



Inter-Parliamentary Union

For democracy. For everyone.

Venezuela

VEN/10 - Biagio Pillieri
VEN/11 - José Sánchez Montiel
VEN/12 - Hernán Claret Alemán
VEN/13 - Richard Blanco Cabrera

VEN/14 - Richard Mardo
VEN/15 - Gustavo Marcano
VEN/16 - Julio Borges
VEN/17 - Juan Carlos Caldera
VEN/18 - María Corina Machado (Ms.)
VEN/19 - Nora Bracho (Ms.)
VEN/20 - Ismael García
VEN/21 - Eduardo Gómez Sigala
VEN/22 - William Dávila
VEN/23 - María Mercedes Aranguren (Ms.)

VEN/24 - Nirma Guarulla (Ms.)
VEN/25 - Julio Ygarza
VEN/26 - Romel Guzamana

VEN/27 - Rosmit Mantilla
VEN/28 - Enzo Prieto
VEN/29 - Gilberto Sojo

***Decision adopted unanimously by the IPU Governing Council
at its 199th session (Geneva, 27 October 2016)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the existing cases under file name VEN/10-23, which concern allegations of human rights violations affecting members from the coalition of the former opposition, the Democratic Unity Round Table (MUD), in the previous Venezuelan legislature, and the decision adopted on their cases by the Governing Council at its 194th session (March 2014); *noting* that of these members, Mr. Pillieri, Mr. Sánchez, Mr. Alemán, Mr. Blanco, Mr. Borges, Ms. Bracho, Mr. García and Mr. Dávila were re-elected in the parliamentary elections of 6 December 2015, in which the MUD obtained a majority of seats,

Having before it the new cases of Ms. Nirma Guarulla, Mr. Julio Ygarza and Mr. Romel Guzamana, who were elected as titular members in the parliamentary election on 6 December 2015, and Mr. Rosmit Mantilla, Mr. Enzo Prieto and Mr. Gilberto Sojo, elected as alternate deputies in those elections, which have 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),



Recalling the following information on file with regard to the previous cases:

- **With regard to Mr. Pilieri, Mr. Sánchez, Mr. Alemán and Mr. Blanco:**
 - The four men have been exercising their parliamentary mandate, but remain subject to criminal proceedings; according to the complainant, the proceedings are baseless, which the authorities deny; they were instigated before their election to the National Assembly in September 2010, at which time Mr. Pilieri and Mr. Sánchez were detained; they were released in February and December 2011, respectively;
- **With regard to Mr. Richard Mardo:**
 - On 5 February 2013, Mr. Diosdado Cabello, then Speaker of the National Assembly, reportedly displayed, in the course of an ordinary session, public documents and cheques to support the hypothesis that Mr. Mardo had benefited from third-party donations, arguing that this amounted to illicit enrichment; the complainant affirms that what the Speaker displayed were falsified cheques and forged receipts;
 - On 6 February 2013, Mr. Pedro Carreño, in his capacity as President of the Parliamentary Audit Committee, pressed criminal charges against Mr. Mardo and called for him to be placed under house arrest in view of the alleged flagrante delicto situation;
 - On 12 March 2013, the Prosecutor General's Office formally requested the Supreme Court to authorize proceedings against Mr. Mardo on charges of tax fraud and money laundering, following accusations that were levelled against him by the then Speaker of the National Assembly which, according to the complainant, were based on falsified cheques and forged receipts; according to the authorities, Mr. Mardo was officially charged on 25 June 2014;
 - There is no information on file to show that the authorities have advanced with the criminal proceedings;
- **With regard to Ms. María Mercedes Aranguren:**
 - On 12 November 2013, the National Assembly lifted Ms. Aranguren's parliamentary immunity so as to allow charges of corruption and criminal association to be filed in court; the complainant affirms that the case against Ms. Aranguren is not only baseless, but had been dormant since 2008 and was only reactivated in 2013 in order to pass the enabling legislation; the authorities stated that, on 10 December 2014, the court in charge of the case ordered her arrest;
 - There is no information on file to show that the authorities have advanced with the criminal proceedings;
- **With regard to Ms. María Corina Machado:**
 - On 24 March 2014, the Speaker of the National Assembly announced, without any discussion in plenary, that Ms. Machado had been stripped of her mandate after the Government of Panama had accredited her as an alternate representative at the March 2014 meeting of the Permanent Council of the Organization of American States (OAS) in Washington, DC, so as to allow her to present her account of the situation in Venezuela;
 - According to the complainant, days before Ms. Machado was stripped of her parliamentary mandate, the National Assembly had requested the Prosecutor General's Office, in a document signed by 95 parliamentarians from the majority, to initiate pretrial proceedings against her for, according to the Speaker, "the crimes, devastation and damage in the country" following the large demonstrations and violent clashes between protestors and government forces that took place in the early months of 2014;
 - Two criminal investigations were subsequently initiated against her; the complainant states that the investigations relate to allegations that she was accused of involvement in an alleged plot to carry out a coup d'état and assassinations and of incitement to violence; Ms. Machado has denied the accusations and charge against her; the authorities state that the formal written charge (*escrito de acusación*) was presented on 30 September 2014 and that on 6 July 2015 a preliminary hearing took place on the case; as for the second investigation, the authorities maintain that it derives from a complaint

