

Margarette May Macaulay

President
Inter-American Commission on Human Rights
1889 F Street NW
Washington, D.C. 20006
United States

6 November 2018

Eduardo Ferrer Mac-Gregor Poisot

President
Inter-American Court of Human Rights
Avenida 10, Calles 45 y 47 Los Yoses, San Pedro
San José
Costa Rica

Re: Measures of protection for the Legal Representative of the Peace Community of San José de Apartadó, department of Antioquia, Colombia

Honorable Presidents:

The undersigned international organizations and networks turn to you to express our profound concern after a series of grave accusations against a victim organization, namely the Peace Community of San José de Apartadó and, in particular, against its Legal Representative, Germán Graciano Posso. On September 20, 2018, the Community was informed that it was already an “irreversible decision of the paramilitaries to eliminate, before the end of 2018, three leaders of the Peace Community,” among them the Legal Representative.¹ One week later, the Peace Community was notified that the Commander of the 17th Brigade of the National Army of Colombia² had filed a *tutela* action against the Peace Community, in Apartadó, alleging that it had violated the fundamental rights “to honor,” “to reputation,” and “to privacy” of the military personnel of that brigade.³

Background:

As you are aware, the Peace Community of San José de Apartadó is a beneficiary of provisional measures from the Inter-American Court of Human Rights due to the serious risks to its security.⁴ On December 6, 2016, the Inter-American Commission on Human Rights found admissible the case of the Peace Community, so as to proceed to consider the alleged

1 Germán Graciano Posso, legal representative of the Community; Gildardo Tuberquia, member of the Internal Council and coordinator of the Peace Village of Mulatos Medio, and Hugo Alberto Molina, member of the Community. See: Comunidad de Paz de San José de Apartadó, *Descaros en ruta de fatalidad*, October 14, 2018: <http://www.cdpsanjose.org/node/148>

2 Based in Carepa, Antioquia. Under the Seventh Division of the Colombian Army.

3 Case 05045408900220180063300, September 28, 2018.

4 Order of the Inter-American Court of Human Rights of February 5, 2018. Provisional Measures with regard to the Republic of Colombia. In the matter of Peace Community of San José de Apartadó: http://www.corteidh.or.cr/docs/medidas/apartado_se_11.pdf

responsibility of the Colombian State for the multiple and grave human rights violations⁵ committed from 1997 to date.

Last September 17, the Peace Community submitted an in- depth report of observations to the Inter-American Commission on Human Rights.⁶ It established the systematic nature of the serious human rights violations against the Peace Community, emphasizing that, of the at least 350 crimes suffered by the Community, there is only one case on which there has been any judicial progress, that being the massacre of February 21, 2005 in the rural communities of Resbalosa and Mulatos in the district (*corregimiento*) of San José de Apartadó.⁷

It is important to note that a few days after the massacre in Respalosa and Mulatos the Peace Community denounced that members of the 17th Brigade had participated in the crime. This was denied by the Colombian government, led by then-President of the Republic Álvaro Uribe Vélez.⁸ Nonetheless, in 2008, the Colombian justice system declared that the massacre was planned and executed in a joint operation between the 17th Brigade and a group of paramilitaries from the Autodefensas Unidas de Colombia (AUC).⁹ It's relevant to note that the 17th Brigade lost its certification at that time and no longer received financial assistance from the U.S. government due to the frequent accusations of their connections with paramilitary groups in the region.¹⁰

We regret that 21 years after the founding of the Peace Community there still do not exist guarantees of security and permanence in the territory for the 500 members of a peasant community that promotes human and fundamental rights by non-violent means. Despite the warning by the Inter-American Court of Human Rights in its order of June 2017 of the situation of extreme violence that continues to affect the Community, with reports of “*serious signs that security agents themselves are acting in collusion with illegal armed groups*,”¹¹ on December 29, 2017, there was an assassination attempt directed against the legal representative and one other member of the Internal Council of the Peace Community.¹² As a

5 Extrajudicial executions, forced disappearance, torture, cruel treatment and lesions, sexual violence, arbitrary deprivations of liberty, stigmatization of the community members, presentation of persons as military false positives, property damage or loss of property, forced displacement, lack of diligence in the investigations, and unwarranted delays in investigating, which could be characterized as possible violations of Articles 3, 4, 5, 7, 8, 11, 13, 15, 16, 21, 22, and 25 the American Convention, all in relation to Articles 1(1) and 2 of the same instrument. See: Inter-American Commission on Human Rights, Report No. 61/16, Petition 12,325. Admissibility. Peace Community of San José de Apartadó. Colombia. December 6, 2016.

6 Peace Community of San José de Apartadó. *21 años de ignominia. Cronología de los crímenes de Estado contra la Comunidad de Paz de San José de Apartadó*. 2018.

