



Plenary sitting

B9-0187/2022

5.4.2022

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 situation of the rule of law and human rights in the Republic of Guatemala
(2022/2621(RSP))

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on behalf of the Renew Group

European Parliament resolution on the situation of the rule of law and human rights in the Republic of Guatemala (2022/2621(RSP))

The European Parliament,

- having regard to its previous resolutions on Guatemala and in particular the one of 14 March 2019 on the situation of human rights in Guatemala,
- having regard to the Statements by the spokesperson of the High Representative/Vice-President of the Union for Foreign Affairs and Security Policy (VP/HR) Josep Borrell on the rule of law situation in Guatemala of 11 February 2022, and on the deterioration of the rule of law in Guatemala of 23 February 2022,
- having regard to the EU-Central America Association Agreement and in particular its human rights clause,
- having regards to the Statement attributable to the Spokesperson for the UN Secretary-General on Guatemala of 11 February 2022,
- having regard to the statement of the Inter-American Commission on Human Rights (IACHR) over new violations of judicial independence in Guatemala of 22 February 2022, and the one by IACHR and UN Special Rapporteur on the Independence of Judges and Lawyers urging Guatemala to Guarantee Independence and Impartiality in the Appointment of the Country's New Attorney General of 9th March 2022,
- 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 UN Covenant on Civil and Political Rights of 1966,
- having regard to Rule 144 of its Rules of Procedure,

A. whereas in 2019, the government of the Republic of Guatemala unilaterally decided to terminate the mandate of the International Commission against Impunity (CICIG) that has operated for 12 years in the country; whereas consequently, Guatemala has suffered a continuous process of institutional co-optation and dismantling of the rule of law, which has seriously eroded institutions and democracy in the country;

B. whereas this process has been marked by the disarticulation of the entities guaranteeing fundamental rights, the systematic obstruction and harassment of the legitimate work of judges and prosecutors, smear campaigns, arrest and intimidation of justice operators, in particular those from the International Commission against Impunity in Guatemala (CICIG), the Human Rights Prosecutor's Office and the Special Prosecutor's Office against Impunity (FECI), as well as by an intensification and increase of aggressions and criminalization of civil society organisations and human rights defenders;

- C. whereas prosecutors of corruption and organized crime involving high-ranking state officials and business owners have been criminalized in hundreds of criminal proceedings, complaints before the Judicial Disciplinary Board, and preliminary trials promoted by the Public Ministry of Guatemala in order to arrest them or withdraw their judicial immunity; whereas the proliferation of these legal proceedings against independent judges, prosecutors and lawyers is highly alarming; whereas the erosion of rule of law, judicial independence and democratic institutions in Guatemala at different levels has led to a phenomenon of state capture, which represents a growing and alarming trend in the region;
- D. whereas the threat, harassment and risk of arbitrary detention have led to more than 20 judges to announce their exile from Guatemala to protect their safety, physical and psychological integrity and avoid reprisals from the authorities of the Guatemalan State; whereas the cases of judge Erika Aifán, former attorneys general Claudia Paz and Thelma Aldana, and Juan Francisco Sandoval, who led the FECCI are only few examples of a broader harassment against judicial operators in Guatemala;
- E. whereas justice officials experience lack of an effective response from state actors for their protection as their complaints remain in impunity due to lack prompt and efficient process by the Public Ministry and insufficient protection measures;
- F. whereas even in 2021 the election of magistrates to the Constitutional Court took place, there is a lack of progress in electing judges to the Supreme Court and Court of Appeals, a process that has been delayed for almost three years; whereas this year, the president and Congress will appoint three key figures: the attorney general, the human rights ombudsperson, and the controller general;
- G. whereas in May 2022, the new Attorney General of the Republic will be elected; whereas in September 2021 the Attorney General of the Republic and candidate for re-election, Consuelo Porras, as well as the Secretary General of the Public Prosecutor's Office, Angel Pineda, were included by the US State Department on the Engel List as corrupt and undemocratic actors obstructing the criminal prosecution of corruption cases; whereas the figure of the Attorney General has a fundamental role to guarantee the rule of law, the protection and defence of human rights and the fight against corruption and impunity;
- H. whereas according to Transparency International, in ten years Guatemala has dropped 59 positions in the Corruption Perceptions Index (CPI), from 91 (2010) to 150 out of 180 countries.
- I. whereas NGO Law 4-202, which implementation began in February 2022, seeks to restrict the activities of NGOs, giving the Interior Ministry the right to close them at its discretion if it considers that they do not contribute to the common good and/or "alter public order";
- J. whereas in 2021 the office of the UN High commissioner for human rights documented 103 attacks against human rights defenders and six killings, as well as 33 attacks against journalists; whereas in 2020, Global Witness ranked Guatemala as the country with the seventh highest number of murdered environmental defenders in the world (13) and the fourth highest incidence per capita;