presented by several members of the National Assembly at the time, in which they asked for an investigation into the possible commission by Ms. Machado of several criminal offences; on 3 December 2014, formal charges were reportedly brought by the prosecutor's office; no information is on file with regard to the current status of the proceedings;

- On 14 July 2015, the Comptroller General of the Republic fined Ms. Machado and suspended her from her duties for 12 months, thereby blocking her intention to stand in the parliamentary elections scheduled for 6 December 2015 for a further term as a member of the National Assembly; the Comptroller alleges in his decision to suspend her that María Corina Machado concealed income in her sworn financial disclosures, consisting of food and transport vouchers available to members of parliament; Ms. Machado claims, however, never to have used such vouchers; according to the complainant, the suspension is totally disproportionate and unconstitutional and a violation of human rights;
- **With regard to Mr. Juan Carlos Caldera:**
 - On 26 November 2014, the Supreme Court authorized Mr. Caldera's prosecution, referring to article 380 of the Code of Criminal Procedure; the complainant claims that, contrary to the Court's ruling, the acts for which Mr. Caldera is to be investigated are not crimes; the complainant states that an illegal audio recording emerged showing several persons plotting to frame Mr. Caldera by making a lawful act – the receipt of private funds for a mayoral election campaign – appear criminal in the eyes of the public; the complainant points out that, in Venezuela, public funding of political parties and election campaigns is prohibited;
- **With regard to Mr. Ismael García:**
 - In November 2014, the Supreme Court upheld a request for pretrial proceedings in the case brought against Mr. García by General Carvajal, who claims to have been defamed and is currently being held in Aruba at the request of the United States Government on accusations of drug trafficking; the complainant points out that Mr. García had formally requested the Prosecutor General's Office to investigate General Carvajal for his alleged role in criminal activity; according to the complainant, none of these facts was considered by the Supreme Court before upholding the request,

Further recalling the concerns expressed by the complainant in several of these cases about the lifting of parliamentary immunity which, while it has the effect of suspending the parliamentary mandate, requires a three-fifths majority vote in the National Assembly, whereas the parliamentary authorities state that a simple majority is sufficient,

- **With regard to the new cases of Ms. Nirma Guarulla, Mr. Julio Ygarza and Mr. Romel Guzamana:**
 - On 30 December 2015, the Electoral Chamber of the Supreme Court ordered the suspension of a number of acts of proclamation issued by the Electoral Council for the state of Amazonas. The judgment related to allegations of fraud during the election of Ms. Nirma Guarulla, Mr. Julio Ygarza and Mr. Romel Guzamana (all from the coalition of the former opposition, the MUD) and Mr. Miguel Tadeo (from the PSUV);
 - On 5 January 2016, the National Assembly decided to disregard this judgement and resolved that the deputies from Amazonas should take their seats. On 11 January 2016, the Supreme Court determined that any decision taken by the National Assembly would be invalid as long as the members of parliament whom the Court had suspended remained in their seats. The MUD coalition parties in parliament first decided to continue legislating in defiance of the court ruling, but on 13 January 2016, the suspended members requested to leave the legislature "without losing their status of members of parliament and in expectation of more favourable conditions in resuming their seats";
 - On 21 July 2016, the suspended members of parliament from the State of Amazonas decided to retake their seats at the National Assembly, despite the Supreme Court's earlier decision to suspend their election;

