

COLOMBIA

- **COL-COLL-01:** 6 parliamentarians
- **COL-07:** Luis Carlos Galán Sarmiento
- **COL-09:** Hernán Motta Motta
- **COL-130:** 1 parliamentarian (CONFIDENTIAL CASE)
- **COL-140:** 1 parliamentarian (CONFIDENTIAL CASE)
- **COL-142:** Alvaro Araujo Castro
- **COL-COLL-02:** 5 parliamentarians
- **COL-COLL-03:** 5 parliamentarians
- **COL-155:** Piedad Del Socorro Zuccardi de Garcia (Ms.)



Inter-Parliamentary Union

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Colombia

CO/01 - Pedro Nel Jiménez Obando
CO/02 - Leonardo Posada Pedraza
CO/03 - Octavio Vargas Cuéllar
CO/04 - Pedro Luis Valencia Giraldo
CO/06 - Bernardo Jaramillo Ossa
CO/08 - Manuel Cepeda Vargas

Resolution adopted unanimously by the IPU Governing Council at its 194th session (Geneva, 20 March 2014)

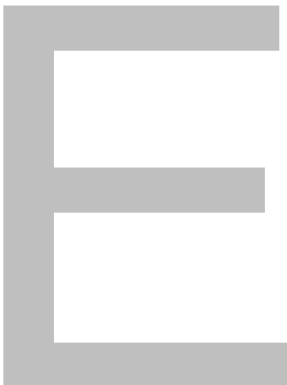
The Governing Council of the Inter-Parliamentary Union,

Referring to the case of the six abovementioned members of the *Unión Patriótica* (Patriotic Union) who were murdered between 1986 and 1994, and to the resolution it adopted at its 192nd session (March 2013),

Taking into consideration the communication from the Prosecutor's Office, dated 19 February 2014,

Recalling the following information on file:

- None of the murderers of five of the six congressmen have been held to account;
- The Inter-American Court of Human Rights, in its binding ruling of 26 May 2010 in the case of Mr. Cepeda, concluded that the Colombian State bore responsibility for his murder and ordered it to conduct an effective investigation so as to establish the identity of the instigators and the full scale of collaboration between State agents and paramilitary forces in carrying out the crime;
- A general petition submitted to the Inter-American Commission on Human Rights in 1997 regarding the persecution of the Patriotic Union and offences committed, directly or indirectly, against its members, including all the aforementioned parliamentarians except Mr. Cepeda, is still pending;
- Since 2008, the *Procuraduría* has given special attention to the case of Mr. Jaramillo, and the Prosecutor's Office has assembled a special team focusing on violations committed against members of the Patriotic Union and reactivated investigations into the assassinations of Mr. Jiménez, Mr. Posada, Mr. Valencia, Mr. Cepeda and Mr. Jaramillo;
- On 17 May 2011, the Prosecutor's Office formally accused Mr. José Miguel Narváez, former Assistant Director of the Administrative Department of Security, of involvement in Mr. Cepeda's assassination, which has been declared a crime against humanity, and ordered that he be remanded in custody; Mr. Narváez is currently being held and prosecuted in a number of cases in connection with his alleged collaboration with paramilitary groups;
- Investigations with respect to the other murder cases are ongoing; in the case of Mr. Posada, a suspect, Mr. Baquero Agudelo, accepted a plea bargain and his case was sent to court for sentencing along with a request from the Prosecutor's Office that the relevant available documents be examined with a view to identifying other alleged culprits; in the case of Mr. Jaramillo, according to the Prosecutor's Office, Mr. Carlos Arturo Lozano Guillén, Director of the daily *Voz*,



and Mr. Ricardo Pérez González were heard on 20 May 2011 as part of the investigation and the legal status of Mr. Alberto Romero, former chief of the Administrative Department of Security, who had previously come under investigation, still had to be determined and further evidence taken,

Recalling also that the Committee's President, Senator Juan Pablo Letelier (then Committee Vice-President), met with the relevant Colombian authorities and the source during his visit to Colombia on 20 and 21 March 2013; on that occasion the current Chief Prosecutor of Colombia stated that he had developed a new methodology focusing on the most serious crimes and reconstructing the context in which they took place; he had identified the case of persecution of Patriotic Union members as a priority and is trying to bring together the various legal proceedings being conducted across Colombia,

Considering the following new information provided by the Prosecutor's Office in its communication of 19 February 2014:

