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Mrs
Éliane Tillieux (PS)
President of the Belgian Chamber of Representatives
Brussels

Subject: **Repeated violation of Human Rights in Ecuador**

The “El Colectivo Europeo de la Diversidad Ecuatoriana CEDE” of Spain, “GRACIA Gesellschaft für MenschenRechte” of Germany and “NOFEC Norwegian Forum for Democracy and Rights in Ecuador of Norway”, The aim of Ecuadorian organizations in Europe are to join forces to defend human rights, citizen participation, social control and fight against corruption in Ecuador. Several groups of Ecuadorians and de facto organizations based in the European Union have also become involved.

We write to you in order to show you all the information regarding serious and systematic violations of human rights in the Republic of Ecuador. This letter is divided into six parts: I. Political persecution suffered by opponents leaders, journalists and social leaders; II. De-institutionalization that the country suffer as a result of constitutional referendum of February 2018; III. The veto for the Citizen Revolution. IV. Extrajudicial executions in Ecuador's social rehabilitation centres; V. Pronouncements of international human rights protection bodies vis-à-vis Ecuador; and, VI. Ecuador's non-compliance with the violation of the democratic clause of the Trade Agreement signed by the Andean Community (Colombia, Peru and Ecuador) with the European Union.

I. POLITICAL PERSECUTION AND CRIMINALIZATION OF DISSIDENCE

Ecuador is going through one of the most complex moments in its republican history. After electing Lenín Moreno as president of the Republic of Ecuador in 2017, a process of political revanchism and persecution of followers and collaborators of the previous president Rafael Correa began, such persecution continues in the government of the current president Guillermo Lasso. Despite the fact

that Lenín Moreno came from the same political ranks as his predecessor, in a few months there was a political rupture between the two that resulted in the political persecution of all those who are alleged to be followers and/or collaborators of former President Rafael Correa, the so-called "correístas". Subsequently, as a result of the October 2019 protests, the persecution against correístas increased and extended to other social sectors such as indigenous people. At this moment in Ecuador, the use of the term "correísta" is a way to identify and denigrate the followers of the so-called Citizen Revolution (CR) or those who are attributed to be its followers, which constitutes a crime for political persecution¹. This persecution has materialized in the form of: censorship, loss of job, violation of privacy, honor, academic freedom, deprivation of liberty and procedural rights, among others.

The stigmatization against members of Revolución Ciudadana (Correísmo) increased after the protests of October 2019 and this resulted in the preventive deprivation of liberty of its members such as Paola Pabón, Virgilio Hernández or Christian González.

On many occasions, former President Lenin Moreno and current President Guillermo Lasso, have publicly and repeatedly demonstrated their hostility towards all followers of the Citizen Revolution (CR) and former President Rafael Correa, incurring in hate crimes and a clear political persecution. This can be clearly seen in several of his public interventions in national Radio and Television channels.

It is important to point out that the judicialization of politics has been the mechanism used in political persecution and that it has been expressed in different ways: administrative measures, developed by the Comptroller General of the State; criminal measures, developed by judges and prosecutors; modification of the institutional framework; and political blockade to prevent the political representation of the forces that support the Citizen Revolution, a clearly anti-democratic act.

A. Persecution through administrative channels

Through this channel, hundreds of irregular actions are developed, ranging from re-auditing processes that were already evaluated, determination of responsibilities without establishing damages to the State, determination of glosses although the operations have been carried out between state institutions, therefore without any damage to the public coffers, or the issuance of a series of reports with indications of criminal liability, without determining either civil damages or the possible crime that may have been committed.

The beginning of the prosecution begins with the opening of cases and investigations in the Comptroller's Office, as can be seen from a large number of cases and complaints filed.

¹ When the Political persecution is systematic and generalized, it could build a crime against humanity as contemplated in article 7.1 (h) the Statute of the International Criminal Court

B. Judicial Persecution

Judicial persecution, carried out both by the Attorney General's Office and the courts of justice, has violated the norms established by the Constitution of the Republic regarding due process, the presumption of innocence or the abusive use of ultima ratio measures such as preventive detention. People deprived of their freedom for political reasons, such as Jorge Glas, Alexis Mera and Pablo Romero Quezada, respond to this type of persecution. There are also people who have been deprived of their freedom for some period: Virgilio Hernandez, Paola Pabon or Marco Antonio Bravo. Or people who, faced with the arbitrary nature of their trial, decided to leave Ecuador and seek asylum in other countries: such as Fernando Alvarado, Vinicio Alvarado, Carlos Ochoa, Ricardo Patiño, among many others.

