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Comisión para los Derechos Humanos y el Desplazamiento

Attorney General Eric Holder Jr.
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

February 23, 2009

Re/ Extradition of Éver Veloza-García, alias 'HH'

Dear Attorney General,

We are a group of Colombian non-governmental organizations who represent victims of grave human rights violations committed by the paramilitary group known as the United Self-Defense Forces of Colombia (AUC¹). Éver Veloza-García (alias 'HH') was a key commander of the AUC, and is now participating in what the Colombian government calls a transitional justice process known as the Justice and Peace Law, under which in exchange for full confession of his crimes and providing reparation to the victims, he will receive a reduced prison sentence.

The government of Colombia plans to extradite Veloza-García **at the end of February 2009** to the United States to face drug-trafficking charges, before he fulfills his obligations in the Justice and Peace law, violating the Colombian victims' rights to truth, justice and reparation. Although the crime of drug-trafficking is recognized as a serious crime, its prosecution must not take precedence over the investigation and prosecution of the grave human rights violations and crimes against humanity committed by Veloza-García in Colombia, including massacres, forced disappearances, forced displacement and torture.

The premature extradition of Veloza-García will remove him from the Colombian criminal jurisdiction, and end any meaningful contribution he can make to the Justice and Peace Process. It will also obstruct cooperation which he may give as a witness in the investigations undertaken by the Colombian Supreme Court and Attorney General of public officials and private individuals for links with the paramilitaries, as well as ongoing criminal proceedings in the ordinary criminal jurisdiction.

The importance of Veloza-García's continued presence in Colombia is underlined by the impunity for human rights violations and crimes against humanity which has resulted from the premature extradition of 16 Colombian paramilitary leaders in 2008. It is made more important because of the valuable contribution which he has made, and continues willing to make, to the "Justice and Peace Law" process in Colombia.

We call on the United States government's commitment to human rights, and in particular its commitment to human rights and labor rights in Colombia, and petition you to recommend publicly to the Colombian government that the extradition of Éver Veloza-García be deferred until he has met his obligations in the Colombian criminal justice system, and until the Colombian victims' rights have been fulfilled.

¹ AUC are the Spanish language initials of the group: Autodefensas Unidas de Colombia

I. Extraditions in 2008 have obstructed criminal investigations relating to the extradited paramilitaries

In May 2008, the Colombian government extradited 15 paramilitary commanders to the United States on drug-trafficking charges. One more paramilitary commander was extradited in September 2008. At the time, Colombian and United States human rights organizations and victims' representatives expressed their concerns to the authorities of both countries that the extraditions undermined the victims' rights to truth, justice and reparation. In response the United States Department of Justice expressed its commitment to protecting the rights of the victims and their representatives.² The Colombian government asserted in a letter to the Inter-American Commission on Human Rights that the United States and Colombia had agreed:

- To facilitate all judicial processes involving the extradited individuals, including processes in the so-called transitional Justice and Peace jurisdiction and the investigations of public officials.
- That any agreement conceding judicial benefits to the individuals in the United States, such as reduced sentences, would be conditioned on their collaboration in guaranteeing the rights of Colombian victims to truth, justice and reparation.
- That any assets confiscated or received by the United States would be turned over to Colombia's national fund for the reparation of victims.³

However, to date the only agreement is the pre-existing Inter-American Convention on Mutual Assistance in Criminal Matters and an exchange of letters between the Colombian Ministry of the Interior and Justice and the United States Embassy in Bogotá, which does little more than ratify the contents of the Convention.⁴

The experience since the extraditions has confirmed the concerns raised and shown the Convention and the exchange of letters wholly inadequate to ensure the protection of Colombian victims' rights. Since then, 14 of the paramilitaries, many of whom had confession hearings pending in the Justice and Peace process at the time of their extradition, have ceased active participation in that process. Only two of the paramilitaries, Salvatore Mancuso and Ramiro Vanoy, have continued confessions from the United States, but in circumstances unfavorable to the rights of the victims: Salvatore Mancuso gave three days of confession hearings via video conference in November 2008, over six months after the extradition; Ramiro Vanoy gave two days of confession hearings in January of this year, more than eight months after his extradition.⁵ In addition, victims had difficulty in obtaining access to these hearings. When civil

