

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-53/2021 English

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I/A Court H.R. Protecting Rights

UNLIMITED PRESIDENTIAL REELECTION VIOLATES THE CONVENTION AND THE AMERICAN DECLARATION

San José, Costa Rica, August 13, 2021. On June 7, 2021, the Inter-American Court of Human Rights issued an Advisory Opinion in response to the question submitted by the Republic of Colombia on “unlimited presidential reelection in the context of the Inter-American Human Rights System.”

The full text of the Advisory Opinion can be found [here](#), and the official summary [here](#).

Specifically, the Court addressed the following:

a) Is unlimited presidential reelection a human right protected by the American Convention on Human Rights? In this sense, 2) Do regulations that limit or prohibit presidential reelection violate Article 23 of the American Convention on Human Rights, either by restricting the political rights of the individual seeking to be reelected, or by restricting the political rights of voters? Or, on the contrary, 3) Is limiting or prohibiting presidential reelection a restriction of political rights that is consistent with the principles of legality, necessity and proportionality, in accordance with the case law of the Inter-American Court of Human Rights in the matter?

b) Is unlimited presidential reelection compatible with representative democracy in the Inter-American Human Rights Protection System?

For purposes of the Advisory Opinion, the Court defined unlimited presidential reelection as “when a person serving as President of the Republic remains in office for more than two consecutive periods of reasonable duration” without the possibility of changing the length “during the term.” The Court also clarified that the arguments put forth in this Advisory Opinion are limited to the possibility of unlimited presidential reelection in a Presidential System.

Likewise, the Court reiterated that the interdependence between democracy, the rule of law, and the protection of human rights are the basis of the entire system of which the Convention forms part and found that the principles of representative democracy include, in addition to regular elections and political pluralism, the obligation to prevent a person from remaining in power, and to guarantee the rotation of power and the separation of powers.

The Court first concluded that unlimited presidential reelection is not an autonomous human right, as it is recognized neither in the Convention, nor in the American Declaration, nor generally in the body of international human rights law, international treaties, regional custom, or general legal principles.

Second, the Court noted that the ban on unlimited presidential reelection can be compatible with the Convention as long as it is established by law. In this regard, the Court explained that the ban on unlimited presidential reelection aims to guarantee representative democracy, and is therefore in line with the Convention. Additionally, taking into account the powers concentrated

in the office of the president in a Presidential System, restricting the possibility of unlimited reelection is a means suitable for guaranteeing such purpose. Additionally, the Court noted that it found no other measures that would be equally suitable to ensure that an individual does not remain in power, and that this particular measure does not affect the separation of powers, the plural regimen of parties and political organizations, or rotation in the exercise of power. Lastly, the Court noted that potential impact on the right of the person holding the office of president to be reelected and the restriction this entails for voters are minor sacrifices compared to the benefits to society of prohibiting indefinite presidential reelection.

Additionally, regarding the compatibility of indefinite presidential reelection with human rights law, the Court underscored that a lack of limits on presidential reelection weakens opposition parties and political movements by offering no clear expectation of an opportunity to access the exercise of power.

The Court also indicated that when a president remains in power for a long period of time, it impacts the independence and separation of powers given the opportunities presidents may have to appoint members of other branches of government.

It likewise concluded that the office of the president gives the person holding it an advantage during elections. The longer the time spent in office, the greater this advantage becomes.

In the Advisory Opinion, the Court warned that the greatest danger currently facing the democracies of the region is not an abrupt break of the constitutional order, but the steady erosion of democratic safeguards that may lead to an authoritarian regime, even if elected by popular vote.

The Court concluded that allowing unlimited presidential reelection violates the principles of a representative democracy, and therefore, the obligations established in the American Convention and the American Declaration of the Rights and Duties of Man.

The full text of the Advisory Opinion can be found at the following link: https://www.corteidh.or.cr/docs/opiniones/seriea_28_esp.pdf. Judges Eugenio Raúl Zaffaroni and Ricardo Pérez Manrique released individual dissenting opinions.

In the framework of this process, which is highly participatory, 62 written observations were received from States, State bodies, international and national organizations, academic institutions, nongovernmental organizations, and individuals. They can be accessed [here](#). Within the framework of this Advisory Opinion, on September 28, 29, and 30, 2020, a virtual public hearing was held, during which the Court received the oral observations of 54 delegations. Watch the video of the public hearing [here](#).

The composition of the Court for issuing this judgment was as follows: Judge Elizabeth Odio Benito, President (Costa Rica); Judge Patricio Pazmiño Freire, Vice President; Judge Eduardo Vio Grossi (Chile); Judge Humberto Antonio Sierra Porto (Colombia); Judge Eduardo Ferrer MacGregor (Mexico); Judge Eugenio Raúl Zaffaroni (Argentina); and Judge Ricardo Pérez Manrique (Uruguay).

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