- On 1 August 2016, the Supreme Court declared again that any decision taken by the National Assembly would be invalid as long as the members of parliament remained in their seats, and declared that the suspended members of parliament and the opposition (new majority) members of parliament were in contempt of court, and therefore could be liable to criminal prosecution;
- **With regard to the new cases of Mr. Rosmit Mantilla, Mr. Enzo Prieto and Mr. Gilberto Sojo:**
 - Mr. Rosmit Mantilla, Mr. Enzo Prieto and Mr. Gilberto Sojo, elected as alternate members of parliament in the parliamentary election on 6 December 2015, have been deprived of their liberty since 2014 in connection with ongoing legal proceedings, according to the complainant for political reasons, and have therefore been unable to exercise their parliamentary mandate. The complainants state that the National Assembly granted authorization for the installation of alternates. In this regard, the National Assembly had asked the General Prosecutor and the corresponding judges for the release of the three alternate deputies in order to allow their installation in parliament. However, this request was refused;
 - The complainants state that, according to Article 200 of the Venezuelan Constitution, parliamentary immunity is acquired by deputies from the moment of their proclamation as elected members of the National Assembly and that, with respect to alternate deputies, immunity is effective as soon as their installation is required in parliament;
 - On 22 April 2015, the United Nations Working Group on Arbitrary Detention considered that the detention of Mr. Mantilla constituted arbitrary detention,

Recalling that a delegation of the Committee on the Human Rights of Parliamentarians was due to travel to Venezuela in June 2013 to address, among other things, the issues that had arisen in these cases, but that the mission was postponed at the last minute in order to allow the parliamentary authorities more time to organize the meetings requested,

Taking into account the numerous letters from the current Speaker of the National Assembly, including his most recent letter of 17 October 2016, in which he expressed full support for the mission by the Committee and underscored the need for it to take place as soon as possible, all the more so in light of his concerns about increased encroachment by the executive and judicial authorities on the powers of the National Assembly,

Taking into account the official visit to Venezuela by the Secretary General in late July 2016, during which he met, amongst others, with the President of Venezuela, the Speaker of the National Assembly, the Ombudsman and parliamentarians from majority and opposition parties, and that his visit laid the groundwork for the organization of the mission by the Committee,

1. *Thanks* the Speaker of the National Assembly for the extensive information provided and for his continued readiness to receive the mission by the Committee;
2. *Is concerned* that more than 10 months after the election, there is still no clarity on the status of three individuals whose election was suspended by the Supreme Court; *reaffirms* that this situation not only directly affects their individual political rights, but also deprives their constituencies from representation in parliament; *calls on* the Supreme Court to rule on the matter as quickly as possible, with due consideration for all the facts and with full respect for the right to defence of those concerned;
3. *Notes* that three alternate members of parliament remain in preventive detention and that the allegation that they are detained arbitrarily has been confirmed in the case of Mr. Mantilla by the United Nations Working Group on Arbitrary Detention following a complaint submitted by the individual concerned; *is keen* therefore *to have* full details on the legal grounds and facts that underpin the accusations against them and the stage reached in the legal proceedings; *is also eager* to hear from the authorities why these parliamentarians should not be allowed to exercise their parliamentary mandate, in

particular to attend parliamentary sessions, as this would be in line with the fundamental principle of presumption of innocence;

4. *Recalls* its previous questions, as well as earlier preliminary concerns, regarding the cases of the other current and former parliamentarians whose cases were already under examination by the Committee before the elections of December 2015, and which relate primarily to the legal and factual justification for the legal proceedings brought against them individually and for the lifting of their parliamentary immunity;
5. *Requests* the Secretary General to liaise with the parliamentary authorities with a view to the swift organization of the mission, which would have as its mandate to address the current concerns and questions in the aforesaid cases, bearing in mind, where relevant, the current political context in which they have to be seen; *trusts* that the delegation will be able to meet with the relevant judicial and executive authorities and other entities that may be of help in the fulfilment of its mandate as well as the current and former parliamentarians directly concerned;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.