² The United States Department of Justice expressed its commitment to ensuring that the Justice and Peace process, in relation to each of the extradited individuals, be fully implemented. ("14 Members of Colombian Paramilitary Group Extradited to the United States to Face U.S. Drug Charges," Press Release of the United States Department of Justice, May 13, 2008.) The U.S. Ambassador to Colombia, Mr. William Brownfield, emphasized the United States' commitment "to facilitate all access, all of the information, and all of the opportunities to the victims, the victims' representatives and to the prosecutors responsible for the application of the Justice and Peace law." (Press Conference with Ambassador William Brownfield on the Extradition of 14 AUC Ex-paramilitary Leaders, U.S. Embassy (Bogotá), May 13, 2008.)

³ Letter of Minister of Foreign Relations of Colombia, Fernando Araújo-Perdomo, to the Executive Secretariat of the Inter-American Commission on Human Rights, May 14, 2008, transmitted to the afore-mentioned Executive Secretariat on May 15, 2008, by the Ambassador and Permanent Representative of the Permanent Mission of Colombia before the Organization of American States, Camilo Ospina.

⁴ Presidencia de la República, "EU ratifica su compromiso de facilitar versiones libres de extraditados" ["US ratifies its commitment to facilitate free versions of the extradited individuals"], July 11 2008, <http://web.presidencia.gov.co/>; The exchange of notes consists of a letter from the US Embassy in Bogotá to the Colombian Ministry of the Interior and Justice dated June 25 2008 and a reply from the Ministry dated July 9 2008.

⁵ Salvatore Mancuso gave three days of confession hearings on November 18, 19, 20, 2008; Ramiro Vanoy gave two days of confession hearings on January 22 & 23, 2009 (Fiscalía General de la Nación, Versiones, www.fiscalia.gov.co)

society organizations confronted the Colombian Embassy about these difficulties, the explanation offered was that the Embassy was (still) working with the Department of Justice on cooperation and logistical issues. The Embassy further described such cooperation between the DOJ and another foreign government as unprecedented.

Moreover, the physical presence of the paramilitaries in Colombia is particularly important in the Justice and Peace process. A crucial element of this process is the right of victims to ask questions of the accused and to receive answers. Owing to the scale of crimes committed by the paramilitaries, a commander frequently does not have the information immediately to hand, and must check and corroborate the facts with his subordinates, before returning to a later confession hearing with the requested information. This is not possible from the United States, as was demonstrated during the confession hearings of Salvatore Mancuso in November 2008, when Mancuso was unable to answer questions presented by victims because he did not have access to his subordinates.

The presence of the paramilitaries in the United States jurisdiction has obstructed criminal proceedings in Colombia in which they are involved, either as the accused or as a witness. In August 2008, months after the extradition, Colombian judicial authorities remained without access to the extradited paramilitaries: the Supreme Court and other tribunals had made requests to the Department of Justice for eleven hearings, and up to that time, none had taken place.⁶ The Human Rights and International Humanitarian Law Unit of the Colombian Attorney General's Office advised that as of November 27, 2008, they had not received responses to any of the thirteen requests for investigation hearings with extradited paramilitaries, which had been sent in July and August 2008.⁷ In the Supreme Court investigation of Senator Juan Manuel López Cabrales, a requested hearing with Salvatore Mancuso was delayed three times before he was heard at the end of September 2008.⁸

To compound the problems in Colombia caused by the absence of the paramilitaries, victims and their representatives have been denied access to timely information relating to the paramilitaries' participation in Colombian criminal proceedings as well as the status of drug-trafficking proceedings in the United States. For example, in response to a request made by the Colombian Commission of Jurists for a chronogram of scheduled hearings of the extradited paramilitaries,⁹ the Justice and Peace Unit of the Colombian Attorney General's office replied that continuation of the Justice and Peace processes was subject to the approval of the United States Department of Justice, for which reason they did not have a chronogram available.¹⁰

Despite the commitment made that the extradited paramilitaries would not receive judicial concessions, without conditioning the concessions on continued cooperation with Colombian justice, none of the known plea bargains reached between the paramilitaries and Department of Justice provides for continued cooperation with Colombian justice. Neither do the agreements provide for the return to Colombia of assets seized in the course of the drug-

⁶ *El Tiempo* (Bogotá) Newspaper, "Han negado 11 audiencias con 'paras' en E.U." ["Have refused 11 hearings with 'paras' in the U.S."], August 7 2008, www.eltiempo.com

⁷ Human Rights and International Humanitarian Law Unit of Colombian Attorney General's Office, letter to the Colombian Commission of Jurists dated November 27 2008; the requests were for hearings with Salvatore Mancuso, Eduardo Enrique Vengoechea, and Rodrigo Tovar-Pupo (alias 'Jorge 40').