- The Chief Prosecutor of Colombia, in implementing its new methodology, has created nine thematic working groups, one of which focuses solely on crimes against members of the Unión Patriótica;
 - With regard to the investigation into Mr. Cepeda's murder, Mr. Narváez will remain in pretrial detention during the case until his legal status is resolved; on 6 August 2013 a plea bargain/guilty plea was reached and pronounced with respect to Mr. Jesús Emiro Pereira for his role in this murder;
 - In November 2013, as the latest step in the investigation regarding Mr. Posada's murder, which was at a confidential stage, the statements of two individuals were taken,
1. *Thanks* the Prosecutor's Office for the latest information provided;
 2. *Is pleased* that the Prosecutor's Office continues to devote special attention to promoting justice in the case of the persecution of members of the Patriotic Union, exemplified in one of its worst forms by the murder of six of its MPs;
 3. *Welcomes* the recent progress made in establishing accountability for Mr. Cepeda's murder; *wishes* to receive a copy of the ruling regarding Mr. Jesús Emiro Pereira and information on whether his case has shed further light on the extent of State responsibility for the crime and on the identity of those involved; *trusts* that proceedings against Mr. Narváez are advancing speedily and *wishes* to be kept informed in this regard;
 4. *Reiterates its wish to know* whether the murders of the Patriotic Union congressmen other than Mr. Cepeda have also been declared crimes against humanity; *trusts* that by now the Prosecutor's Office has decided whether or not to bring charges against Mr. Romero in the case of Mr. Jaramillo's murder; *wishes to know* what decision has been taken in this regard; *wishes to know* also whether the recent statements in the case of Mr. Posada have advanced the investigation, and whether Mr. Baquero Agudelo has meanwhile been sentenced and, if so, is serving his sentence and to receive a copy of the ruling;
 5. *Trusts* that the Inter-American Commission on Human Rights is steadily advancing in its consideration of the Patriotic Union case; *wishes to ascertain* the stage reached in its examination and whether a time line exists for its completion;
 6. *Considers* that a follow-up visit to Colombia by a Committee delegation would help to further its understanding of the current state of the pursuit of justice in this case and of how pending issues are being addressed; *requests* the Secretary General, therefore, to make the necessary arrangements for this purpose;
 7. *Requests* the Secretary General to convey this resolution to the competent Colombian authorities, the source and any third party likely to be in a position to supply relevant information; *also requests* the Secretary General to forward the resolution to the Inter-American Commission on Human Rights and to arrange a meeting between the Commission and the Committee President;
 8. *Requests* the Committee to continue examining this case and to report back to it in due course.



Inter-Parliamentary Union
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Colombia

COL/07 - Luis Carlos Galán Sarmiento

Resolution adopted unanimously by the IPU Governing Council at its 194th session (Geneva, 20 March 2014)

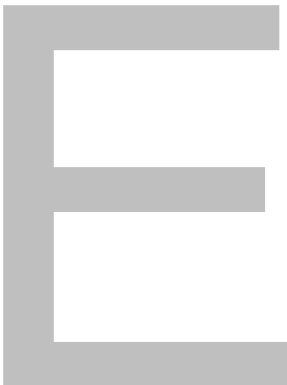
The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Mr. Luis Carlos Galán Sarmiento, a member of the Colombian Senate and the New Liberalism Party's candidate in the presidential elections, who was murdered at a political rally on 18 August 1989 in the main square of Soacha municipality, Cundinamarca department, and to the resolution it adopted at its 192nd session (March 2013),

Taking into consideration the communication of the Prosecutor's Office dated 19 February 2014; *also taking into consideration* the information provided by the source in February and March 2014,

Recalling the following information on file:

- Lieutenant Carlos Humberto Flores, from Military Intelligence B2, was tried for complicity in the murder and acquitted at first and, on 11 August 2011, at second instance; a cassation petition filed by the Prosecutor's Office and Senator Galán's family, as the civil party to the proceedings, remains pending before the Supreme Court;
- On 1 September 2011, the Supreme Court upheld the first-instance verdict, whereby Mr. Santofimio, a politician from Tolima, was sentenced to a 24-year prison term for having incited drug baron Pablo Escobar to have Senator Galán killed in order to prevent the latter, if elected President of Colombia, from acting on his intention to extradite drug traffickers to the United States of America;
- On 18 August 2009, the Prosecutor's Office arrested General Miguel Maza Márquez, a former Director of the Administrative Department of Security (DAS), on accusations of involvement in Senator Galán's murder, and declared the murder a crime against humanity; on 6 April 2010, the then Chief Prosecutor ordered General Maza's provisional release; however, General Maza was called to trial on 25 November 2010 and rearrested on 15 January 2011; on 1 June 2011, the prosecutor in the case confirmed the indictment against General Maza, arguing that there was substantive evidence that he was responsible for the murder; trial proceedings started on 10 October 2011, at which time the judge in the case, the First Specialized Judge of Bogotá, confirmed that Senator Galán's murder was a crime against humanity; the Supreme Court annulled the proceedings against General Maza on 20 January 2012 on the grounds that he was entitled to privilege of jurisdiction and that his case should therefore have been referred directly to Colombia's Chief Prosecutor; General Maza was released as a result and the proceedings started afresh;
- On 25 November 2009, the *Procuraduría*, which had created a special team to conduct the investigation into the murder, requested the Prosecutor's Office to extend the investigation to retired General Oscar Peláez Carmona, who was the Head of the Criminal Investigation Department at the time and had



allegedly acted in complicity with General Maza in misleading and obstructing the original investigation; in March 2010, the *Procuraduría* also asked the Prosecutor's Office to extend the investigation to Mr. Alberto Romero, former DAS intelligence chief, Colonel Manuel Antonio González Henríquez, who had served as DAS protection chief, former paramilitary leader Iván Roberto Duque Gaviria, alias "Ernesto Báez", and Captain Luis Felipe Montilla Barbosa, Soacha Police Commander;

- On 10 March 2013, the Prosecutor's Office ordered the preventive detention of Colonel González Henríquez and Captain Montilla Barbosa, after which they were taken into custody,

Recalling that both the Office of the Chief Prosecutor and the *Procuraduría* reconfirmed, on the occasion of the visit to Colombia (March 2013) by the then Committee Vice-President, Senator Juan Pablo Letelier, that the pursuit of justice in this case was a priority for them; *considering* that, according to the latest information provided by the Prosecutor's Office, it has set up nine internal working groups to analyse the context in which certain crimes were committed, one of which focuses on the assassinations of presidential candidates between 1989 and 1991,

