



Inter-Parliamentary Union

For democracy. For everyone.

Ecuador

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)



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ECU68 - José Cléver Jiménez Cabrera

Alleged human rights violations:

- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity
- ✓ Lack of fair trial proceedings
- ✓ Threats, acts of intimidation

A. Summary of the case

In 2013, Mr. José Cléver Jiménez, then a member of the National Assembly, together with adviser and journalist Fernando Alcibiades Villavicencio and union leader Carlos Eduardo Figueroa, was sentenced at first and second instance for criminal judicial defamation against the then President Rafael Correa after accusing him of having ordered the armed raid of the police hospital in Quito during the revolt of police officers on 30 September 2010. The complainant considered their conviction violated their right to freedom of expression and Mr. Cléver Jiménez's parliamentary immunity. The sentence was not served, as Mr. Cléver Jiménez went into hiding.

After analysing all the information on file, on 24 March 2014 the Inter-American Commission on Human Rights (IACHR) adopted precautionary measures and requested the State of Ecuador to suspend implementation of the sentence, considering that Mr. Jiménez's rights to freedom of expression and judicial protection would be in a serious, urgent situation of irreparable harm if the sentence were to be executed. As the State refused to observe the request, Mr. Cléver Jiménez presented a legal action before the Constitutional Court for non-observance of the IACHR precautionary measures.

Case ECU68

Ecuador: Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

Qualified complainant(s): Section I (1)(a), (b) and (d) of the [Committee Procedure](#) (Annex I)

Submission of complaint(s): February and June 2014; September 2016

Recent IPU decision: [October 2016](#)

IPU mission: - - -

Recent Committee hearing(s): Hearing with the delegation of Ecuador during the 138th IPU Assembly (March 2018)

Recent follow-up:

- Communication from the authorities: Letter from the Secretary General of the National Assembly (October 2018)
- Communication from the complainant: January 2018
- Communication addressed to the authorities: Letter addressed to the Secretariat of International Relations of the National Assembly (March 2019)
- Communication addressed to the complainant: March 2019

In March 2015, the Supreme Court of Justice ordered the police not to arrest Mr. Cléver Jiménez, as the statute of limitations for implementation of the sentence had run out. Nevertheless, former President Correa pursued the matter in court so as to obtain the financial compensation awarded to him by the court and the public apology that Mr. Cléver Jiménez and the two others were ordered to make. It appears that, in the end, Mr. Villavicencio was taken to court to pay, on behalf of the three convicted persons, the financial compensation awarded to former President Correa.

In mid-2013, Mr. Cléver Jiménez denounced the possible conflict of interest by the Government of Ecuador in the purchasing of legal services. According to the complainant, rather than investigating these denunciations, the Prosecutor's Office chose to initiate an investigation into Mr. Cléver Jiménez with regard to his revelations, first on accusations that he was guilty of hacking, accusations that were later dropped, and later that he had disclosed secret information. On 28 October 2016, the judge in this case ordered his pretrial detention, which was subsequently converted into house arrest. Mr. Cléver Jiménez was ordered to wear an electronic device around his ankle and to report every week to the President of the Provincial Court of Pichincha. On 12 April 2018, the National Court of Justice, following the Prosecutor Office's decision at the end of the trial not to ask for his conviction and punishment, dismissed the proceedings.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Reaffirms* that freedom of expression goes to the heart of democracy, is essential to members of parliament and includes not only speech, opinions and expressions that are favourably received or regarded as inoffensive, but also those that may offend, shock or disturb others;
2. *Concludes* that Mr. Cléver Jiménez was sentenced on account of having strongly criticized the then President of Ecuador, which is clearly protected speech under international law, and was subsequently subject to other criminal proceedings that also disregarded respect for his right to freedom of expression;
3. *Decides to close* the case pursuant to section 25(a) of its 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), given that Mr. Jiménez is no longer subject to legal proceedings and that any further action in the case has become moot;
4. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.