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PRESS RELEASE

**Colombia: The Supreme Court’s Decision on Criminal Defamation Undermines Free Speech**

**São Paulo: 09.06.11: Following the decision of 25 May 2011 and the reasoning of which was made public this week, the Supreme Court of Colombia upheld the provisions of the Penal Code on criminal defamation. The Court found that the crimes of defamation and slander are not in disaccord with the country’s Constitution and its international obligations under human rights treaties. ARTICLE 19 is disappointed with the decision and expresses solidarity with media organizations and civil society advocating for decriminalisation of defamation in the country.**

*“The decision of the Supreme Court sends a wrong message about the country’s commitment to human rights and freedom of expression,”* says Dr Agnes Callamard, ARTICLE 19 Executive Director. *“Criminal defamation laws have always a chilling effect on the work of journalists and media, who in response may engage in self-censorship out of fear of prosecution. They should be immediately eliminated from the legislation,”* continues Dr Callamard.

A lawsuit challenging the legality of two defamation crimes (crime of calumny and slander) had been filed before the Supreme Court by the Federación de Periodistas de América Latina y el Caribe in December 2010. The plaintiffs argued these constituted an illegitimate restriction to freedom of expression, as protected under Article 13 of the American Convention for Human Rights and Article 28 of the Colombian Constitution. They also claimed the wording of the provisions lacked a necessary precision, making them vague and overbroad to meet the requirements of legal certainty.

The Supreme Court found the constitutive elements of two crimes have been formulated by the jurisprudence of the Colombian courts and did not lack clarity and accuracy. The Court found these crimes were created to protect another fundamental right - the right to honour – and as such were established to pursue a legitimate goal. The Court also affirmed the use of criminal provisions was not disproportional, as it was needed to prevent certain conducts by the threat of imposing a penal sanction.

Finally, the Court concluded these crimes were allowed under international law, although they should be used only in the most extreme cases. Although the Supreme Court recognised that the Inter-American system for the protection of human rights has advanced towards the decriminalization of these conducts, it also stated that such decision should be left to the discretion of Colombian legislators.

ARTICLE 19 finds the Court's decision deeply disappointing. The case was an opportunity for Colombia to uphold its commitment to freedom of expression and to join a growing community of democracies around the world that have decriminalized defamation. We recall a number of human rights organisations and inter-governmental bodies, including the United Nations Human Rights Committee and the Organisation for Security and Co-operation in Europe, have recognised the threat posed by criminal defamation laws and have recommended that they should be abolished. In many countries, the protection of one's reputation is treated primarily or exclusively as a private interest and criminalising defamatory statements is not considered necessary to provide adequate protection for reputations.

However, in Colombia there will always be a potential for abuse of criminal defamation provisions, even if they were applied in exceptional cases only, as suggested by the Supreme Court. As such, ARTICLE 19 calls on the Colombian Government to repeal these provisions immediately and replace them with appropriate civil defamation law. In the meantime, we urge to Government to refrain from the application of these provisions in practice.

ENDS

**NOTES TO EDITORS:**

- For more information please contact: Paula Martins, Director for South America at paula@article19.org, +55 11 3057 0042.
- For ARTICLE 19 publication Defining Defamation, see <http://www.article19.org/pdfs/standards/definingdefamation.pdf>.
- ARTICLE 19 is an independent human rights organisation that works globally to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech. For more information on ARTICLE 19 please visit [www.article19.org](http://www.article19.org) or [follow article19org on Twitter](#).