K. whereas on 8 March 2022, the Guatemalan Congress approved a "Law for the Protection of Life and the Family", which criminalized abortion in all circumstances with penalties between 5 and 25 years of imprisonment, prohibits gender diversity and sex education in schools; whereas after multiple protests at national and international level, the President asked the Congress to veto this decree and on 15th March the Congress voted to shelve this controversial law;

1. Is extremely concerned over the ongoing deterioration of the rule of law in Guatemala where the Supreme Court of Justice and the Prosecutor-general have initiated legal actions against independent judges, lawyers and prosecutors who investigate or prosecute criminal structures with ties to high-ranking state officials and business owners;
2. Condemns the criminalization, discrediting media campaigns, threats, detention and acts of harassment against judicial operators involved in prosecuting corruption cases and combatting impunity; urges the Guatemalan authorities to put an end to this actions, including the improper use of legal instruments, uphold the rule of law and restore the independence of the judicial system.
3. Calls on the Guatemalan authorities to conduct immediate, thorough and impartial investigations into the threats, acts of harassment and stigmatisation campaigns against justice officials and civil society actors, in order to identify those responsible and bring them before competent, independent and impartial tribunals
4. Calls on the government of Guatemala to comply with the recommendations of the United Nations rapporteurs on judicial independence and of the bodies of the Inter-American System and to carry out a constitutional reform regarding the procedures for the election of the Attorney General and judges of the high courts of the country.
5. Calls on the Guatemalan authorities to urgently take the necessary measures to ensure the safety and integrity of the judges, prosecutors, lawyers - including former CICIG lawyers- and human rights defenders, including of those detained and to safeguard their right to due process; urges the authorities to secure the safe return of those obliged to leave the country out of fear for their safety.
6. Reaffirms that the process of selection and appointment of judges must be transparent and participatory and that candidates should be selected based on their merits and proven tracks on the respect of human rights, in compliance with international standards; in this sense, calls on the Guatemalan authorities to guarantee fair election of judges.
7. Stresses that the adoption of repressive legislation, such as the NGO Law, can contribute to the dismantling of the protection system for human rights defenders, reinforcing impunity and calls on these laws to be repealed.
8. Calls on the Government of Guatemala, as a matter of urgency, to provide protection for environmental defenders and to ratify the Escazú Agreement.
9. Urges the Government of Guatemala to take the necessary measures to strengthen legislation and policies to protect human rights defenders and journalists and to develop a Public Policy for the Protection of Human Rights Defenders in line with a 2014 ruling of the Inter-American Court of Human Rights and the very commitment made by Guatemala before the Human Rights Council in 2018.

10. Encourages the Government of Guatemala to further cooperate with all the UN and regional human rights mechanisms in order to advance the promotion and protection of human rights in the country.
11. Commends and expresses its support to the work of the EU Delegation in Guatemala with regards to protection measures for human rights defenders; Calls on the Commission to substantially expand and to more actively implement protection measures, including the wider observation of hearings of criminalised human rights defenders, particularly environmental and women human rights defenders by, among others, increasing its support to independent civil society organizations;
12. Calls on the European Union and its member States to use the mechanisms laid down in the Association and Political Dialogue Agreement to strongly encourage Guatemala to carry out an ambitious human rights agenda and the fight against impunity.
13. 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 Parliament.