7 That day eight persons, seven of them members of the Peace Community, including a girl (5 years old) and a baby (18 month old) were assassinated, dismembered, and buried.

8 In addition, Vice-President Francisco Santos, the Minister of Defense, and the Office of the Attorney General publicly denied these facts, with the improper use of false witnesses who denounced the Peace Community. See: Semana, “*Uribe mancilló la honra de Apartadó*,” May 29, 2013: <https://www.semana.com/nacion/articulo/uribe-mancillo-honra-apartado/344798-3>, and Colectivo de Abogados José Alvear Restrepo, *Verdad en masacre de San José de Apartadó se impone a mentira estatal*, April 22, 2008: <https://www.colectivodeabogados.org/VERDAD-EN-MASACRE-DE-SAN-JOSE-DE>

9 Under the command of Diego Fernando Murillo Bejarano, alias “Don Berna.” See: Verdad Abierta, *Confirmados nexos de AUC y miembros de la Brigada XVII en masacre de San José de Apartadó*, March 17, 2010: <https://verdadabierta.com/confirmados-nexos-de-auc-y-miembros-de-la-brigada-xvii-en-masacre-de-san-jose-de-apartado/>

10 Decision that is in force as of this writing. See: El Tiempo, *Veto de Estados Unidos a la brigada XVII*, December 2, 2005: <https://www.eltiempo.com/archivo/documento/MAM-1847770>

11 Order of the President of the Inter-American Court of Human Rights, June 26, 2017. Provisional measures with respect to the Republic of Colombia. In the matter of the Peace Community of San José de Apartadó: http://www.corteidh.or.cr/docs/medidas/apartado_se_10.pdf

12 Despite the public denunciation of the Community one week prior to the facts that there was a plan to kill Legal Representative Germán Graciano Posso. See: Comunidad de Paz de San José de Apartadó, *En la mira de planes muy perversos*,

result, the Inter-American Court determined in its order of February of this year that the 17th Brigade should not be responsible for the individual protection of the Peace Community, due to the “*alleged participation of members of the 17th Army Brigade in the incident that occurred on December 29, 2017.*”¹³

Tutela Action:

The *tutela* action, filed by the 17th Brigade on September 28, 2018, was upheld in the first instance by the judgment of the Second Mixed Municipal Judge of Apartadó on October 5.¹⁴ This judgment orders the Legal Representative of the Community to retract the information that the Peace Community has been releasing in recent months in its public communications. In these communications the Community argues that there are presumed ties between the 17th Brigade and the paramilitary successor group Autodefensas Gaitanistas de Colombia (AGC), which, according to public reports, has one of its operations centers in San José de Apartadó.¹⁵ The Peace Community, before the judgment from that court, publicly expressed its position of conscientious objection to the *tutela* action, invoking Article 18 of the Colombian Constitution.

Distinguished Presidents, the importance of human rights defenders who act to promote fundamental rights and freedoms by peaceful means is celebrated this year with the 20th anniversary of the United Nations Declaration on Human Rights Defenders.¹⁶ One of the nine key rights indicated in the Declaration is the “*right to freedom of expression and opinion,*”¹⁷ which is of special importance for both civil society organizations and for human rights organizations and victims.

In this context, it is essential that we highlight the fact that the public pronouncements of the Peace Community on the purported collusion between state actors and armed groups that are successors to the paramilitary groups are not exclusive to the Community, but rather this collusion is the subject of multiple public allegations, made in various media outlets¹⁸, and even institutions of the Colombian State, such as the Office of the Human Rights

December 21, 2017: <http://www.cdpsanjose.org/node/119>

13 Order of the Inter-American Court of Human Rights, February 5, 2018. Provisional measures with regard to the Republic of Colombia. In the matter of the Peace Community of San José de Apartadó: http://www.corteidh.or.cr/docs/medidas/apartado_se_11.pdf

14 Judgment 327 of 2018, Second Mixed Municipal Court of Apartadó, October 5, 2017 (*sic*).

15 Presencia de grupos paramilitares y algunas de sus dinámicas en Antioquia. Cuatro casos de estudio. Coordinación Colombia Europa Estados Unidos-Nodo Antioquia, 2017, <https://coeuropa.org.co/wp-content/uploads/2017/12/Presencia-de-grupos-paramilitares-y-algunas-de-sus-dinámicas-en-Antioquia.-cuatro-casos-de-estudio.pdf>

16 “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,” Resolution 53/144 of the United Nations General Assembly, March 8, 1999.

17 Report of the Special Rapporteur on the situation of human rights defenders, Mr. Michel Forst, July 23, 2018, paragraph 18. The others are the right to protection; the right to freedom of assembly; the right to freedom of association; the right to access the international mechanisms and communicate with them; the right to develop and debate new ideas on human rights; the right to a remedy; and the right to access financing.

