



Inter-Parliamentary Union

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Chile

CHI87 - Jaime Guzman Errazuriz

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 155th session (Geneva, 25 January - 2 February 2018)

The Committee,

Referring to the case of Mr. Jaime Guzmán Errázuriz, a member of the Senate of Chile who was assassinated on 1 April 1991, and to the decision it adopted at its 143rd session (January 2014),

Recalling the following facts on file:

- In 1993, two members of the Manuel Rodríguez Patriotic Front (a Chilean movement) were convicted and sentenced as perpetrator and instigator respectively of the assassination;
- In June 2003, the Chilean authorities issued an international arrest warrant for Mr. Galvarino Sergio Apablaza Guerra, also known as “Commander Salvador”, of the Manuel Rodríguez Patriotic Front, in connection with his alleged involvement in the planning and execution of the murder. In November 2004, the Argentine authorities detained Mr. Apablaza, who was using a false identity at the time, in Buenos Aires;
- On 30 November 2004, the Chilean Supreme Court initiated criminal proceedings against Mr. Apablaza. On 16 December 2004, the Santiago Court of Appeal requested Mr. Apablaza’s extradition. On 13 January 2005, the Chilean Embassy in Argentina conveyed the request for extradition to the Argentine authorities;
- On 4 July 2005, the Argentine National Court for Federal Criminal and Correctional Matters No. 11 decided not to grant the extradition request, considering that it was not possible to link Mr. Apablaza directly to the commission of the crime on the basis of the evidence presented by the State of Chile. Both the Argentine Prosecutor’s Office and the State of Chile appealed that decision;
- On 1 December 2004, Mr. Apablaza submitted a request for asylum to the Refugee Eligibility Committee (CEPARE) in Argentina;
- In February 2006, the Argentine Prosecutor General, appearing before the Argentine Supreme Court, expressed support for the extradition request. At first, the Supreme Court decided to await the outcome of Mr. Apablaza’s asylum application. However, in September 2010, the Supreme Court decided to grant the extradition request, considering that, by its inaction, the National Commission for Refugees (CONARE, CEPARE’s successor) was indefinitely delaying consideration of the extradition request, which was tantamount to a denial of justice. However, the Supreme Court stressed that its decision was without prejudice to any subsequent decision by the government to comply with its non-refoulement obligation, as provided for in article 7 of Argentina’s General Act on the Recognition and Protection of Refugees (Act No. 26.165), which stipulates that “no refugee shall be expelled, returned or extradited to another State when there are serious reasons to believe that his/her right to life, liberty or security are at stake”;

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- On 1 October 2010, CONARE granted Mr. Apablaza asylum, stating that it did so pursuant to the provisions of article 7 above;
- The Chilean State subsequently filed a case against the CONARE decision before Argentine Federal Administrative Court No.1, Secretariat No.1,

Considering that the Chilean complainants have argued that CONARE's decision runs counter to Argentina's national and international obligations, as: (i) the conditions for Mr. Apablaza being considered a refugee have not been met; (ii) the extradition request fulfilled all the technical requirements; and (iii) its rejection amounts to a denial of justice for the victims of the crimes for which he is allegedly responsible,

Bearing in mind that Argentina is a party to the International Covenant on Civil and Political Rights and the American Convention on Human Rights, and is therefore bound to combat impunity, including by providing or ensuring a proper remedy in cases of human rights violations; and *mindful* that Argentina is a party to the United Nations Convention (1951) and Protocol (1967) relating to the Status of Refugees,

Taking into account the following new information, presented by the President of the Argentine Senate, Ms. Gabriella Michetti, in her letter of 19 December 2017, and on behalf of the complainants by Chilean Senator Juan Antonio Coloma and President of the Chilean IPU Group, in his letter dated 8 January 2018, on developments in 2017 with regard to the following members of the Manuel Rodríguez Patriotic Front:

- In early December 2017, CONARE, after listening to the parties and stakeholders, decided to strip Mr. Apablaza of his refugee status. Mr. Apablaza has appealed this decision, which appeal is still pending;
- In May 2017, the Mexican authorities arrested one of the alleged perpetrators of Senator Gúzman's assassination, Mr. Raul Escobar Poblete, whose extradition to Chile has since been sought. His ex-wife, Ms. Marcela Mardones, was arrested on entering Chilean territory with a false identity and is being prosecuted for direct involvement in the crime;
- In September 2017, the Chilean police arrested Mr. Florencio Velazquez Negrete, in connection with his alleged involvement in the crime;
- In December 2017, Mr. Ricardo Palma Salamanca, who had already been sentenced in 1993 for his involvement in the assassination, but escaped from prison in 1996, was located in France. The process to obtain his extradition is under way,

Considering also that, some time ago, according to Senator Coloma in the aforesaid letter, the Chilean Inter-Parliamentary Group asked its Argentine counterpart for a meeting of the Chile-Argentina Inter-Parliamentary Friendship Group to start a dialogue on the question of the situation of Mr. Apablaza, which was accepted by them; according to him, the meeting has not yet materialized, as the Argentine legislators had yet to come forward to finalize arrangements; since then, parliamentary elections have taken place in Argentina (October 2017); according to Senator Coloma, with new members of parliament in office in Argentina the meeting remains postponed by the Argentine counterpart,

1. *Thanks* the President of the Argentine Senate for her letter and the information provided therein;
2. *Is pleased* that significant progress has been made in the last twelve months to help ensure accountability in the case of the assassination of Senator Gúzman, in particular in light of the increased likelihood that Mr. Apablaza will finally stand trial in Chile for his alleged involvement in this crime; *wishes* to be kept informed of significant developments in the pursuit of justice, in particular with regard to the final decision taken on Mr. Apablaza's appeal in Argentina;

3. *Continues to believe* that, in light of its mandate, the Chile-Argentina Inter-Parliamentary Friendship Group can and should take a keen interest in this matter; *trusts* therefore that it will soon be able to meet and will decide to closely monitor developments regarding Mr. Apablaza;
4. *Requests* the Secretary General to convey this decision to the competent parliamentary authorities in both countries, the complainants and any third party likely to be in a position to supply relevant information;
5. *Decides* to continue examining this case.