There is also the case of María Duarte who is with her minor son as a guest for humanitarian reasons in the Embassy of Argentina in Ecuador, for having been unjustly linked and sentenced in the Bribery case. It is worth noting that most of the red alerts requested by the Ecuadorian government to Interpol have been rejected by this organization, as has happened in the cases of Rafael Correa, Carlos Ochoa, Fernando Alvarado, among others. All this highlights the abuse of certain international mechanisms by the Ecuadorian State, which are also reproduced at the domestic level.

The persecution has not only been limited to high-ranking politicians of the Correa government, but has also been directed against all those who have expressed any kind of criticism to the government of Lenín Moreno and now to Guillermo Lasso.

The latest victim has been Freddy Carrión, the former Ombudsman, who through the prosecution has been put on trial for alleged sexual abuse, all once having signed a report against the Moreno government for crimes against humanity in the protests of October 2019, same that was censured by the National Assembly with a pro-government majority².

The most serious situation is that of former Vice President Jorge Glas Espinel, the first victim of political persecution, who has been deprived of his freedom since October 2, 2017. He opposed the political shift made by former President Lenin Moreno, denounced the distribution of public entities³, within two months he was in prison, over the years it was proven that all his allegations were true. Trusting the authorities, he turned himself in when he was innocent, he was never removed from his position as vice president, they simply replaced him, denying him an impeachment trial. He suffers from illnesses, some of them from an early age and catalogued as "catastrophic" and "incurable", the Ecuadorian State has acted negligently in his treatment, to date the State does not comply with the provision of his medicines. His health condition is extremely vulnerable. He has two executory sentences, in the Odebrecht case he was convicted with a

² History will absolve Freddy Carrión; judges belong to the parties that put the victims in October. Confirmado.net, 15 September 2021 available at: <https://confirmado.net/2021/09/15/la-historia-absolvera-a-freddy-carrion-juzgadores-pertenecen-a-los-partidos-que-pusieron-las-victimas-en-octubre/>.

³By a public letter Jorge Glas criticizes the actions of Lenín Moreno's government, available at: <https://www.eltelegrafo.com.ec/noticias/politica/2/jorge-glas-critica-en-carta-publica-acciones-del-gobierno-de-lenin-moreno>

repealed code "by the power of circumstances"⁴ , and in the Bribery case by "psychic influence"⁵. In the latter case, a quick cassation process was carried out in 17 days, with the sole purpose that both he and former President Rafael Correa could not participate in the last elections. Jorge Glas has served more than 50% of his sentence and he should have been released with prison benefits more than 9 months ago, since he meets all the requirements, benefits that cannot be activated if the Ecuadorian State does not prepare his file. He is currently a political hostage, his physical and personal integrity is at serious risk since he is in one of the social rehabilitation centers where he has received more than 70 death threats, a center where there have been massacres⁶ that are unprecedented in the history of Ecuador, which we will discuss later.

II. UNCONSTITUTIONALIZATION OF THE DEMOCRATIC REGIME

In this section we will present the referendum called in an unconstitutional manner by President Moreno, which brought as a consequence the affectation of the separation of powers and autonomy of the different functions of the State, among them the Judicial Function.

Twenty-nine officials from different branches of government were arbitrarily removed from their positions and replaced by "transitory" officials, followed by definitive officials appointed without following legally established procedures. The new transitory and definitive officials joined the judicial and political persecution against opposition leaders.

A. The February 2018 referendum

On September 18, 2017, President of the Republic Lenín Moreno announced his intention to call a constitutional referendum⁷. On October 2, 2017, President Moreno submitted to the Constitutional Court a draft of amendments to the Constitution of the Republic of Ecuador. Pursuant to Articles

⁴Christian Zurita's words spoken in a TV interview on 17 September 2018 (see an excerpt of his interview here <https://twitter.com/farriancito/status/1270003515600113665?s=20>) . When former president Rafael Correa expressed his indignation by social media telling "with so much self-confident" it is being recognised that Jorge Glas "is in prison without evidence, only 'by force of circumstances'", Zurita, at the end of the sentence with insulting language, replied: "the force of circumstances is the huge corruption you run as drug lord, Glas is guilty despite failure to find the stolen money trial. Don't mention me again HDLGP" (to see, <https://twitter.com/christianzr/status/1041732628511174657?s=20>) . This is just a small sample of kind of press that Ecuador has.