Considering that in November 2013, upon the order of the current Chief Prosecutor, General Maza was taken into preventive detention, a decision which the Supreme Court confirmed in February 2014 in the light of the serious information pointing to his responsibility and the likelihood that he may divert the investigation,

Considering that the formal accusations which the Prosecutor's Office made against Colonel González Henríquez and Captain Montilla Barbosa were the subject of an appeal by their defence counsel, which is pending,

Considering finally that, according to a communication from the source dated 11 February 2014, with regard to the cassation petition before the Supreme Court regarding the alleged complicity in the murder of Lieutenant Carlos Humberto Flores from Military Intelligence B2, the matter had still not been resolved, as the *Procuraduría* had not yet submitted its views,

1. *Thanks* the Prosecutor's Office for the latest information provided;
2. *Is pleased* that it continues to devote special attention to promoting justice in this case;
3. *Takes note* with interest of General Maza's second re-arrest, including the justification given thereof; *trusts* that this time legal proceedings will be able to follow their course and *wishes to be kept* informed in this regard; *trusts* also that the appeal regarding Colonel González Henríquez and Captain Montilla will be dealt with swiftly and *wishes to be kept abreast* on this point;
4. *Wishes to know* whether the Prosecutor's Office has examined the question of whether or not to extend the investigation to the others identified by the *Procuraduría* as potentially responsible for the murder;
5. *Is deeply concerned* that the cassation petition before the Supreme Court has still not been dealt with; *recalls* the fundamental principle that justice delayed is justice denied; and *calls on* the *Procuraduría* to submit without delay its views to the Supreme Court so that it can finally rule on this matter;
6. *Considers* that a follow-up visit to Colombia by a Committee delegation would help to further its understanding of the current state of the pursuit of justice in this case and of how pending issues are being addressed; *requests* the Secretary General, therefore, to make the necessary arrangements for this purpose;
7. *Requests* the Secretary General to convey this resolution to the competent authorities, the source and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.



Inter-Parliamentary Union

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Committee on the Human Rights of Parliamentarians

Decision adopted by the Committee at its 143rd session

Geneva, 13 to 16 January 2014

Colombia

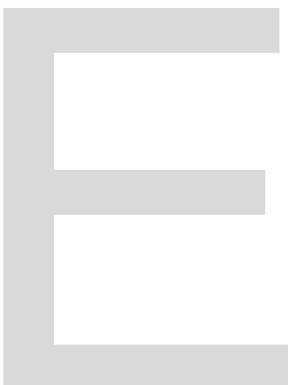
CO/01 - Pedro Nel Jiménez Obando
CO/02 - Leonardo Posada Pedraza
CO/03 - Octavio Vargas Cuéllar
CO/04 - Pedro Luis Valencia Giraldo
CO/06 - Bernardo Jaramillo Ossa
CO/08 - Manuel Cepeda Vargas
CO/09 - Hernán Motta Motta

The Committee,

Referring to the case of seven members of the *Unión Patriótica* (Patriotic Union), six of whom were murdered between 1986 and 1994 (Mr. Pedro Nel Jiménez Obando, Mr. Leonardo Posada Pedraza, Mr. Octavio Vargas Cuéllar, Mr. Pedro Luis Valencia Giraldo, Mr. Bernardo Jaramillo Ossa and Mr. Manuel Cepeda Vargas) and one of whom (Mr. Hernán Motta Motta) was forced into exile in October 1997 by death threats, and to the resolution adopted by the Governing Council at its 192nd session (March 2013),

Recalling the following information on file:

- None of the murderers of five of the six congressmen or the perpetrators of the death threats against Mr. Motta, who continues to live in exile, have been held to account;
- The Inter-American Court of Human Rights, in its binding ruling of 26 May 2010 in the case of Mr. Cepeda, concluded that the Colombian State bore responsibility for his murder and ordered it to conduct an effective investigation so as to establish the identity of the instigators and the full scale of collaboration between State agents and paramilitary forces in carrying out the crime;
- A general petition submitted to the Inter-American Commission on Human Rights in 1997 regarding the persecution of the Patriotic Union and offences committed, directly or indirectly, against its members, including all the aforementioned parliamentarians except Mr. Cepeda, is still pending;
- Since 2008, the *Procuraduría* has given special attention to the case of Mr. Jaramillo, and the Prosecutor's Office has assembled a special team focusing on violations committed against members of the Patriotic Union and reactivated investigations into the assassinations of Mr. Jiménez, Mr. Posada, Mr. Valencia, Mr. Cepeda and Mr. Jaramillo;



- On 17 May 2011, the Prosecutor's Office formally accused Mr. José Miguel Narváez, former Assistant Director of the Administrative Department of Security, of involvement in Mr. Cepeda's assassination, which has been declared a crime against humanity, and ordered that he be remanded in custody; Mr. Narváez is currently being held and prosecuted in a number of cases in connection with his alleged collaboration with paramilitary groups;
- Investigations with respect to the other murder cases are ongoing; in the case of Mr. Posada, a suspect, Mr. Baquero Agudelo, accepted a plea bargain and his case was sent to court for sentencing along with a request from the Prosecutor's Office that the relevant available documents be examined with a view to identifying other presumed culprits; in the case of Mr. Jaramillo, according to the Prosecutor's Office, Mr. Carlos Arturo Lozano Guillén, Director of the daily Voz, and Mr. Ricardo Pérez González were heard on 20 May 2011 as part of the investigation and the legal status of Mr. Alberto Romero, former chief of the Administrative Department of Security, who had previously come under investigation, still had to be determined and further evidence taken;
- The current Chief Prosecutor of Colombia has developed a new methodology focusing on the most serious crimes and reconstructing the context in which they took place; the Prosecutor's Office has identified the case of persecution of Patriotic Union members as a priority and is trying to bring together the various legal proceedings being conducted across Colombia,

