

ECUADOR

- **ECU-COLL-03:** Seven parliamentarians
- **ECU-COLL-02:** Three parliamentarians



Inter-Parliamentary Union
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Ecuador

**Decision adopted unanimously by the IPU Governing Council at its 209th session
(Nusa Dua, 24 March 2022)**



Pandora Papers logo © LOIC VENANCE/AFP

ECU-93 – Mónica Estefanía Palacios Zambrano (Ms.)
ECU-94 – Fausto Jarrin
ECU-95 – Paola Cabezas (Ms.)
ECU-96 – Maria Fernanda Astudillo (Ms.)
ECU-97 – Victoria Desintonio (Ms.)
ECU-98 – Pabel Christian Muñoz López
ECU-99 – Rebeca Viviana Veloz Ramírez (Ms.)

Allegations of human rights violations

- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case

This case concerns allegations of political persecution and harassment against seven Ecuadorian members of parliament from the Union for Hope Movement (*Movimiento Unión por la Esperanza* – UNES), the main opposition force¹ in parliament.

According to the complainant, these parliamentarians have suffered political violence as a result of the investigation carried out by some of them, as members of the Permanent Special

Case ECU-COLL-03

Ecuador: Parliament affiliated to the IPU

Victims: Seven opposition members of parliament (two men and five women)

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

Date of complaints: November 2021 and January 2022

Latest IPU decision(s): - - -

IPU mission(s): - - -

Last Committee hearing: Hearing with the Ecuadorian delegation at the 144th IPU Assembly (March 2022)

Recent follow-up:

- Communication(s) from the authorities:
- - -
- Communication from the complainant:
March 2022
- Communication to the authorities: Letter to the Speaker of the National Assembly (February 2022)
- Communication to the complainant:
January 2022

¹ For the purposes of this decision, the term "opposition" refers to members of parliament belonging to political groups or parties with limited decision-making power and who are opposed to the ruling power.

Commission on Constitutional Guarantees, Human Rights, Collective Rights and Interculturality of the National Assembly of Ecuador (the parliamentary commission), into the so-called Pandora Papers,² for having expressed their opinions on the matter and as a direct consequence of their work as members of the opposition.

These acts of persecution are allegedly aimed at intimidating the seven parliamentarians and are being carried out mainly through stigmatizing public statements made by members of the national government or the ruling party Creating Opportunities Movement (CREO) on social networks, television, radio, in the print media and through a variety of legal and administrative actions.

Examples of messages provided by the complainant include several messages received by members of parliament Ms. Mónica Palacios, Ms. Rebeca Veloz, Ms. María Fernanda Astudillo and Ms. Victoria Desintonio, in which they are called “thieves”, “tax evaders” and “coup plotters”, among other disparaging adjectives. According to the complainant, several social media accounts have been used to justify sexist, political and racist violence against member of parliament Ms. Paola Cabezas, the main argument being that she is a woman of African descent.

With regard to the situation of member of parliament Mr. Fausto Jarrin, the complainant submits that on 10 January 2022 he was notified of Resolution No. CAL-2021-2023-287, which set forth the administrative sanction of a 10-day suspension from the exercise his parliamentary mandate. The complainant considers that this sanction was applied arbitrarily, without respecting the rights of the defence, and that it was adopted in retaliation for him being one of the main spokespersons in the so-called Pandora Papers affair before parliament and domestic public opinion.

With regard to the situation of member of parliament Mr. Pabel Muñoz, the complainant states that the member of parliament has been subjected to persecution and harassment since the previous legislature because of his political opinions and his work as a member of the opposition. One of the most recent examples of legal harassment is that Mr Muñoz has been the subject of proceedings initiated by the Comptroller General's Office relating to accusations of corruption, which the complainant claims are unfounded.

The complainant also points out that, on 16 November 2021, the Attorney General's Office sent an official letter to the National Assembly, addressed to the parliamentary commission, indicating that preliminary investigation No. 137-2021 had been opened into the alleged offence of "ideological falsehood" through the submission of the report on the Pandora Papers case. According to the complainant, the Attorney General's Office opened this investigation against the members of the special commission in retaliation for the actions of these parliamentarians in the exercise of their mandate.

