

PRESS CONFERENCE
PROSECUTOR WASHINGTON PESÁNTEZ

Washington Pesántez:

Good morning to you all. In view of the interest all media outlets have shown this week for Texaco-Chevron, we have thought it convenient for the Prosecutor General's Office to invite you to give you first hand information about what we know and what we have found out during our investigation.

[Our Chief of Social Communication and I have discussed the possibility of inviting you here once a week (we will let you know when) to provide you with the corresponding information.]

I will also refer to the claim filed by Mr. Balda and the counterclaims filed by Dr. Alexis Mera and Ricardo Patiño. Well, I would like to extend myself to other topics; I know you have many questions and we could leave the Angostura case for next week.

In regards to Chevron-Texaco's case I would like to let you know that, 72 hours ago, the Prosecutor's Office received a letter from Chevron... we have a copy here with us. This letter is signed by Thomas F. Cullen Jr. Lawyer. The letter is not a claim; this is a letter that informs me of alleged irregularities in the proceedings of the case being heard in Sucumbíos, and particularly, in the participation of the President of the Superior Court of Loja, Provincial Judge Juan Esteban Núñez. In this letter, Mr. Cullen invites me to share some information that had reached,-he doesn't say how-, the oil company.

The document does not specify an accusation, but it gives hints of a possible participation of Judge Juan Evangelista Núñez Sanabria, in what we could call a bribery attempt so that he may clarify the amount of the remediation expenses

that the ruling should contain, and to facilitate the participation of specialized companies in this remediation process.

There is a claim filed in accordance with our Civil Law. It should be tried in the place where the events took place, both in regards to civil and criminal procedures. In regards to civil procedures, it is being tried in Sucumbíos, Nueva Loja or Lago Agrio, however you wish to call the capital of the Province. The case there has over ten years. The case seeks to compensate the damages caused following decades of Texaco's oil exploitation activities. This company transferred its rights to Chevron a few years ago.

Texaco's oil exploitation activities would have caused severe environmental damages and diseases. It would have also affected the health of the people in the area... in the Province. This is why 38 thousand plaintiffs, represented by their leaders, initiated a claim against the company. This process, I insist, has over ten years. From what we know, the amount of the claim is for approximately 27 billion dollars, twice the State's budget in a year. There are different headings that have to be paid for. **Although I don't have the exact figures, 10% would go to the plaintiffs if Chevron is found guilty; 90% would be delivered to the State for remediation or bio-remediation activities that would serve to correct biologic and chemical mechanisms, as from what we have found out in a parallel criminal process, there are still environmental problems.** The expert in this case has presented the result of his expert's appraisal and it can clearly be seen that there are still pits where the soil is contaminated.

We received this video, which seems to have been edited. I am requesting them to send me the complete document, or should I say the whole video. A superficial analysis of the conversations held by several individuals, the Judge and three other, allow us to deduce the existence of provocation. In criminal doctrine it is spoken of a taunting agent that may induce to crime. Inducing is a crime and forbidden by our legislation. This taunting agent is trying to involve the judge in a conspiracy to supposedly give them access to an environmental remediation contract.

I want it to be absolutely clear, and I will try to make it didactic. If the judge makes his ruling and orders payment of xx amount, let us suppose 27 billion dollars, a part of this should be used for remediation activities. Then the hypothetical remediators, this man Borja and some other which I will not mention, what they are trying to do is to suggest the Judge to award them the remediation and in return, three million dollars would be shared-out between three actors. As you see, this is a hypothesis.

First we would have to have a conviction; the money would have to be paid, and then, the award could be made... this remediation. I would say that the logical thing would be to do it through an invitation to tender, through a national and international tender. Therefore, we are describing a hypothesis, which is foreign to criminal doctrine. In criminal dogma the possibility of convicting this taunting agent, that is the people that induce someone to commit a crime... we do not accept this because this is a dishonest act that we call loyalty, a basic principal of procedural loyalty.

