



Inter-Parliamentary Union
For democracy. For everyone.

Colombia

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)



© Twitter @PizarroMariaJo

COL-163 - María José Pizarro Rodríguez (Ms.)
COL-164 - Ángela María Robledo Gómez (Ms.)
COL-165 - Inti Raúl Asprilla Reyes
COL-166 - Jhon Jairo Hoyos García
COL-167 - Iván Cepeda Castro
COL-168 - Wilson Neber Arias Castillo
COL-169 - Alexander López Maya
COL-170 - Gustavo Bolívar Moreno
COL-171 - Antonio Sanguino Páez

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association

A. Summary of the case

The complainants state that the nine members of the National Congress of Colombia, all vocal opponents of the current Colombian President, Ivan Duque, have been subjected to acts of persecution and vilification undermining their parliamentary activities against a background of social protests that has rocked Colombia since the end of April 2021.

Senators Cepeda, Lopez and Bolivar and Representative Hoyos have reportedly faced serious threats because of their support for the demands made by the protesters and of their opposition to the Colombian President and his allies. Senator Bolivar had to leave Colombia temporarily as a result but came back in mid-November 2021 after protection measures were put in place for him. Similarly, Mr. Hoyos received threats after he reported alleged

Case COL-COLL-05

Colombia: Parliament affiliated to the IPU

Victims: Nine parliamentarians of whom two are women (eight from the opposition and one from the majority)

Qualified complainant(s): Section I.(1)(a) of the Committee Procedure (Annex I)

Submission of complaint: June 2021

Recent IPU decision(s): - - -

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the complainant at the 143rd IPU Assembly (November 2021)

Recent follow-up

- Communication(s) from the authorities: - - -
- Communication from the complainants: June 2021
- Communication to the authorities: Letter to the President of the National Congress of Colombia (October 2021)
- Communication to the complainants: November 2021

police brutality during the social protests and was intimidated when he wanted to verify the situation of several people who had been detained during the protests. Both Senator Lopez and Representative Hoyos are allegedly not receiving the necessary protection from the authorities.

In almost all cases, the members of parliament have been faced with what appear to be frivolous disciplinary proceedings that could well result in the loss of their parliamentary mandate. Under Colombian law, the Inspector General is empowered to terminate the mandate of a parliamentarian in the event of a disciplinary breach. The IPU and the Inter-American Court of Human Rights, in two rulings (*López Mendoza v. Venezuela* and *Petro Urrego v. Colombia*), have clearly stated their position that, in line with relevant human rights standards, the punishments of disqualification and removal of democratically elected authorities can only be imposed through a sentence handed down by a competent judge in criminal proceedings, thereby guaranteeing the effective right to defence and all due process guarantees. In an apparent attempt to remedy this situation, on 16 June 2021, the National Congress of Colombia adopted a controversial amendment to the Disciplinary Code of the Inspector General's Office. This, however, still seems to run counter to these human rights standards. The amendment provided the Inspector General's Office with jurisdictional and judicial police functions, even though its overall mandate remains focused on disciplinary breaches, given that it is the Prosecutor General's Office that remains in charge of criminal investigations and prosecutions. A petition to the Constitutional Court challenging the constitutionality of the amendment is pending.

Other members of parliament, such as Representative Pizarro, Senator Bolivar, Senator Arias and Senator Sanguino, are also reportedly subject to criminal investigations or complaints allegedly in connection with the legitimate exercise of their parliamentary duties. Senator Arias is said to be under investigation for reporting the arbitrary detention, physical and psychological torture and violation of human rights by the national police against peaceful demonstrators during the national strike. The allegations are based on the argument that, by such conduct, he interfered with legitimate police activity and slandered the security forces. In yet other cases, parliamentarians, such as Senator Cepeda, are facing numerous writs of protection (*recurso de amparo*), which is a mechanism for the protection of the fundamental rights of citizens. These actions have been initiated by many citizens, apparently without their producing any evidence that they had in any way been hampered in their own enjoyment of their human rights or that would show that the parliamentarians concerned are responsible for actions undermining respect for the human rights of other citizens.