At the hearing held during the 144th IPU Assembly, the Ecuadorian delegation stated that the National Assembly did not have the legal capacity to monitor the communications of state officials or messages published on social networks, and that the administrative proceedings against Mr. Jarrin and those initiated by the Comptroller General's Office concerning Mr. Muñoz were in accordance with the applicable domestic rules. The delegation also stated that the preliminary investigation opened into the alleged offence of "ideological falsehood" was being conducted before the relevant courts and came about because some members of the parliamentary commission had allegedly amended the commission's final report without informing all members.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning this case is admissible, considering that the communication: (i) was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules

² Investigation into tax haven documents revealing the names of more than 300 politicians, public officials and billionaires from more than 90 countries, 35 of whom are heads of State. Among the Latin American political leaders involved was the President of the Republic of Ecuador, Mr. Guillermo Lasso.

and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns seven incumbent members of parliament at the time of the initial allegations; and (iii) concerns allegations of threats and acts of intimidation, violation of freedom of opinion and expression, violation of freedom of assembly and association, and other acts obstructing the exercise of the parliamentary mandate, which are allegations that fall under the Committee's mandate;

2. *Thanks* the Ecuadorian delegation for the information received and for meeting with the members of the Committee on the Human Rights of Parliamentarians at the 144th IPU Assembly to discuss the cases examined and the concerns raised;
3. *Notes with concern* that court proceedings are under way against Ms. Desintonio, Ms. Cabezas and Ms. Astudillo, members of the opposition, in connection with their work in a parliamentary commission dealing with a highly sensitive issue that could be detrimental to the President of the Republic; and *wishes to* receive official and detailed information on the facts underlying the charges against these three parliamentarians and to be kept regularly informed of progress in the proceedings;
4. *Is concerned* at the discriminatory and sexist nature of the disparaging messages and comments received by Ms. Palacios, Ms. Veloz, Ms. Desintonio, Ms. Cabezas and Ms. Astudillo; *considers* that they are particularly susceptible to multiple forms of discrimination and violence because they are women and members of the opposition; and *affirms* that the National Assembly, by virtue of its legislative, budgetary and oversight powers, has the opportunity to make a decisive contribution to the prevention of all forms of violence against women and to create conditions conducive to the effective and timely investigation into such acts and to the punishment of the perpetrators under the applicable rules;
5. *Recalls* that sexism and gender-based violence against women parliamentarians, including online, violate their dignity, create an intimidating, hostile, degrading, humiliating or offensive environment and perpetuate gender inequalities and stereotypes; and further *recalls* that these detrimental effects may be all the more damaging for women parliamentarians from underrepresented or marginalized groups, such as women of African descent;
6. *Wishes to* receive official and detailed information and copies of the relevant documents concerning the administrative proceedings against Mr. Jarrin, and which led to a temporary suspension of his parliamentary mandate; and *wishes to* receive official and detailed information concerning the proceedings initiated by the Comptroller General's Office against Mr. Muñoz and the facts justifying the charges laid against him;
7. *Requests* the Secretary General to convey this decision to the Speaker of the National Assembly, the complainant 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.



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



© Protesters march against President Lenin Moreno's decision to slash fuel subsidies, in Quito on 9 October 2019.

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 PAIS*) 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.

Case ECU-COLL-02

Ecuador: Parliament affiliated to the IPU

Victims: Seven opposition members of parliament (four men and three women)

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

Submission of complaints: September 2018 and October 2019

Recent IPU decision: February 2021

IPU Mission(s): - - -

Recent Committee hearings: Hearing with the Legal Adviser of the National Assembly (January 2020); working meeting between the IPU Secretariat and the Secretariat for International Relations of the National Assembly (January 2021)

Recent follow up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (April 2021)
- Communication from the complainant: January 2022
- Communication to the authorities: Letter to the Speaker of the National Assembly (April 2021)
- Communication addressed to the complainant: January 2022

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.