⁵ Ecuadorian Court ratifies sentence against Rafael Correa, available at: <https://www.telesurtv.net/news/ecuador-tribuna-apelaciones-ratifica-sentencia-rafael-correa-20200720-0034.html>.

⁶ Los Pisos, Los Lobos, Los Chone Killers and The Tiguerones triggered attacks that ended with lives of 62 prisoners, according to authorities: <https://www.elcomercio.com/actualidad/bandas-criminales-carceles-muerteviolenca.html>.

⁷ "Lenín Moreno will call for public consultation; On 2 de October will present its findings", El Comercio, 18 September 2017, available at <https://www.elcomercio.com/actualidad/leninmoreno-consultapopular-presentacion-contenido-elgobiernoinforma.html>.

104, 438, 441 to 444 of the Constitution, ⁸ and Articles 104 and 105 of the Organic Law of Jurisdictional Guarantees and Constitutional Control (LOGJCC) ⁹ it was incumbent upon the Constitutional Court to automatically and mandatorily conduct a constitutional review of constitutional amendments.

On November 29, 2017, President Moreno, without waiting for the Constitutional Court's ruling, fearful that the judges would declare the referendum questions unconstitutional, issued Executive Decrees No. 229 and 230 calling Ecuadorians to referendum and popular consultation. On December 7, 2017, the CNE summoned citizens to a popular consultation and constitutional referendum for February 4, 2018.

The referendum was held on February 4, 2018 without any judicial authority reviewing the constitutionality of the submitted questions, which were presented to the people as President Moreno drafted them. The YES option won in all 7 questions, with different percentages¹⁰.

B. The Citizen Participation and Social Control Council (Consejo de Participación Ciudadana y Control Social Transitorio)

Like other countries in the region, the Ecuadorian State is made up of the Executive, Legislative and Judicial Functions. However, Ecuadorians included two additional Functions to the aforementioned triad when the current Ecuadorian Constitution of 2008 was approved: the Transparency and Social Control Function and the Electoral Function. According to Article 204 of the Constitution, the Citizen Participation and Social Control (CPCCS) Council is part of the Transparency and Social Control Function. The CPCCS is composed of seven principal Counsellors and seven alternates. The selection of the Counsellors was made from among the candidates proposed by social organizations and citizens. The selection process was organized by the National Electoral Council, which conducted a public competition base on merits, which included phases of nomination, oversight and citizen challenge (Art. 207 of the Constitution).

Question 3 of the referendum, having been approved at the polls, terminated the constitutional term of the members of the CPCCS and authorized the President of the Republic to propose nominations for a council to be appointed by Citizen Participation and Social Control Council "transitory" (CPCCS-t).¹¹

⁸ Constitution of the Republic of Ecuador, 2008, available at https://web.oas.org/mla/en/Countries_Intro/ecu_intro_text_esp_1.pdf

⁹ Organic Law on Jurisdictional Guarantees and Constitutional Control), available at https://www.oas.org/juridico/PDFs/mesicic4_ecu_org2.pdf

¹⁰ the official results of the elections of 4 February 2018 <https://www.eluniverso.com/deportes/2018/02/07/nota/6603862/cne-proclama-hoy-resultados-oficiales-referendum-consulta-popular/>

¹¹ Presidency of the Republic of Ecuador, 'President Moreno let them know the list for Participation Council', 19 February 2018, available at <https://www.presidencia.gob.ec/presidente-moreno-dio-a-conocer-las-ternas-para-el-consejo-de-participacion/>

In addition, Question 3 of the 2018 referendum granted the CPCCS-t more attributions than those that the CPCCS had. The additional attributions were: (a) to evaluate the performance of all authorities appointed by the former CPCCS, and (b) to removal from office of authorities who did not pass this assessment. In exercise of these extraordinary powers, the CPCCS-t resigned 29 authorities that belonged to different State functions. These authorities and the State functions to which they belonged are listed below:

(a) Judicial Function: the five members of the Judiciary Council and Ombudsman; (b) Electoral Function: three of five judges of the Contentious Electoral Tribunal, five Counsellors of the National Electoral Council; (c) Transparency and Social Control Function: Superintendent of Communication, Ombudsman, Superintendent of Banks, Superintendent of Companies and Insurance, Superintendent of Popular and Solidarity Economy, Superintendent for the control of market power and Superintendent of Territorial Planning; and, (d) The nine judges of the Constitutional Court.

The CPCCS-t evaluated and dismissed the judges of the Constitutional Court, even when the defunct CPCCS did not directly appoint the judges. The CPCCS-t not only dismissed the nine judges, but also declared a "constitutional vacancy", which meant that the country was without a Constitutional Court for almost five months, until definitive replacements were appointed¹².

