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P9_TA(2021)0156

Bolivia and the arrest of former President Jeanine Añez and other officials

European Parliament resolution of 29 April 2021 on Bolivia and the arrest of former President Jeanine Añez and other officials (2021/2646(RSP))

(2021/C 506/11)

The European Parliament,

— having regard to its resolution of 28 November 2019 on the situation in Bolivia [1],

— having regard to the declaration by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on behalf of the European Union of 23 October 2020 on the general elections in Bolivia, and the statement by his Spokesperson of 14 March 2021 on the latest developments in Bolivia,

— having regard to the press release by the Inter-American Commission on Human Rights (IACHR) of 16 March 2021 on respect for Inter-American standards for due process and access to justice in Bolivia,

— having regard to the statement attributable to the Spokesperson for the United Nations Secretary-General on Bolivia of 13 March 2021,

— having regard to the statements of the Organization of American States (OAS) General Secretariat of 15 and 17 March 2021 on the situation in Bolivia,

— having regard to the Political Constitution of Bolivia,

— having regard to the American Convention on Human Rights (San José Pact),

— having regard to the International Covenant on Civil and Political Rights,

— having regard to Rule 144(5) and 132(4) of its Rules of Procedure,

A. whereas the political and social situation in Bolivia remains of grave concern since the presidential elections of 20 October 2019; whereas at least 35 people have died and 833 have been injured in the context of widespread and violent protests, and many others have been detained in breach of the rules of due process, amid reports of widespread human rights violations and abuses; whereas President Evo Morales has stepped down as President and has left the country; whereas several resignations led to a power vacuum, and the Second Vice-President of the Senate Jeanine Añez assumed the interim presidency in accordance with the constitution; whereas the Constitutional Plurinational Tribunal of Bolivia (TCP) endorsed the interim presidency of Jeanine Áñez;

B. whereas following their constitutional mandate, Jeanine Ánez and the interim authorities took the necessary steps to organise new democratic, inclusive, transparent and fair elections, which took place in October 2020 despite the challenges arising from COVID-19; whereas Luis Arce from the MAS party won the Presidency, and was recognised as such by Jeanine Áñez, as well as by the international community, including the European Union, ensuring a transparent and peaceful transfer of power;

C. whereas in recent months the cancellation or dismissal of several trials against MAS supporters has been confirmed, while threats of judicial persecution of politicians opposed to the MAS Government have increased; whereas on 18 February 2021, the vague Supreme Decree 4461 was approved by the Plurinational Assembly, granting a blanket amnesty and pardon to supporters of the government of President Arce prosecuted during the Áñez administration for crimes related to the 'political crisis' that started in October 2019;

[1] Texts adopted, P9_TA(2019)0077.

D. whereas on 13 March 2021 Jeanine Áñez, two of her ministers, former Energy Minister Rodrigo Guzmán and former Justice Minister Álvaro Coimbra, and other individuals who made up the interim government from 2019 to 2020 were detained on charges of 'terrorism, sedition and conspiracy', and are accused by prosecutors of taking part in a coup in 2019; whereas their pre-trial detention has been extended to six months, and former President Añez faces 24 years in prison if convicted; whereas an arrest warrant is pending for three other former ministers; whereas former President Jeanine Áñez was initially denied medical assistance while in detention;

E. whereas prosecutors brought charges on the basis of a complaint by a former MAS Member of Congress, and allege that the aforementioned individuals 'promoted, directed, were members and supported' organisations whose objective was to break Bolivia's 'constitutional order'; whereas prosecutors charged Jeanine Áñez as interim President but not as a civilian or in the capacity of any other public role; whereas Articles 159(11), 160(6), 161(7) and 184(4) of the 2009 Constitution and the Law of 8 October 2010 provide for a special procedure for the judgment of the President, Vice-President and the high authorities of different tribunals; whereas the judicial procedure against President Áñez, followed by the prosecution, does not comply with Bolivian constitutional law; whereas the evidence in the accompanying documentation seems unclear;

F. whereas those charged with these criminal offences allege that they are being persecuted; whereas those who have been arrested so far claim that they were not duly notified of the charges, although the Attorney General's Office stressed that arrest warrants were issued in keeping with the law and without violating the rights of detainees; whereas the Ombudsperson's Office decided to monitor the actions of Bolivia's Police and Public Prosecutor's Office to ensure that due process and the arrested individuals' right to a defence were being respected;

G. whereas Article 3 of the Inter-American Democratic Charter defines the separation and independence of public powers as an essential element of representative democracy; whereas Article 8 of the San José Pact underscores judicial guarantees and due process; whereas several international organisations have expressed their concern about the abuse of judicial mechanisms in Bolivia, and about the fact that they are increasingly being used as repressive instruments by the ruling party; whereas newly elected President Arce promised that during his government there would be no political pressure on prosecutors and judges;

