



Brussels, 20th of May 2010

Distinguished Member of the Parliament:

Considering that the European Parliament has been a key international actor, demonstrating a decisive and permanent commitment towards the promotion of peace and human rights in Guatemala, we would like to express our concern with regards to the deficient performance of the justice administration in this country and the consequent high level of impunity that is well known to you.

During their visit to Guatemala in June 2009, the Inter-American Commission for Human Rights (CIDH) highlighted the high level of violence striking Guatemala as well as the figures of impunity reaching up to 98 %. The visit took place in relation to the investigation of the severe crimes against humanity committed during the internal armed conflict in Guatemala, including forced disappearances, extrajudicial executions, rapes and genocide, resulting in approximately 200.000 victims, 83% of the indigenous Maya group.¹

The CIDH report enforces and gives context to the recent judicial investigations of the International Commission against Impunity in Guatemala (CICIG), that enumerates a series of cases that give evidence to the participation of “illegal bodies and clandestine security apparatus conformed by current and former State Agents with access to arms, munitions and explosives, structures that have changed their way of operation to the control of the organised criminal activities and have not been controlled by the State security institutions, and even less the judicial system. (...)”² As seen, the link between the past and the present remain sound.

¹ Press release No 35 de 2009, CIDH

² Comisión Internacional Contra la Impunidad. CICIG. “Informe de actividades de la Comisión Internacional Contra la Impunidad en Guatemala”, Pág. 4, Guatemala: 2009.

Despite the prevalence of this climate little favourable to the system of justice, there are some signs of change, not least due to the merit of the decisive actions of judges and attorneys, accompanied closely by the international community during the last two years. As an example, we would like to highlight some recent important events in the countries judicial history.

1. The significant decree issued by the Trial Court of Guatemala in August 2009, where for the first time in the history of Guatemala, there is a direct condemnation against the forced disappearances of six persons during the civil war. In addition, the decree orders the public prosecutor to continue with the investigations of establishing the levels of intellectual authorship which could exist in the perpetration of said disappearances.³
2. Based on the verdicts of the Interamerican Court of Human Rights declaring that the State should investigate, identify and sanction the material authors in cases of extrajudicial execution and torture, the Supreme Court of Justice has ordered to reopen the investigation of emblematic cases brought before the CIDH.⁴ With this resolution the Court has the opportunity to generate real processes the lead to the adequate administration of justice and due reparation.

Nevertheless, there are still many pending concerns in order to achieve a justice that constitutes the norm and not the exception in Guatemala. **The election process of the General Attorney** is one of the key subjects for the present and future of the country. Representatives of the international community (among others ambassadors of the member states of the European Union) met with magistrates of the Court of Constitutionality on the 11th of May 2010 in order to plead for the guarantees of a transparent process. This would contribute to the Nomination Commission to appoint list of appropriate candidates from which the President of the Republic could select a suitable General Attorney.

³On August 13th 2009, the former military commissioner Felipe Cusanero Coj was condemned to 150 years of prison for the forced disappearance of six people, 25 years for each missing person. The disappearances had occurred in the town of Choatalún, department of Chimaltenango, between 1982 and 1984

⁴ Cases of the crimes against the journalist and politician Jorge Carpio Nicolle and his entourage, as well as the case known as ‘children of the street’ (Villagrán Morales et. al) and the “Panel Blanca”

Unfortunately the results of the first phase of the process brought forth a considerable amount of doubts between the organizations and persons who during decades have been fighting for an improved judicial system in Guatemala. Given this situation, we call on the **Delegation for relations with the countries of Central America of the European Parliament to observe closely the election of the General Attorney and back up the efforts to promote transparency promoted by the EU embassies and the CICIG.** This observation should not be limited to the formal compliance of procedures, but constitute a tool that contributes to the election of a General Attorney that fulfills the criteria of honorability, independence and academic excellence required for the position and who is willing to initiate objective and independent investigations that clarify past and present crimes in benefit for the entire Guatemalan society.

We sincerely hope that this note has been helpful and look forward to hearing from you.

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