

Brussels 21 January 2010

Baroness Catherine Ashton

High Representative of the Union for Foreign Affairs and Security policy /
Vice President of the European Commission
Consejo de la Unión Europea
Rue de la Loi 175
1048 Brussels

Re: GSP+ and Human rights in Colombia according to recent UN reports

Dear High Representative,

I would like to congratulate you in behalf of the network ODHACO on your nomination by the EU Council as new High Representative of the Union for Foreign Affairs and Security policy. From your background and personal sensitivity to human rights, I trust you will take the best and most courageous decisions regarding the critical situation in Colombia.

Members of the European Parliament and representatives of civil society have raised concerns during the last year. Additionally, several United Nations human rights bodies and special procedures have issued reports and declarations on the critical human rights situation in the country. Those reports are supposed to be considered an official source by the European Commission when monitoring the implementation of the treaties included in the Annex 3 of the GSP+Rule.

Let me briefly present a few findings on five of these reports, which you will find attached: the conclusions of four Special Rapporteurs (on extrajudicial executions, indigenous people, Human Rights Defenders and the Independence of Judges) who visited Colombia in 2009; and the concluding observations from the Committee Against Torture on Colombia (November 2009).

All the documents recognize efforts made by the Colombian government to improve the security in the country, and mention several legal changes and judicial decisions which go in the right direction regarding the protection of human rights. The fact that four Special Rapporteurs (SR) were invited to Colombia in 2009 and received full support from the authorities is a positive element.

Nevertheless, all of the reports present a long list of concerns regarding the present situation in Colombia and persisting policies and practices by the Colombian government, putting in evidence that the situation continues being grave.

The SR on extrajudicial executions Philip Alston expressed his concern on the "*falsos positivos*" committed by members of the governmental security forces, a "practice which is better characterized as cold-blooded, premeditated murder of innocent civilians for profit". Mr. Alston during his 10 days-visit to Colombia (June 8-18, 2009) was informed of this type of executions happening in 13 Colombian departments, which led him to conclude that "the sheer number of



cases, their geographic spread, and the diversity of military units implicated, indicate that these killings were carried out in a more or less systematic fashion by significant elements within the military". A few months after Mr. Alston's visit, the Attorney General's Office revealed that there were at least 1200 cases of extrajudicial executions waiting for being investigated, for a total number of more than 2000 victims. The SR also identified a "systematic harassment of the survivors by the military" and problems in the Judiciary which explain that "the number of successful prosecutions remains very low"¹. Recently more than 30 of the military personnel detained after the *falsos positivos* scandal became publicly known were released because no investigation had been initiated against them within the legal period, showing grave deficiencies and a serious lack of willingness to actually sanction those who are responsible for the crimes.

The SR on Indigenous people Prof. James Anaya, after his visit to Colombia (July 2009) confirmed the words pronounced by his predecessor in 2004 that "the situation of indigenous people in Colombia is grave, critical and of deep concern". "I received information about an extremely worrying situation of violence and other crimes against indigenous people, as well as forced displacement and confinement, which threatens the physical and cultural survival of indigenous people of the country," said Prof. Anaya when delivering the final report of his mission. "In general, laws, programs and government policies do not allow for effective protection and implementation of human rights of indigenous peoples in the country"² said the Special Rapporteur, who recommended to the Colombian government to invite the UN Special Advisor on the prevention of genocides.

The SR for Human Rights Defenders Margaret Sekaggya visited Colombia in September 2009 and concluded that "patterns of harassment and persecution against human rights defenders, and often their families, continue to exist in Colombia. Journalists, trade unionists, magistrates, lawyers, student and youth activists, women defenders, indigenous and Afro-Colombian leaders, and LGBT activists have been killed, tortured, ill-treated, disappeared, threatened, arbitrarily arrested and detained, judicially harassed, under surveillance, forcibly displaced, forced into exile, or their offices have been raided and their files stolen, because of their legitimate work in upholding human rights and fundamental freedoms."

While Mrs. Sekaggya indicated that illegal armed groups like guerrilla and paramilitary groups are responsible for part of these actions, "law enforcement authorities have committed violations against human rights defenders too, or have shown complaisance with violations committed by private actors against defenders". She insisted that "a prime reason for the insecurity of human rights defenders lies in the systematic stigmatization and branding of defenders by Government officials". "I am further troubled by the information about surveillance and wiretapping of national and international human rights defenders [...], by civil and military intelligence services". The SR remained "concerned about possible ongoing surveillance. Should such illegal surveillance persist, I urge DAS to stop it immediately"³, she added.

SR on the Independence of Judges and lawyers: Mrs. Gabriela Albuquerque visited Colombia in December 2009 and the preliminary conclusions said: "I observe with concern the attacks and threats expressed against magistrates, judges, lawyers, witnesses and victims, for their position or for the functions they have to carry out."⁴ She urged the State to adopt urgent measures to protect the judicial workers at risk, including witnesses and victims, and to severely sanction those who issue threats against them.

¹ <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/C6390E2F247BF1A7C12575D9007732FD?opendocument>

² http://www2.ohchr.org/english/issues/indigenous/rapporteur/docs/PR_11jan10_en.doc

³ <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/1F7B4D313A4CD130C1257636002794F5?opendocument>

⁴ Declaration by Gabriela Albuquerque after her visit to Colombia, p. 2 (non official translation).



Committee Against Torture (November 2009): the experts reported a global decrease in the number of cases of torture in Colombia compared to 2004, but expressed "its deep concern about information which shows an augmentation in the cases with a direct participation of state agents"⁵. The CAT also "expressed its high concern for the persistence of grave human rights violations associated to torture, such as extrajudicial executions, enforced disappearances, forced displacement, sexual violence and children recruitment"⁶. In spite of State initiatives, the committee observes that impunity prevails in Colombia.

These very recent reports are evidence that the general human rights situation in Colombia remains critical. The State authorities are responsible to protect human rights, nevertheless the large number of violations still existing in Colombia indicate that the State has not fulfilled its role in a satisfying way. These violations include violations perpetrated by state agents by action and omission. Some efforts have been made but with very poor results. Furthermore, most of the recommendations issued by the United Nations human rights bodies and their Office in Colombia have not been implemented in a satisfactory way.

In this context we ask you, as Vice-President of the European Commission, to open a serious and genuine investigation under the GSP+ rule, on the effective implementation by the Colombian State of the 27 conventions and treaties included in its Annex 3. In addition, we suggest that such an investigation includes consultations with civil society organisations, human rights defenders and trade union representatives who are the first victims of the current situation in Colombia.

I sincerely hope this information will be useful. I look forward to a positive answer to our petition, which would be also an encouraging sign in favor of the victims of human rights violations in Colombia.

Respectfully,



Patricia Verbauwhe

President

Oficina Internacional de Derechos Humanos - Acción Colombia ODHACO

Vlasfabriekstraat, 11

B- 1060 Brussel

Tel. 32 2 5361913

Fax 32 2 5361943

Cc.

Karel De Gucht, Commissioner-designate for Trade

Pr. Vital Moreira, Chairman of Committee for international trade of the European Parliament

Heidi Hautala, Chairman of Subcommittee on human rights of the European Parliament

⁵ http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.COL.CO.4_sp.doc, p. 3 (non official translation.)

⁶ Idem.