There is no a constitutional or legal provision that allows any authority to declare this type of "vacancy". On the contrary, the law establishes how to proceed in cases of temporary or definitive absence of a member of the Constitutional Court¹³.

On May 7, 2019, the new Constitutional Court, appointed by the CPCCS-t, ruled ¹⁴ to shield the CPCCS-t, stating that the council's decisions, including the appointment of the Constitutional Court itself, could not be reviewed. This directly violates the principles of impartiality and judicial independence. The Constitutional Court's shielding of the CPCCS-t's actions is reminiscent of Argentine dictatorship "Full Stop" laws. This attitude of the Constitutional Court is even less in keeping with the law if we take into account that the Constitutional Court was elected by the CPCCS-t, without this body having the power to do so.

In addition to the above, the CPCCS-t decided to attribute to itself functions not conferred by Question 3 of the referendum. Thus, the CPCCS-t appointed "transitory" authorities to replace the dismissed authorities. According to national legislation, in cases of temporary or definitive absence of the permanent authorities, they should be replaced, as appropriate, by their substitutes or

¹² "The Constitutional Court entered into vacancy for 60 days", El Comercio, 1 September 2018, available at <https://www.elcomercio.com/actualidad/corteconstitucional-vacancia-cpccs-politica-ecuador.html>. The vacancy constitutional exceeded 60 days. The vacancy lasted almost 5 months. See "4 women and 5 men into the new Ecuador's Constitutional Court", El Comercio, 28 January 2019, available at <https://www.elcomercio.com/actualidad/mujeres-hombres-nueva-corte-constitucional.html>.

¹³See Articles 183-184 of the LOGJC.

¹⁴ Opinion 2-19-IC/19 available at http://www.cpccs.gob.ec/wp-content/uploads/2019/06/rel_sentencia_002-19-sic-cc.pdf

subordinates. This is legally established for the Council of the Judiciary¹⁵, the National Electoral Council and the Electoral Disputes Tribunal¹⁶, the Ombudsman¹⁷, the Attorney General¹⁸ and all superintendents¹⁹.

However, this did not happen. The people who were supposed to replace the principal authorities were never evaluated by the CPCCS-t, and, even then, they were not appointed as replacements. The CPCCS-t simply ignored national laws. Additionally, when the CPCCS-t appointed the "transitory" replacements, it did not follow any legal procedure for their selection. Nor was there any judicial or administrative control over the appointments. The CPCCS-t exercised absolute discretion. In practice, the CPCCS-t behaved as an absolute constituent power, exceeding by far the initial mandate granted by the referendum and making all kinds of decisions for which it was not empowered.

In the case of the Attorney General of the State, the CPCCS-t appointed the eighth in order of

¹⁵ Art. 258 of the Organic Code of the Judiciary, Official Register Supplement No. 544, 9 March 2009, available at https://web.oas.org/mla/en/Countries_Intro/Ecu_intro_text_esp_3.pdf. This law provides that the alternative replacements of the Vocals will replace the principals in absence. The CPCCS does not have the power to appoint transitional replacements.

¹⁶ Art. 20 of the Democracy Code, available at http://cne.gob.ec/documents/lotaip/2.informacion_legal/base_legal/ley_orgnica_electoral_-_cdigo_de_la_democracia.pdf. The law provides that the CPCCS will appoint the principal and alternate members of CNE and TCE. In the absence of any principal member his/her alternate may vote in his/her stead. This Code does not grant the CPCCS the power to appoint transitional replacements.

¹⁷ Art. 9 of the Organic Law of the Ombudsman's Office, Official Register of 20 February 1997, available at <https://www.igualdadgenero.gob.ec/wp-content/uploads/2019/06/Ley-Org%C3%A1nica-de-la-Defensor%C3%ADa-del-Pueblo.pdf>. This law provides that the Ombudsman must be replaced by one of his or her alternates vocal until his or her definitive replacement is appointed. The Law does not allow to any authority to appoint a transitional Ombudsman.

¹⁸ Art. 47 of the Organic Code of the Judiciary, op cit, this law provides that the General Prosecutor must be replaced by his or her alternate. The Code does not allow the appointment of a transitional General Prosecutor.

