



Plenary sitting

B8-0189/2019

12.3.2019

MOTION FOR A RESOLUTION

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 135 of the Rules of Procedure

on Situation of human rights in Guatemala
(2019/2618(RSP))

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on behalf of the GUE/NGL Group

**European Parliament resolution on Situation of human rights in Guatemala
(2019/2618(RSP))**

The European Parliament,

- having regard to its resolutions of 15 March 2007 on Guatemala , of 11 December 2012 on the EU-Central America Association Agreement, and of 16 February 2017 on Guatemala, notably the situation of human rights defenders,
- having regard to the visit of the delegation with the countries of Central America to Guatemala, on 28 October to 1 November 2018,
- having regard to the European Union support programmes for the justice sector in Guatemala, particularly SEJUST,
- having regard to the Statement by the Spokesperson of the EEAS on the decision of the Guatemalan government not to renew the CIGIC mandate, of 2 September 2018,
- having regard to the Declaration by the High Representative on behalf of the EU on the unilateral decision by the Government of Guatemala to withdraw from the CICIG Agreement with the United Nations, 11 January 2019,
- having regard to the pronouncement of the High Commissioner for Human Rights of the United Nations, Michelle Bachelet, on the decision of the Guatemalan government against the CICIG, on 10 September 2018,
- having regard to the declaration of the High Commissioner for Human Rights of the United Nations, Michelle Bachelet, on the bill amending the Guatemalan Law on Non-Governmental Organisations for Development, of 6 March 2019,
- having regard to the statement of the United Nations Independent Experts: "Guatemala must ensure independent justice system in fight against corruption, say UN rights experts", February 11, 2019,
- having regard to the Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Guatemala, August 10, 2018,
- having regard to the statement of the United Nations Independent Experts: Guatemala: "UN experts concerned indigenous leader convicted in retaliation for opposition to Oxec hydro project", December 19, 2018
- having regard to the United Nations Universal Declaration of Human Rights of 1948, the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights of 1966, and the United Nations Declarations on Human Rights Defenders of 1998,

- having regard to the Universal Periodic Review outcomes of Guatemala, 8th November 2017,
 - having regard to Rule 135 of its Rules of Procedure,
- A. whereas according to national and international NGOs, at least 391 human rights defenders were attacked in Guatemala in 2018 including 147 cases of criminalisation and 26 assassination, a 136% increase respect to 2017; whereas this increase in killings and attacks has been particularly severe for those defenders, organizations and communities that work on economic, social, cultural and environmental rights; whereas they also face threats, intimidation, stigmatization, defamation campaigns by private actors and the Guatemalan authorities and judicial persecution;
 - B. whereas according to UDEFEGUA, the victims of attacks "have been mostly indigenous leaders who defend the right to land and territory"; whereas the Special Rapporteur on the rights of indigenous peoples observed that the situation of indigenous peoples in Guatemala is characterized by the lack of protection of their rights to their lands, territories and natural resources; and expressed its concern about the resurgence of violence, forced evictions and the criminalization of indigenous peoples who defend their rights; whereas her concern over the complaints received regarding hydroelectric, mining and agroindustrial projects whose licenses and operations have caused violations of the rights of indigenous peoples; whereas she stated that it is also worrisome that the peaceful protests of the communities be considered by the State and the third parties involved as situations of criminal conflict that affect public safety;
 - C. whereas Bernardo Caal Xol, one of the leaders of the Peaceful Resistance of Cahabon against the Oxec company's project, was sentenced to seven years in prison in November 2018 through allegedly he was not present at the place of crime; whereas UN rights experts have affirmed "the conviction of the q'eqchí' leader is an apparent attempt to silence and discredit the legitimate exercise of the rights of the indigenous community"; whereas the UN rights experts have added that this is not an isolated case, "there are numerous indigenous community members who are being criminalised in Guatemala for defending their traditional lands and resources against large-scale development projects which cause environmental damage";
 - D. whereas Aura Lolita Chavez Ixcaquic, finalist of 2017 Sakharov Prize, had to leave Guatemala on 2017 after an attempt; whereas since then, she hasn't been able to return to her country because there isn't security conditions; whereas she has faced attacks, murder threat, defamation and is currently facing various judicial process;
 - E. whereas some organizations which works on territorial rights have faced security incidents; whereas the Rural Coordinator Chortí Nuevo Día (CCCND), the Verapaz Union of Campesino Organizations (UVOC), the Peasant Committee of the Altiplano (CODEDA), and the Peaceful Resistance of Cahabón, operating in the Department of Alta Verapaz, faced acts of intimidation, murders, death threats, defamation, gunshots against their homes, imprisonment and arrest warrants;

