



TEXTS ADOPTED

Provisional edition

P8_TA-PROV(2017)0045

Guatemala, notably the situation of human rights defenders

European Parliament resolution of 16 February 2017 on Guatemala, notably the situation of human rights defenders (2017/2565(RSP))

The European Parliament,

- having regard to the Universal Declaration of Human Rights and to the UN human rights conventions and the optional protocols thereto,
- having regard to the European Convention on Human Rights, the European Social Charter and the EU Charter of Fundamental Rights,
- having regard to the European Consensus on Development of December 2005,
- having regard to its previous resolutions on the violation of human rights, including its resolutions on debates on cases of breaches of human rights, democracy and the rule of law,
- having regard to its resolutions of 13 March 2007 on Guatemala¹ and of 11 December 2012² on the EU-Central America Association Agreement,
- having regard to its Subcommittee on Human Rights visit to Mexico and Guatemala of February 2016 and its final report,
- having regard to the Delegation for relations with the countries of Central America report on its visit to Guatemala and Honduras on 16-20 February 2015,
- having regard to its resolution of 21 January 2016 on the EU's priorities for the UNHRC sessions in 2016³,
- having regard to the United Nations Special Rapporteur's report on the global threats facing human rights defenders, and on the situation of women human rights defenders,
- having regard to the Annual Report 2016 of the United Nations High Commissioner for

¹ OJ C 301 E, 13.12.2007, p. 257.

² OJ C 434, 23.12.2015, p. 181.

³ Texts adopted, P8_TA(2016)0020.

Human Rights on the activities of his office in Guatemala,

- having regard to the recent visit by the EU Special Representative on Human Rights to Guatemala,
- having regard to the UN Covenant on Civil and Political Rights of 1966,
- having regard to the EU Action Plan on Human Rights and Democracy (2015-2019),
- having regard to the 2014-2017 EU Roadmap for Engagement with Civil Society in Partner Countries,
- having regard to the EU Guidelines for the Protection of Human Rights Defenders and to the Strategic Framework on Human Rights, which commits to engage on human rights defenders,
- having regard to UN Human Rights Council Resolution 26/9 of 26 June 2014, in which the UNHRC decided to establish an open-ended intergovernmental working group with the aim of drawing up an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights,
- having regard to the 1989 International Labour Organisation Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO Convention 169),
- having regard to the human rights clauses of the EU-Central America Association Agreement and the EU-Central America Partnership and Cooperation Agreement (PCA), in force since 2013,
- having regard to the Multiannual Indicative Programme for Guatemala 2014-2020, and its engagement to contribute to the resolution of conflicts, to peace and to security,
- having regard to the European Union support programmes for the justice sector in Guatemala, particularly SEJUST,
- having regard to the 2014 judgment of the Inter-American Court of Human Rights in the case of *Human rights defenders et al. v. Guatemala*, and the Inter-American Commission on Human Rights report on the situation of human rights in Guatemala (OEA/Ser.L/V/II. Doc. 43/15) of 31 December 2015,
- having regard to Article 25 of the Rules of Procedure on the mechanism for precautionary measures of the Inter-American Commission on Human Rights,
- having regard to the 2009 Council Conclusions on Democracy Support in the EU's External Relations,
- having regard to the 2009 Council Guidelines on Human Rights and International Humanitarian Law,
- having regard to the Declaration of 9 December 2016 by the High Representative Federica Mogherini on behalf of the European Union on Human Rights Day, 10 December 2016,
- having regard to the statement of 17 August 2016 by the EEAS Spokesperson on Human

