

PUBLIC

AI Index: AMR 34/010/2008
28 March 2008

Further Information on UA 51/08 (AMR 34/004/2008, 27 February 2008) and follow-up (AMR 34/009/2008, 18 March 2008) - Death Penalty

GUATEMALA

Proposed resumption of executions

A bill that could lead to the resumption of executions in Guatemala re-entered Congress on 26 March, and is now being considered by the Congressional Home Affairs Committee. The Committee has one month to make a recommendation on Decree 06-2008, as the bill is known, before it is voted on by Congress in full. If two thirds of the members of Congress vote in support of the bill, it will become law, meaning that there will be a danger that executions in Guatemala may resume.

Decree 06-2008 is being considered a second time by Congress, after it was vetoed by the President on 14 March. The bill establishes a procedure for those condemned to death to request a pardon from the President. However, it does not mention and define the criteria under which pardons are to be granted. This is in breach of a ruling by the Inter-American Court of Human Rights (IACHR), which ordered Guatemala to specify clear criteria for evaluating individual petitions for pardon. This leaves Guatemala in breach of the American Convention on Human Rights. Guatemala's own Constitution establishes that international human rights treaties prevail over national law.

In addition, Decree 06-2008 states that the lack of a presidential decision within 30 days of the application for commutation of the death sentence would suffice to consider the request "tacitly rejected", which would therefore lead to execution. This could be used to speed up executions, and would result in the impossibility of appealing in order to stop them. This approach, known as "negative administrative silence", is legally inconsistent with Guatemala's obligation to establish specific criteria for evaluating each case and take them fully into account. Moreover, by leading to executions by default, administrative silence could lead to the execution of prisoners who have appealed their sentences to international bodies and whose cases are still pending.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Spanish or your own language:

- urging the Guatemalan Congress not to approve Decree 06-2008 because it is in breach of the 2005 ruling of the Inter-American Court of Human Rights (Ronald Ernesto Reyes Raxcacó vs Guatemala, 2005); it introduces the element of "negative administrative silence", which is incompatible with the seriousness with which clemency requests should be treated; and, it fails to mention and define the criteria under which pardons are to be granted;
- urging the Guatemalan Congress not to approve Decree 06-2008;
- expressing serious concern that Guatemala will join the USA as the only other country in the American continent to execute people;
- asking the Congressmen, in their capacity as one of the authorities of the Committee, to present your concerns to the other members.

APPEALS TO:

President of the Home Affairs Congressional Committee

Dip. Luis Enrique Mendoza

Presidente de la Comisión Gobernación

Congreso de la República de Guatemala

9ª Avenida 9-44 Zona 1

Ciudad de Guatemala, Guatemala

Fax: +502 2239 1189 (Mon-Fri 3-9pm GMT only, ask for “tono de fax, por favor”)

Email: lmendoza@congreso.gob.gt

Email via website: <http://www.congreso.gob.gt/gt/contactenos.asp>

Vice-President of the Home Affairs Congressional Committee

Dip. Rodolfo Aníbal García

Vice-Presidente de la Comisión Gobernación

Congreso de la República de Guatemala

9ª Avenida 9-44 Zona 1

Ciudad de Guatemala, Guatemala

Fax: +502 2220 5199 (Mon-Fri 3-9pm GMT only, ask for “tono de fax, por favor”)

Email: anibalgarcia7@gmail.com

Email via website: <http://www.congreso.gob.gt/gt/contactenos.asp>

COPIES TO:

Local human rights organizations

Red de organizaciones por la abolición de la pena de muerte

c/o ICCPG

5a calle 1-49, Zona 1

Ciudad de Guatemala, Guatemala

Fax: +502 2230 1841

+502 2232 5121

Email: iccp@iccp.org.gt

and to diplomatic representatives of Guatemala accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 9 May 2008.