



Brussels, 3rd of February 2010

Mr. Herman Van Rompuy

Permanent President of the European Union

Mr. Jose Luis Rodríguez Zapatero

Spanish Presidency of the European Union

Mrs. Catherine Ashton

High Representative of the Union for Foreign Affairs and Security Policy

Mr. Karel de Gucht y Mrs Benita Ferrero Waldner

Trade Commissioners of the European Commission

C.C. Member States of the European Union

Re. Attacks against defenders of economical, social and cultural rights in Guatemala

In the wake of the news that the EU is to resume the Association Agreements with Central America, we would like to express our **strong concern for the persisting climate of attacks against defenders of economical, social and cultural rights in Guatemala**. Furthermore, we deplore the lack of any effective replies by the Guatemalan State Authorities with regards to the investigation and persecution of those responsible. Moreover, we would like to draw the attention to the series of alarming **violations suffered by human rights defenders and trade unionists due to their involvement in protests and denunciations against the affiliations of European transnational enterprises in the energetic field**, notably the Spanish company **Unión FENOSA in the Department of San Marcos**.

During the past few months various violent incidents and conflicts have flared in the communities in the Department of San Marcos in Guatemala in relation to the electrical energy distribution service DEOCSA¹, the local affiliation of the Spanish company Union FENOSA. The work of Union FENOSA outside the territory of the Spanish State has been accumulating concerns about human rights violations by local and international civil society organizations. Due to the tensions generated by the discontent against the actions of DEOCSA, the government issued a decree on the 22nd of December 2009, declaring a State of Prevention in 5 communities in this department. It was in this climate of tension that another **two assassinations of human rights defenders** occurred. In October 2009, Víctor Gálvez, a human rights defender and a

¹ Distribuidora de Electricidad de Occidente SA

social leader who had brought charges against DEOCSA for its violations in the energy supply contracts, was killed by 32 gunshots. On the 13th of January 2010, Evelinda Ramírez, was killed. As President of the Committee of the Resistance Front in defence of the Natural Resources and Indigenous Peoples Rights (FRENA), Evelinda Ramírez had been active in denouncing the violations committed by DEOCSA in the Department of San Marcos.

The situation in San Marcos is not an isolated incident. As pointed out in the final report of the verification mission on the right to food in Guatemala counting with the participation of various international NGOs, a **general increase in the criminalization of social protests was observed in 2008 and 2009**. Apart from San Marcos, the Government issued various decrees for State of Prevention and the trade unionist and workers are victims of grave human rights violations without any subsequent investigation of their cases.² The last report of the Commission on the Application of Norms of the ILO in June 2009, noted with profound concern that the situation of violence and impunity against trade unionists seem to have aggravated. It recalled the importance for an urgent guarantee for the workers to carry out their trade union actions in a climate free of fear, threat and violence.³ In this context, various local affiliations of transnational enterprises have adopted practices that provoke tensions and conflicts and have allowed for or favoured attacks against trade unionists and other human rights defenders in the country. Part of the social mobilizations is also linked to the problems of land property and abusive exploitation on the behalf of some multinational companies, affecting with frequency the indigenous people's rights.

In view of the above-mentioned and considering the articles 3, 6, 13 y 19 of the Treaty of the European Union; the democratic clause of the Association Agreement between the EU and Central America; the EU Guidelines on human rights defenders and the regular reports of the Commission on the Application of Norms of the ILO, **we urge the Council of the European Union to:**

- Promote and support the investigation for the clarification of the crimes against human rights defenders for these not to be left in impunity. It is recommendable that the case of Evelinda Ramírez and Víctor Gálvez is transferred to the Human Rights Department of the General Attorney's Office in order for them to be considered officially as cases of attacks against human rights defenders.
- Promote an active application of the protection measure for human rights defenders, foreseen in the EU Guidelines on human rights defenders, especially cases such as that of DEOCSA/Unión Fenosa in San Marcos, where the situation of tension and conflict surges in relation to the businesses of European companies.
- Continue with and strengthen the monitoring of the situation of human rights defenders and especially those in defence of economical, social and cultural rights. Support the administrative, legislative and judicial measures adopted by the State of Guatemala in order to protect the defenders against de facto or de

² The right to food in Guatemala, Final Report of the International Verification Mission, CIFCA, FIAN International, CIDSE, FIDH, OMCT, Via Campesina, March 2010.

³ Report of the Commission of the Application of Norms, Acts from the International Conference of Work, 98th Meeting, Geneva, p. 54-56.

juro threats, repressions and discriminations. Request that the Filter Group of the European Union examines and reacts to the cases of threats and attacks against human rights defenders in relation to European transnationals.

- Express publically the responsibility of the transnational European companies to respect human rights in third countries, and condemn the attacks against the human rights defenders.
- Promote a social dialogue between the Government of Guatemala and the social interlocutors regarding the climate against trade unionist and impunity as well as the measures to adopt in order to put an end to this situation.

With the above-mentioned in mind, we welcome the strong commitment expressed by the Spanish Presidency in the subcommittee on human rights of the European Parliament on the 25th of November with regards to the protection of human rights defenders. We recall that the UN Special Rapporteur for Human Rights and Transnationals, John Ruggie, has pointed out the importance of the Governments of the country of origin of the international company, to promote and respect human rights beyond their national borders. Finally, we express confidence in that the Spanish Presidency will lead the implementation of the abovementioned recommendations.

We look forward to your reply.

Kind Regards,



Lizzette Robleto Gonzalez

President of CIFCA



Souhayr Belhassen,

President of FIDH



Eric Sottas
OMCT Secretary General