



Estefanía TORRES MARTINEZ
Parlement Européen
Bât. Willy Brandt 03M121
60, rue Wiertz / Wiertzstraat 60 B
1047 Bruxelles/Brussel
estefania.torresmartinez@europarl.europa.eu

Brussels, 13rd of November 2018

Dear Mr. **President of the Republic of Honduras**, Juan Orlando Hernandez

Dear Mr. **Public Prosecutor General of Honduras**, Oscar Chinchilla

Dear Mr. **President of the Supreme Court of Justice**, Rolando Argueta

Dear **members of the Tribunal**, Mrs. Esther Carolina Flores, Mrs. Delia Lizeth Villatoro, Mrs. Jocelyn Marie Donaire,

Dear **Minister of the Human Rights Secretary**, Mrs. Karla Cuevas,

CC:

EU High Commissioner for External Policy and Security, Mrs. Federica Mogherini

EU Ambassador in Honduras, Mr. Alessandro Palmero

We address you as members of the European Parliament to express our deepest concerns over the current state of the ongoing judicial process for the murder of the Honduran human rights defender Berta Cáceres and the murder attempt of the Mexican environmentalist Gustavo Castro.

The trial must be conducted in full respect of the legal principles of impartiality and open justice. In this context, this specific case is paramount for the protection of activists and broader human rights in Honduras and in the entire Latin American region.

On March 2, 2016, Berta Cáceres, Lenca indigenous leader and coordinator of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH), was murdered in her residence in La Esperanza, Honduras. Gustavo Castro was wounded and survived pretending to be dead. Between the month of May 2016 and the month of February 2017, eight people were captured and charged with perpetrating the murder of Berta Cáceres. Among them is an Army official and a manager of the company Desarrollos Energéticos S.A. (DESA). On March 2nd 2018, David Castillo, Director General of DESA, which to date is the only alleged mastermind of the murder was captured and is to be judged separately in the upcoming years.

The [report issued in November 2017 by the International Advisory Group of Experts \(GAIPE\)](#) already revealed a lack of due diligence in the investigations, which included the lack of prosecution of the alleged intellectual authors. In addition, it has been brought to our attention that Berta's family and the private prosecution have filed several appeals against serious violations of due process. These appeals refer to the following issues:

- Denial of access to evidence: the Public Prosecutor's Office has denied the family access to information on evidence in its possession more than thirty-five times, this is so even though the Court itself ordered that such evidence be delivered;
- Evidence without analysis: since 2016, the Public Ministry seized important evidence (phones, tablets, computers, a weapon), however, this body recognised, in August 2018, one month before the first trial, that the majority of them had not been analysed; that is, there is available evidence of unknown content. Despite this flagrant breach, the Court in charge of the process has not obliged the Public Ministry to rectify its actions. Faced with this situation, the private accusation presented a recusal on September 17 against the members of the Court under the consideration that they are not impartial.
- Rejection of COPINH as a victim: the Court has not accepted that COPINH be considered a victim of the case, despite the fact and evidence that shows that Berta's murder was aimed at weakening the organisation. The Court alleges that there was no financial harm to the organisation. This decision contravenes international standards;
- Limitation of the publicity of the process: the Court denied Berta's family the authorisation for the hearings to be publicly transmitted in contravention of fundamental principles of the Rule of Law such as publicity and transparency of the trial in the interests of the victims and society in general. Check the Amicus Curiae sent to the Court [here](#).
- Rejection of key evidence that would prove the existence of a criminal structure: the legal representation of the victims provided relevant evidence that would verify the functioning of the power structure that ordered the murder of Berta, as well as facts prior to the assassination that would confirm the attacks, acts of harassment and threats against COPINH and Berta. This evidence was not admitted by the Court.
- Rejection of the extension of the charges against the accused: The beginning of the oral and public debate against the eight persons accused as material authors and intermediaries has been postponed on numerous occasions. This has occurred despite the existence, under Honduran law, of a maximum term of preventive detention for 5 of the accused members that will expire on November 2, 2018. If by that time the trial is not over, the accused members are to be released. The legal representation of the Cáceres family presented a request for a persecution of the crime of unlawful association, against the accused, due to the evidence of multiple criminal acts before and after the murder by partners, managers and employees of the company DESA. The Public Prosecutor's Office could accept this complaint and request preventive detention for this crime, and hence extend preventive detention with a new process.

The first oral hearing was scheduled on September 17th and was again postponed. On this occasion, it was due to an appeal for recusal of the members of the Court, *inter alia*, for their negligent performance in the face of the lack of diligence on behalf of the Public Ministry. This recusal has been rejected by the different instances. The private accusation of the family of Berta has presented an appeal against inadmissibility of the recusal that would maintain it in force against them.

Despite the appeal filed, the Court ordered the oral hearing to begin on October 21st. The call was considered illegal by the representatives of the victims who did not appear at the hearing. However, the Court proceeded, declaring that they had abandoned the process and imposing the Public Ministry

as the sole representative of the victims. The Court's decision to impose the victims on the Public Ministry as its representative does not respect the guarantee of due process and, therefore, affects their right of access to justice, truth and reparation.

The [Legal Observer Mission](#), that is observing the trial for the assassination of the human rights defender, consisting of national and international organizations and experts in human rights, international law, and criminal law, expresses its concern that the motivation of this decision could be to silence the victims in their legitimate demand for justice.

The oral hearings have been taken place in September and October and will continue in November. It is expected that final decision would be made before the end of the year 2018.

Given the situation described above, that we consider, leaves Berta's family and the COPINH membership in a state of extreme helplessness, and before the possible nullity of the process due to the indicated negligence, we urge you:

- To guarantee transparency and publicity in the Berta Cáceres trial. Berta was a recognised human rights defender. Honduran society and the global community have the right to witness the process.
- To guarantee the right of victims to be represented by a private accusation. The representation of the victims cannot be left in the hands of an institution that they have been repeatedly denouncing as violating their rights.
- To guarantee that the Public Ministry complies with its obligation to give the victims 'lawyers access to the information they request. This breach violates the victims' right to justice, truth and reparation.
- To ensure the prosecution of the intellectual authors of the murder of Berta Cáceres.

Estefania TORRES MARTINEZ (Spain)

Miguel URBAN CRESPO (Spain)

Lola SÁNCHEZ CALDENTEY (Spain)

Xabier BENITO ZILUAGA (Spain)

Tania GONZALEZ PEÑAS (Spain)

Gabriele ZIMMER (Germany)

Patrick LE HYARIC (Ireland)

Stelios KOULOGLOU (Greece)

Lidia SENRA (Spain)

Marie Christine VERGITA (France)

Martina ANDERSON (UK)

Matt CARTHY (Ireland)

Lynn BOYLAN (Ireland)

Liadh NÍ RIADA (Ireland)

Helmut SCHOLZ (Germany)

Javier COUSO (Spain)

Sofia SAKORAFA (Greece)
Marisa MATIAS (Portugal)
Heide HAUTALA (Finland)
Ignazio CORRAO (Italy)
Ramón JÁUREGUI (Spain)
David MARTIN (UK)
Elena VALENCIANO (Spain)
Florent MARCELLESI (Spain)
Tilly METZ (Luxemburg)
Ana MIRANDA (Spain)
Molly SCOTT CATO (UK)
Bart STAES (Belgiun)
Josep-María TERRICABRAS (Spain)
Ernest URTASUN (Spain)
Bodil VALERO (Sweden)
Pascal DURAND (France)
Barbara LOCHBIHLER (Germany)
Keith TAYLOR (UK)