⁸ *El Colombiano* (Medellín) Newspaper, "Mancuso declaró desde Estados Unidos" ["Mancuso declared from the United States"], September 25 2008, www.elcolombiano.com

⁹ Colombian Commission of Jurists, Petition to National Unit for Justice and Peace of the Attorney General's Office, November 21 2008

¹⁰ National Unit for Justice and Peace of the Attorney General's Office, letter to Colombian Commission of Jurists, December 1 2008

trafficking proceedings, for the benefit of Colombian victims, nor for the return of the extradited individuals themselves.¹¹

In this connection, no guarantee has been given that the paramilitaries will be repatriated to Colombia in order to meet their obligations with the Colombian criminal justice system. On the contrary, the pre-agreements reached between the United States Attorneys prosecuting Ramiro Vanoy and Javier Lindo on drug-trafficking charges, and approved by the United States District Court Southern District of Florida, envisage a period of supervised release of no less than five years following completion of their sentences.¹²

Importantly, another concern which has yet to be addressed by either the Colombian or United States governments is the risk that paramilitary leaders will benefit from participation in a witness protection program in exchange for collaborating with United States drug-trafficking investigations, which could remove them permanently from the reach of Colombian judicial authorities.¹³ This occurred in the case of Víctor Patiño-Fómeque, whose defense team managed to negotiate a reduction in his sentence, and inclusion in a witness protection program through which he obtained a new identity and anonymity.¹⁴

In these circumstances, it is inevitable that the extradition of Veloza-García would lead to impunity for the crimes he has committed. Colombian victims and Colombian society in general would be denied the opportunity to know the full extent of those crimes and the people who supported and benefited from them. The rights of the Colombian victims would be left, once again, unfulfilled.

II. Éver Veloza-García has provided valuable information on paramilitarism in Colombia

Our concerns for the victims' rights are particularly acute in the case of Veloza-García, who has been one of the only paramilitaries to make a genuine effort to cooperate with the Justice and Peace process, providing valuable information about the alliances between paramilitarism and state security forces, local and regional politicians, and the business and landowning sectors. He has also provided information leading to the location of victims' remains contained in mass graves, and, unlike most of the other paramilitaries in this process, he has sought publicly forgiveness from victims.

Veloza-García was a commander of the 'Banana' and 'Calima' Blocks of the AUC. The *modus operandi* of the 'Banana' Block paramilitaries and their predecessors, which operated in the Urabá region, served as a model for paramilitary groups of the AUC in other parts of the country.¹⁵ **With financial support from banana producers, the agroindustrial and business sectors,¹⁶ and collaboration from state security forces, they used massacres, assassinations, forced disappearances and displacement as a means of gaining territorial and social control.¹⁷** The

¹¹ United States of America v. Ramiro Vanoy-Ramirez Case No. 99-06153-Moore, Plea Agreement, p.2; United States of America v. Javier Lindo, Case No. 99-06153-Moore, Plea Agreement, p.2

¹² United States of America v. Ramiro Vanoy-Ramirez Case No. 99-06153-Moore, Plea Agreement, p.2; United States of America v. Javier Lindo, Case No. 99-06153-Moore, Plea Agreement, p.2

¹³ In a letter dated November 21 2008, the Colombian Commission of Jurists sought information from the Colombian Foreign Ministry intended to clarify the risk of the extradited paramilitaries benefiting from a witness protection program in the United States. The Foreign Ministry replied claiming the correspondence requested was under reserve.

