

Thursday 9 June 2022

P9\_TA(2022)0238

## **The instrumentalisation of justice as a repressive tool in Nicaragua**

### **European Parliament resolution of 9 June 2022 on the instrumentalisation of justice as a repressive tool in Nicaragua (2022/2701(RSP))**

(2022/C 493/08)

*The European Parliament,*

- having regard to its previous resolutions on Nicaragua, in particular those of 16 December 2021 <sup>(1)</sup>, 8 July 2021 <sup>(2)</sup>, 8 October 2020, 19 December 2019 <sup>(3)</sup>, 14 March 2019 <sup>(4)</sup> and 31 May 2018 <sup>(5)</sup>,
- having regard to the statements by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on behalf of the EU of 15 August 2021, 8 November 2021 and 14 March 2022,
- having regard to the statements by the UN High Commissioner for Human Rights at the 48<sup>th</sup> and 49<sup>th</sup> sessions of the Human Rights Council and to her annual report on the situation of human rights in Nicaragua of 7 March 2022,
- having regard to the statements by the Inter-American Commission on Human Rights of 23 June 2021, 20 November 2021 and 11 February 2022,
- having regard to the Universal Declaration of Human Rights of 1948,
- having regard to the EU Guidelines on Human Rights Defenders of June 2004, as updated in 2008,
- having regard to the Agreement establishing an Association between the European Union and its Member States, on the one hand, and Central America on the other (Association Agreement between the EU and Central America),
- having regard to the Council regulations and decisions concerning restrictive measures against serious human rights violations and abuses in Nicaragua,
- having regard to the American Convention on Human Rights of 1969 (Pact of San José),
- having regard to the International Covenant on Civil and Political Rights, the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules) and the Vienna Convention,
- having regard to Resolution A/HRC/49/L.20 on the promotion and protection of human rights in Nicaragua adopted on 31 March 2022 by the UN Human Rights Council,
- having regard to the Constitution of the Republic of Nicaragua,
- having regard to Rule 144(5) and 132(4) of its Rules of Procedure,

A. whereas since April 2018, a framework of state repression has been installed in Nicaragua by the Ortega-Murillo regime, marked by systemic impunity for human rights violations, the deterioration of institutions and the rule of law, and the implementation of an orchestrated strategy with the clear connivance of the judiciary, which aims to silence any dissenting voices;

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<sup>(1)</sup> Texts adopted, P9\_TA(2021)0513.

<sup>(2)</sup> OJ C 99, 1.3.2022, p. 204.

<sup>(3)</sup> OJ C 255, 29.6.2021, p. 65.

<sup>(4)</sup> OJ C 23, 21.1.2021, p. 126.

<sup>(5)</sup> OJ C 76, 9.3.2020, p. 164.

Thursday 9 June 2022

- B. whereas since 2018, the Nicaraguan authorities have carried out systematic and targeted incarceration, harassment and intimidation of political opponents, the opposition, student and rural leaders, journalists, human rights defenders, business representatives, and artists, who have repeatedly faced death threats, intimidation, online defamation campaigns, harassment, surveillance, assault, judicial persecution and arbitrary deprivation of liberty; whereas, despite these numerous risks, journalists and other human rights defenders continue to perform an essential role in monitoring the situation of human rights and freedoms in Nicaragua;
- C. whereas, in recent years, the Ortega-Murillo regime has adopted and applied an increasingly repressive regulatory framework;
- D. whereas to date at least 182 political opponents are being held in prison in inhumane conditions that do not comply with international human rights obligations such as the Nelson Mandela rules, according to the Special Follow-up Mechanism for Nicaragua (MESENI); whereas seven of these political prisoners were presidential pre-candidates for the 2021 elections; whereas critics of the Nicaraguan regime have been subjected to systematic abuses during detention, including inhumane, humiliating and degrading treatment amounting to torture, which has led to the death of political prisoner and former rebel leader Hugo Torres, among others; whereas the Nicaraguan authorities have also harassed the families and relatives of political prisoners, who have suffered persecution and threats;
- E. whereas the lack of separation of powers and the complete control of the institutions by the Nicaraguan regime has resulted in the subjugation of the judiciary and the Office of the Public Prosecutor to the regime's will, obliterating the rule of law, judicial independence and civil society organisations, and therefore democracy, in order to establish a dictatorship in Nicaragua;
- F. whereas Nicaraguan courts have handed down guilty verdicts and harsh sentences to any dissenting voices after closed-door trials which failed to uphold basic fair trial guarantees;
- G. whereas the judges and prosecutors in these trials have consistently violated due process; whereas the presumption of innocence was violated by the Office of the Public Prosecutor in a public note;
- H. whereas the continued crackdown and repression has forced thousands of Nicaraguans to flee the country; whereas similar patterns of repression are being observed where attacks on freedom of expression have intensified; whereas threats by the Public Prosecutor's Office against several journalists and media workers have prompted many of them to leave Nicaragua to seek protection;
- I. whereas in 2022, the Ortega-Murillo regime banned almost 400 non-profit organisations, depriving them of their legal status; whereas the Catholic Church has also been the victim of the Ortega-Murillo regime, as have the Nicaraguan Academy of Language, members of indigenous communities and other minority groups, among others;
- J. whereas the Ortega-Murillo regime violated international law, especially the Vienna Convention, by storming the headquarters and occupying the premises of the Organization of American States, which was expelled from Nicaragua on 25 April 2022;
- K. whereas, following a strongly supported initiative organised by civil society, the UN Human Rights Council established a Group of Human Rights Experts to conduct thorough and independent investigations into all alleged human rights violations and abuses committed since April 2018, including their gender dimension; whereas both the EU and the US have imposed sanctions on Nicaragua;
1. Condemns in the strongest possible terms the systematic crackdown on political opposition parties, the suppression of civil society actors, human rights defenders and media, other media workers, journalists, as well as their family members, students and members of the Catholic Church, among others, and the persistent corruption of Nicaraguan regime officials;

