



**Ex – dictator Efraín Ríos Montt on trial for genocide:**

**DPLF applauds the continuation of the trial and calls for sentencing without undue delays in accordance with domestic and international law**

On March 19, 2013 the oral phase of the trial of Efraín Ríos Montt (ex dictator of Guatemala) and José Mauricio Rodríguez, his chief of military intelligence, began after months of delays, due in large part to the filing of multiple constitutional appeals by their defense attorneys. Both defendants have been accused of the genocide of at least 1,771 Ixil-Maya indigenous people between 1982 and 1983, as well as war crimes against unarmed civilians.

Nearly a month later, the Court of the First Instance High Risk B, before Judges Yasmin Barrios, Pablo Xitumul and Patricia Bustamante, had heard testimony from dozens of experts, as well as almost one hundred oral testimonies from massacre survivors and the family members of assassination victims, who recounted the humiliations to which they were subjected by the Guatemalan military under Ríos Montt's leadership as the general commander of the Armed Forces. The trial captured worldwide attention and generated great expectations that, finally, justice was possible 30 years after the events occurred and more than 17 years after the end of the internal armed conflict. Meanwhile, major media outlets published opinions from sectors allied with the military against the trial, and the President of the Republic said publicly that the trial could be counter to the peace process.

Surprisingly, on April 18 the trial was interrupted by a decision from Judge Carol Patricia Flores of the Court of the First Instance High Risk A, who ordered that the case be returned to her chamber to resolve a pending judicial order from the probable cause phase (*fase intermedia*) of the trial, in compliance with a Constitutional Court order that protected Ríos Montt, calling for the incorporation of evidence submitted by his defense attorneys. In the same week, the Constitutional Court resolved two other legal

challenges related to due process violations during the trial. The highest court did not order the annulment of the proceedings in any of these sentences, as has been reported by some media outlets.

After two weeks of inactivity, today, April 30<sup>th</sup>, Judges Barrios, Xitumul and Bustamante reconvened the oral hearings and there is an expectation that the proceedings will end and a sentence will be handed down in the next coming days.

Meanwhile, the Constitutional Court and the Supreme Court still have multiple appeals before them, both from the Attorney General's office as well as from the defense attorneys and the plaintiff's attorneys, which should be resolved in the coming days and may change the course of the trial.

As a result of these events, the Due Process of Law Foundation (DPLF):

1. **Celebrates** the continuation of the oral phase of the trial and expresses its confidence that a sentence can be reached without more delays that place the rights of the victims to effective judicial protection at risk, after three decades for waiting for a State response.
2. **Calls on** the Constitutional Court and the Supreme Court to prioritize the examination and resolution of all the pending legal challenges that might further delay or paralyze the oral phase of this proceeding, which is so far along.

Particularly, DPLF remembers that the Inter-American Court of Human Rights, in the Mack Chang and Dos Erres Massacre decisions, affirmed that the State of Guatemala is required to ensure that the appeal for legal protection is not used as a mechanism to "paralyze justice," to delay judicial proceedings, and is not used abusively and contrarily from the purpose for which it was created. **The appeal for legal protection should not be used to affect the due process and the speed of a trial to the detriment of victims.**

3. **Expresses its concern** over public statements made by ex-military and other sectors of the population claiming that this trial is in conflict with peace. These statements are an attempt to delegitimize justice as a means to ensure truth and redress for victims, and create a pressurized atmosphere that threatens judicial independence. Punishment for those responsible, and knowledge of the true judicial and historical facts do not put the peace process in danger; on the

contrary, these complement the aspirations of the Peace Accords, as has been repeatedly held by intergovernmental bodies and international organizations. Alternatively, experience has shown that peace without justice and sustained by forgetfulness and impunity is not a lasting peace.

4. **Expresses its concern** over the false information spread by various media outlets that the trial was annulled and should be restarted. This incorrect information contributes to an atmosphere of confusion and despair among the population, and creates undue pressure on judicial officials.
5. **Signals that in accordance with international law, States have an obligation to investigate and punish genocide**, a crime of extreme gravity and with devastating consequences for the victims as well as the national and international community.

The crime of genocide does not allow for the application of statutes of limitations or amnesty, nor other legal mechanisms that impede its effective prosecution. **Since its origins, international human rights law has classified genocide as an international crime that should be punished effectively.** The Convention for the Prevention and Punishment of the Crime of Genocide, ratified by Guatemala in 1950, explicitly establishes a State obligation to punish those who commit the crime of genocide.

6. **Remembers** that throughout the continent various constitutional and criminal courts have effectively tried international crimes. As this is the first trial for genocide against an ex president, Guatemala has a great opportunity to show the independence of its judiciary, its commitment to pay its debts for the past, reconstruct its history, vindicate the rights of victims and avoid the recurrence of such heinous crimes.

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Washington DC, United States*

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