Recalling also that the Committee's then Vice-President, Senator Juan Pablo Letelier, met with the relevant Colombian authorities and the source during his visit to Colombia on 20 and 21 March 2013 and discussed the progress being made in and challenges to the pursuit of justice in the cases at hand,

1. *Eagerly awaits* official information from the Prosecutor's Office on the light that its new approach may have shed since Senator Letelier's visit on the persecution of members of the Patriotic Union, in particular the murders of the Patriotic Union congressmen;
2. *Wishes to know* whether the murders of the Patriotic Union congressmen other than Mr. Cepeda have also been declared crimes against humanity; *wishes to ascertain* whether or not the Prosecutor's Office has decided to bring charges against Mr. Romero in the case of Mr. Jaramillo's murder, and to receive detailed information on the steps taken in the investigations being conducted to elucidate, to the extent possible, the other murders;
3. *Wishes to ascertain* in particular what steps the authorities are taking, in line with the ruling by the Inter-American Court of Human Rights in the case Mr. Cepeda's murder, to establish full accountability for this crime; *wishes to receive* confirmation that trial proceedings against Mr. Narváez have started in the meantime and to know whether his statements have helped shed further light on the extent of State responsibility for the crime and on the identity of those involved;
4. *Trusts* that the Inter-American Commission on Human Rights is steadily advancing in its consideration of the Patriotic Union case; *wishes to ascertain* the stage reached in its examination and whether a time-line exists for its completion;
5. *Requests* the Secretary General to convey this decision to the competent Colombian authorities, the source and any third party likely to be in a position to supply relevant information; *also requests* the Secretary General to forward the decision to the Inter-American Commission on Human Rights and to arrange a meeting between the Commission and the Committee President;
6. *Decides* to continue examining the case.



Inter-Parliamentary Union

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Colombia

CO/142 - Álvaro Araújo Castro

Decision adopted unanimously by the IPU Governing Council at its 197th session (Geneva, 21 October 2015)

The Governing Council of the Inter-Parliamentary Union,

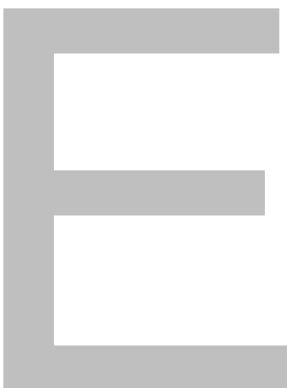
Referring to the case of Mr. Álvaro Araújo Castro, a former member of the Colombian Congress, and to the resolution adopted at its 193rd session (October 2013),

Considering the information provided by Mr. Álvaro Araújo at the hearing held with the Committee on 18 October 2015,

Recalling the following information on file:

- On 15 February 2007, the Supreme Court issued detention orders for the then Senator Araújo on charges of aggravated criminal conspiracy and voter intimidation, allegedly for having collaborated in his Department César with paramilitary group *Bloque Norte*, led by Mr. Rodrigo Tovar Pupo (alias "Jorge 40"), for the purpose of winning the parliamentary election;
- Given that members of Congress are investigated and judged in single-instance proceedings by the Supreme Court, Mr. Araújo relinquished his seat in Congress on 27 March 2007; as a result, his case was transferred to the ordinary judicial system, under which he would be investigated by the Prosecutor's Office and tried by an ordinary court with the possibility of appealing;
- However, after a reinterpretation of its jurisprudence, the Supreme Court re-established its jurisdiction with respect to his case and, on 18 March 2010, without giving him the opportunity to be heard, declared him guilty of aggravated criminal conspiracy and voter intimidation and sentenced him to a prison term of 112 months and to payment of a fine; in the same ruling, the Supreme Court ordered that an investigation be conducted to establish whether or not Mr. Araújo could be considered part of the paramilitary command structure and therefore to share responsibility for the crimes against humanity it had committed; as with the original charges, both the investigation and any subsequent trial on this matter are entrusted to the Supreme Court, whose ruling would not be subject to appeal;
- A legal expert, Mr. Alejandro Salinas, asked by the Committee to examine whether the right to a fair trial had been respected in the case, concluded that the legal proceedings against Mr. Araújo were fundamentally flawed;
- Mr. Araújo was released on parole in February 2011, having served three-fifths of his prison sentence,

Considering that, on 18 March 2015, the Supreme Court ordered that the investigation into crimes against humanity establish whether or not Mr. Araújo appeared in the records of paramilitary groups as a member or integral part of its structure and that it examine the dispossession of land, as revealed by demobilized paramilitary member, Mr. José del Carmen Gelves Albarracín (alias "El Canoso"), and the murder in 1997 of Mr. Araújo's employee, Mr. Eusebio de Jesús Castro Visbal,



as denounced by demobilized paramilitary member, Mr. Hernando de Jesús Fontalvo Sánchez (alias “El Pájaro”), so as to establish whether Mr. Araújo bore responsibility for these crimes; on 22 September 2015, the Supreme Court extended the investigation by 30 days; *considering* that there are no time limits for the Supreme Court in advancing its investigation into Mr. Araújo’s possible responsibility, as the accusations concern crimes against humanity,

