

**SOLICITORS' INTERNATIONAL HUMAN RIGHTS GROUP**

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Dr. Eduardo Montealegre Lynett  
Attorney General of Colombia  
Dg. 22B No. 52-01 Edf. C P.4  
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Dear Dr. Eduardo Montealegre Lynett,

**The unsafe conviction of David Ravelo Crespo**

We write on behalf of the Solicitors' International Human Rights Group (SIHRG). SIHRG is an organisation of lawyers which promotes awareness of international human rights within the legal profession and takes effective action in support of those rights. The Group supports human rights lawyers overseas by conducting related missions, research, campaigns and training.

SIHRG is troubled because of the recent conviction of human rights defender, David Ravelo Crespo as a result of a trial that failed to meet Colombian legal requirements and international standards.<sup>1</sup> SIHRG understands that as a result of this conviction, Mr Crespo has been sentenced to eighteen years imprisonment for aggravated homicide.

Mr Crespo's detention regarding this case began on 14 September 2010, when members of the Technical Investigation Team (CTI) executed an arrest warrant against him that had been issued by Prosecutor's Office 22, which is part of the National Anti-terrorism Unit in Bogotá. Since then, Mr Crespo has been detained in the "La Picota" prison in Bogotá, although during the trial, he was moved to the "El Modelo" prison in Bucaramanga. On 15th and 18th of May 2012 the final statements concluded the trial. It should also be noted that prior to the verdict, which was only issued in the last month, Mr Crespo had been detained for over 26 months, including more than six months after the final statements, awaiting a verdict.

The prosecutor responsible for bringing the case against Mr Crespo was Mr William Gildardo Pacheco Granados. Mr Pacheco Granados, prior to his role as a prosecutor, was a lieutenant in the National Police. He was investigated and subsequently removed from his post by the Inspector General's Office due to his alleged involvement in the forced disappearance in 1991 of a youth in Armenia in Quindío, Colombia. According to article 79 of Decree 261/2000 (Decree on "Special ineligibility"), a person who has been removed from public office cannot be assigned a position in the National Public Prosecutor's Office.

Moreover, the charges against Mr Crespo were based on the statements of demobilised paramilitaries. Two such witnesses, Mario Jaimes Mejía alias "El Panadero" and Fremio Sánchez gave preliminary testimonies in accordance with Law 975 (known as the Justice and Peace Law) and accused Mr Crespo of having ties with the guerrilla organisation the FARC and of being one of the intellectual authors of the murder of the then Secretary of Public Works of Barrancabermeja David Nuñez Cala.

Furthermore, according to Mr Crespo's defence lawyer, Alirio Uribe of the José Alvear Restrepo Lawyers' Collective (CCAJAR), the conviction was based on the testimony of only three prosecution witnesses, but the trial did not hear any reference to over 30 testimonies of respected figures from

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<sup>1</sup> Such standards include Article 14 of the International Covenant on Civil and Political Rights and Article 8 of the American Convention on Human Rights.

the town of Barrancabermeja that demonstrate that the three witnesses provided fabricated evidence. This has made it impossible for Mr Crespo's lawyer to properly defend him. Furthermore, where significant evidence as to the credibility of the prosecution witnesses was, without good reason, withheld from the court, there is the very real possibility that Mr Crespo's conviction, based primarily upon the testimony of those prosecution witnesses, was unsafe.

We also respectfully remind you that:

- Colombia is a member of the United Nations and ratified the UN International Covenant on Civil and Political Rights (ICCPR) on 29 October 1969 and is bound by its provisions,<sup>2</sup> and;
- Should comply with the United Nations Universal Declaration of Human Rights (1948).<sup>3</sup>

We respectfully remind you that Mr Crespo has been the subject of a previous unfounded prosecution, which resulted in him being detained for 27 months between 1993 and 1995 on charges of rebellion. He was found not guilty by the court in the first and second instances. Subsequently, Mr Crespo received compensation as a result of a claim against the State for arbitrary detention.

Since he has been detained, national and international authorities have drawn attention to his case and the lack of compliance with national and international standards of due process. In March 2011, the United Nations Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul, and the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya, sent a combined communiqué to the Colombian government as a result of the detention of Mr Crespo. In this communiqué they expressed their concern because the “criminalisation of Mr Crespo occurs in the context of increasing prosecutions against human rights defenders in Colombia”.

Should Mr Crespo decide to appeal the verdict and/or the sentence, SIHRG asks that you ensure:

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<sup>2</sup> Article 9:

*9.1 Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*

*9.2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.*

*9.3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.*

*9.4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.*

*9.5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation...*

Article 14:

*14.3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:*

*(c) To be tried without undue delay;*

*(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; ...*

<sup>3</sup> Article 3

*Everyone has the right to life, liberty and security of person.*

Article 10

*Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.*

- a new prosecutor is assigned to these cases in accordance with the requirements of the 261/2000 Decree on "Special ineligibility" according to which, a person who has been removed from public office cannot be assigned a position in the National Public Prosecutor's Office;
- such an application is properly considered and is conducted in accordance with international standards and Colombian Law.

SIHRG will continue to monitor the developments in this case, and we ask that, should Mr Crespo appeal against his conviction or sentence, that we be informed of the measures taken by the Colombian authorities in respect of complying with the above requests.

Yours sincerely,



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cc. Vice-President Angelino Garzón  
Ambassador Mauricio Rodríguez Múnera  
Margaret Sekagya, UN Special Rapporteur on the Situation of Human Rights Defenders  
Gabriela Carina Knaul de Albuquerque e Silva, UN Special Rapporteur on the Independence of Judges and Lawyers