On 14 May 2021, United Nations (UN) and Organization of American States (OAS) human rights experts condemned the violent crackdown on peaceful protests in Colombia. The Inter-American Commission on Human Rights, in a report following a working visit to Colombia from 8 to 10 June 2021, seriously criticized the Colombian authorities' handling of the protests. In its report, the Commission notes "with concern the persistence of the logic of the armed conflict in the responses to the current social mobilization and how it is interpreted. In this regard, it reiterates that these disagreements are arising between people who must be protected, not enemies who must be fought". The Commission calls on the Colombian authorities to "respect and guarantee the full enjoyment of the rights to protest, to freedom of expression, to peaceful assembly, and to participate in politics for the entire population" and to "promote the inter-American standard according to which public officials have a duty to refrain from making statements that stigmatize or incite violence against persons who participate in demonstrations and protests". The Commission also asks the Colombian authorities to, "in the context of protests and demonstrations, execute security operations in strict adherence to protocols on legitimate use of force and in compliance with the principles of legality, absolute necessity, and proportionality established in international standards" and to "ensure that the priority of the security forces that intervene to protect and control demonstrations and protests is to defend lives and integrity of person, abstaining from arbitrarily detaining demonstrators or violating their rights in any other way".

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Notes* that the complaint concerning the aforesaid nine individuals is admissible, considering that the complaint: (i) was submitted in due form by qualified complainants under Section I.1.(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns nine incumbent members of parliament at the time of the initial allegations; and (iii) concerns

allegations of threats and acts of intimidation, lack of due process at the investigation stage, and violations of the rights to freedom of opinion and expression and to freedom of assembly and association, which are allegations that fall within the Committee's mandate.

2. *Expresses deep concern* at the serious allegation that the nine opposition members of parliament are facing legal and physical reprisals for their opposition to the Government's policies, their public statements of support for the social protests and their denunciation of abuses committed by security forces against some of the protestors;
3. *Is deeply concerned* that four parliamentarians have received death threats, as a result of which one of them, Senator Bolivar, felt obliged to go into temporary exile; *urges* the competent authorities to ensure that they receive adequate protection and that the threats are effectively investigated and those responsible held to account; and *wishes* to receive information on this point;
4. *Is also concerned* that the public vilification of several of the members of parliament is creating an environment that not only hampers their work but also potentially puts them at additional risk; *calls on* everyone, starting with the Colombian authorities directly, to de-escalate tensions and to start a genuine and constructive national discussion on how to advance towards resolving the issues that have emerged through the protests; and *notes* in this regard that the claims made by the protestors mostly underscore that much remains to be done to implement the vision contained in the 2016 peace agreement for a more equal, just, inclusive and peaceful society; and *wishes* to be kept informed of any official steps taken in this regard;
5. *Is concerned* that disciplinary and criminal proceedings and writs of protection are allegedly being used merely to thwart the political activities of the nine parliamentarians; *notes* in this regard that at least one Colombian court has determined that writs of protection (*recurso de amparo*) are being used to bombard the parliamentarians with legal cases without any serious foundation brought before a number of different judges, in the hope that at least one of the latter will rule in their favour, while at the same time creating legal confusion if other judges rule otherwise;
6. *Is also concerned* in this regard about the recent amendment to the law that governs the powers of the Inspector General, which appears to contradict the position of the IPU and the Inter-American Court of Human Rights with regard to the termination of the parliamentary mandate as a result of a disciplinary breach; *notes with deep concern* in this regard that, before the amendment was passed, the Inspector General initiated disciplinary proceedings against several parliamentarians who opposed the change in legislation, as a result of which they had to refrain from taking part in the vote due to a conflict of interest; *trusts* that the Constitutional Court, which will have the final say on the constitutionality of the amendment, is carrying out an in-depth examination in this regard; and *wishes* to be kept informed on this point;
7. *Decides* to send a delegation of the Committee on the Human Rights of Parliamentarians to Colombia, which would meet with all the relevant authorities, complainants and third parties, including relevant civil society organizations, and which would help to raise and discuss the various issues that arise in the case at hand; and *requests* the Secretary General, therefore, to make the necessary arrangements for the visit to take place;
8. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the offices of the Inspector General and the Prosecutor General of Colombia, and to the complainants;
9. *Requests* the Committee to continue examining this case and report to it in due course.