

**Presentation by Commissioner Margarete May Macaulay
President of the Inter-American Commission on Human Rights**

OAS Permanent Council to consider the Situation in Guatemala

July 25, 2023

- Ambassador **AUDREY MARKS**, Chair of the Permanent Council,
- Mr. **LUIS ALMAGRO**, Secretary General of the Organization of American States (OAS),
- Dr. IRMA PALENCIA, President Magistrate of the Supreme Electoral Tribunal of Guatemala
- Ambassador Eladio Loizaga, Chief of the OAS Electoral Observation Mission in Guatemala;
- Permanent and Alternate Representatives of Member States and Observers,

I would like to thank the invitation to participate in this very important meeting to share with you the Commission's concerns regarding the human rights situation in Guatemala and current events.

On July 12th, on the same day that the Supreme Electoral Tribunal ratified the validity of the first round of the presidential election, the Public Prosecutor's Office by means of its Special Prosecutor's Office Against Corruption and Crime, announced a criminal investigation against the political party *Movimiento Semilla* – one of the two parties that will go through to the second round - over the alleged falsification of signatures in the documentation presented to establish it.

Also, at the request of the Public Prosecutor's Office, a criminal judge had ordered the Supreme Electoral Tribunal (TSE) to provisionally suspend the party's legal status to prevent its members from "participating in any subsequent political events" and so positions cannot be awarded to candidates for office.

The Commission noted with concern that the order to suspend *Movimiento Semilla* contravenes Guatemala's Electoral and Political Parties Act, which expressly regulates that "a party cannot be suspended after the election has been called and until it has been held." The arbitrary or illegal exclusion of candidates jeopardizes the right to participate in government and

the electorate's free expression of its will, which may lead to serious consequences for democratic rule.

In this matter, the Constitutional Court (CC) issued a provisional injunction in which it stated that the second round of elections will be held on the date indicated and will be between the candidates who were officially announced by the Supreme Electoral Tribunal. However, the Court also states that that this decision does not impact the criminal proceedings in any way, so the Public Prosecutor's Office has continued with the investigations.

Additionally, on July 21st, the Commission noted arrest warrants issued for members of *Movimiento Semilla* whose headquarters were raided. Also, an arrest warrant was issued for an official of the Citizen Registry of the Supreme Electoral Tribunal, and new raids on this facilities took place.

Dear Member States' Representatives, the order to suspend *Movimiento Semilla* was issued at a time when complaints were being made over interference in the electoral process by the judiciary and the Public Prosecutor's Office. In March 2023, the IACHR drew attention to the importance of guaranteeing political rights, pluralism, and equal participation in the electoral process in Guatemala.

The electoral observation missions run by the OAS and the EU have expressed their concern regarding the "intense judicialization" of the electoral process. Specifically, the European Union Election Observation Mission noted that the 2023 general elections were held "in a context of a serious deterioration of the rule of law and the independence of the judiciary, together with severe restrictions on freedoms of expression and of the press."

These serious acts occur in a context of serious deterioration of the rule of law in Guatemala and the lack of independence of the Public Prosecutor's Office and its Attorney General.

In April, the Commission published its 2022 Annual Report, in which Guatemala was included for the second consecutive year in its Chapter IV.B because the human rights situation fell within the grounds established in its Rules of Procedure, related to ii. systematic noncompliance of the State with its obligation to combat impunity, attributable to a manifest lack of will;

In its report, the Commission observed an intensification of judicial persecution, criminalization and abuse of the impeachment proceeding with the aim of intimidating and removing from office justice operators responsible for investigating and prosecuting cases related to the internal armed conflict, including cases that have been ruled on by the Inter-American Court of Human Rights and to high-impact or large-scale acts of corruption, aimed at favoring power structures and groups interested in ensuring impunity.

These facts have occurred in a context of accusations pointing to the lack of independence of the Office of the Public Prosecutor and its Attorney General due to their role in judicial prosecution.

During the current government, more than 30 justice operators have left the country in exile after denouncing that they are being criminally prosecuted because of their work. At the same time, cases related to transitional justice or corruption involving high government officials have seen little progress or significant setbacks.

Despite allegations of lack of independence of the Public Prosecutor's Office due to its role in judicial persecution to favor power structures and groups, the current Attorney General was re-elected for a new term in 2022 in a questionable process that did not comply with international standards.

Currently, at least 7 justice operators are arbitrarily deprived of their liberty.

The IACHR also notes with concern that the 2023 general elections are taking place in a context of deteriorating guarantees for the exercise of freedom of expression in Guatemala, in which at least six journalists have been forced to leave the country this year. In June, the Commission and the Office of the Special Rapporteur for Freedom of Expression expressed their grave concern over the six-year prison sentence given to journalist José Rubén Zamora in Guatemala.

The IACHR reiterates its urgent call to the State of Guatemala to ensure the principle of separation of powers and guarantee the right to political participation in accordance with national regulations and inter-American standards, avoiding undue interference, as well as to respect the "popular will expressed by the Guatemalan people" as stated by the OAS Electoral Observation Mission in the country. This means, respecting and guaranteeing the people's choice.

One of the ways in which the inter-American system ensures the strengthening of democracy and political pluralism is through the protection of the political rights enshrined in Article 23 of the American Convention.

Respect for human rights and fundamental freedoms is also an essential element of representative democracy, in accordance with the Inter-American Democratic Charter.

Since the annual report of 2021 and subsequent public statements, the Commission has been issuing early warnings on a series of trends of the Executive and other groups of power through the manipulation of the justice administration, that are undermining the Rule of Law in Guatemala. The Commission, in accordance with its mandate, will continue to monitor the human rights situation in Guatemala and will keep this Permanent Council and the international community informed.

Thank you very much.