¹⁹ Art. 43, Regulation and Control of Market Power law, Official Register Supplement No. 555 of 13 October 2011, available at https://www.oas.org/juridico/PDFs/mesicic4_ecu_org7.pdf; Arts. 435-436 of the Companies Law, Official Register No. 312 of 5 November 1999, available at http://www.oas.org/juridico/pdfs/mesicic4_ecu_comp.pdf; Arts. 173-174 of the Organic Law on Financial System Institutions, Official Register No. 250 of 5 May 2014, available at http://www.oas.org/juridico/pdfs/mesicic4_ecu_comp.pdf; Arts. 173-174 of the Organic Law on Financial System Institutions, Official Register No. 250 of 5 May 2014. 250 of 20 May 2014, available at https://web.oas.org/mla/en/G_Countries_MLA/Ecu_entjur_leg_esp_7.pdf; Art. 97 of the Territorial Legislation law, land use and management, Official Register No. 790 of 5 July 2016, available at <https://www.habitatyvivienda.gob.ec/wp-content/uploads/downloads/2016/08/Ley-Organica-de-Ordenamiento-Territorial-Usos-y-Gestion-de-Suelo1.pdf>. All these laws indicate that, in case of an absence of the superintendents, they must be replaced for their subordinate until the CPCCS appoints the permanent Superintendent, after the respective selection processes established in the Constitution and the law have been completed, it will be impossible for CPCCS to appoint transitional replacements.

succession of the contest as "encargado"²⁰, a position that does not exist in the legal system. Then the CPCCS- t arbitrarily appointed Diana Salazar, a candidate very close to the Moreno administration despite having obtained in the selection process a very poor score (10 points out of a total of 20), arguing in her hearing for the position that preventive detention should be a norm and not a resource used only in exceptional cases²¹, ²²The low score in this objective segment was compensated by the marks that the members of the CPCCS- t awarded Ms. Salazar in the subjective segments of the evaluation.

The Judiciary Council, appointed by the CPCCS-t, after an "evaluation process" removed 23 of 36 judges of the National Court of Justice, the highest judicial body in the country. The vacancies were filled with "temporary" judges²³. In addition, the Judiciary Council has proceeded to dismiss several judges who have ruled in favor of opposition leaders²⁴. The message is clear: Judge who does not join the judicial persecution against the political opponents will be dismissed.

After the elections of March 24, 2019, 7 CPCCS Counsellors "permanent" were installed. They constituted a majority that intended to analyze the actions of the transitional CPCCS, call for competitions and investigate acts of corruption by the current Government of Ecuador. For this reason, and after only two months in office, the National Assembly on August 14, 2019 censured and dismissed 4 members of permanent CPCCS. Former Counsellors who are also facing criminal charges that politicians have brought against them.

In the transitory National Electoral Council and later the definitive one that replaced it, both appointed by the CPCCS-t, they systematically prevented the registration of the Correistas's political movement. With all the intention of hindering their participation in the electoral processes and affecting democracy in Ecuador.

III. POLITICAL VETO TO THE CITIZEN REVOLUTION.

The isolation and persecution of this political group occurred in different phases: A) the first consisted in the snatching of the political movement Alianza País, which was left in the

²⁰ The Transitional President of Citizen Participation Council and Social Control (CPCCS-T), Julio César Trujillo, sworn the new Attorney General deputy, Tuesday 3 May
<http://www.cpccs.gob.ec/2018/05/presidente-del-cpccs-t-posesiono-a-fiscal-general-del-estado-encargado/>

²¹ Diana Salazar appointed as Attorney General <https://www.cpccs.gob.ec/2019/04/diana-salazar-designada-fiscal-general-del-estado/>

²² Diana Salazar, appointed Attorney General of the State
<https://www.youtube.com/watch?v=c8GUDN2qX4Q>.

²³ " The National Court shall be completed by temporary judges", El Comercio, 18 November 2019, available at <https://www.elcomercio.com/actualidad/corte-nacional-jueces-temporales-evaluacion.html>

²⁴ "Judge who ordered Rosa Chalá's reinstatement in CPCCS has been removed from office"
<https://www.eluniverso.com/noticias/2019/12/12/nota/7644803/destituido-juez-que-ordeno-restituir-cargo-rosa-chala-cpccs>

hands of Lenin Moreno, this political movement today has practically disappeared. B) Subsequently, there was a veto to several initiatives for the registration of a new party that the correistas wanted to register with the CNE, despite meeting the necessary requirements. C) Little participation of runners in the elections. Candidates were presented in extremis by the correistas in alliance with the FCS Movement in the sectional elections of March 2019, they were barely able to nominate candidates for the prefectures in 50% of the country's provinces, 25% of the municipalities and 10% of the parochial boards. D) Harassment of the elected "correístas" authorities, who managed to win the prefectures, in alliance, in two of the three most populated provinces of the country (Pichincha and Manabí). The harassment peak occurred after the deprivation of liberty of Paola Pabón, prefect of the province of Pichincha whose capital is Quito, along with several of her collaborators in the protests of October 2019.