At first glance it could be thought that Chevron is using these illegal videos that were surreptitiously recorded. The Code of Criminal Procedure establishes that recordings cannot be made without the authorization of a judge. These were surreptitiously obtained to delegitimize. Now Chevron is using this video to delegitimize the process or trial that is being heard against the company. I have already said this... for over ten years they have been trying to find a pretext to avoid being sentenced... to avoid paying substantial compensations for environmental damages. Many of these environmental damages, I insist, are irreversible.

These damages were not caused by accident, but mainly because of improper oil practices that caused severe damages in the Ecuadorian Amazon.

I would like to let you know that the Prosecutor's Office, by virtue of the principle of innocence, we presume the innocence of Judge Juan Núñez Sanabria. We trust in the honesty and probity of this judge who I personally know, and who for

several years was also a district attorney. However, despite what has been said, I believe the Judge must excuse himself from continuing in this process.

I have spoken to Judge Núñez and requested him to excuse himself. I expect to present his disqualification letter today. The purpose of this excuse is to ensure that the ruling will not be delayed any longer. This process is already ten years old and we do not want any additional delays; we want the ruling to be recognized as lawful, something the company wants to deny and thus avoid paying the amount set by a possible sentence. Once a ruling is made, we would have to turn to the corresponding legal mechanisms before the US Government and public authorities in the United States, to make them comply with this ruling. It should be recalled that they tried to change the jurisdiction to the United States and their request was rejected because the crime had been committed in Ecuador and the Ecuadorian authorities should try this case.

The judge should excuse himself, and I have requested him to do so. He has promised to excuse himself or disqualify himself from hearing the case. He promised this a few minutes ago.

Following the excuse, you may ask me where this case will be taken if there is only one court in Lago Agrio. The associate judges should analyze this situation and, in accordance with the Code of Civil Procedure that establishes the causes for an excuse, they will accept or deny such excuse.

If this disqualification is accepted, the Subrogate President of this Provincial Court will try the case. He will have to make his ruling and this ruling may be appealed before the Court, which is really the second authority. Apart from this, there would be an appeal for annulment before the National Court of Justice.

Therefore, I have made it clear that the judge is going to excuse himself from continuing in the process in order to avoid any artful device that may be used by the North American oil company to avoid paying the compensation we believe is more than fair because it caused a lot of damage in our country.

The Prosecutor's Office yesterday started a preliminary investigation on the videos that have been made known to everyone through the Internet. We have requested the commencement of expert inspections that may be deemed necessary to determine the veracity and authenticity of the videos that have been put up on the Web by the oil company. We have established a date and time to receive the versions of each one of the persons that appear in this video and of others who may be related to the recordings.

Moreover, I should make it very clear that the way in which these recordings have been obtained, contradicts very clear regulations of our criminal legislation. Nonetheless, we will continue with our investigations so there will be no doubt about the transparency in this process because it has been sought to delegitimize the administration of justice that has come down in our country and which we are called to protect.

I don't want to say that everything is fine now; even I permanently criticize whatever is wrong, but we cannot allow that people coming from outside try to undermine our legitimacy. We will not allow this and, as Prosecutor General, I reject this type of actions against justice.

Subsequently we believe there should be no more delays; this is urgent and there should be no more procedural delays. We need a fair process and this must be guaranteed in the country. We will be vigilant. We have progressed in our preliminary investigation and we have kindly requested the judges that, following the establishment of their competences, they can give their opinion after they have heard both parties within the framework of due process in this trial that has caused the scandal being discussed today by the Prosecutor General.

I have Chevron's letter in my hands; the fundamental part reads: Chevron has obtained audiovisual recordings of four meetings and Judge Juan Núñez Evangelista participates in some of them. One corresponds to a meeting at the Judge's office in Lago Agrio and another one in a meeting room in Quito. The recording reveals that some individuals apparently represent the Ecuadorian

Government and the Alianza País political party. These individuals met with two contractors and assured them *Judge Núñez would rule against Chevron and that the ruling would demand from Chevron a payment of billions of dollars for environmental remediation.* These alleged members of the government affirmed that *the Government was hiring environmental remediation contractors before the awarding process...* this is impossible to believe.... If there is not even a ruling, how can it be said the Government is hiring contractors for the remediation. This really lacks all grounds.

