



# human rights *first*

July 28, 2009

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Dear Attorney General Iguarán:

We, the below-signed 1,202 signatories, join Human Rights First in writing to express our grave concern over the use of intelligence collected by the Colombian national intelligence agency (*Departamento Administrativo de Seguridad*, or DAS) in the criminal trial of Arney Antonio Tapasco Reyes and Félix Antonio Hernández Alcalde, case number 20070046901, in the department of Caldas. We fear that the actions of DAS and the prosecutor in Caldas are part of a larger pattern of activities intended to intimidate and silence Colombian human rights defenders.

Arney Tapasco and Félix Hernández are community leaders in the indigenous reservation of Cañamomo Lomapieta in the town of Emberá Chami. Both began their work in community organizing as town aldermen. Since that time, Arney Tapasco has been the President of the Association of Indigenous Councils and the President of the Ingrumá Indigenous Alliance Center and Félix Hernández has held the position of Coordinator of the Indigenous Guard and member of the reservation's Human Rights Committee. Both have been active in defending and promoting the land and political rights of the indigenous community, but both work in an environment of constant risk and hostility. On March 15, 2002, the Inter-American Commission on Human Rights (IACHR) recognized them for their important work and authorized precautionary measures to provide security for the indigenous reservation and settlements of Emberá Chami. However, both men have now been detained for eight months and were recently charged with rebellion in a criminal trial with significant procedural flaws.

The members of DAS charged by the Colombian government with protecting Arney Tapasco and Félix Hernández have purportedly supplied information for the

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criminal investigation against them. Germán Betancour, the DAS bodyguard assigned to protect Mr. Tapasco, allegedly monitored Mr. Tapasco's activities and meetings and forwarded such information to the DAS office in Manizales over email. Furthermore, in January 2008, Germán Alonso Bedoya, a DAS agent assigned to protect another indigenous organizer, asked Mr. Betancour in an email message to monitor Mr. Tapasco.

We are concerned that these alleged activities show that government-provided bodyguards are being asked to engage in intelligence-gathering activities against the same indigenous leaders that they are charged with protecting. We urge you to open an investigation against the DAS bodyguards assigned to Arney Tapasco and Félix Hernández to evaluate whether their activities breached the new intelligence law. In particular, article 4 of the Intelligence and Counter-Intelligence Law states that intelligence can never be collected for arbitrary reasons, including membership in a human rights organization. Furthermore, the Colombian Constitutional Court has ruled that the government can under no circumstance prepare "intelligence reports or any kind of confidential report which contains information about the private life of an individual receiving protection services and which does not pertain to the security situation and related protection plan..."<sup>1</sup> We also urge you to investigate whether DAS has complied with a ruling by the Colombian Constitutional Court ordering the officers of DAS to "instruct their agents in writing that protection activities are not intelligence-gathering opportunities, and that carrying out intelligence activities with respect to the actions of protected individuals is prohibited."<sup>2</sup>

Furthermore, we are concerned that the case against Arney Tapasco and Félix Hernández did not adhere to the requirements of the new penal code (law 906 of 2004) and the new intelligence law. According to the defense, the criminal record against Mr. Tapasco and Mr. Hernández included a confidential report prepared by DAS. However, article 24 of the Intelligence and Counter-Intelligence Law states that "under no circumstances may intelligence reports have evidentiary value in judicial or administrative proceedings." Furthermore, the prosecutor allegedly did not provide Arney Tapasco and Félix Hernández with notice of the charges against them or an opportunity to contest those charges, and the decision of the Fifth Criminal Circuit Court of Manizales, Caldas was based on unreliable declarations made by demobilized guerrillas and inconsistent and contradictory witness testimony. Evidence from witnesses receiving reintegration benefits must be treated with particular care as it comes from witnesses who are not impartial and who benefit by collaborating with the authorities. We urge you to investigate Armando Castrillón Grajales, the local prosecutor in Manizales, Caldas, to ascertain whether his actions in the investigation against Arney Tapasco and Félix Hernández complied with the intelligence law and due process requirements.

We urge you to act firmly to put an end to the pattern of DAS agents collecting intelligence about the very people they are charged with protecting and of prosecutors using such intelligence in criminal proceedings. Additionally, as the Criminal Court of Manizales recently postponed hearing their appeal, we ask the Court to prioritize the scheduling of their case in light of its importance and the continued detention of Arney Tapasco and Félix Hernández. We thank you for your attention in this urgent matter. We will continue to closely monitor this situation.

Sincerely,

*(The names of the 1,202 signatories have been hidden for privacy reasons.)*

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<sup>1</sup> Ruling T-1037 de 2008, by Judge Jaime Córdoba Triviño, paragraph 31.

<sup>2</sup> Ruling T-1037 de 2008, by Judge Jaime Córdoba Triviño, seventh finding.