



## **Report shows undue interference from the executive branch seriously affects the Independence of Ecuador's judiciary**

**Washington DC, Lima, Bogota; July, 29 2014.-** The Due Process of Law Foundation (DPLF), the Centro de Estudios de Derecho, Justicia y Sociedad /Center for the Study of Law, Justice and Society (DeJusticia) of Colombia, and the Instituto de Defensa Legal / Legal Defense Institute (IDL) of Peru, all organizations that promote human rights and the rule of law in Latin America, today launched the report titled ***Judicial Independence in Ecuador's Judicial Reform Process***. The report was written by Dr. Luis Pásara, an expert on justice issues and a Senior Fellow at DPLF.

The report shows that, in spite of various reforms implemented in Ecuador in recent years to strengthen the judicial system, **a tendency by the executive branch to interfere with the decision of judges in matters of political interest**, seriously weakens the separation of powers of the State and the checks and balances that define a democratic system.

Based on the detailed analysis of cases with high social relevance, resolutions by the Judicial Council in disciplinary procedures against Judges, and official statements, the report documents **an inappropriate use of the penal system to criminalize those who disagree or oppose the government's positions**.

The report also indicates that the judicial disciplinary system, managed by the **Judicial Council**, has been transformed into **a tool to sanction judges that do not conform to the executive branch**, and as a mechanism to intimidate judges in general.

In the 42 disciplinary procedures examined in the report, 57 judges were removed for having committed an **"inexcusable error"**. This term is included in the Organic Code of Judicial Function which, with **such unclear and imprecise language, has become a mechanism to sanction judges for their decisions**. In these proceedings, the council took on the role of sentence review and not its legally defined role to supervise judicial conduct.

"Since 2011, the Judicial Council has opened disciplinary procedures against judges after presidential declarations that questioned decisions issued by those judges and called for their sanction." indicated **Katya Salazar**, Executive Director of **DPLF**.

A report issued by the **Veeduría Internacional para la reforma de la función judicial** in Ecuador lead by former Spanish Judge Baltasar Garzón, warned about using "inexcusable error" as a primary cause in disciplinary procedures indicating that "we call attention to the regulation of the denominated inexcusable error that is found in the Organic Code of Judicial Function, and that in the reviews realized by this international observation has confirmed that it could mask disciplinary actions by supposedly authentic judicial reviews."

**César Rodríguez Garavito**, International Director of **Dejusticia** indicated that "The disqualifying statements made by President Rafael Correa against Judges and their decisions are a form of undue pressure to obtain

decisions favorable to the executive branch; when the government does not get the desired outcome this way, they use the Judicial Council to remove judges through questionable disciplinary procedures.”

**Ernesto de la Jara**, founding Director of **IDL** indicated that “the weakening of the separation of powers in Ecuador is serious, a fundamental requirement necessary to limit and control power in all democracies...and we are concerned that their actions could be taken as examples by other countries...”

Our hope is that this report contributes to promoting a **technical debate on the role of an independent justice system in all democratic societies and the current weaknesses of the Ecuadorian judicial system**. Likewise, we trust that the report will promote a discussion on the necessary steps needed to reach a real respect for international standards related to the independence of judges.

Lastly, we respectfully recommend that the State of Ecuador:

- Consider **inviting the United Nations Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul**, so that she might evaluate the current state of judicial independence in Ecuador.
- Begin a **dialogue with the Inter-American Commission and Court of Human Rights on the international standards related to judicial independence**, especially those contained in the jurisprudence of the Court and the thematic reports of the Commission on “The use of Pretrial Detention in the Americas” and “Guarantees for the Independence of Justice Operators in the Americas”
- Disseminate and comply with the recommendations of the report of the **Veeduría Internacional para la reforma de la función judicial en Ecuador** related to transparency and respect of due process in disciplinary procedures.
- Allow for the **establishment and visit of an international commission of jurists** of clear democratic and independent track records in order to elaborate a list of **recommendations to strengthen judicial Independence in Ecuador**.

Find the report here:

- [Executive Summary](#)
- [Full Report \(Available in Spanish\)](#)

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