



Plenary sitting

B9-0190/2022

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))

Pedro Marques, Andrea Cozzolino, Bernd Lange
on behalf of the S&D Group

B9-0190/2022

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 and on its concerns on rule of law and calling for the protection of judges, attorneys and lawyers who faced threats of 24 March 2022,
- having regard to the EU-Central America Association Agreement and the provisional application of part IV Trade to Guatemala since 1.12.2013
- having regard to the interim report of the Ex-post evaluation of the implementation of part IV of the Association Agreement (Trade Pillar) between the EU and its Member States and Central America, March 2022
- having regard to the POLITICAL DIALOGUE AND COOPERATION AGREEMENT between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part from 1 May 2014
- having regards to the Statement attributable to the Spokesperson for the UN Secretary-General on Guatemala of 11 February 2022,
- having regard to United Nations Economic and Social Council, Guatemala Country Programme Document E/ICEF/2021/P/L.24;
- 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 strong concerns exist as to the weakness and independence from the political power of the Guatemalan justice and security system; whereas organised crime poses a complex threat and gender-based and sexual violence against women and girls are widespread and deeply rooted issues; whereas the large indigenous population face strong discrimination in access to land and resources;

B. Whereas under existing law, abortion is legal only when the life of a pregnant woman or girl is in danger, and penalties vary from one to twelve years in prison and the Decree 18-2022 would have increased penalties and broadened the circumstances under which a women and others involved could be prosecuted;

C. Whereas UNICEF reported that in 2019, 40,679 crimes against children and 1,909 child deaths were reported in Guatemala; that only 30 percent of child victims of violence receive psychosocial support; that 96 per cent of adults do not know how or where to report and that the country continues to rely on institutionalization of child victims.

D. whereas the EU has serious concerns regarding the rule of law, human rights, in particular threats and killings of Human Rights Defenders (HRDs), and the fight against corruption and impunity at all levels; whereas over the past months, several justice operators and officials have reported continued attacks against them in the form of harassment and intimidation; whereas the constant intimidation of members of the judiciary has driven an increasing number of judges, prosecutors and investigators who are widely considered as independent into exile;

E. whereas, according to Transparency International data, in the past ten years Guatemala has dropped 59 positions in the Corruption Perceptions Index (CPI), from 91st place (2010) to 150th out of 180 countries;

F. whereas in 2019, the government of Jimmy Morales 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, the systematic obstruction and harassment of the legitimate work of judges and prosecutors, smear campaigns, arrests 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 (FECCI), as well as by an intensification and increase of aggressions and criminalization of civil society organisations and human rights defenders;

G. 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;

H. 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;

I. 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;

J. 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;

K. whereas in May 2022, the new Attorney General of the Republic will be elected; whereas the current Attorney General Ms Maria Consuelo Porras sanctioned by the US in September 2021 for obstructing investigations into acts of corruption, ignoring cases based on political considerations and actively undermining investigations, is the main candidate; 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; through politically motivated arrests and detentions of current and former public officials who have fought corruption; recalls that on 8 March, the US government expressed its "deep concern about the continued and shameless attacks by Guatemala's Attorney General, Consuelo Porras, on Guatemala's justice system;

L. 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";

M. 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 human rights defenders in the world (13) and the fourth highest incidence per capita;

N. whereas UN High Commissioner Office highlights the increase of misuse of criminal law by state and non-state actors against human rights defenders and journalists to penalize them or impede the legitimate exercise of their work

O. 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;

P. whereas the EU remains one of Guatemala's main cooperation partners with an allocated €152 million under the Development Cooperation Instrument (DCI) programming period (2014-2020) focussing on food security, the fight against corruption, peace and security and competitiveness;

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 Guatemalan authorities to take the necessary measures to ensure the safety and integrity of the judges, prosecutors, 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.

5. 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, in compliance with international standards; in this sense, calls on the Guatemalan authorities to guarantee fair election of judges.

6. Is concerned about the process to elect a new Prosecutor-General, who is to take up their duties in May and started in January 2022 as some members of the Selection Commission, which is to evaluate the candidates, are currently under criminal investigations or that they have close links to corrupt figures.

7. Calls on the selection to scrupulously follow national legal procedures in full transparency, in order to appoint a General Prosecutor whose credentials of independence and professionalism are beyond doubt.

8. Calls on Congress to guarantee an objective, public and transparent election process for the upcoming selection of Ombudsperson of Human Rights and elect a person with a proven track record in the defence and protection of human rights.

9. Stresses that the adoption of repressive legislation, such as the NGO Law, put in risk the right to association of civil society and undermines democracy, reinforces impunity and calls on these laws to be repealed.

10. 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.

11. Is concerned that Guatemala's limited investigative capacity leave many crimes against children unpunished; calls to address the municipal presence of the Social Welfare Secretariat of the Office of the President, particularly to provide information about and ease the process of reporting violence against children;

12. Recalls that addressing social norms that prevent the full realization of children's rights will be a cross-cutting strategy that will lead to de-normalizing violence against children, as well as addressing the areas of hygiene, nutrition and health of children and women.

13. Encourages the Government of Guatemala to continue to cooperate with all the UN and regional human rights mechanisms in order to advance the promotion and protection of human rights in the country.

14. Recommends that the Government of Guatemala should renew the mandate of the Office of the High Commissioner for Human Rights for a reasonable period of time
15. Calls on the European Union and its Member States to use the mechanisms laid down in Part IV of the Association Agreement to strongly encourage Guatemala to carry out an ambitious human rights agenda and the fight against impunity
16. Urges the European Commission and the Member States to use all possibilities of the Political Dialogue and Cooperation Agreement particularly based on article 8 to improve the human rights situation in Guatemala
17. Request that the EU delegation and the embassies of the Member States should be proactive in monitoring the development on Human rights in Guatemala
18. Welcomes the action taken by European Member State Embassies and the Delegation of the European Union in Guatemala regarding protection measures for defenders and calls on the EU to substantially expand this support in the current context and increase implementation of protection measures, including the wider observation of hearings of criminalised defenders, and particularly considering also rural, indigenous and women defenders. To this end, and to increase support for the work of national human rights organisations, it calls on the EEAS and the EC to provide the necessary human and financial resources to the EU Delegation in Guatemala and to expand projects in support of human rights organisations;
19. 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.