- F. whereas the deterioration of the security situation for defenders has been accentuated by the lack of investigation, and the weakening of the justice system and the current constitutional crisis; whereas in 2018 and the first months of 2019 Guatemala has seen a severe rollback in terms of Rule of Law and democracy; whereas there were several moments of open disobedience by the government of institutional and democratic procedures, even ignoring several sentences of the Constitutional Court;
- G. whereas in August, the Supreme Court for Justice accepted a case asking for a pre-trial investigation of President Jimmy Morales due to illegal financing; whereas two weeks later, the government announced the non-renewal of the International Commission against Impunity (CICIG) mandate after September 2019; whereas then was prohibited the return of the CICIG director Iván Velasquez to the country, were cancelled 11 visas of other employees of the CICIG and finally in early January 2019, the government unilaterally cancelled with immediate effect the agreement with United Nations to implement the CICIG;
- H. whereas the Constitutional Court ordered, the Government had to permit the entrance of Iván Velasquez to the country, emitted an appeal in favour of the 11 employees, and declared the unilateral end of the contract with the UN as unlawful and contradicting the Constitution; whereas these rulings by the Constitutional Court have been ignored by the government; whereas the Congress prepares action against the Constitutional Court and its members, creating a flagrant conflict with the Rule of Law;
- I. whereas since, 2007, the CICIG has been fighting corruption and impunity on invitation of the Government of Guatemala and in close collaboration with the national institutions in Guatemala, in order to identify and help dismantle parallel hidden structures, as well as contributing to strengthening the capacities of the country's judicial and security institutions; whereas during the last five years of work, 60 criminal groups, have been dismantled and 680 people have been prosecuted for corruption; whereas they were investigating more than a dozen current and former members of Congress, as well as former President Otto Pérez Molina and former Vice President Roxana Baldetti;
- J. whereas these attacks against the CICIG, have generated serious worries and protests in Guatemala and among the international community; whereas the ex-attorney general of Guatemala, Thelma Aldana, considers that the reiterated refusal from the Government to accept the Constitutional resolutions supposes "a technical coup d'état"; whereas the High Commissioner for Human Rights of United Nations, regretted the decision of the Guatemalan government against the CICIG and asked to the government to guarantee democratic freedoms; whereas the High Representative of the European Union for Foreign Affairs and Security Policy, Federica Mogherini, expressed in a Statement the worry of all Member States on the rollback in the consolidation of the rule of law;
- K. whereas according to national and international NGOs there is a campaign to delegitimise and attack institutions linked to the defence of human rights, in particular the Office of the Human Rights Ombudsman, judges and magistrates (especially the judges from the Constitutional Court), public prosecutors assigned to transitional

justice and corruption cases, and the Supreme Electoral Tribunal; whereas on February 11, 2019, various UN Special Rapporteurs denounced that “there have been allegations of intimidation and threats against magistrates, judges and prosecutors”;

- L. whereas the human rights defenders are also facing a shrinking space for civil society because of several law initiatives; whereas the National Reconciliation Law reforms (bill 5377) was approved in the second of three readings on March 6, 2019 and is now approaching its final approval; whereas it would extend amnesty for all crimes committed during the internal armed conflict, including crimes against humanity, such as genocide, torture, and forced disappearance; whereas the bill violates article 117 of the Constitution, which establishes a prohibition on amnesty for such crimes, in accordance with international human rights doctrines; whereas It would enter into effect immediately upon being passed, and would apply retroactively, and those already convicted of crimes against humanity would be freed; whereas the cases of transitional justice currently in process would be stopped; whereas the international human rights bodies have reiterated that amnesties for crimes under international law or serious human rights violations are incompatible with the obligations assumed by States to investigate, prosecute and punish those responsible these crimes;
- M. whereas the UN High Commissioner for Human Rights Michelle Bachelet, expressed concern about the possible approval of bill 5257, which proposes amending the Law on Nongovernmental Development Organizations; whereas according to Bachelet the proposal would greatly limit the work of human rights defenders and civil society in general; whereas the bill 5257 aims to add controls and requirements for the registration and operation of NGOs in the country; whereas the law would grants powers to the government to permanently suspend the activities of an NGO and to restrict the processing of international funds to NGOs; whereas this bill has been tabled for its third and final reading in various occasions and is likely to be approved in the upcoming weeks;
- N. whereas the EU is the main donor of official development aid to Guatemala; whereas on 26 September the European Union Member States approved additional support to the International Commission against Impunity in Guatemala with 5 million Euros from the Development Cooperation Instrument;
- O. whereas the EU has a long-standing relations with Guatemala which is mainly governed by the Political Dialogue and Cooperation Agreement between Central America and the EU of 2003, which is based on political dialogue, cooperation and a free trade area; whereas on 29 June 2012, the EU signed an Association Agreement with six Central American States (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama):
- P. whereas in 2019, Guatemala is holding municipal, general and presidential elections; whereas there will also be selection of judges of the Supreme Court of Justice and the Appeals Court; whereas is the first time in 38 year that representatives of all three branches of government are elected in the same year;
- 1. condemns the murders of Human Rights Defenders in Guatemala in 2018; adds its

condolences to the family and friends and encourages them and all HRDs to continue their courageous fight for their rights; pays tribute to all HRD in Guatemala who despite the risks and reprisals to their legitimate human rights work dedicate their life to the pursuit of a more democratic society and a functioning rule of law in their country;

