



Plenary sitting

B9-0317/2020

6.10.2020

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 144 of the Rules of Procedure

on the "Foreign Agents" Law in Nicaragua
(2020/2814(RSP))

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B9-0317/2020

European Parliament resolution on the "Foreign Agents" Law in Nicaragua (2020/2814(RSP))

The European Parliament,

- having regard to its previous resolutions on Nicaragua, in particular those of 18 December 2008, 26 November 2009, 16 February 2017, 31 May 2018, 14 March 2019 and 19 December 2019,
- having regard to Article 1 of the Association Agreement between the EU and Central America of 2012,
- having regard to the EU country strategy paper and multiannual indicative programme 2014-2020 on Nicaragua,
- having regard to the Council Decision (CFSP) 2020/607 of 4 May 2020 and Council Implementing Regulation (EU) 2020/606 of 04 May 2020 concerning restrictive measures in view of the situation in Nicaragua,
- having regard to the Council conclusions on Nicaragua, in particular those of 14 October 2019 establishing a framework for targeted sanctions,
- having regard to the declarations by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) on behalf of the EU on the situation in Nicaragua, in particular that of 4 May 2020,
- having regard to the report of the High Level Commission on Nicaragua of the Organization of American States of 19 November 2019,
- having regard to the report of the UN High Commissioner for Human Rights of 3 September 2019 on the situation of human rights in Nicaragua,
- having regard to the statements of the UN High Commissioner for Human Rights during the 45th session of the Human Rights Council of 14 September 2020 and during the 44th session of the Human Rights Council on 2 July 2020,
- having regard to the International Covenant on Civil and Political Rights (ICCPR) of 1966,
- having regard to the Universal Declaration of Human Rights of 1948,
- having regard to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms adopted by the UN General Assembly on 9 December 1998,
- having regard to the EU Guidelines on Human Rights Defenders of June 2004, as updated in 2008,

- having regard to the draft “Law on Regulation of Foreign Agents” presented by Deputies of the Alianza Frente Sandinista de Liberación Nacional on 22 September 2020,
 - having regard to Rule 144 of its Rules of Procedure,
- A. Whereas human rights defenders, environmental activists and others critics of the Nicaraguan Government have increasingly become the targets of death threats, intimidation, online defamation campaigns, harassment, surveillance, assault, judicial persecution and arbitrary deprivation of liberty; whereas the current crisis has prompted over 100.000 people to flee Nicaragua;
 - B. Whereas the draft “Law on Foreign Agents” presented by Deputies of the Alianza Frente Sandinista de Liberación Nacional on 22 September 2020 risks further exacerbating the ongoing climate of intimidation, by intending to establish a legal framework for persons or legal entities that depend on interests or funding from abroad and make use of such funding to “interfere in the country’s internal affairs”; whereas, also through linking the proposal to objectives of countering terrorism and money laundering, significant discretionality is left to the national authorities to define such perceived interference; whereas this can lead to grave situations of unlawful criminalisation of civil society organisations, activists and human rights defenders;
 - C. Whereas shortly after the presentation of the draft Law on Foreign Agents, on 28 September 2020, Deputies of the Alianza Frente Sandinista de Liberación Nacional presented a new “Special Law on Cybercrimes”, which seeks to impose criminal penalties for online espionage, fraud, transferring classified information, and sharing false information; whereas under Article 30 of said law, those convicted of using a computer to publish or disseminate “false and/or misrepresented information, which causes alarm, fear, anxiety among the population, or to a group or sector of it, to a person or their family” could be fined and sentenced to up to four years in prison;
 - D. Whereas the draft law follows the initiative of a legislative reform of the penal code aimed at introducing a sentence of life imprisonment for hate crimes and persons attempting against the peace of the country; whereas large margins of discretion in the implementation of such reform may lead to the further repression of freedom of expression and association;
 - E. Whereas the draft law has not been accompanied by any impact assessment or supporting evidence showing the necessity and proportionality of the measures proposed vis a vis the impact of such measures on fundamental rights, including the rights to privacy of information, right to work and freedom of association and the right to defend human rights, recognised by both international human rights law and by the Constitutional law of Nicaragua;
 - F. Whereas, if adopted, the draft law would introduce the obligation for individuals, organizations or institutions receiving funds from abroad, including journalists and media, to be registered with the Ministry of the Interior (Migob) and to submit to financial monitoring under the Financial Analysis Unit (UAF); whereas this would subject individuals to close surveillance and severe restrictions on their civil and political rights, including the freezing of all their assets;