**Thursday 9 June 2022**

2. Strongly condemns the death of Mr Hugo Torres in detention;
3. Condemns the arrest of Father Manuel Salvador García on 1 June 2022, who remains in pre-trial detention, and calls for his immediate release;
4. Reiterates its call for the immediate extradition of Alessio Casimirri to Italy;
5. Condemns the abusive detention, the lack of trial guarantees and the illegal convictions of political prisoners that have been taking place in Nicaragua; urges the Nicaraguan authorities to restore guarantees for the full exercise of the civil and political rights of all Nicaraguans, cease the persecution of the democratic opposition, the press and civil society, immediately and unconditionally release those detained since April 2018, annul the legal proceedings against them and allow the safe return of all refugees and exiles to their homes;
6. Calls for the re-establishment of the rule of law, the separation of powers and the independence and impartiality of the judiciary and for the public authorities to respect the criminal code and the presumption of innocence and to stop the criminalisation of the opposition;
7. Condemns the illegitimate judicial rulings that only confirm the repressive drift of the Nicaraguan regime and that judges have become an arm of repression responsible for human rights violations;
8. Urges the European Union to hold the Nicaraguan regime accountable, in particular its judges, for repression in the country and the judicial proceedings initiated against opposition figures and other critics; calls on the Council to immediately start the proceedings to include the following judges on the list of individuals sanctioned by the EU: Nadia Camila Tardencilla, Angel Jeancarlos Fernández González, Ulisa Yaoska Tapia Silva, Rosa Velia Baca Cardoza, Veronica Fiallos Moncada, Luden Martin Quiroz García, Karen Vanesa Chavarría, Felix Ernesto Salmerón Moreno, Nancy Aguirre Gudiel, William Irving Howard López, Erick Ramón Laguna Averruz, Melvin Leopoldo Vargas García, Irma Oralia Laguna Cruz and Rolando Sanarrusia, among others, as well as the judges of the Managua Appeals Court who have also been involved in the deprivation of the procedural and substantive rights of those illegally convicted: Octavio Rothschuh Andino, Ángela Dávila and Argentina Solís;
9. Calls on the Member States and the UN Security Council, in accordance with Articles 13 and 14 of the Rome Statute, to open a formal investigation through the International Criminal Court into Nicaragua and Daniel Ortega for crimes against humanity under Article 7 of the Rome Statute;
10. Expresses its support to the Nicaraguan citizens protesting peacefully against the Ortega-Murillo regime; deeply regrets that no judicial action has been taken to ensure justice and reparation for the victims of serious human rights violations since the 2018 crackdown;
11. Urges Nicaragua to repeal legislation passed since 2018 that unduly restricts civic and democratic space, in particular the Special Law on Cybercrimes (Law 1042), Law 1040 on the Regulation of Foreign Agents, and Law 1055 on the Defence of the Rights of the People to Independence, Sovereignty and Self-Determination for Peace, as well as the reform of the Code of Criminal Procedures; recalls that in the light of the Association Agreement between the EU and Central America, Nicaragua must respect and consolidate the principles of the rule of law, democracy and human rights; reiterates its demand that, in the light of the current circumstances, the democratic clause of the Association Agreement should be triggered;
12. Stresses that international human rights bodies must be allowed to return to Nicaragua, including the Office of the High Commissioner for Human Rights and the Inter-American Commission on Human Rights; regrets the lack of cooperation of Nicaraguan authorities with regional and international human rights mechanisms; calls for the EU to support the mandate of the three independent members of the Group of Human Rights Experts on Nicaragua recently established by the UN Human Rights Council and to closely collaborate with them with a view to promoting accountability for human rights violations and abuses in Nicaragua;
13. Condemns the fact that almost 400 NGOs have been forced to stop working in Nicaragua, including the Nicaraguan Academy of Language; calls on the Nicaraguan authorities to stop unduly closing NGOs and restore the legal personality of all organisations, political parties, universities and media outlets that have been arbitrarily shut down, as well as returning all the assets, documents and equipment that were illegally seized;

Thursday 9 June 2022

14. Expresses its deep concern over the repression of free and independent media in the country, which has forced more than 100 journalists into exile;
  15. Calls for the EU and its Member States to closely monitor the situation on the ground through their local representatives and embassies in Nicaragua; calls on the EU delegation and the Member States with diplomatic missions in the country to fully implement the EU Guidelines on Human Rights Defenders, to provide all appropriate support to human rights defenders who have been detained, including prison visits and trial monitoring, to publicly denounce abuses against human rights defenders and independent media and to support their work; calls on the EU delegation and the Member States to use all available instruments to increase their support for human rights defenders' work, to facilitate the issuing of emergency visas where appropriate, and to provide temporary shelter in the EU Member States for humanitarian reasons;
  16. Deeply regrets that Nicaraguan representatives voted against expelling Russia from the UN Human Rights Council for atrocities committed by its forces during the war in Ukraine and that Nicaragua abstained on UN General Assembly Resolution ES-11/1 of 2 March 2022 deploring Russia's invasion of Ukraine and demanding a full withdrawal of Russian forces;
  17. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Secretary-General of the Organization of American States, the Euro-Latin American Parliamentary Assembly, the Central American Parliament, the Lima Group, and the Government and Parliament of the Republic of Nicaragua.
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