¹⁴ *El Tiempo* (Bogotá) Newspaper, "Victor Patiño Fómeque está a punto de obtener nueva identidad en E.U." ["Victor Patiño is on the point of obtaining a new identity in the US"], June 26 2008, www.eltiempo.com

¹⁵ Carlos Miguel Ortiz-Sarmiento, *Urabá, pulsiones de vida y desafíos de muerte* [Urabá, instincts of life, challenges of death], La Carreta Social, Medellín 2007, p. 159.

¹⁶ *Verdad Abierta*, "Bloque Bananero" ["Banana Block"], www.verdadabierta.com

¹⁷ Carlos Miguel Ortiz-Sarmiento, op. cit., p. 164.

same strategies were employed by the 'Calima' Block paramilitaries which operated in the departments of Valle del Cauca, and Cauca.¹⁸

The paramilitaries commanded by Veloza-García, both those in the Urabá region and those of the 'Calima Block', had a policy of persecuting labor union members and political leaders, who threatened their interests. In the Urabá region, by the end of the 1980s, unions had achieved significant advances in labor rights for the banana workers: the first collective agreement had imposed basic salary conditions and recognition of the unions as legitimate interlocutors with the government and employers.¹⁹ Labor unions were subsequently the target of intense paramilitary and guerrilla violence with 632 union members assassinated in the region between 1991 and 2003.²⁰ Veloza-García has recognized that the paramilitaries under his command in Urabá assassinated labor union members.²¹ Likewise, in the department of Valle del Cauca union members and political leaders were targeted by paramilitaries under the command of Veloza-García.²²

Since he began his confession hearings, Veloza García has made confessions and revelations concerning the links that exist between paramilitarism and the state security forces. Most importantly, he declared General Rito Alejo del Río to be one of the promoters of paramilitarism in Urabá while he was Commander of the XVII Brigade of the National Army.²³ The confessions of Veloza-García together with those of Salvatore Mancuso provided the basis for the Attorney General's office to reopen investigations into the activities of General del Río, who is now detained and charged with homicides, forced displacement and supporting paramilitarism.²⁴

Veloza-García has provided information on the alliances between the business sector and paramilitarism. **He declared that the paramilitaries received substantial financial support from the banana companies operating in the Urabá region and that in exchange for this support, the banana companies required the paramilitaries to put an end to the strikes by labor unions - this meant assassinating those union members who did not cooperate.**²⁵ He has made similar declarations about sugar-cane companies in the department of Valle del Cauca. He said that the 'Calima Block' of paramilitaries was formed at the request of businesses in the region.²⁶ He described how the paramilitaries were given information on alleged guerrilla collaborators and union leaders, who should be assassinated.²⁷

Veloza-García also made revelations about the connections that the paramilitaries had with local and regional politicians whom he described as promoters and beneficiaries of paramilitarism. For

¹⁸ *Verdad Abierta*, "Bloque Calima" ["Calima Block"], www.verdadabierta.com

¹⁹ Vicepresidencia de la República, "Dinámica reciente de la confrontación armada en el Urabá antioqueño" ["Recent dynamic of the armed confrontation in Antioquian Urabá], Bogotá, Observatorio del Programa Presidencial de Derechos Humanos y DIH, 2006, p. 8.

²⁰ Vicepresidencia de la República, op. cit., p. 9.

²¹ *El Tiempo* (Bogotá) Newspaper, "'H.H.' reconoció asesinato de 17 sindicalistas" ["'H.H.' recognized assassination of 17 union members"], July 11, 2008, www.eltiempo.com

²² *El Colombiano* (Medellín) Newspaper, "'HH' confesó crímenes y cómplices" ["'HH' confessed crimes and accomplices"],

²³ *El Colombiano* (Medellín) Newspaper, "HH reconoció más de 1.200 asesinatos en Urabá" ["HH recognized more than 1,200 assassinations in Urabá"], October 10, 2007, www.elcolombiano.com

²⁴ *El Tiempo* (Bogotá) Newspaper, "Capturado general retirado Rito Alejo del Río; deberá responder por homicidio y paramilitarismo" ["Captured retired general Rito Alejo del Río; must answer for homicide and paramilitarism"], September 4 2008, www.eltiempo.com

²⁵ *Revista Semana*, "Destape de un jefe 'para'", 8 de abril de 2007, edición n.º 1318.