18 Coordinación Colombia Europa Estados Unidos-Nodo Antioquia, *Presencia de grupos paramilitares y algunas de sus dinámicas en Antioquia*, 2017. See: <https://coeuropa.org.co/wp-content/uploads/2017/12/Presencia-de-grupos-paramilitares-y-algunas-de-sus-din%C3%A1micas-en-Antioquia.-cuatro-casos-de-estudio.pdf>; see also: Análisis urbano: *Condenado Mayor de la Policía que trabajaba para alias Inglaterra, abatido Jefe del Clan del Golfo*, May 10, 2018, <https://analisisurbano.org/condenado-mayor-de-la-policia-que-trabajaba-para-alias-inglaterra-abatido-jefe-del-clan-del-golfo/>

Ombudsperson (Defensoría del Pueblo)¹⁹ and the Constitutional Court.²⁰ Similarly, in the Constitutional Court's 2017 Order following up on Judgment T-1025 of 2007, the Constitutional Court asked the Office of the Human Rights Ombudsperson to receive and supervise the complaints lodged by the Peace Community of San José de Apartadó "regarding attacks suffered by groups that called themselves 'Autodefensas' and the purported relationships of members of the armed forces and Police with them."²¹

Human rights defenders are a fundamental pillar of the international human rights system.²² It should be emphasized in this context that both the Peace Community and its Legal Representative Germán Graciano Posso have received several international awards in the course of these years and were finalists for the Sakharov Prize, given by the European Parliament, in 2011. Recently, on September 5, 2018, Germán Graciano Posso received the National Award for the Defense of Human Rights in the category of "Defender of the Year"; it is given by Diakonia of Sweden, in recognition of the resistance and dignity of the Peace Community's process of autonomy and non-violence in the midst of the Colombian conflict.

In view of the above, the undersigned international organizations and networks wish to express our concern regarding the filing of a legal action by the Colombian State against a victim organization whose case is making its way through the Inter-American Human Rights System, due to the State's purported responsibility in relation to serious crimes characterized by a high degree of impunity.

Accordingly, we respectfully ask the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights to activate the **Special Rapporteurship for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR)**, and to urge the Colombian State to carry out its national and international obligations as regards protecting human rights and preventing violations, abiding by the orders of the Constitutional Court regarding the Peace Community, and seeing to it that the provisional measures issued by the same Inter-American Court of Human Rights are respected, and to immediately proceed to:

- As per Orders 164/2012 and 693/2017 of the Constitutional Court, immediately adopt adequate and consensus-based measures to guarantee the life, security, and physical integrity of the members of the Peace Community of San José de Apartadó; and in general for all human rights defenders in Colombia.
- Request that the Constitutional Court review the constitutionality of said judgment in the *tutela* action, as it impairs several of the constitutional rights of the

19 Office of the Human Rights Ombudsperson, Delegate for the Rights of the Displaced Population: *Informe Anual Vigencia 2017*, May 23, 2018, p. 24.

20 "These armed groups are present without the Army carrying out specific actions to counter them, not in the Urabá region in general, but specifically in the territories of the Peace Community of San José de Apartadó." Order 693/2017 of the Constitutional Court, "Evaluación al cumplimiento de las órdenes impartidas en la sentencia T-1025 de 2007, en relación con la protección de los derechos fundamentales de los integrantes de la Comunidad de Paz de San José de Apartadó," para. 36.

21 Order 693/2017 of the Constitutional Court, "Evaluación al cumplimiento de las órdenes impartidas en la sentencia T-1025 de 2007, en relación con la protección de los derechos fundamentales de los integrantes de la Comunidad de Paz de San José de Apartadó," para. 5.

22 Report of the Special Rapporteur on the situation of human rights defenders, Mr. Michel Forst, July 23, 2018.

members of the Peace Community of San José de Apartadó, including the right to freedom of expression, guaranteed at Article 20 of the Constitution of Colombia.

➤ In keeping with what was requested by the Constitutional Court²³, show results with respect to the procedures for receiving, monitoring, and supervising the complaints lodged by the Peace Community of San José de Apartadó, on attacks suffered at the hands of paramilitary groups and the purported relationship of the members of the Army with them.

➤ Investigate and punish those public servants who, contrary to what is set out in Directive 002-2017 of the Office of the Inspector General of the Nation, continue stigmatizing the work of human rights defenders.

