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TITLE: SUBJECT: APPEALS COURT JUDGES REMOVED AS JUDICIAL
BRANCH MOVES TO IMPROVE QUALITY OF JUDGES

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SOURCE: STATE

DOCNO: BOGOTA 08142

TEXT:

TAGS: KJUS, PGOV, SNAR, PHUM, CO

SUBJECT: APPEALS COURT JUDGES REMOVED AS JUDICIAL
BRANCH MOVES TO IMPROVE QUALITY OF JUDGES

1. CONFIDENTIAL--ENTIRE TEXT.

2. IN A SURPRISING MOVE, THE SUPREME COURT RECENTLY REFUSED TO REELECT FIVE OF THE TWELVE MAGISTRATES WHO SERVE ON THE PUBLIC ORDER TRIBUNAL AND LEFT THE FATE OF A SIXTH MAGISTRATE IN DOUBT. THE PUBLIC ORDER TRIBUNAL IS THE APPEALS COURT FOR THE DECISIONS OF COLOMBIA'S PUBLIC ORDER JUDGES, WHO ARE IN CHARGE OF HANDLING THE COUNTRY'S MOST SENSITIVE CASES, THOSE WHICH INVOLVE NARCO OR GUERRILLA RELATED TERRORISM.

3. MOST COLOMBIAN JUDGES AND MAGISTRATES ARE ELECTED BY HIGHER COURTS AND SERVE TWO YEAR TERMS. REELECTION, HOWEVER, IS USUALLY A MERE FORMALITY. ACCORDING TO SUPREME COURT JUSTICE JAIME GIRALDO (PROTECT), THE FIVE MAGISTRATES LOST THEIR JOBS BECAUSE OF THE POOR QUALITY OF THEIR WORK. ALTHOUGH RELUCTANT TO DISCUSS THE ISSUE IN DETAIL, HE STRONGLY IMPLIED THAT THE NON-REELECTION OF AT LEAST SOME OF THE MAGISTRATES WAS RELATED TO THE TRIBUNAL'S DECISION SOME TIME AGO TO OVERTURN LOWER COURT ARREST WARRANTS ISSUED FOR NARCO KINGPINS JOSE GONZALO RODRIGUEZ GACHA AND PABLO ESCOBAR, ALONG WITH SEVERAL MILITARY OFFICERS, FOR ALLEGED INVOLVEMENT IN TWO INFAMOUS INCIDENTS OF MASS MURDER, THE 1988 LA NEGRA AND HONDURAS MASSACRES. THE MEDELLIN PUBLIC ORDER JUDGE WHO ISSUED THE ARREST ORDERS WAS SUBSEQUENTLY ASSASSINATED, APPARENTLY ON ORDERS FROM ESCOBAR AND RODRIGUEZ GACHA. WITH THE OUSTER OF NEARLY HALF OF THE PUBLIC ORDER TRIBUNAL, MANY OF THE LESS

REVIEW AUTHORITY: James Cooper, Senior
Reviewer

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IMPRESSIVE PUBLIC ORDER JUDGES, WHO ARE ELECTED BY THE TRIBUNAL, ARE REPORTEDLY CONCERNED THAT THEY MAY ALSO SOON FIND THEMSELVES UNEMPLOYED.

4. THE NON-REELECTION OF THE PUBLIC ORDER MAGISTRATES COMES AS THE COURT IS IMPLEMENTING, FOR THE FIRST TIME, A NEWLY ESTABLISHED SYSTEM DESIGNED TO EVALUATE THE WORK OF LOWER COURT MAGISTRATES. AFTER A REVIEW BY THE SUPREME COURT OF THEIR DECISIONS AND PERFORMANCE OVER THE PAST YEAR, APPEALS COURT MAGISTRATES, WHO ARE APPOINTED BY THE COURT, ARE BEING EVALUATED ON A SCALE OF 0 TO 100, WITH 60 HAVING BEEN ESTABLISHED AS A PASSING GRADE. THE MAGISTRATES WILL, IN TURN, USE THE SAME SYSTEM TO RATE THE FIRST INSTANCE JUDGES WHOM THEY APPOINT. JUDGES AND MAGISTRATES WHO SCORE BELOW 60 IN TWO SUCCESSIVE YEARS ARE TO BE REMOVED FROM OFFICE. EVENTUALLY, JUDICIAL SUPPORT EMPLOYEES ARE ALSO SUPPOSED TO BE RATED.