The FCS Movement, who gave shelter to the Candidates of the Citizen Revolution in the 2019 elections, became the first political force in the country ²⁵, for this reason this movement also became a target of government persecution.

On August 1, 2019, after three years since the FCS movement registered with the CNE, and after having participated in three electoral processes, the State Comptroller General casually carried out the "Special Examination of computer systems and technological infrastructure, communications and related contracts, used in the registration, registration and termination of political organizations and popular consultation in the CNE and related entities for the period between February 1, 2013 and August 31, 2018 ". The Comptroller's Office concluded that there were problems with the lists of adherents of the FCS movement due to computer errors in the CNE software and human failings of the CNE's administrative staff. Likewise, the Comptroller's Office "recommended" to the CNE that it take actions aimed at "considering and monitoring the legal situation of the Movements [...] Social Commitment Force, with respect to their registration and delivery of legal status".

On March 5, 2019, the Office of the Comptroller General of the State sent the CNE a communication with the "provisional results" of a new special examination that the Comptroller's Office initiated, this time to verify compliance with its recommendations of August 1, 2019. The Comptroller's Office considered that the CNE allowed the FCS movement to continue to be registered "despite not having complied with the minimum requirement for this purpose. Therefore, the recommendation of Report DNA1-0053-2019 as of December 31, 2019 is not fulfilled ". The Comptroller's Office ended its letter by citing Article 92 of the Organic Law of the General State Comptroller's Office, which provides:

"Audit recommendations. - The audit recommendations, once communicated to the State institutions and their servants, must be applied immediately and with the character of mandatory; they will be monitored and their non-observance will be sanctioned by the State Comptroller General".

In other words, the Comptroller's Office threatened to sanction the members of the CNE if they continue with their decision to keep the FCS movement in the registry of political organizations

²⁵ <http://www.pichinchacomunicaciones.com.ec/el-correismo-se-convirtio-en-la-primera-fuerza-electoral-de-ecuador/>, Correísmo became Ecuador's first electoral force.

authorized to participate in electoral processes. The sanction that the Comptroller's Office may impose can even lead to the dismissal of the members of the CNE.²⁶

On June 22, 2020, the Office of the Comptroller General of the State, through a statement, reported that it predetermined administrative responsibilities with dismissal and a fine for the majority councilors of the CNE, for not complying with the recommendations made by the body, in relation to the registration of movements. FCS, Libertad es Pueblo, Podemos and Social Justice²⁷.

The Citizen Revolution intended to present Andrés Arauz as president and Rafael Correa as vice president in the February 2021 presidential elections. But given the attacks and the scenario of a possible elimination of FCS, on July 8, 2020, the Citizen Revolution decided to make an alliance with the Centro Democrat Movement List 1, which bears the name Unión por la Esperanza (UNES). Subsequently, on September 16, 2020, the CNE eliminated FCS from the registry of political organizations in Ecuador.

When the CNE realized that regardless of whether FCS was eliminated, the Citizen Revolution had another political organization that would sponsor these candidacies. The CNE amended the Internal Democracy Regulations in July 2020, including an additional requirement to the existing ones. The "very personal" acceptance of the pre-candidacies that had to be done (in the case of the presidential binomial) at the offices of the CNE in Quito²⁸. This regulation was timely appealed to the TCE, which denied all the claims, mainly on the grounds that those who claimed did not have the quality of candidates (months before the registration of candidacies). Said regulatory change, which went beyond the regulatory authority of the CNE since it is creating procedures and requirements not contemplated in either the Constitution or the law, but in addition to this, said requirements violate civil and political rights and constitute unconstitutional limitations and illegal in the exercise of participation rights and directly affect the rights of equality and association of Ecuadorians residing abroad. This, to prohibit Rafael Correa from being able to register his candidacy as vice president, since he has resided in Belgium since his term ended, and because of the political persecution of which he is the object, he has several prison orders.

Despite the fact that in no part of the new regulations it was stated that acceptance had to be done in person, the CNE did not allow this new requirement to be fulfilled either by telematic means, or with an electronic signature, or even with the power of attorney conferred on Pierina. Correa, sister of the candidate, therefore they concluded by denying the registration of Rafael Correa as a candidate. The electoral law establishes that if a candidate is rejected, it must be changed within 48

²⁶ Request for precautionary measures to the IACHR, Freire Vergara and others regarding Ecuador of March 14, 2020, p.7.

