 DE FEBRERO DE 2008
2	NORBERTO GUARIN, JOSE BELTRAN DAVIS PINTO, ARIEL SALAZAR, HECTOR NAVARRO	LUIS MANUAL ANAYA, LUIS ALBERTO LOPEZ	22-Ene-08	TRASLADO DE TERMINOS A PARTIR DEL 23 DE ENERO DE 2008
3	WILMAR BENAVIDES TELLEZ, LEONANRDO CORRALES MARTINEZ	GREGORIO IZQUIERDO MELENDEZ	21-Ene-08	TRASLADO DE TERMINOS ARTICULO 400 LEY 600
4	EN AVERIGUACION	ALBERTO BAUTISTA CONTRERAS	31-Ene-08	PARA AVOCAR CONOCIMIENTO
5	SALVATORE MANCUSO GOMEZ, CARLOS CASTAÑO GIL, FIDEL CASTAÑO GIL	ALEJANDRA CAMARGO CABRALES, ALMA RENATA CABRALES Y RENE ALFREDO CABRALES	03-Ago-07	AUDIENCIA PUBLICA EL 27 Y 28 DE FEBRERO DE 2008
6	JULIO EMILIO USUGA URREGO	ROYEL ALFREDO RENDON, JAIRO MIGUEL GUERRA, FELIX CUESTA ASPRILLA, PASTOR MOSTACILLA, JOSE ARISTARCO MOSQUERA Y FABIO EMILIO PATIÑO	01-Oct-07	AUDIENCIA PUBLICA EL 12 DE FEBRERO DE 2008
7	JAIR NUÑEZ	MANUEL SALVADOR GUERRERO ANGULO	14-Dic-07	AUDIENCIA PREPARATORIA 1 DE FEBRERO DE 2008

Attachment
Unofficial Translation

Cases of violence against union members currently
under consideration by the three back-log judges

No.	ACCUSED	VICTIM	DATE RECEIVED	STATE (January)
1	JUAN CARLOS RODRIGUEZ AGUDELO	JOSE CESPEDES - RICARDO ESPEJO - GERMAN BERNAL - MARCO ANTONIO RODRIGUEZ - WILSON QUINTERO - CAMILO PULIDO	24-Jan-08	Preparatory hearing set for February 13, 2008
2	NORBERTO GUARIN, JOSE BELTRAN DAVIS PINTO, ARIEL SALAZAR, HECTOR NAVARRO	LUIS MANUAL ANAYA, LUIS ALBERTO LOPEZ	22-Jan-08	Terms Transfer January 28, 2008
3	WILMAR BENAVIDES TELLEZ, LEONANRDO CORRALES MARTINEZ	GREGORIO IZQUIERDO MELENDEZ	21-Jan-08	Terms Transfer Article 400, Law 600
4	EN AVERIGUACION	ALBERTO BAUTISTA CONTRERAS	31-Jan-08	To assume the case
5	SALVATORE MANCUSO GOMEZ, CARLOS CASTAÑO GIL, FIDEL CASTAÑO GIL	ALEJANDRA CAMARGO CABRALES, ALMA RENATA CABRALES Y RENE ALFREDO CABRALES	03-Aug-07	Public Hearing 27th and 28th of February, 2008
6	JULIO EMILIO USUGA URREGO	ROYEL ALFREDO RENDON, JAIRO MIGUEL GUERRA, FELIX CUESTA ASPRILLA, PASTOR MOSTACILLA, JOSE ARISTARCO MOSQUERA Y FABIO EMILIO PATIÑO	01-Oct-07	Public Hearing February 12, 2008
7	JAIR NUÑEZ	MANUEL SALVADOR GUERRERO ANGULO	14-Dec-07	Preparatory Hearing February 1, 2008