



Dear President Otto Perez Molina,  
Minister of Foreign Affairs Fernando Carrera,  
Members of the Congress of Guatemala,

As members of the European Parliament, we have engaged with your government and supported your country's efforts to challenge an entrenched culture of impunity, including in cases of narco-trafficking, corruption, crimes against humanity, and violent crimes. The successes of the Public Ministry and the Interior Ministry in reducing overall impunity by a reported 30 percent<sup>1</sup> over the past four years are admirable and serve to both strengthen democratic institutions and improve citizen security.

Thirty-five Members of the European Parliament, representing four different political groups, wrote in June last year expressing interest and concern about the progress of the rule of law in Guatemala. We reiterated the importance of protecting judicial independence and urged that appropriate actions to this end be taken.

It has come to our attention that, during the course of 2014, Guatemala will select new Supreme Court and appellate court magistrates, Supreme Electoral Tribunal magistrates as well as a new Attorney General. We understand that following a review of applicants by nominating commissions comprised of judges, law school deans and lawyers chosen by the country's bar association, Congress makes the final selection for magistrates from a list of eligible candidates, and the President does the same for the Attorney General.

Based on recent developments, we write at this critical moment to express continued and grave concerns about the state of judicial independence in Guatemala.

First, we would like to raise concerns regarding the term of the Attorney General. It is our understanding that the Guatemalan Constitution (1985, amended in 1993) clearly provides for a four-year term for the Attorney General that may only be terminated early on grounds of proven just cause. Thus the term of the current Attorney General, Claudia Paz y Paz, should run until December 2014. In a final decision on March 7, 2014, however, the Constitutional Court prematurely ended the term of the Attorney General, ruling that her term should end in May. Inexplicably this decision was based on transitional provisions of the twenty-year-old Constitution. The decision is being implemented, as Congress is already evaluating the files of the applicants.

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<sup>1</sup> The reduction refers to crimes against life in the Department of Guatemala, Ministerio Publico de Guatemala, Informe Anual de Resultados (2012).

The arbitrary shortening of the Attorney General's term poses a potential threat to the rule of law and judicial independence in Guatemala. Paz y Paz has received national and international recognition for reforming the Public Ministry, acting with independence and integrity, and achieving marked successes. Yet the Constitutional Court's decision left a clear impression that she faced retaliation for her pioneering work. Judicial professionals, including the Attorney General, judges and prosecutors, must be able to operate independently, without interference or fear of retaliation for their actions as public officials.

Further, we have concerns about the nomination process for a future Attorney General, as well as for the Supreme Court and appellate court judges. There is very limited time (reportedly 3 days) for public participation in the commissions and there are concerns that the requisite duration of the election process may not be respected. According to a report by the CICIG, law schools have been created in the last years in order to ensure the participation of their deans in political processes, including the nominating commissions.<sup>2</sup> Potential conflicts of interest are also an issue, as there is no requirement for public disclosure of relevant information from the candidates or the commissioners.

In light of these concerns, and in order to maximize transparency and integrity of the proceedings going forward, we urge you to act within your powers to:

- Express a clear and unwavering commitment to efforts to advance the rule of law and judicial independence in Guatemala, including a commitment to non-interference with judicial actors;
- Ensure that the nomination process of the Attorney General and Supreme Court and appellate court judges will be conducted respecting the principles of independence, transparency, impartiality, and participation. Professional criteria and experience for the posts should be clearly published and considered throughout the selection process and adequate disclosures made to ensure that any conflicts of interest are exposed;
- Ensure that sensitive cases currently under investigation by the Attorney General's Office will not be hampered, and institutional reforms that have strengthened the Attorney General's Office be maintained and advanced in the years ahead;
- Ensure that the selected candidate for Attorney General has a clear mandate to continue the ongoing reform processes. There is a major concern that candidates without adequate independence may undo these crucial reforms;
- Ensure access to information for observers from civil society, the international community, including EU delegations and Embassies, and national and international media.

We thank you for your kind attention, and would be grateful for the opportunity to engage in further dialogue about these important issues.

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<sup>2</sup> Comisión Internacional Contra la Impunidad en Guatemala (CICIG), Informe sobre el proceso de elección de magistrados a la Corte Suprema de Justicia y Cortes de Apelaciones y otros tribunales colegiados de igual categoría 2009.

Yours Sincerely,

**LOCHBIHLER Barbara** (Green/EFA, Germany), Chair, Subcommittee on Human Rights and member of Committee on Foreign Affairs

**SCHOLZ Helmut** (GUE/NGL, Germany), Chair, Group of Parliamentarians for Global Action

**AYLWARD Liam** (ALDE, Ireland), Delegation to the Euro-Latin American Parliamentary Assembly

**CHILDERS, Nessa** ( Non-attached member, Ireland), Committee on the Environment, Public Health and Food Safety

**COSTELLO, Emer** (PASD, Ireland), Conference of Delegation Chairs

**GOMES Ana** (PASD, Portugal), Committee on Foreign Affairs

**GRÈZE Catherine** (Green/EFA, France), Committee on Development

**HASSI Satu** (Green/EFA, Finland), Delegation to the Euro-Latin American Parliamentary Assembly

**HOWITT Richard** (PASD, United Kingdom), Committee on Foreign Affairs

**KELLER Franziska** (Green/EFA, Germany), Committee on International Trade

**KLUTE Jürgen** (GUE/NGL, Germany), Delegation to the Euro-Latin American Parliamentary Assembly

**KREISSL-DORFLER Wolfgang** (PASD, Germany), Committee on Foreign Affairs

**LOPEZ AGUILAR Juan Fernando** (PASD, Spain), Committee on Civil Liberties, Justice and Home Affairs

**LUDFORD Sarah** (ALDE, United Kingdom), Committee on Civil Liberties, Justice and Home Affairs

**LUNACEK Ulrike** (Green/EFA, Austria), Committee on Foreign Affairs

**MATIAS Marisa** (GUE/NGL, Portugal), Committee on Industry, Research and Energy

**MARTIN David** (PASD, United Kingdom), Committee on Foreign Affairs

**ROMEVA i RUEDA Raül** (Green/EFA, Spain), Delegation for Relations with the Countries of Central America

**SARGENTINI Judith** (Green/EFA, The Netherlands), Committee on Civil Liberties, Justice and Home Affairs

**SCHAAKE Marietje** (ALDE, The Netherlands), Committee on Culture and Education

**SOUSA Aida** (GUE/NGL, Portugal), Committee on Budgets

**STAES Bart** (Green/EFA, Belgium), Delegation to the Euro-Latin American Parliamentary Assembly

