

## **U.N. Calls for Re-establishing Judicial Independence in Ecuador**

(Legal expert concerned about country's judicial crisis) (540)

By Eric Green

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Washington -- An independent judiciary in Ecuador could be "irreversibly" affected if urgent steps are not taken to rectify congressional measures replacing Supreme Court judges, says a legal expert from the United Nations.

In a March 24 statement, the U.N. said its legal expert, Leandro Despouy, cited urgent concerns over the replacement of 27 of Ecuador's 31 Supreme Court judges with magistrates of the national legislature's own choosing and the resignation of the court's president, Ramón Rodríguez.

Despouy, who concluded a week-long visit to Ecuador March 18, identified a number of serious irregularities in the measures adopted by Ecuador's National Congress concerning both the removal of the previous magistrates of the Supreme Court of Justice, the Constitutional Tribunal, and the Supreme Electoral Tribunal, as well as the designation of new magistrates.

"It is the duty of the National Congress, as the organ that adopted the key measures of removal and designation which provoked the current crisis, to take measures to rectify the situation," said Despouy, a U.N. human rights special rapporteur on the independence of judges and lawyers.

The U.N. said the formula for the establishment of the Supreme Court of Justice should include the independence of the judges, a procedure to fill vacant posts through election by the rest of the judges of the court, a system of designation of judges guaranteeing their capability and probity, and a transparent process for the participation of citizens.

Despouy has said the congressional move to replace the Supreme Court justices appeared to constitute "grave interference by the executive and legislative [branches of government] into the judicial sphere and hence a violation of the independence of the judiciary."

Judicial independence, he said, is a principle recognized by Ecuador's constitution and an "essential requirement of the rule of law and of democracy, guaranteed also by international instruments to which Ecuador is a party."

The U.S. State Department says in its recently released "Country Reports on Human Rights Practices -- 2004" that on December 8 of that year, a majority in Ecuador's National Congress voted to replace most of the Supreme Court justices. The Ecuadorian legislators claimed that those justices should have been replaced in January 2003, according to the country's new constitution.

The State Department said in its report, released February 28, that critics charged the congress with overstepping its constitutional authority. The outgoing justices appealed their dismissal to the Inter-American Court on Human Rights, a body of the Organization of American States.

The State Department report says that despite continuing efforts to modernize Ecuador's court system, the country's judiciary continued to operate slowly and inconsistently, with lengthy delays before most cases came to trial. Judges in Ecuador reportedly rendered decisions more quickly or more slowly depending on political pressure or, in some cases, the payment of bribes, according to the report.

The failures of Ecuador's justice system contributed to cases in which communities took the law into their own hands, such as engaging in mob violence against suspected criminals, according to the State Department report.

The State Department's human rights report on Ecuador for 2004 can be viewed online at: <http://www.state.gov/g/drl/rls/hrrpt/2004/41759.htm>.

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