5. SURPRISINGLY, THE COUNTRY'S MOST IMPORTANT JURISTS, THE PUBLIC ORDER JUDGES AND MAGISTRATES WHO HANDLE MAJOR CASES OF TERRORISM, ARE NOT SUBJECT TO THIS SYSTEM OF REQUIRED EVALUATIONS. THEY WERE EXEMPTED ON THE GROUNDS THAT THE PUBLIC ORDER SPECIAL JURISDICTION WAS CREATED BY STATE OF SIEGE DECREES AND WILL DISAPPEAR WHEN THE STATE OF SIEGE IS LIFTED. BECAUSE THE RIGOROUS REVIEW OF THE WORK OF SUCH JUDGES AND MAGISTRATES IS NOT MANDATED, SUB-STANDARD JURISTS CAN BE REMOVED (AS THE FIVE JUDGES MENTIONED IN PARA 2 WERE) EVEN WITHOUT TWO YEARS OF NEGATIVE EVALUATIONS OF THEIR WORK.

6. COMMENT: ONE OF THE BIGGEST PROBLEMS FACING COLOMBIA'S JUDICIAL BRANCH IS THE LAZINESS AND, IN A NUMBER OF CASES, DOWN-RIGHT INCOMPETENCE OF MANY JUDGES AND HIGHER COURT MAGISTRATES. THE RATING SYSTEM WHICH IS NOW BEING IMPLEMENTED PROVIDES A MUCH NEEDED TOOL

C O N F I D E N T I A L SECTION 02 OF 02 BOGOTA 08142

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JUSTICE ALSO FOR OIA, ICITAP, AST AG MRICHARDS
SOUTHCOM FOR POLAD
GUATEMALA ALSO FOR AID

E.O. 12356: N/A

TAGS: KJUS, PGOV, SNAR, PHUM, CO

SUBJECT: APPEALS COURT JUDGES REMOVED AS JUDICIAL FOR WEEDING OUT SUCH POOR PERFORMERS AND, ALMOST AS IMPORTANT, FOR IDENTIFYING DESERVING JURISTS WHO MERIT PROMOTION. MUCH DEPENDS ON HOW THE SYSTEM IS IMPLEMENTED--THE SUPREME COURT AND THE APPEALS TRIBUNALS MUST BE WILLING TO GIVE A FAILING GRADE TO THOSE JUDGES WHO DESERVE ONE AND THE JUDICIAL BRANCH MUST ENSURE THAT JUDGES WHO FAIL IN TWO CONSECUTIVE YEARS ARE ACTUALLY REMOVED. IDEALY, GRADED EVALUATIONS SHOULD ALSO BE REQUIRED FOR THE COUNTRY'S MOST IMPORANT JURISTS, PUBLIC ORDER JUDGES AND MAGISTRATES, WHILE RETAINING THE THE JUDICIAL BRANCH'S CURRENT ABILITY TO REMOVE THE MEBERS OF THIS HIGHLY SENSATIVE JURISDICTION IN LESS THAN TWO YEARS TIME IF THE SITUATION SO WARRANTS.

7. PAST EFFORTS TO IMPROVE THE QUALITY OF THE JUDICIAL BRANCH HAVE MET WITH CONSIDERABLE RESISTANCE FROM JUDGES THEMSELVES. NEVERTHELESS, THE FORCED PERSONNEL CHANGES IN THE PUBLIC ORDER TRIBUNAL SUGGEST THAT THE SUPREME COURT IS BECOMING INCREASINGLY DISPOSED TO TAKE ACTION AGAINST MAGISTRATES WHO LACK THE COURAGE AND COMPETENCE NEEDED TO BE A GOOD JURIST.

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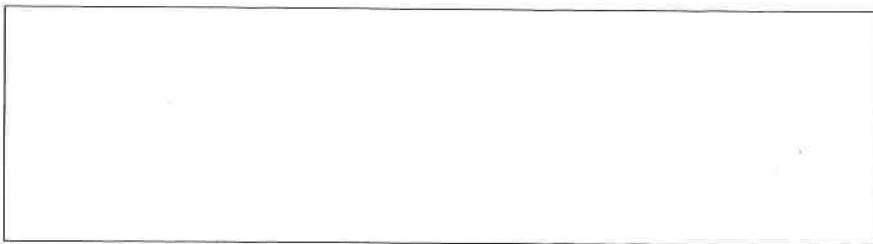


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<FROM>FM AMEMBASSY BOGOTA</FROM>

<TO>TO RUEHC/SECSTATE WASHDC IMMEDIATE 5861</TO>

INFO RUEBWJA/DEPTJUSTICE WASHDC

RUEHCV/AMEMBASSY CARACAS 7140

RUEHPE/AMEMBASSY LIMA 7762

RUEHLP/AMEMBASSY LA PAZ 7009

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