Recalling that, according to Mr. Araújo, the Prosecutor’s Office had already previously investigated his alleged involvement in the murder of his aforesaid employee, but had decided to discontinue the investigation; Mr. Araújo affirms in this regard that the statements made by “El Pájaro” are hearsay and not credible and that a member of the Prosecutor’s Office had pressured Mr. Jesús Castro’s family members, who first, in the presence of the former paramilitary member, denied the truth of his testimony regarding false accusations against Mr. Araújo, which they later retracted,

Considering that Mr. Araújo affirms that Mr. Jesús Castro had been killed by the paramilitary for the sole reason that guerrilla groups had set up road blocks and carried out targeted kidnappings opposite his terrain; he affirms that he was quick to denounce the murder publicly, went under heavy protection to Mr. Jesús Castro’s funeral, and in 2009 took action to obtain reparation for his family, as no such reparation had been forthcoming after more than 13 years,

Considering that Mr. Araújo has made sworn statements to the Prosecutor’s Office to denounce the untruthfulness of the statements made by “El Canoso” and “El Pájaro”, which matter was being examined by the Working Group on False Witnesses of the Prosecutor’s Office; with regard to the allegation made by “El Canoso” that Mr. Araújo was responsible for the dispossession of land, the latter denied it and said that, out of loyalty to a friend, he had helped his mother to protect a piece of land in Santa Marta that belonged to her with fences, but which had subsequently been invaded, which matter was before the courts,

Considering also that Mr. Araújo has made sworn statements to the Prosecutor’s Office that he had become an enemy of the paramilitary because: (i) they had made an attempt on his life on 1 October 2000, after which Mr. Araújo immediately rushed to the police, with whose help one of the responsible paramilitary members was killed and another seriously injured; and (ii) he denounced the crimes and pressure exerted by the paramilitary, naming “Jorge 40”, in a speech he delivered in Valledupar on 29 September 2002 at an event attended by the then President Uribe and other dignitaries; Mr. Araújo affirms that many of the members of the political party he belonged to, ALAS, were assassinated by the paramilitary between 1998 and 2004; *considering* also that “Jorge 40” has stated to the Prosecutor’s Office that Mr. Araújo was not part of his organization and acknowledged that Mr. Araújo had publicly denounced the crimes committed by his group,

Considering that, in September 2015, the Colombian Supreme Court closed the investigation into the possible responsibility for crimes against humanity of seven other former members of Congress, most of whom were part of the original case which led to Mr. Araújo’s conviction in 2010, with the argument that the fact that they were found guilty of criminal conspiracy for having cooperated with the paramilitary for electoral support did not make them automatically responsible for their illegal activities; *considering* also that these seven former members of Congress all signed, unlike Mr. Araújo for whom there is no such evidence, a political and electoral pact with the paramilitary and had admitted to cooperating with the paramilitary in return for lenient sentences as part of a plea bargain agreement,

Recalling also that an IPU delegation travelled to Bogotá in August 2011 to help strengthen the National Congress of Colombia and, as part of that assignment, formulated a series of recommendations, including with a view to helping ensure greater respect for fair-trial standards in criminal cases against members of Congress; *recalling* also that the Committee’s then Vice-President, Senator Juan Pablo Letelier, met with the relevant Colombian parliamentary and judicial authorities and the source during his visit to Colombia on 20 and 21 March 2013 and discussed implementation of those recommendations with them,

Recalling that Mr. Araújo submitted a petition to the Inter-American Commission on Human Rights in 2011 denouncing the flawed judicial proceedings in his case; *considering* that in light of the ongoing investigation by the Supreme Court on crimes against humanity, Mr. Araújo fears that he might soon be re-arrested and has therefore asked the Inter-American Commission to adopt precautionary measures in his favour,

Considering that Committee member Senator Letelier travelled to Washington in September 2015 to meet with the Secretariat of the Inter-American Commission to discuss progress in the consideration of this and other cases that are simultaneously before the Committee and the Commission,

1. *Reaffirms* its long-standing view that Mr. Araújo was convicted in 2010 in legal proceedings that violated his right to a fair trial and in the absence of compelling, tangible and direct evidence to substantiate his conviction, on the grounds of complicity with the paramilitary forces, and on charges of aggravated criminal conspiracy and voter intimidation; *points out* in this regard that, to the contrary, events and statements show that there was clear hostility between Mr. Araújo and the paramilitary groups in his Department;
2. *Remains deeply concerned*, therefore, that the Supreme Court invoked his 2010 conviction to order an investigation into the much more serious accusation that he was, in fact, part of the paramilitary command structure, and that such investigation, which relates to crimes against humanity, can run indefinitely, as it is not subject to the statute of limitations;
3. *Considers* that, so long as basic fair-trial concerns are not addressed and there is no convincing evidence for the lesser charge, such investigation is inappropriate;
4. *Fails to understand* in this regard that the Supreme Court recently discontinued an investigation on the same charge against several other parliamentarians who had admitted to having cooperated with paramilitary groups and who had been signatories to cooperation agreements with these groups, but did not take the same decision in Mr. Araújo's case, in which such evidence and admission are absent; *wishes* to receive clarification on this point;
5. *Considers* that, as a minimum, the investigation of the Supreme Court against Mr. Araújo should be suspended until the Prosecutor's Office has terminated its investigation into the denunciations against the two demobilized paramilitary members or, better still, dropped altogether; *recalls* in this regard its long-standing concerns about the credibility of testimonies of demobilized paramilitaries and the manner in which they are obtained and used in criminal cases;
6. *Remains convinced* that concerns about the lack of fair-trial standards inherent in the procedure applicable to Colombian members of Congress in criminal matters can only be fully addressed through new legislation; *reaffirms* the continued readiness of the IPU to provide support for any legislative efforts undertaken by Congress and other relevant Colombian authorities in this regard;
7. *Recalls* that the American Convention on Human Rights and related jurisprudence provide extensive protection of the right to a fair trial; *considers*, therefore, that action by the Inter-American Commission on Human Rights is crucial to helping address the injustice suffered by Mr. Araújo; *sincerely hopes* that the Commission will rule on the petition for precautionary measures as a matter of priority, so as to prevent any further violations of Mr. Araújo's rights;
8. *Considers* that it would be timely to carry out a mission to Colombia to address the serious concerns that have emerged in this case with the relevant executive, parliamentary and judicial authorities, in particular the Supreme Court, the complainant and others who might be able to assist; *requests* the Secretary General to seek the agreement of the Colombian parliamentary authorities for this purpose in the hope that the mission can soon take place;
9. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.



