

## **Inter-American Commission on Human Rights**

### **Rapporteur on the Rights of Human Rights Defenders and Justice Operators**

**Mr. Joel Hernández García**

### **Rapporteur for Freedom of Expression**

**Mr. Edison Lanza**

Via email: [cidhoea@oas.org](mailto:cidhoea@oas.org); [cidhexpression@oas.org](mailto:cidhexpression@oas.org)

1 September 2020

Dear Sirs,

### **Colombia: Lawyers at risk and support for judicial independence**

The Law Society of England and Wales, Bar Human Rights Committee of England and Wales, Lawyers for Lawyers, Lawyers' Rights Watch Canada, Council of Bars and Law Societies of Europe (CCBE), and the Institute for the Rule of Law of the International Association of Lawyers (UIA-IROL) are gravely concerned about the recent threats received by the lawyer, Reinaldo Villalba Vargas, and his legal team from the "Colectivo Jose Alvear Restrepo," in Colombia.

Mr. Villalba has received multiple messages via social media with threats against his life. For example, a message sent via Twitter stated: "*we will see you in the street or in the mountains*" (a clear reference to a potential attack on him). These threats appear to be related to his professional work as the legal representative of Colombian Senator Ivan Cepeda Castro.

In 2012, the former President of Colombia, Mr. Uribe Velez, denounced Mr. Cepeda before the Supreme Court because of alleged offences of fraud and abuse of a public function. In 2018, the Supreme Court concluded that there were no grounds to open a criminal investigation into the activities of Mr. Cepeda. On 16 February 2018, the Supreme Court opened a criminal investigation into Mr. Uribe for alleged offences of bribing witnesses and fraud, in which Mr. Cepeda is a civil party and victim. On 4 August 2020, the Supreme Court ordered Mr. Uribe's house arrest.

The current President of Colombia has made several public statements regarding this criminal case brought against Mr. Uribe to the effect that he wishes Mr. Uribe to be released. These public statements are contrary to the principle of judicial independence. The President has stated that he made those statements in a personal capacity and that he, as any citizen, has a right to freedom of expression. Nevertheless, some statements were made via the Twitter account of the Presidency of Colombia. In accordance with international human rights law, certain caveats apply regarding the exercise of the right to freedom of expression by high

officials due to the nature and power of their office and the consequences that such statements may have.

On 3 August 2020, the Presidents of all the High Courts of Colombia – the Constitutional Court, the Supreme Court, the Council of State, the Council of the Judiciary, and the Special Jurisdiction for Peace – issued an unprecedented joint statement insisting on the independence of the judiciary.

The increasing threats against Mr. Villalba, his legal team, and his client, as well as the continuing public statements by the current President of Colombia and other high officials with regard to the case against Mr. Uribe, undermine judicial independence. Furthermore, they contribute to a growing climate of hostility against members of the legal profession. It is therefore of the utmost importance and urgency that the international community expresses its full support for the lawyers and judges involved in this case so that they can continue to exercise their professional duties with integrity and without undue external interference.

The following international rights and standards are most relevant in this regard:

On 29 October 1969, Colombia ratified the **International Covenant on Civil and Political Rights** which establishes that:

#### Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

#### Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law [...]

#### **UN Basic Principles Basic Principles on the Role of Lawyers**

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

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.

## **UN Basic Principles on the Independence of the Judiciary**

1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.
2. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.
4. There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision...

We therefore urge you to communicate - individually or jointly - with the Colombian authorities as quickly as possible, requesting that they:

1. Ensure that Mr. Villalba and the legal team working on this case can carry out their professional duties without undue external interference, intimidation or harassment;
2. Provide adequate protection – without delay - to safeguard the life, physical and psychological integrity of Mr. Villalba, his legal team, and his client in consultation with them;
3. Ensure that those responsible for threats made against Mr. Villalba, his legal team and his client are brought to justice in proceedings that respect international fair trial standards;
4. Abstain from making public statements about Mr. Villalba, his legal team, his client, and the judiciary that interfere with their respective professional duties and with judicial independence;
5. Ensure that judicial independence is respected, as well as the separation of powers, so that the rule of law in Colombia is protected;
6. Ensure compliance with all Colombia' international legal obligations, specifically the right to life, the right to freedom from torture and ill-treatment, and the right to a fair trial – most notably – the right to an independent and impartial tribunal.

We will continue to monitor the situation of Mr. Villalba, his legal team, and his client, as well as judicial independence in Colombia. We would be grateful if you could acknowledge receipt of this letter.

Yours sincerely,

**The Law Society of England and Wales**

**Bar Human Rights Committee of England and Wales**

**Lawyers for Lawyers**

**Lawyers' Rights Watch Canada**



**Council of Bars and Law Societies of Europe (CCBE)**

**Institute for the Rule of Law of the International Association of Lawyers (UIA-IROL)**