Signed:

1. Association of Jambo – Fair Trade, Italy
2. ABColombia (British and Irish agencies), UK
3. Alliance for Lawyers at Risk, UK
4. Antwerp Province, Belgium
5. Association of Ayujara, Spain
6. Association of Calicanto Extremadura, Spain
7. Association of Educational Workshop with Alternative Values, Spain
8. Association of Peace with Dignity, Spain
9. Association of Turpial, Switzerland
10. Belgian Coordination for Colombia – CBC, Belgium
11. Burgos with Colombia, Spain
12. CAFOD, UK,
13. Caritas Norway, Norway
14. Christian Aid, UK,
15. City Council of Alburquerque, Spain
16. City Council of Herselt, Belgium
17. City Council of Laakdal, Belgium
18. City Council of Nijlen, Belgium
19. City Council of Schilde, Belgium
20. City Council of Westerlo, Belgium
21. CNCD-11.11.11, Belgium
22. Colombia Human Rights Committee, United States
23. Colombia Land Rights Monitor, United States
24. Colombian Caravan UK Lawyers Group, UK
25. Colombian Grassroots Support, United States
26. Comuniaria. Shared Goods and Sustainable Economy, Spain
27. Cultural Association of Tiritanas, Spain
28. Diakonia, Sweden
29. Dominicans for Justice and Peace, Switzerland
30. Ecologistas en Acción, Spain
31. Educational Association of Barbiana, Spain

23 “ORDER the Office of the Human Rights Ombudsperson, within two (2) months following the communication of this ruling, to implement a technical and independent procedure, with trained personnel, to receive, monitor, and supervise the complaints lodged by the Peace Community of San José de Apartadó, regarding attacks suffered at the hands of groups that call themselves ‘Autodefensas’ and the purported relationship of the members of the Army with them.” Order 693/2017 of the Constitutional Court. “Evaluación al cumplimiento de las órdenes impartidas en la sentencia T-1025 de 2007, en relación con la protección de los derechos fundamentales de los integrantes de la Comunidad de Paz de San José de Apartadó,” Fifth Decision.

32. Entretantos Foundation, Spain
33. Equo Garantito, Italy
34. Escuela Educar para la paz, Spain
35. Extremeñan Platform of Solidary with Colombia, Spain
36. Fellowship of Reconciliation, EEUU
37. Fian International
38. Flemish Solidarity Network with the San José de Apartadó Peace Community, Belgium
39. FOKUS, Norway
40. Fonden för mänskliga rättigheter Swedish Foundations for Human Rights, Sweden
41. Human Rights Institute of Catalonia, Spain
42. Human Rights International Network – RIDH, Switzerland
43. Human Rights, Equality and Race Institute, Switzerland
44. Iniciativas de Cooperación Internacional para el Desarrollo – ICID, Estado Español
45. Italian Solidarity Network Colombia Vive! Onlus, Italy
46. Kolko, Germany
47. Kristna Freds / SweFOR, Sweden
48. Labor Institute for Global Peace – Tamera, Portugal
49. Latin America Working Group (LAWG), EEUU
50. Magdalena Norway, Norway
51. Malinche. Solidarity Initiative with the people of Nicaragua, Spain
52. Movement for Peace in Colombia, EEUU
53. Mundubat Foundation, Spain
54. Pastoral Unit of Herselt, Hulshout and Westerlo, Belgium
55. Pax Christi – Solidarity Commission Un Mundo, Germany
56. Peace and Security Foundation Gregorio Morán, Spain
57. Peacewatch Switzerland, Switzerland
58. Piazza Committee Carlos Giuliani, Italy
59. Presbyterian Peace Fellowship, United States
60. REDS – Solidarity Network for Social Transformation, Spain
61. SoldePaz Pachakuti, Spain
62. Svenska kyrkan / Swedish Church, Sweden
63. Swiss Platform for Colombia, Switzerland
64. Swiss Working Group Colombia ask!, Switzerland
65. Taula Catalana for Peace and Human Rights in Colombia, Spain
66. The Colombia Support Network, EEUU
67. The International Office for Human Rights Action on Colombia – ODHACO (network formed of 35 European organizations and platforms), Belgium
68. Valencian Coordination for Solidarity with Colombia (CEAR-PV, CEDSALA, Sur/Cacarica Collective, Entreiguales Valencia, Intersindical Valenciana and Mundubat), Spain
69. Witness for Peace- Accion Permanene por la Paz, EEUU
70. WOLA, EEUU
71. XXI Solidario, Spain

CC:

Rapporteurship on Human Rights Defenders (IACHR)

Special Rapporteurship for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR)

Special Rapporteur on the situation of human rights defenders (UN)

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (UN)

Office of the United Nations High Commissioner for Human Rights in Colombia

UN Verification Mission in Colombia

Constitutional Court

Vice Presidency of the Republic

Foreign Ministry of Colombia

Office of the Presidential Adviser for Human Rights

Minister of Interior

Inspector General of the Nation

Human Rights Ombudsperson

Attorney General of the Nation

Office of the Mayor of Apartadó

Office of the Governor of Antioquia