Inter-Parliamentary Union

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Committee on the Human Rights of Parliamentarians

Decision adopted by the Committee at its 143rd session

Geneva, 13 to 16 January 2014

Colombia

CO/144 - **Ciro Ramírez Pinzón**
CO/152 - **Mario Uribe Escobar**
CO/153 - **Odin Sanchez Montes De Oca**
CO/154 - **Javier Enrique Cáceres Leal**
CO/156 - **César Pérez García**

The Committee,

Referring to the cases of Mr. **Ciro Ramírez Pinzón**, Mr. **Mario Uribe Escobar**, Mr. **Odin Sánchez Montes de Oca** and Mr. **Javier Cáceres Leal**, who were all members of the Colombian National Congress when investigations were opened against them, between May 2007 and April 2009, on charges of aggravated criminal conspiracy for the purpose of organizing, promoting, arming or financing illegal armed groups (punishable under Article 340 of Law 599 of 2000), following accusations that they had cooperated with paramilitary groups,

Recalling that, between March 2008 and September 2010, the Supreme Court ordered the detention of the aforesaid four individuals on the above-mentioned charges, and that the charge of aggravated criminal conspiracy in the case of Mr. **Ramírez** also related to narco-trafficking, a charge on which he was subsequently acquitted by the First Criminal Court of the Specialized Circuit of Bogotá,

Recalling that Articles 235 and 186 of the Colombian Constitution stipulate that the Supreme Court has the power to investigate and try members of Congress and that offences committed by members of Congress come exclusively under the jurisdiction of the Supreme Court, which is the sole authority competent to order their detention,

Recalling that the Supreme Court discontinued its handling of the investigation and proceedings with respect to the charge of cooperation with paramilitary groups after Mr. **Ramírez**, Mr. **Uribe** and Mr. **Sánchez** resigned their seats in Congress, and transferred their files to the ordinary criminal justice system, which offers a clear separation between those investigating and those trying a case and provides for the possibility of appeal; *further recalling* that, on 15 September 2009, the Supreme Court changed its jurisprudence, affirming that, despite the three men's resignations, it was competent to hear their cases because the accusations at hand concerned an alleged offence that took place on account or on the occasion of (official) service or in the performance of duties inherent in the post of member of Congress,

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Recalling that these three cases were consequently transferred back to the Supreme Court, which between 2010 and 2012 convicted the first three former members of Congress, as well as Mr. Cáceres, on the aforesaid charges and sentenced them to prison terms ranging from 7 years and 6 months to 9 years, and to the payment of a hefty fine,

Having also before it the case of another former Congressman, Mr. César Pérez García, whom the Supreme Court sentenced on 15 May 2013 to 30 years in prison on charges of aggravated criminal conspiracy for having cooperated with paramilitary groups and in connection with a series of crimes relating to the 1988 Segovia massacre, in which 43 people were killed and which he is recognized as having instigated/masterminded; according to the source, Mr. Pérez García had been arrested and remanded in custody in 1993, but rapidly released and exonerated by the public prosecutor's office; at the time, the Supreme Court considered that it did not have jurisdiction in the case; however, in 2010, nearly 22 years later, it decided to hear the case and prosecute Mr. Pérez García,

Considering that, in addition to concerns about lack of respect for fair trial guarantees in the criminal proceedings against the five former parliamentarians, the sources also emphasize that the Supreme Court convicted them in the absence of any convincing and tangible evidence and relied extensively on unreliable testimony from demobilized paramilitary members,

Considering that the five former members of Congress have brought their cases before the Inter-American Commission on Human Rights,

Considering finally that several attempts have been made to introduce legislation to ensure that Colombian parliamentarians enjoy, like other Colombian citizens, the right to a fair trial, including the possibility of appeal, and that the most recent attempt was part of a larger series of judicial reform measures adopted by the Colombian Congress on 20 June 2012 but subsequently revoked after the President of the Republic objected to it,

1. *Is deeply concerned* about the lack of respect for due process in the proceedings against the five former members of Congress, which affected their rights to be tried by an impartial court and to have an opportunity to appeal the verdict and, in four of the cases, the principles of legal certainty and favourability;
2. *Considers* that their cases also reinforce its longstanding concerns about the credibility of testimony by demobilized paramilitaries, who stand to gain from incriminating others, and how such testimony is obtained and used; *recommends*, therefore, that the legal incentives be revised;
3. *Sincerely hopes* that the Inter-American Commission on Human Rights will soon be able to examine the petitions submitted by the five former members of Congress, convinced as it is that this will be crucial to providing redress in their cases; *requests* the Secretary General to seek information on this from the Commission and to arrange for the Committee's Chairperson to meet with it;
4. *Considers also* that many of the fair-trial concerns that have arisen in these cases are inherent in the procedure applicable to current and former members of Congress in Colombia in criminal cases and can only be fully addressed through new legislation; *affirms* the continued readiness of the IPU to provide support for any legislative efforts undertaken by Congress and other relevant Colombian authorities in this regard;
5. *Requests* the Secretary General to inform the competent Colombian authorities, the source and any third party likely to be in a position to supply relevant information;
6. *Decides* to continue examining this case.



