Ecuador

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)

ECU-73 - Christian Pabel Muñoz López
ECU-74 - Gabriela A. Rivadeneira Burbano (Ms.)
ECU-84 - Carlos Eloy Viteri Gualinga
ECU-85 - Yofre Martín Poma Herrera
ECU-86 - Doris Josefina Soliz Carrión (Ms.)
ECU-88 - María Soledad Buendía Herdoiza (Ms.)
ECU-90 - Luis Fernando Molina

Alleged human rights violations

- Threats, acts of intimidation
- Arbitrary arrest and detention
- Violation of freedom of opinion and expression
- Abusive revocation or suspension of the parliamentary mandate

A. Summary of the case

Mr. Poma, Ms. Soliz, Ms. Rivadeneira, Ms. Buendía, Mr. Viteri, Mr. Molina and Mr. Muñoz (all titular members of the National Assembly of Ecuador between 2017 and 2021, with the exception of Mr. Molina who was an alternate member of parliament) belonged at that time to the Citizen Revolution Movement (Movimiento Revolución Ciudadana, hereinafter MRC), a political movement in Ecuador formed by supporters of former President Correa. In early January 2018, these parliamentarians decided to distance themselves from the then ruling PAIS Alliance (Alianza PAÍS) party, led by former President of the Republic Mr. Lenin Moreno, over their continuous disagreement with the new direction of the party after Mr. Moreno took office in 2017.
According to the complainants, in response to their criticism of former President Moreno, the seven above-mentioned parliamentarians were subject to intimidation, slurs on their honour and integrity and legal harassment. The situation reportedly worsened with the outburst of public protest in Ecuador in early October 2019, which came in response to the announcement and implementation of austerity measures by the Government. During the protests, the MRC asked for President Moreno’s resignation, who in turn accused his predecessor and his supporters of being responsible for the chaos and violence that engulfed the country during the protests.

During one of the demonstrations, Mr. Poma was arrested. On 8 November 2019, the National Court of Justice convicted and sentenced him and four other individuals to a prison term of one year and four months for being accomplices in the commission of the offence of paralysing public service. On 2 April 2020, Mr. Poma was released after benefiting from a conditional suspension of sentence, which was granted by the Supreme Court of Ecuador. He regained his seat in parliament on 23 March 2020. According to official information provided by the National Assembly, Mr. Poma carried out his official duties and powers as a parliamentarian until the end of his term in May 2021. Ms. Soliz and Mr. Muñoz also carried out their official duties until that date. Mr. Muñoz was re-elected to parliament during the last legislative elections.

According to the complainants, in the face of continued and increased harassment during the protests, Ms. Rivadeneira, Ms. Buendía, Mr. Viteri and Mr. Molina went to the Mexican Embassy in Quito on 12 and 14 October 2019 seeking protection. On 9 January 2020, the Mexican authorities granted them asylum. With the cooperation of the Ecuadorian authorities, they were allowed to take a plane to Mexico that same day, where they are currently living.

In a decision adopted pursuant to the “Regulations of Fines for Absences and Arrears” of the National Assembly, amended on 24 October 2019, the Consejo de Administración Legislativa (Administrative Legislative Council – CAL) of the National Assembly suspended payment of the salaries of the exiled parliamentarians until “the reason for non-attendance has been overcome” and authorized the respective alternates to assume full legislative functions. In a letter sent in January 2020, the parliamentary authorities underscored that the parliamentarians had left the country on their own volition without there being any legal action pending against them.

According to the complainants, Ms. Rivadeneira has received several notifications from the Ecuadorian Attorney General’s Office regarding criminal proceedings against her in Ecuador. These proceedings consist of preliminary investigations into the alleged offence of instigation in relation to the events of October 2019. The complainants also submit that the suspension of payments, along with the assumption of parliamentary functions by their alternates, constitute a de facto revocation of the parliamentary mandate of the exiled parliamentarians and that the above-mentioned regulations had been implemented retroactively, as the decision to suspend the salaries had been formally adopted by the CAL on 22 October 2019, with effect from 13 October 2019.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. **Thanks** the parliamentary authorities for their letters and continued cooperation;

2. **Is concerned** about the allegations that Ms. Rivadeneira was subject to criminal proceedings in Ecuador that would appear to be part of a pattern of reprisals against her because of her political positions; and wishes to receive detailed official information on the facts underlying each of the charges brought against her and on the steps taken by the relevant authorities to guarantee her right to a fair trial from exile;

3. **Fails to understand** how the suspension of the salaries of the three parliamentarians now in exile could have taken effect on 13 October 2019, prior to the adoption by the CAL of the relevant decision on 22 October 2019, and how that body could have based its decision on regulations that it had subsequently amended; and wishes to receive copies of the relevant CAL decisions and detailed official information on the timing, legal basis and procedure followed in terminating the rights directly related to the exercise of the parliamentary mandates of Ms. Rivadeneira, Ms. Buendía and Mr. Viteri;
4. *Is also concerned* about the allegations that the parliamentarians in this case have been subjected to various kinds of acts of harassment for having exercised their right to freedom of expression and their parliamentary functions; *recalls* that freedom of expression is at the heart of democracy, that it is essential for parliamentarians and that it is not limited to words, opinions and expressions that are favourably received or regarded as harmless; *considers* that the State has an obligation to create the necessary conditions to ensure that parliamentarians have a genuine opportunity to exercise the function for which they were democratically elected, in particular by promoting the ideological vision they represent through their free participation in public debate; and *affirms* in this respect that the National Assembly, pursuant to its legislative, budgetary and oversight powers, has an obligation to act with due diligence to help prevent and punish all forms of harassment against all its members, without distinction;

5. *Notes*, however, with respect to Mr. Poma’s situation, that he was able to return to his seat in parliament after his release and to continue to exercise his parliamentary mandate without hindrance; *notes also*, with respect to the situation of Ms. Soliz and Mr. Muñoz, that they have never ceased to exercise their parliamentary mandate or to express their views freely both inside and outside parliament; *decides*, therefore, to close these three cases in accordance with section IX, paragraph 25(a), of its Procedure, given that any further action by the Committee would henceforth be pointless; *recalls*, nevertheless, that the Committee reserves the right to re-examine these cases in the light of new information subsequently provided by the complainant that could show that these parliamentarians were subjected to arbitrary measures directly related to the exercise of their parliamentary mandate between 2017 and 2021;

6. *Recalls*, with respect to Mr. Molina, that in order to determine the admissibility of his initial complaint, additional information was needed to establish with certainty the nature and content of the duties he allegedly performed as an alternate member of parliament at the time of the alleged facts, as well as the manner in which those duties were performed; *notes* that the complainant has failed to provide any further information despite repeated requests to that effect; *considers* that it is not possible in the circumstances to examine Mr. Molina’s individual situation; and *considers*, therefore, that the complaint concerning Mr. Molina is not admissible under section IV, paragraph 12, of the Committee’s Procedure;

7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainants and any third party likely to be in a position to supply relevant information;

8. *Decides* to continue examining the cases of Ms. Rivadeneira, Ms. Buendía and Mr. Viteri.