H. whereas the credibility of the Bolivian judicial system is being affected by continuing reports of lack of independence, widespread political interference and corruption;

I. whereas the IACHR has stressed that certain Bolivian anti-terrorism laws violate the principle of legality because they include, among other things, an exhaustive definition of terrorism that is inevitably too broad or vague; whereas states should respect the principle of legality when defining crimes; whereas complaints filed with the TCP demanding that Article 123 of the Criminal Code on the crime of sedition, and Article 133 thereof on terrorism, be declared unconstitutional for allegedly violating the American Convention on Human Rights and the Bolivian Constitution, are pending resolution by the TCP;

J. whereas the EU is a longstanding partner of Bolivia, and should continue to support its democratic institutions, the reinforcement of the rule of law, human rights and its economic and social development; whereas the EU has played an important role as facilitator in the pacification of the country in 2019 and 2020, and in support of the elections;

1. Denounces and condemns the arbitrary and illegal detention of former interim President Áñez, two of her Ministers, and other political prisoners; calls on the Bolivian authorities to release them immediately and drop the politically motivated charges against them; calls for a framework of transparent and impartial justice free from political pressure, and urges the authorities to provide all the necessary medical assistance to ensure their well-being;

2. Underlines that former President Áñez fully complied with her duty under the Bolivian Constitution as Second Vice-President of the Senate when filling the presidential vacuum caused by the resignation of former President Evo Morales following the violent riots that were triggered by attempted electoral fraud; highlights that the Plurinational Tribunal of Bolivia endorsed the transfer of power to Jeanine Áñez; notes that the elections held on 18 October 2020 took place without incident and with full democratic guarantees;

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3. Expresses its concern over the Bolivian judicial system's lack of independence and impartiality and the prevalence of structural problems; notes that this lack of independence affects access to justice, and, more generally, diminishes citizens' trust in the national justice system; denounces the political pressure on the judiciary to persecute political opponents, and underlines the importance of upholding due process guarantees and ensuring the judiciary is free of all political pressure; stresses that the victims deserve real, impartial justice, and that all those responsible should be held accountable, without the granting of any amnesties or pardons because of their political opinions; calls for full respect of the independence of power branches and for full transparency in all legal proceedings;

4. Stresses that all judicial proceedings must be conducted in full respect of the principle of due process enshrined in international law; stresses they should provide judicial guarantees, ensuring judicial protection and access to justice, as part of an independent and impartial justice system that is free from interference by other state institutions;

5. Urges Bolivia to undertake structural changes and reforms to the judicial system, in particular its composition, without delay, in order to ensure guarantees of fair and credible trials, impartiality and due process; calls on the Bolivian Government to address the widespread issue of corruption in the country; calls on the Bolivian Government to amend the articles in the Criminal Code on the crimes of sedition and terrorism, which include overly broad definitions of terrorism, and thus give rise to possible violations of the principles of legality and proportionality;

6. Calls on the Bolivian Public Prosecutor's Office to reopen the investigation into the alleged channelling by the Morales government of USD 1,6 million of public funds through irregular payments to the Neurona consulting firm;

7. Recalls the indispensability of enhanced and effective dialogue channels in the framework of Bolivian institutions in order to promote democratic values, the rule of law and respect for human rights; calls on the Bolivian authorities to lead a reconciliation process with the aim of defusing the tension and hostility that are latent within Bolivian society;

8. Expresses concern at the dire social and political situation which has been unfolding and deteriorating in Bolivia since 2019, and deeply deplores the tragedy that has befallen all victims of the unrest in Bolivia, from all sides; underlines the critical need to uphold the entirely lawful multi-ethnic and multilingual nature of the state; calls on Bolivia to undertake structural changes and reforms, including the appointment of an independent and impartial Ombudsperson, to address the root causes of the crises that flared up in the country;

9. Believes that the EU and Bolivia should continue and enhance their engagement and dialogue in the context of the GSP+ negotiations, as Bolivia is the only country in the Andean Community that does not have an agreement with the EU; believes that the EU should continue to stand by Bolivia, and be ready to engage further, provided that clear steps are taken to improve the situation and that democracy, the rule of law and human rights are respected;

10. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the Government of Bolivia, the Plurinational Constitutional Court of Bolivia, the Organization of American States, the Inter-American Commission on Human Rights, the Andean Parliament and the Euro-Latin American Parliamentary Assembly, the UN Secretary-General and the UN High Commissioner for Human Rights.