²⁶ *El País* (Cali) Newspaper, "Empresarios trajeron las AUC al Valle" ["Businessmen brought the AUC to Valle"], January 28, 2008, www.elpais.com.co

²⁷ *Verdad Abierta*, "HH contó cómo fue la entrada al Valle y al Cauca" ["HH told how the entry into Valle and Cauca took place"], January 22, 2009, www.verdadabierta.com

example, according to his testimony, the former governor of the department of Cauca, Juan José Chauz, received help from the 'Calima Block' to win the governorship.²⁸ He said that the former governor was one of the strongest allies of his paramilitary groups.²⁹

Thus far, Veloza has accepted responsibility for over 3,000 crimes committed by paramilitaries under his command in the Urabá region and the departments of Cauca and Valle del Cauca.³⁰ He has also recognized, as few participating in the process have, that the paramilitaries committed crimes such as forced displacement, recruitment of children, forced disappearances and massacres.

Information provided Veloza-García has facilitated the location of the mass graves containing the remains of victims assassinated by paramilitary groups under his command. The importance of his role in this process has even been recognized by the Attorney General.³¹

The declarations made by Veloza-García have resulted in the opening of a number of criminal investigations of public officials and their connections with paramilitarism. General Rito Alejo del Río is now under investigation for various crimes related to paramilitarism,³² in part as a result of confessions by Veloza-García. Senator Juan Carlos Martínez, identified by Veloza-García as having received paramilitary support in his election to the Senate,³³ is now under investigation by the Supreme Court. Arnulfo Peñuela, who until a few months ago was the mayor of Carepa in the department of Antioquia, is subject to criminal investigation,³⁴ following assertions by Veloza-García that the former mayor was not only a collaborator but an active member of the paramilitary structure.³⁵

III. Veloza-García needs more time to fulfill his obligations with Colombian criminal justice

Veloza-García has not completed his obligations under the Justice and Peace law. He has not provided information about the details, promoters and beneficiaries of many of the crimes confessed, and there are a large number of crimes he has yet to confess: **during a hearing in January of this year, he said his intention is to clarify and provide the truth about 5,000**

²⁸ *Semana.com*, "H.H. ratifica los acuerdos que hizo con el ex gobernador Juan José Chauz" ["H.H. confirms agreements that he made with the ex governor Juan José Chauz"], September 16, 2008, www.semana.com

²⁹ *Caracol Radio*, "HH" señala a monseñor Isaías Duarte y a Juan José Chauz, de supuestos vínculos con "paras" ["HH" identifies monsignor Isaías Duarte and Juan José Chauz, supposed links with "paras"], February 11, 2009, www.caracol.com.co

³⁰ *El Espectador* (Bogotá) Newspaper, "'H.H.' se confiesa" ["'H.H.' confesses"], August 2 2008, www.elespectador.com

³¹ *El Espectador* (Bogotá) Newspaper, "'H.H.' facilitó exhumaciones en Turbo: Fiscal" ["'H.H.' facilitated the exhumations in Turbo: Attorney General"], 27 de agosto de 2008, www.elespectador.com

³² General Rito Alejo del Río was accused in the aggravated homicide of Marino López, an afro-colombian, which occurred on February 27 1997, as part of a military and paramilitary operation in Chocó which resulted in the forced displacement of thousands of afro-colombians. (*El Tiempo* (Bogotá) Newspaper, "Del Río: a juicio por crimen de 'paras'" [Del Río: on trial for crime of 'paras']], December 27 2008, www.eltiempo.com

³³ *El País* (Cali) Newspaper, "'HH' asegura que el senador Martínez se benefició del paramilitarismo" ["'HH' asserts that Senator Martínez benefited from paramilitarism"], July 11, 2008, www.elpais.com.co

³⁴ *El Colombiano* (Medellín) Newspaper, "Detenido alcalde de Carepa por supuestos nexos con AUC" ["Mayor of Carepa detained for alleged links with AUC"], 1 de abril de 2008, www.elcolombiano.com

³⁵ *Caracol Radio*, "Alias 'H H' salpica al alcalde de Carepa con el paramilitarismo" ["Alias 'HH' splashes the mayor of Carepa with paramilitarism"], March 26, 2008, www.caracol.com.co

crimes committed in Urabá, Cauca, and Valle del Cauca.³⁶ He has also said he has information on the location of victims' remains contained in over 400 graves.³⁷