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Colombia

CO/146 - Iván Cepeda Castro
CO/147 - Alexander López
CO/148 - Jorge Enrique Robledo
CO/149 - Guillermo Alfonso Jaramillo
CO/150 - Wilson Árias Castillo

***Decision adopted by the Committee on the Human Rights of Parliamentarians
at its 149th session (Geneva, 15-25 January 2016)***

The Committee,

Referring to the cases of Senator Iván Cepeda Castro, Senator Alexander López, Senator Jorge Enrique Robledo, Mr. Wilson Árias Castillo and Mr. Guillermo Alfonso Jaramillo, all, with the exception of the two last-named individuals, current members of the Colombian National Congress from the opposition party *Polo Democrático Alternativo* (Alternative Democratic Pole), and to the decision adopted by the IPU Governing Council at its 195th session (October 2014),

Considering that the five individuals received several death threats in the past and that the threats and harassment against Senator Cepeda continue to this day,

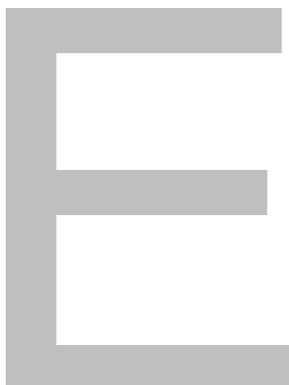
Recalling that Senator Cepeda is a long-standing opposition member of the Colombian National Congress and has repeatedly spoken out in support of the victims of Colombia's internal conflict, accountability for those responsible for the crimes that were committed and a negotiated political settlement to the conflict,

Considering that, in October 2015, the *Procuraduría* adopted, as part of a disciplinary investigation, the statement of objections against Senator Cepeda based on the work conducted by the latter into the denunciations for paramilitarism against former president Álvaro Uribe Vélez; that this disciplinary procedure is based on two supposed faults, the first for procedural fraud and the second for overstepping and usurping duties for having allegedly visited detained, demobilized paramilitary members for the purpose of offering them rewards to testify that former president Álvaro Uribe Vélez had links with paramilitary forces,

Considering that Senator Cepeda has denied the accusations, stating that he met the former paramilitary members at their request and never induced any of them to make false statements, and has affirmed that the obvious differences of opinion between him and the *Procurador General*, who heads the *Procuraduría*, have influenced the decision to start the investigation, as has the proven friendship between the *Procurador General* and former president Álvaro Uribe Vélez (on the basis of whose accusations the investigation against Senator Cepeda was launched),

Considering that in December 2015, the *Procuraduría* rejected the examination of 27 pieces of evidence, which Senator Cepeda and his lawyers had requested,

Considering that Senator Cepeda and his lawyers have filed a petition for precautionary measures with the Inter-American Commission on Human Rights, in order to stop the proceedings, which could end up curtailing Senator Cepeda's political life for 20 years; at the same time, a suit has been filed charging the Colombian State with



violating article 23 of the American Convention on Human Rights, in that it permitted an administrative authority to investigate authorities or public servants elected by the people and possibly to sanction them with removal from office; that the suit also refers to articles 8, 16, 25 and others on political rights and due process,

Considering in this regard that article 23(2) of the American Convention on Human Rights, dealing with respect for the exercise of one's political rights, stipulates that, "The law may regulate the exercise ... only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings",

Recalling that an IPU mission travelled to Bogotá in August 2011 to assist the Parliament of Colombia in strengthening its work and, as part of that assignment, formulated recommendations, including the suggestion that the *Procuraduría* should be divested of the power to revoke the parliamentary mandate as a disciplinary sanction,

Recalling also that, in the course of 2015, the Committee proposed that a visit take place to Colombia to help promote progress in all the Colombian cases it has on file,

1. *Is deeply concerned* about the disciplinary proceedings under way against Senator Cepeda as a result of which he may be disbarred from politics for 20 years, and the allegation that they come in response to his long-standing and legitimate efforts to promote peace and justice in Colombia; *is concerned* also that reportedly important evidence which Senator Cepeda has invoked in his defence will not be taken into account; *wishes* to receive further information on the grounds for this decision, as well as to receive a copy of the statement of objections formulated by the *Procuraduría* against Senator Cepeda;
2. *Reaffirms* its long-standing view that the disciplinary procedure to which Senator Cepeda is subjected runs counter to basic international standards regarding respect for the parliamentary mandate and the right to a fair trial;
3. *Points out*, in addition to the clear norm stipulated in article 23(2) of the American Convention on Human Rights, that: (i) when parliamentarians outside Colombia are submitted to disciplinary sanctions, these are without exception applied by the parliament of which they are a member; (ii) Senator Cepeda will not have the opportunity for a full appeal, as the *Procuraduría* will take the first decision on the merits of his case, which, on being ratified by the *Procurador General* himself, still within the same institution, can only be appealed against in the Council of State, which does not examine the substance of the matter, but merely checks whether the decision is in accordance with the law;
4. *Considers*, therefore, that the disciplinary proceedings are misguided and *sincerely hopes* that they will be dropped; *stresses* in this regard also that, should there be serious reasons to believe that Senator Cepeda committed a crime, there is always the option of a criminal prosecution, which also has the benefit of offering stronger procedural guarantees for Senator Cepeda and of doing away with the allegation that the *Procurador General* has a conflict of interest in the proceedings initiated against Senator Cepeda;
5. *Considers* that the case of Senator Cepeda also highlights the need to amend existing legislation with respect to disciplinary proceedings against parliamentarians, with a view to bringing it into line with relevant international and regional standards; *expresses* the hope, therefore, that legislative action will be contemplated to eliminate the powers of the *Procuraduría* to revoke a parliamentary mandate as a disciplinary sanction;
6. *Considers* that the proposed follow-up visit to Colombia by a Committee delegation would help to address the various concerns and issues that have arisen in the case at hand; therefore *requests* the Secretary General therefore to make the necessary arrangements for the visit to take place;