Rights Defenders in Guatemala,

- having regard to the Santo Domingo Declaration of the EU-CELAC Ministerial Meeting of 25-26 October 2016,
 - having regard to the Statement of 1 February 2017 of the Group of Thirteen on the strengthening of the rule of law and the fight against corruption and impunity,
 - having regard to Articles 2, 3(5), 18, 21, 27 and 47 of the Treaty on European Union, and to Article 208 of the Treaty on the Functioning of the European Union,
 - having regard to Rules 135 of its Rules of Procedure,
- A. whereas Guatemala is EU's third-largest recipient of bilateral development assistance in Central America, with this assistance amounting to EUR 187 million for the 2014-2020 period and focusing on food security, conflict resolution, peace, security and competitiveness;
- B. whereas Guatemala is strategically located on the drug supply and illegal migration route between Central America and the United States; whereas Guatemalans remain the second largest group of deportees from the US; whereas decades of internal conflict, high poverty rates and a deep-rooted culture of impunity have led to sustained levels of violence and security threats in Guatemala; whereas the whole of society is affected by high criminality rates, but most specifically human rights defenders, NGOs and local authorities;
- C. whereas 2017 marks the 20th anniversary of the Peace Agreements for Guatemala; whereas the fight against impunity, including the serious crimes committed under the former non-democratic regimes, is essential; whereas the Guatemalan authorities need to send a clear message to the physical and intellectual perpetrators of violence against human rights defenders that such actions will not go unpunished;
- D. whereas fourteen murders and seven attempted murders of human rights defenders in Guatemala were registered between January and November 2016 by the Unit for the Protection of Human Rights Defenders of Guatemala (UDEFEGUA); whereas, according to the same sources, in 2016 there were 223 aggressions overall against human rights defenders, including 68 new legal cases launched against human rights defenders; whereas environmental and land rights defenders and those working on justice and impunity were the most frequently targeted categories of human rights defenders;
- E. whereas 2017 has already seen the killing of human rights defenders Laura Leonor Vásquez Pineda and Sebastián Alonzo Juan, in addition to the journalists reported to have been killed in 2016 – Victor Valdés Cardona, Diego Esteban Gaspar, Roberto Salazar Barahona and Winston Leonardo Túnchez Cano;
- F. whereas the human rights situation remains very serious; whereas the situation of women and indigenous people, especially those defending human rights, and that of migrants, is a matter of serious concern, as are other issues such as access to justice, prison conditions, police conduct and allegations of torture, compounded by widespread corruption, collusion and impunity;
- G. whereas Guatemala has ratified ILO Conventions 169 concerning Indigenous and Tribal Peoples and Convention 87 on the Freedom of Association and Protection of the Right to

Organise; whereas there are some positive signs such as the creation of the Mesa Sindical del Ministerio Público; whereas Guatemalan legislation does not include an obligation to conduct prior, free and informed consultation with indigenous communities, as stated in ILO Convention 169;

- H. whereas the Inter-American Court of Human Rights issued a binding sentence in 2014 calling for a public policy for the protection of human rights defenders; whereas an EU-funded consultation process for the creation of the abovementioned policy is underway;
- I. whereas the UN Guiding Principles on Business and Human Rights apply to all states and to all business enterprises, whether transnational or other, regardless of their size, sector, location, ownership and structure, although effective control and sanction mechanisms remain a challenge in the worldwide implementation of the UNGPs; whereas the human rights situation in Guatemala will be reviewed in November 2017 under the Universal Periodic Review (UPR) Mechanism for the Human Rights Council (HRC);
- J. whereas the Guatemalan Human Rights Ombudsman, the Public Ministry and the judiciary have taken important steps against impunity and for the recognition of human rights;
- K. whereas Guatemala has taken some positive steps, such as the extension of the CICIG (International Commission against impunity in Guatemala) mandate to 2019; whereas in October 2016, a proposal for constitutional reform of the justice sector based, *inter alia*, on round-table discussions with civil society was presented to Congress by the Presidents of the Executive, of the Congress and of the justice system of Guatemala, and seeks to strengthen the justice system based on principles such as judicial career, legal pluralism and judicial independence;
- L. whereas a targeted campaign of harassment has impeded a number of emblematic cases involving corruption and transitional justice, with human rights defenders working in this context, including judges and lawyers, facing intimidation and trumped-up legal complaints; whereas Iván Velásquez, Director of the internationally recognised International Commission against Impunity in Guatemala (CICIG), is also facing charges and is subject to an ongoing smear campaign; whereas emblematic cases in the field of transitional justice are moving forward, such as those involving Molina Theissen and CREOMPAZ, or those on corruption in the La Linea y Coparacha cases, among others;
- M. whereas some EU Member States have not yet ratified the EU-Central America Association Agreement and the 'Political Dialogue' pillar has therefore not yet entered into force; whereas human rights and the rule of law are at the heart of the EU's external action policy, in addition to sustainable economic and social development;
 - 1. Condemns in the strongest terms the recent murders of Laura Leonor Vásquez Pineda, Sebastian Alonzo Juan and the journalists Victor Valdés Cardona, Diego Esteban Gaspar, Roberto Salazar Barahona and Winston Leonardo Túnchez Cano, as well as each of the 14 assassinations of other human rights defenders in Guatemala carried out in 2016; extends its sincere condolences to the families and friends of all of those human rights defenders;
 - 2. Stresses its concern that the continuous acts of violence and lack of security have a negative impact on human rights defenders being able to fully and freely carry out their activities; pays tribute to all human rights defenders in Guatemala and calls for an

immediate, independent, objective and thorough investigation into the abovementioned and previous murders; emphasises that a vibrant civil society is essential in order to make the state at all levels more accountable, responsive, inclusive, effective and hence more legitimate;