The Justice and Peace law provides that the paramilitaries must hand over all their assets, whether legally or illegally obtained, for the benefit of the victims. Veloza-García has announced that he will hand over the equivalent of US\$5 million in assets,³⁸ but he has not yet done this. Although the Colombian government has declared that the United States has agreed to return any assets seized in the course of drug-trafficking proceedings, no formal agreement has been made public that provides such guarantees to Colombian victims.³⁹

It is therefore imperative that Veloza-García be allowed to remain in Colombia, to facilitate his continuation in the Justice and Peace process and the investigation into the large number of crimes about which he has knowledge, and to ensure he provides reparation to the victims.

Veloza-García's presence will also be required as a witness for the special investigations begun into the numerous public officials mentioned, arising out of evidence provided by him in the course of the Justice and Peace proceedings.

IV. An opportunity to change course and show a genuine commitment to Colombian victims' rights

The extradition of fifteen paramilitary commanders in May 2008 and one more in September 2008 constituted a grave attack on the rights of Colombian victims. The participation of the majority of the extradited individuals in the Justice and Peace process came to a halt, with their crimes remaining in impunity. The victims may never know the full truth of the motives, the supporters, and the beneficiaries of these crimes, the location of the remains of their loved ones, nor will they receive financial reparation.

In the case of Veloza-García, the United States and Colombian governments have the opportunity to change course and avoid making the same mistake. They must allow Veloza-García to remain in Colombia for as long as necessary to meet his obligations in the Justice and Peace process and all other criminal proceedings for human rights violations in which he may be required, and until the rights of the victims are fulfilled.

A deferral of Veloza-García's extradition will not prevent his extradition following the completion of his obligations with Colombian justice. Therefore, there exists no legal or practical reason that can justify his extradition now, while investigations are ongoing for grave violations of human rights and crimes against humanity.

V. Presentation of legal action in Colombian courts against premature extradition of Veloza- García

³⁶ *Verdad Abierta*, "HH contó cómo fue la entrada al Valle y al Cauca" ["HH told how the entry into Valle and Cauca took place"], January 22, 2009, www.verdadabierta.com; *El Colombiano*, "Tiempo extra para hablar pide 'HH'" ["'HH' asks for extra time to talk"], January 22, 2009, www.elcolombiano.com

³⁷ *El País* (Cali) Newspaper, "Sigue el destape de Ever Veloza" ["The revelations of Ever Veloza continue"], January 29 2008, www.elpais.com.co

³⁸ *Verdad Abierta*, "La verdad incómoda de HH" ["The uncomfortable truth of HH"], October 28 2008, www.verdadabierta.com

³⁹ At this time there is no formal agreement between the two States that ensures that the assets of the extradited paramilitaries will be returned to be reinstated to the victims in Colombia. Moreover the United States Embassy expressed to various human rights organizations that the assets found in Colombia would remain in Colombia, but those located or seized in other countries would be a "complicated" subject.

The Colombian Commission of Jurists, acting on behalf of a group of victims of crimes committed by Veloza-García, is presenting a legal action to the Superior Tribunal of the Judicial District of Bogotá,⁴⁰ seeking a stay on the extradition of Veloza-García to the United States, until such time as he has fulfilled his obligations with Colombian justice and the rights of the victims are fulfilled. The resolution of the matter allows for the possibility of an appeal to the Supreme Court.

Without prejudice to our fundamental petition outlined at the opening of this letter, we request that the United States seek, by means of a public communication to the Colombian government, the delay of the extradition at the very least until such time as the legal action presented has been resolved by the Colombian judicial system.

Yours sincerely,

Gustavo Gallón
Director
Colombian Commission of Jurists

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Presidente
Fundación Comité de Solidaridad con los Presos Políticos

Cc: Secretary of State Clinton

Cc: Assistant Secretary of State Shannon, Bureau of Western Hemisphere Affairs

⁴⁰ Writ of Injunction: Plaintiff: Colombian Commission of Jurists. Respondent: President of the Republic, the Minister of Foreign Relations, and the Minister of the Interior and Justice. Subject: Rights to truth, justice and reparation of the victims of crimes of atrocity committed by Everth Veloza García, alias HH, and his scheduled extradition.