

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-28/2023 English

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I/A Court H.R. Protecting Rights

ECUADOR IS RESPONSIBLE FOR VIOLATING THE RIGHT TO DUE PROCESS, RIGHT TO JUDICIAL INDEPENDENCE, POLITICAL RIGHTS, RIGHT TO WORK AND RIGHT TO JUDICIAL PROTECTION, IN INJURY OF CARLOS JULIO AGUINAGA AILLÓN

San José, Costa Rica, April 18, 2023. - Today the Inter-American Court of Human Rights released its Judgment on the case of *Aguinaga Aillón v. Ecuador*, finding the State of Ecuador internationally responsible for violating the right to due process, right to judicial independence, political rights, right to work and right to judicial protection of Carlos Julio Aguinaga Aillón. The State offered partial recognition of its international responsibility in the case.

The official summary of the Judgment can be found in Spanish [here](#), and the complete text of the Judgment is available in Spanish [here](#).

Carlos Julio Aguinaga Aillón was appointed to a four-year term as a member of the Judicial Board of Elections in 1998 and was reelected to a second term in 2003. The National Congress issued Order 25-160 on November 24, 2004, removing him from his positions on the Board of Elections and on the Constitutional Court. It appointed new members two days later. The Constitutional Court, reconfigured after the dismissals ordered by the National Congress, adopted an order barring trial judges from hearing motions of relief against Order 25-160, leaving only one option for suspending the effects of the congressional order—a constitutional motion. The dismissals of Ecuador's Supreme Court justices, along with the removal of judges from the Judicial Board Elections and the Constitutional Court, occurred over the course of 14 days.

The Inter-American Court found in its Judgment that Mr. Aguinaga had been dismissed by a decision that the National Congress was not empowered to make, resulting in a violation of the guarantee of judicial independence, according to which judicial authorities should enjoy stability and tenure in their positions. It also concluded that, for these reasons, the dismissal of Mr. Aguinaga was arbitrary and infringed his right to remain in his job under conditions of equality and his right to employment stability, as part of his right to work. Finally, the Court concluded that the decision by the Constitutional Court preventing the judges from hearing motions of constitutional relief against Order 20-160 restricted Mr. Aguinaga's access to effective judicial recourse to protect his rights.

The Court's analysis of the case found that the violation of independence for the electoral courts undermined not only electoral justice, but also the effective exercise of representative democracy, which is the foundation of the rule of law. The Court therefore asserted the need to strengthen guarantees of tenure and stability for election judges, noting that any move to weaken or turn back the guarantees of independence, stability and tenure on the electoral courts runs counter to the Convention and can exert an equally regressive systemic impact on the rule

of law, institutional guarantees, and the exercise of fundamental rights in general. It also held that the protection of judicial independence in this sphere is particularly critical today, given current trends in the world and the region toward erosion of democracy, where formal powers are being used to promote anti-democratic values, hollowing out institutions and leaving only their appearance intact.

In view of these violations, the Court ordered the State to extend specific measures of redress, including: 1) payment of compensation to Mr. Aguinaga, and 2) payment of monetary redress for the pecuniary and nonpecuniary damage established in this Judgment.

Judges Humberto Antonio Sierra Porto, Eduardo Ferrer Mac-Gregor Poisot, Rodrigo Mudrovitsch, and Patricia Pérez Goldberg offered separate concurring and partially dissenting opinions.

The Judges sitting on the Court for this Judgment were: Ricardo C. Pérez Manrique, President; Eduardo Ferrer Mac-Gregor Poisot, Vice President; Humberto Antonio Sierra Porto, Nancy Hernández López, Verónica Gómez, Patricia Pérez Goldberg, and Rodrigo Mudrovitsch.

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