7. *Sincerely hopes* that, in light of the urgency and seriousness of the matter, the petition brought before the Inter-American Commission on Human Rights in Senator Cepeda's case will soon be addressed;
8. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
9. *Decides* to continue examining the case.



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Colombia

CO/155 - Piedad del Socorro Zuccardi de García

CO/157 - Oscar Arboleda Palacio

*Decision adopted unanimously by the IPU Governing Council at its 195th session
(Geneva, 16 October 2014)*

The Governing Council,

Referring to the case of Ms. Piedad del Socorro Zuccardi de García, a member of the National Congress of Colombia when an investigation was opened against her on charges of aggravated criminal conspiracy for the purpose of organizing, promoting, arming or financing illegal armed groups, following accusations that she had cooperated with paramilitary groups, and to the resolution it adopted on her case at its 193rd session (October 2013),

Having before it the case of Mr. Oscar Arboleda Palacio, a former member of the National Congress of Colombia, which has been examined by the Committee on the Human Rights of Parliamentarians pursuant to the Procedure for the examination and treatment of complaints (Annex I of the revised rules and practices); *considering* that Mr. Arboleda is being investigated on the same charges as Ms. Zuccardi de García,

Considering that Ms. Zuccardi de García and Mr. Arboleda were placed in pretrial detention by decisions of the Supreme Court of Justice on 5 March and on 11 September 2013 respectively and that on 8 October 2014 the Supreme Court changed Mr. Arboleda's detention to house arrest in response to his poor health and the treatment he required,

Considering that the complainants point out that both former members of Congress do not benefit from a fair trial and are being prosecuted in the absence of any concrete and reliable proof, with the prosecution relying significantly on the testimony of a convicted drug trafficker and self-proclaimed demobilized paramilitary member, Mr. Juan Carlos Sierra alias "El Tuso"; they point in this regard also to the decisions by the Office of the Attorney-General (*Procuraduría*) had on 12 June 2012 and on 5 November 2013 to dismiss the cases against Ms. Zuccardi de García and Mr. Arboleda respectively,

Considering the following: The reports of the Committee's on-site missions to Colombia in 2009 and 2010 refer extensively to concerns about respect for fair-trial guarantees in criminal proceedings against current and former members of Congress, who are investigated and judged in single instance by the Supreme Court, and about how the investigation and proceedings are handled in practice; with regard to the testimony of demobilized paramilitaries, the 2010 mission concluded, "such testimonies, however useful they may be, must be treated with great caution. The credibility of those persons, who have committed atrocious abuses, cannot be taken for granted. What seems clear is that the demobilized paramilitaries have their own interest in acting in a certain manner in order to be granted the lenient sentences provided for in the Justice and Peace Act. This necessarily implies that many feel it better to speak than remain silent, even when they know little or no information,"

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Considering that several attempts have been made to introduce legislation to ensure that Colombian parliamentarians enjoy, like other Colombian citizens, the right to a fair trial, including the possibility of appeal, and that the most recent attempt was part of a larger series of judicial reform measures adopted by the Colombian Congress on 20 June 2012, but subsequently abandoned after the President of the Republic objected to it; *considering* that a bill to balance the powers of the different branches of the State was brought before the National Congress in September 2014,

Considering finally that an observer from the IPU, Mr. Nick Stanage from Doughty Street Chambers, attended the hearings which took place before the Supreme Court in both cases on 22 and 23 September 2014 and met with several of the parties directly concerned and has produced a report in which he expresses both concern about due process and the evaluation of the credibility of the evidence at hand,

1. *Thanks* the trial observer for his efforts and the report he has produced; *also thanks* the National Congress of Colombia for facilitating his mission;
2. *Requests* the Secretary General to convey a copy of the report to the relevant Colombian authorities and to the complainants with a view to soliciting their views;
3. *Decides* to continue closely monitoring the proceedings in both cases, including by exploring the option of a continued presence at future hearings before the Supreme Court;
4. *Reaffirms its view* that the legal framework in Colombia should ensure that members of Congress benefit from due process in criminal procedures so that they can fulfil their mandates effectively and without fear of reprisals; therefore *calls on* the competent authorities to do everything possible to renew consultations with a view to helping ensure that the current legal provisions governing the procedure applicable to members of Congress in criminal cases are finally overhauled so as to ensure their full compatibility with fundamental fair-trial standards, including the right to appeal and non-discrimination towards members of Congress; *affirms* the continued readiness of the IPU to assist in this regard;
5. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.