²⁷ <https://www.elcomercio.com/actualidad/contraloria-destitucion-atamaint-cabrera-cne.html>, Comptroller's office predetermines dismissal and fine to CNE majority counsellors for not eliminating four movements, June 1, 2020.

²⁸ On July 27, 2020, the CNE issued amendments to the Regulations for Internal Democracy of Political Organizations, which in its third paragraph of the Second Transitory Provision, indicates: "(...) However, the proclamation and acceptance of pre-candidacies for popular vote postulations is express, non-delegable and highly personal, and will be held in unity of act within 10 days of the election, before the delegates of the National Electoral Council, in the offices of the National Directorate of Political Organizations in the case of national dignities; in Provincial Electoral Delegations, in the case of dignities at the local level; and, in the Consultants offices abroad, for the dignity of Assembly members abroad."

hours, which was done and, consequently, Carlos Rabascal was registered as a candidate for vice president.

Despite all the persecution by the Government and its acolytes, the UNES team went to the second round in the first place and is currently the political force with the largest number of assembly members in the National Assembly. The Citizen Revolution faced an infinity of obstacles and ridiculous procedures to prevent its participation in the last electoral contest.

IV. EXTRAJUDICIAL EXECUTIONS IN SOCIAL REHABILITATION CENTERS

According to the National Comprehensive Care System (SNAI), as of June 2021, the country's prisons house 39,150 inmates, with a capacity for 30,165, with the percentage of overcrowding being 29.79%²⁹

According to the Ministry of Government, updated until February 10, 2021, of the 38,693 people deprived of liberty throughout the country, 14,377, almost 40%, did not have a sentence. Most are serving preventive detention. There is an abuse of preventive detention, when it should be a last resort recourse as established by international human rights standards.

According to data from the National Police, in 2018 there were 15 violent deaths within the country's social rehabilitation centers. In 2019, the number increased to 32 and in 2020, to 51. On February 23, 2021, 79 people died in organized riots inside four prisons in the country. In July 2021 there were 27 violent deaths in the country's prisons. The last event of extrajudicial executions occurred on October 3, 2021, which left a balance of 119, according to official figures³⁰.

In 2019 when the Ministry of Justice was eliminated by the government, the new National Service for Comprehensive Attention to Adults Deprived of Liberty and Adolescent Offenders (SNAI) received a budget of 98 million dollars. In 2020, it was reduced by 43%: only about \$ 55 million was allocated.

It is estimated that there should be at least one prison guide for every 6 people. But in Ecuador, in some social rehabilitation centers, there is only one guide for every 20 or 30 people³¹. Nor are there personnel in other areas that are indispensable for true social rehabilitation: educators, doctors, psychiatrists, psychologists.

²⁹ How social rehabilitation works in prisons in Ecuador, available at: <https://www.eluniverso.com/noticias/seguridad/como-funciona-la-rehabilitacion-social-en-las-carceles-de-ecuador-nota/>

³⁰ Ecuador, scene of one of the worst prison massacres in Latin America, Thursday, October 7, 2021, available at: <https://www.la-prensa.com.mx/mundo/ecuador-escenario-de-una-de-las-peores-masacres-carcelarias-de-latinoamerica-7308940.html>

³¹ Prisons have a prison guides deficit of almost 70%, available at: <https://www.primicias.ec/noticias/sociedad/carceles-tienen-deficit-setenta-por-ciento-guias-penitenciarios>

In 2014, the new Comprehensive Organic Criminal Code (COIP) came into force - the legislation called upon to classify crimes establishes the procedure for trying them, but the COIP and the three reforms that have been carried out until February 2021, rather than improve the system, have made it worse. The norms of the Code and the changes that have been made to it have meant increases in penalties and the classification of new crimes. And while defining new crimes and toughening penalties seeks to strengthen the security of citizens and maintain order in society, doing so also has counterproductive effects, such as overpopulation.