During the meetings it was said that *the contractors should pay them three million dollars. The hypothetic contractors would give out three million dollars that would be distributed as follows: a million for the judge, a million for the representatives of the Presidency, a million for the plaintiffs.* This is what Chevron affirms based on the video recordings.

You know who these individuals are: Mr. García Ortega, Juan Pablo Novoa –an alleged Government representative; Aulo Gelio Ávila, a former Director of the Land Register in Lago Agrio (who was dismissed) and is said to have been Judge Nuñez' friend; Pablo Almeida, environmental remediation contractor; Rubén Darío Miranda Martínez, Patricio García's assistant, the so called contractors. -This was even accepted by the same company-. The individual who recorded this is Diego Borja –we will have to investigate this because it is not possible that this practice is now a habit here in Ecuador... these last weeks filled with scandals of clandestine recordings.

The Prosecutor's Office is here to protect the right of the people to communicate and to defend privacy. We will be very firm and clear on this and will pursue all offenders. Those who recorded the videos were –as affirmed by Chevron-, Diego Borja, an Ecuadorian who worked for Chevron as a logistics contractor; Wayne Hansen, a North American who is not linked in any way to Chevron... but this would have to be proven.

There are some hypotheses here; some of them so despicable that go as far as suggesting the Ecuadorian Government is handling Judge Núñez. This would

have to be proven. As for the Prosecutor's Office, there has been no interference in any process; the rule of law prevails at the Prosecutor's Office. The Government has never interfered and will not interfere; in regards to the Judicial Power I don't have elements to affirm otherwise.

That Chevron is going to loose the case... that is a hypothesis. In a process you can win or loose; there are no ties. I don't see any reprehensible acts here. If they ask the Judge he is going to say I accept or reject the claim (N.T. as in the original).

That the Ecuadorian Government has provided lawyers to "help" prepare the ruling on Chevron's case... this should be proven. *That they are helping to substantiate the process...* this is impossible. The Judge and the Secretary prepare everything for the ruling... I doubt this affirmation. If they obtained these videos illegally... with this antecedent I do not rule this out... I will make a full investigation on this matter.

That the Advisor of the Presidency would have instructed the judge on how to distribute the money derived from the alleged ruling... the judge is not supposed to decide this. *The amount of the claim will be divided as follows...* I do not find any element to investigate ...

That Patricio García will give the judge one third of the bribe money. Hypothesis. *That the judge in synthesis said: I will rule against Chevron...* this should be proven. In the videos I never saw Judge Núñez affirm he will rule against Chevron. *That the claim is for 27 billion dollars.* This has been written in the same lawsuit, in the initial document; this is nothing new.

When one files a claim, one has to establish the amount of the claim. *That part of the claim for damages will be paid to the Ecuadorian Government...* this is in the lawsuit... *That he will make his ruling in October or November...* If you ask me when the Prosecutor's Office will make its ruling on xx case, I will tell you approximately what are the deadlines and when I will make my ruling. There are no elements of suspicion.

That the process of appeal between the Court and the Provincial Court is a mere formality... I already mentioned that the ruling of the President of the Court could be appealed... this is a legal formality, yes. How do you understand the term "formality"? This is simply a step or it might imply a full revision. Every appeal entails an analysis of the process. That the US Government will tell Chevron [they want to make it appear as if Judge Núñez said this] "you lost the case, pay". That Judge Núñez will allegedly say "you lost the case, pay".

That following these meetings Patricio García sent through Miranda, his assistant, instructions to the contractors to transfer the funds. I believe they cannot be so naïve. The trial is not even over and they are giving out the numbers of the accounts for these hypothetical deposits in US banks.

