



NEW YORK
CITY BAR

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Excelentísimo Sr. D. Carlos Divar
Blanco
Presidente
Consejo General del Poder Judicial
Calle Marqués de la Ensenada, 8
28004 Madrid
España

Cándido Conde-Pumpido Tourón
Fiscal General de España
Fortuny, 4
28071 Madrid
España

Re: Magistrate Judge Baltasar Garzón

Dear Mr. President of the General Council and Mr. Attorney General:

I write on behalf of the Association of the Bar of the City of New York and its 23,000 members -- who live and practice in every U.S. state and more than 50 other countries, including Spain -- with respect to the indictment of Magistrate Judge Baltasar Garzón. We believe Judge Garzón's indictment does a disservice not only to him, but to all other Spanish judges and to Spain's commitment to the rule of law. While we do not express any opinion on the merits of Judge Garzón's investigations into grave human rights abuses during and after the Spanish Civil War, criminal prosecution of judges because senior governmental authorities, appellate courts or even the public at large disagree with their decisions undermines the judicial independence on which democracy depends. We therefore respectfully urge you and your colleagues to take all required actions to rescind or dismiss the pending criminal proceedings against Judge Garzón.

The Association has long defended the independence of lawyers and judges, both in the U.S. and other countries, who are targets of abusive or politically motivated executive or legislative actions. Most recently, we have defended (and conferred honorary membership on) Chief Justice Iftikhar Muhammad Chaudhry of Pakistan when that nation's president sought to remove him from office because of election law decisions that the President disapproved. This very week, we are demanding that Venezuelan authorities release Judge Maria Lourdes Afiuni from the prison to which she has been confined because of her judicial rulings.

We are aware that some judicial actions -- including Judge Garzón's efforts to pursue indictments for past human rights abuses notwithstanding Spain's 1977 amnesty law -- can generate strong opposition from both the public and senior governmental officials. If judges err on the law, as they sometimes do, mature judicial systems provide an appeals procedure to correct those errors. However, judges should never be imprisoned for good faith decisions that an appellate court later overrules. Nor can a judge be imprisoned simply because the executive power, legislature or other jurists disagree with his or her decision. To do so destroys any semblance of judicial independence and undermines the nation's claim to be governed by law.

Let me be clear that our Association fully respects the independence of the Spanish courts. Indeed, that is why the proceedings against Judge Garzón are so troubling to us, and to judges and lawyers throughout the world. We also recognize that the Attorney General has himself opposed the criminal proceeding against Judge Garzón. We therefore respectfully invite the General Council of the Judicial Power to take these concerns into account in any proceedings against Judge Garzón and to promptly rescind the threat of criminal sanctions against him.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia M. Hynes". The signature is fluid and cursive, with a large initial "P" and a distinct "M" and "H".

Patricia M. Hynes