



AMERICAN BAR ASSOCIATION

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December 21, 2001

Luis Camilo Osorio Isaza  
Fiscal General de la Nacion  
Nivel Central- Bogota, D.C.  
Diagonal 22B, No. 52-01 (Ciudad Salitre)

Dear Mr. Attorney General:

The American Bar Association, representing more than 408,000 members of the legal community, has a longstanding commitment to the preservation of the rule of law throughout the world. Our concern focuses on an independent judiciary and legal regime that is free from undue political influence and that respects the independence of lawyers, judges and human rights advocates in order to maintain internationally recognized standards of fairness and justice.

Pursuant to that resolution, we are deeply concerned about continuing allegations that attorneys are being targeted for investigation and prosecution for their representation of clients engaged in arbitration proceedings and other actions against the government of Colombia. According to our information, Dr. Jorge Eduardo Chemas has been subjected to intimidation and interrogation for his representation of a client company, TermoRio, which was successful in obtaining a \$61 million award against the government of Colombia by an internationally-sanctioned arbitral tribunal. The apparent charge against Dr. Chemas is based on the allegation that he may have committed a crime by convincing the arbitral tribunal to come to a mistaken conclusion. We have received information indicating that this allegation is without merit and, further, believe that the charge itself raises some serious concerns.

The independence of lawyers to represent their clients is fundamental to maintaining the international norms of equal justice and due process enumerated in the International Covenant on Civil and Political Rights. In addition, the United Nations Basic Principles on the Role of Lawyers specifically provide that governments shall ensure that lawyers may perform their professional functions without intimidation or harassment, and that lawyers shall not be threatened with prosecution or administrative or other sanctions for actions taken in accordance with recognized professional duties. Article 20 of the Principles further provides that lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in pleadings or appearances before a court, tribunal or other legal or administrative authority.

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The sole concern of the American Bar Association is for the maintenance of the rule of law in the international community and the elements necessary to sustain it. A fundamental precept of the rule of law is a lawyer's ability to vigorously represent a client in actions against his or her government without fear of harassment or retaliation. The facts of Dr. Chemas' situation, as we understand them, along with other reports of actions against attorneys and expert consultants in similar cases, appear to illustrate a pattern of intimidation and harassment of Colombian lawyers seeking to carry out their ethical and professional responsibilities.

We respectfully urge your attention to this situation and, if the alleged facts are correct, that the actions against Dr. Chemas be terminated immediately. Thank you for your consideration of this matter. We look forward to your response.

Sincerely,

Robert E. Hirshon