2. expresses its concern on the particular situation of HRDs and social leaders who defend the right to land and territory, who are facing a criminalization campaign and suffering permanent attacks to their rights; is deeply concerned of the economic and social situation facing by the population of Guatemala as a whole, in particular women, rural population, LGTBI people and indigenous people, given the dramatic human rights situation in the country;
3. Underlines that the Guatemalan authorities must guarantee in all circumstances that all human rights defenders are able to carry out their legitimate human rights activities without fear for their lives or fear of reprisals and free of all restrictions including judicial harassment; notably in case of Aura Lolita Chavez Ixcaquic, finalist of the 2017 Sakharov prize, demands that all the necessary guarantees be provided so that she can return to Guatemala
4. Calls on Guatemalan authorities to immediately and unconditionally release all who have been imprisoned solely for peacefully exercising their right to freedom of expression or for defend their rights; calls to Guatemalan authorities to assure that the judicial system will not to be used as a tool to prosecute human rights defenders and that in all cases a fair and transparent judicial process be ensured; specially calls for immediately and unconditionally release of Bernardo Caal Xol, and to drop all charges against them;
5. Calls on Guatemalan authorities to put in place immediately the necessary measures to respond to their engagement in UPR to investigate and lead to legal responsibility the actors of attacks against human right defenders;
6. is concerned about the foreseen reforms of the Law on Non-Governmental Organizations on Development; reminds the authorities and institutions of Guatemala of the need to create and maintain a safe and conducive environment for NGOs to freely express their opinions and conduct their work for the benefit of society at large; is worried that the reform plans ignore recommendations by the UN High;
7. recalls that international standards establish limits regarding the adoption of amnesties for the most serious crimes and point out that they are incompatible with State obligations to prosecute grave violations of human rights; is convinced that the reform of the bill to the National Reconciliation Law would seriously degrade the Rule of Law in Guatemala and would drastically undermine all the important progress achieved through the work of CICIG and the national courts in their fight against impunity
8. highlights its deep concern at the climate of harassment and destabilisation against human rights defenders working against impunity and corruption, including justice operators; condemns the intimidation and threats against magistrates, judges and prosecutors and calls to the Guatemalan authorities to immediate protect justice

operators and to take concrete steps to guarantee the independence of the judiciary;

9. considers guaranteeing an independent judiciary and respecting its independence as well as ensuring an impartial system are essential; considers these are also key in consolidating efforts to combat corruption and impunity;
10. believes the fight against corruption is inextricably linked to the exercise and enjoyment of human rights and that impunity causes and perpetuates acts of corruption; in this sense reminds establishing effective mechanisms to eradicate impunity is essential to achieving effective access to independent, impartial justice and guaranteeing human rights;
11. recognises the CICIG has played a paramount role in the fight against impunity and corruption in the country, a key requirement to ensure the respect of human rights and, specifically, to guarantee the full protection of human rights defenders in Guatemala; expresses its utmost concern about the current situation of the CICIG in Guatemala and asks the Guatemalan authorities to cease all illegal attacks against the CICIG and its national and international staff;
12. welcomes, in this context, the Commission Implementing Decision to support the extended mandate of the CICIG with an additional EUR 5 million from the Development Cooperation Instrument (DCI) 2018 Guatemala annual action programme; takes note that the draft Implementing Decision has received a positive opinion from the Member States in the DCI Committee meeting of 26 September 2018, but that the money has not been released as yet;
13. requests, therefore, the Commission to disburse the EUR 5 million amount agreed last September as a matter of urgency, and to continue all approved programmes with the CICIG; calls on European Union to ensure political and financial support to the CICIG until the very last day of its mandate as well as a provision of funds that could be activated if the decision not renewing its mandate were to be revoked;
14. Reiterates that the activities of European companies present in third countries must be entirely consistent with international human rights standards; calls, therefore, on the Member States to ensure that companies which come under their national law do not disregard human rights or the social, health and environmental standards which apply to them when moving to, or doing business in, a third country; calls on the Commission and Member States to take the requisite action against European companies which do not comply with those standards or which do not adequately compensate victims of human rights violations for which they are directly or indirectly responsible;
15. Expresses its concern about the complaints made regarding the lack of free, prior and informed consultations (ILO Convention 169); recalls the recommendation of the Special Rapporteur that the rights of indigenous peoples should be fully respected in accordance with international standards, which includes the right to free, prior and informed consultation;
16. Insists on the need for legislative measures that ensure that EU based companies acquire binding due diligence obligations with respect to human, indigenous and

environmental rights violations throughout their value chain;

17. Calls on the European Commission to immediately suspend the application of the trade pillar of the Association Agreement EU-CA;
18. Expects the elections in Guatemala to take place in a pacific manner, and that security is provided for all candidates; underlines that the Supreme Electoral Court (TSE) must act independently and with no interference; offers to send Electoral Observation Mission from the EU;
19. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the European External Action Service, the EU Special Representative for Human Rights, the governments and parliaments of the Member States, the UN Human Rights Council, the President, Government and Parliament of the Republic of Guatemala, the CICIG, SIECA, the Parlacen, and the co-presidents of the EuroLat Assembly.