All of the above is also expressed in levels of overcrowding, which continue to hinder the proper management of Ecuadorian prisons. According to the Permanent Committee for the Defense of Human Rights (CDH), the Ecuadorian prison capacity is 28,500 people. But in May 2019, when the government decreed the first state of exception, the number of inmates totaled 41,836, an overcrowding of 42%. There are some 38,000 prisoners in Ecuador, a country of 17 million inhabitants. To reduce the number of inmates amid the COVID-19 pandemic, the government commuted the sentences of people convicted of minor offenses, reducing the overcrowding of the centers from 42% to 30%. But even so, the approximately 38,000 prisoners counted by the SNAI represent an overcrowding of 33%. And the prisons of Cuenca, Guayaquil and Latacunga concentrate 70% of all those inmates. As Insight Crime explains, prison overcrowding is a regional phenomenon that results in human rights problems and a lack of control over prison systems. And by forcing members of rival gangs into the same centers, this also contributed to the bloody clashes³².

V. THE INTERNATIONAL ORGANIZATIONS FOR THE PROTECTION OF HUMAN RIGHTS AGAINST THE ECUADORIAN STATE

During this time there have been a large number of observations by different International Human Rights Organizations.

On October 22, 2019, the UN Committee on Economic, Social and Cultural Rights ruled on the difficult situation Ecuador is facing and the regressive actions regarding the protection of social rights by the public policies developed by the Ecuadorian government.³³

On November 29, 2019, the United Nations High Commissioner for Human Rights, Michelle Bachelet, urged all actors in Ecuador to dialogue to prevent new conflicts and build an inclusive, intercultural and peaceful society³⁴.

On January 14, 2020, the Inter-American Commission on Human Rights (IACHR) called for respect and guarantee of the rights to protest, freedom of expression, peaceful assembly and political participation of the population. In its conclusions, it urges the authorities to promptly and exhaustively investigate any complaint of violence and establish the corresponding sanctions, both

³² 5 Riots in prisons in Ecuador: 3 keys that explain what is behind the worst prison massacre in the history of the country, available at: <https://www.bbc.com/mundo/noticias-america-latina-56186555>

³³ The UN Committee on Economic, Social and Cultural Rights will review Ecuador - October 3-4 <https://acnurdh.org/comite-de-derechos-economicos-sociales-y-culturales-revisara-a-ecuador-3-y-4-de-octubre/>.

³⁴ Bachelet urges dialogue to prevent conflicts and create a more inclusive society <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=25368&LangID=S>

in complaints of excessive use of force committed by police and security forces.

There are also pronouncements from the Rapporteurs on the Independence of Judges and Lawyers, Freedom of Expression, Peaceful Assembly and Association, Extrajudicial Deaths, of the Group on Arbitrary Detention, among others, which are attached to this document.

VI. BREACH OF THE VIOLATION OF THE DEMOCRATIC CLAUSE OF THE TRADE AGREEMENT SIGNED BY THE ANDEAN COMMUNITY WITH THE EUROPEAN UNION

The trade agreement was signed by Peru and Colombia, subsequently the president of Ecuador, former President Rafael Correa, ratified it on December 20, 2016 and it entered into force as of January 1, 2017.

Among the general principles on which the Agreement is based, is the "Democratic Clause" that establishes that respect for democratic principles and fundamental human rights enunciated in the Universal Declaration of Human Rights, as well as the principles that uphold the rule of law, constitutes an essential element of the Agreement.

That it is an essential element of the Agreement means that, in the event of a violation of the democratic regime or of human rights by one of the parties, any of the other parties, without prejudice to the mechanisms existing between them on political dialogue, may adopt in the form immediate appropriate measures in accordance with international law, which could include the suspension and even the denunciation of the Agreement.

VII. REQUEST

Therefore, it is amply demonstrated that there is a breach by Ecuador of the democratic clause for violation of human rights, the Universal Charter of Human Rights and the Covenant on Civil and Political Rights, for which we request that the president of the Commercial Committee can activate the dispute resolution clause of the agreement, that is:

- a. The Parties shall endeavor to resolve any dispute regarding any matter established in Article 299 by initiating consultations in good faith in order to reach a mutually agreed solution.
- b. The parties to the dispute may agree not to initiate consultations and resort directly to the arbitration group procedure, in accordance with article 302.
- c. The request for the establishment of an arbitration panel shall be submitted in writing to the Party complained against and to the Trade Committee. The complaining Party will identify in its request the specific measure under discussion and will explain how that measure constitutes a violation of the provisions of this Agreement so that it is sufficient to present the legal basis of the claim clearly, and in the event that the persists the EU could denounce the Trade Agreement with Ecuador.

VIII. NOTIFICATIONS

Future notifications will be received in the emails abogada.tejedora@gmail.com and asesoriajuridicaCEDE@protonmail.com

We take this opportunity to send you our highest consideration and esteem.



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