- G. Whereas the adoption and application of similar regulatory frameworks in other countries of Central and South America show a clear trend towards the repression and criminalisation of human rights defenders; whereas a similar negative trend of shrinking space for civil society is observed in the region, including in Guatemala, where the ongoing reform of the Law on Non-Governmental Organizations for Development (Decree 2-2003), creates risks of persecution based on dissent, aims to deter public criticism, and eliminates any possibility of accountability to the public, thereby perpetuating schemes of corruption and impunity, whereas such reformed was condemned by the Inter-American Commission on Human Rights (IACHR) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) for being contrary to the international obligations of the state of Guatemala;
- H. Whereas the development and consolidation of democracy and the rule of law and respect for human rights and fundamental freedoms is an integral part of the EU's external policies, included in the Association Agreement between the EU and the countries of Central America of 2012;
1. Denounces the increasing restrictions on civic space and expressions of dissent taking place in a broader context of growing polarisation and a climate of intimidation and threat, as denounced by human rights defenders in the country; condemns the worrying increase of acts of intimidation, threats, seizure of equipment and arbitrary arrests against independent media and human rights defenders since April 2018; condemns furthermore the increasing violence and intimidation faced by women activists and human rights defenders in the country, where only in the first half of September 165 aggressions against women activists have been reported, including sexual violence and threats on social media; regrets that no decisive action has been taken to ensure justice for the victims of grave human rights violations, including the release without further conditions of persons deprived of their liberty for political reasons.
 2. Is concerned that, if adopted, the Law on Regulation of Foreign Agents will significantly limit the right to equal political and public participation of individuals participating in movements, organisations or associations receiving international funding, including for development projects; stresses that political and public participation rights, including the right to defend human rights, play a crucial role in the promotion of democratic governance, the rule of law, social inclusion and economic development, as well as in the advancement of the rights to peaceful assembly and association, freedom of expression and opinion and the rights to education and to information;
 3. Recalls that Article 13 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms adopted by the UN General Assembly on 9 December 1998 states that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means; recalls the need for Nicaragua to ensure the protection of the right to freedom of association and peaceful assembly; stresses that the Nicaraguan authorities must in all circumstances ensure that human rights defenders are able to carry out their human rights work free of threats, intimidation and impediment;

4. Recalls and commends the joint efforts together with European and international groups and action of civil society in Nicaragua over the past 40 years, based on trust, confidentiality and freedom of speech and information, aimed at building a social model intended to overcome the previous dictatorship;
5. Stresses the importance of building, promoting and defending a vibrant and empowered civil society, rooted in democracy, equality and freedom of speech and association; calls to this end on the Government of Nicaragua to refrain from any action limiting the space of civil society and human rights defenders; highlights the negative impact that the adoption of law restricting the space for civil society would have on the citizens of Nicaragua and on its external image;
6. Calls on the Congress of Nicaragua to reject the draft Law on Foreign Agents and the Special Law on Cybercrimes, to immediately release all those arbitrarily detained, cease using arbitrary arrests or alternative measures of detention as a means to repress dissent and to end the persistent repression of media and civil society, including by returning confiscated property to news outlets, restoring their licenses to operate, as well as the legal personality to NGOs;
7. Calls on the government of Nicaragua to allow the return of international organizations into the country, including the Inter-American Commission on Human Rights and the Office of the High Commissioner for Human Rights; welcomes the June UN Human Rights Council resolution mandating enhanced monitoring from the Office the High Commissioner for Human Rights (OHCHR) on the situation in Nicaragua, and the EU's support for its adoption;
8. Recommends the European Union and its institutions to firmly support the existence and action of the Inter-American Commission on Human Rights, to respect its autonomy and the non-interference in the selection of its Secretariat;
9. Calls on the European Union to continue prioritising, through its external action and dialogue, the promotion of democracy, the rule of law, equality and media freedom; asks the VP/HR and the EU Delegation to closely monitor developments that are taking place in the country; calls on the Commission to ensure that its cooperation assistance enhances support to civil society, notably human rights defenders, and that it does not in any way contribute to the current repressive policies of the Nicaraguan authorities;
10. Calls for the promotion of peaceful dialogue among Nicaraguan nationals and negotiations on institutional reform, including of the electoral institutions; in this regard, calls on the Government of Nicaragua and all parties concerned to engage in a meaningful and comprehensive national dialogue, including on the adoption of electoral reforms that conform to international standards; reaffirms that the EU is prepared to provide its mediation and diplomatic support if requested to do so by the parties concerned;
11. Calls on the EU Delegation and the Member States with diplomatic missions on the ground to fully implement the EU Guidelines on Human Rights Defenders and to provide all appropriate support to those human rights defenders that are detained, including prison visits and trial monitoring;

12. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Secretary-General of the Organization of American States, the Euro-Latin American Parliamentary Assembly, the Central American Parliament, and the Government and Parliament of the Republic of Nicaragua.