3. Welcomes Guatemala's efforts in its fight against organised crime, asks that these be stepped up and recognises the enormous difficulty it faces in providing security and freedom to all its citizens in a structural violence situation such as that generated by narcotics; calls on the EU institutions and EU Member States to provide technical and budgetary means to Guatemala to assist its fight against corruption and organised crime, and to prioritise such efforts in bilateral cooperation programmes;
4. Recalls the need to develop a public policy for the protection of human rights defenders, as stated by the Inter-American Court of Human Rights (IACHR) in 2014; takes note of the recently launched National Dialogue, calls on the Guatemalan authorities to ensure that the public policy is developed through a wide participative process and addresses the structural causes that increase the vulnerability of human rights defenders, and invites the business community to support these efforts;
5. Welcomes the decision by the EU Delegation in Guatemala to contribute financially to the discussion and consultation process on such a programme and encourages the EU Delegation to continue its support for human rights defenders; calls on the competent authorities to draw up and implement a public policy to protect human rights defenders in close cooperation with a wide range of stakeholders, and to continue on the path of reforms towards an independent judiciary, the fight against impunity and the consolidation of the rule of law;
6. Calls for the urgent and mandatory implementation of the precautionary measures recommended by the IACHR and calls on the authorities to reverse the decision that unilaterally removes national precautionary measures benefitting human rights defenders;
7. Recalls the results of the 93 communitarian consultations undertaken in good faith in 2014 and 2015; recalls that a participatory process is currently ongoing and calls on the Guatemalan authorities to accelerate the procedures to ensure the establishment of a national mechanism for free and informed prior consultations, as foreseen under ILO 169; calls on the Guatemalan Government to launch wider social consultations concerning the hydroelectric plants, mining projects and oil companies, and calls on the EU institutions to ensure that no European assistance or support promotes or permits development projects without meeting the obligation for prior, free and informed consultation with indigenous communities;
8. Welcomes the initiative on a reform of the justice system presented by the executive, judiciary and legislative powers to the Congress in order to further develop a professional democratic justice system based on effective judicial independence; calls for joint efforts by the Guatemalan Congress in order to conclude the judicial reform in its entirety and full integrity in 2017; to that end, calls on the Guatemalan authorities to allocate sufficient funding and human resources to the judiciary and in particular to the Attorney General's office; supports the important work of the International Commission against Impunity in Guatemala (CICIG);
9. Welcomes the ruling of the First Chamber of the Court of Appeals whereby it reaffirmed

the non-applicability of statutory limitations to the crime of genocide and crimes against humanity in the trial of former dictator Mr Rios Montt as a milestone in the fight against impunity;

10. Calls on the Guatemalan state to cooperate with the Universal Periodic Review mechanism and to take all appropriate steps to implement its recommendations;
11. Asks the European Union to support the Attorney General's Office; strongly rejects any kind of pressure, intimidation and influence that jeopardises independence, legal pluralism and objectivity; encourages the Guatemalan authorities to continue fostering cooperation between the Ministry of the Interior's Unit for the Analysis of Attacks against human rights defenders and the Human Rights Section of the Attorney General's Office;
12. Calls on the EU institutions to work towards the conclusion of internationally binding agreements that will strengthen human rights compliance, specifically in the case of EU-based companies operating in third countries;
13. Calls on those EU Member States that have not done so to swiftly ratify the EU-Central America Association Agreement; asks the European Union and its Member States to make use of the mechanisms laid down in the Association and Political Dialogue Agreement to strongly encourage Guatemala to pursue an ambitious human rights agenda and the fight against impunity; calls on the EU institutions and Member States to earmark sufficient funds and technical aid for this task;
14. Instructs its President to forward this resolution to the Council, the Commission, the European External Action Service, the EU Special Representative for Human Rights, the Organisation of American States, the Euro Latin Parliamentary Assembly, the governments and parliaments of the Member States, the President, Government and Parliament of the Republic of Guatemala, SIECA and Parlacen.