And I conclude... the letter says, this information has severe implications for the integrity of the case in Lago Agrio, for the faith on the rule of law, for the criminal responsibility of the different individuals who apparently asked for bribes and for the past and future role of Judge Núñez in this case. We want you to pay the closes attention to this topic.

Due to the severe implications of this issue, I called the lawyer in the US an hour ago; unfortunately we could not have a smooth conversation, but I will call him back to see if he ratifies what seems to be a claim. I am willing to investigate, and I reaffirm that we are here to ensure due process and to protect hypothetical interferences to substantiate the processes; we are here to ensure that a ruling is made according to law and by virtue of the judicial procedures.

This letter is signed by lawyer Thomas Cullen. In regards to this case I insist on my petition... Despite the observations I have just made, I have requested the Judge to excuse himself from the case to prevent this multinational from preparing arguments to avoid payment. Once a ruling is made and this is executed, the corresponding legal mechanisms established by international law will be adopted so the US authorities will order compliance with such ruling.

QUESTIONS

The decision to request the judge to excuse himself from the case does not mean the Ecuadorian State is giving in to the claims of the oil company?

This observation is proper of a shrewd journalist, but I believe this is a matter of essential dignity when a Judge has been questioned, with or without reason. I excuse myself temporarily so my excuse can be analyzed. If there are merits and causes, I will excuse myself permanently; otherwise, I may continue presiding over the case. I believe that beyond certain formalities, all of our actions should be guided by ethics, not only by judicial norms. All of our actions should be ruled by integrity.

I have spoken to the Judge and he told me we will excuse himself today so the judges can analyze his decision. This is not automatic; one cannot excuse oneself at will; there must be reasons and these should be analyzed by the other judges.

How long can this case take? Does it have something to do with the Council of the Judicature or only with the Court in Nueva Loja?

From what I understood from Dr. Benjamín Cevallos, President of the Council of the Judicature, they will also commence an investigation, and I believe this is correct. They will investigate the administrative conduct of Dr. Juan Núñez as a judicial servant. The Prosecutor's Office is willing to contribute in regards to the criminal aspects of this investigation. We will ensure that all investigations needed are carried out to ensure the transparency of our actions, even more so when this is such an important claim that involves such a large sum of money. 27 billion dollars; a claim for this amount has no precedents in the country, and neither does the damage on the people and on the environment.

But does this mean that the case will be delayed... this has already been going on for 15 years.

The excuse presented by the Judge –if ratified- does not entail any delays. It may take one week at the most for the Provincial Court to take notice and make its decision. No more delays. The Prosecutor, the Prosecutor's Office that is here to defend the interests of the people, will be vigilant of the actions taken by

the judges. We are part of the procedures in regards to the criminal aspects of the case and will be vigilant to ensure due process.

You have referred to this taunting agent who tried to induce the Judge. These taunting agents have said that a contract will be granted and that three million dollars will be shared-out. Do they have to explain how and why they tried to corrupt the judge?

I have not seen in the videos that a proposal is being made to the judge so that he will rule in one way or another in Chevron's case, and even less so that he may award anything on their benefit. This is not said in the videos. I will call you next week when I will have the videos in my hands. The preliminary investigation is underway and next week I will be able to give you more information...

Will this preliminary investigation prove the authenticity of these videos and will there be a sanction against Chevron?

We have already appointed criminal investigators to proceed to the analysis of these videos. They will start working next Monday and this will allow us to authenticate them or not. A translation will also be made –despite that there is a translation on the Web-, but this is a mere reference for us. We have to make an official analysis and translation; this is why we have appointed the corresponding experts and we will grant them the time necessary for them to prove their authenticity and to work on the translations. We will call Mr. Cullen to ask him to amplify the information he provided and to acknowledge his claim, as this document does not constitute a claim. Anyhow, we have taken this as a report on a possible crime.