

INTERNATIONAL COURT OF JUSTICE

APPLICATION INSTITUTING PROCEEDINGS

REPUBLIC OF ECUADOR

v.

UNITED MEXICAN STATES

29 April 2024

APPLICATION INSTITUTING PROCEEDINGS

To the Registrar of the International Court of Justice, the undersigned, being duly authorized by the Government of the Republic of Ecuador, states as follows:

1. In accordance with Articles 36(1) and 40 of the Statute of the Court and Article 38 of the Rules of Court, I have the honor to submit this Application instituting proceedings by the Republic of Ecuador ('Ecuador') against the United Mexican States ('Mexico').

I. Introduction

2. This Application concerns the violation by Mexico of a series of obligations owed to Ecuador under international law, arising from Mexico's conduct between 17 December 2023 and 5 April 2024 in relation to Mr. Jorge David Glas Espinel, a national of Ecuador, who was convicted under Ecuadorean law for corruption offences committed in Ecuador (specifically, offences of illicit association and bribery) and was moreover being prosecuted for embezzlement of public funds. This Application also concerns Mexico's false and injurious statements calling into question the legitimacy of the 2023 elections in Ecuador.

3. After Mr. Glas had been temporarily released from prison in Ecuador (subject to certain judicial restrictions), Mexico used the premises of its diplomatic mission in Quito between December 2023 and April 2024 to shield Mr. Glas from enforcement by Ecuador of its criminal law. Despite Ecuador's repeated requests that Mexico cooperate with the competent Ecuadorean authorities and hand over Mr. Glas, Mexico announced, in a press release on 5 April 2024, a decision to grant him "asylum" with a view to removing him from Ecuador. These actions, which obstructed the proper administration of justice in Ecuador, constituted, among other things, a blatant misuse of the premises of a diplomatic mission.

4. By this unacceptable conduct, Mexico has breached, *inter alia*, the Vienna Convention on Diplomatic Relations of 1961, the Convention on Political Asylum of 1933 ('Montevideo Convention'), the Convention on Diplomatic Asylum of 1954 ('Caracas Convention'), the Inter-American Convention against Corruption of 1996, and the United Nations Convention against Corruption of 2003 ('Merida Convention'). Moreover, by such conduct Mexico has

breached the principles of sovereign equality, territorial integrity and non-intervention in the internal affairs of other States enshrined in the Charter of the United Nations, the Charter of the Organization of American States, and customary international law. Both Ecuador and Mexico are parties to all of these international conventions and are bound as well by the corresponding rules of customary international law.

II. The Court's Jurisdiction

5. Ecuador and Mexico are Members of the United Nations and parties to the Statute of the Court. Article 36(1) of the Statute provides, in its relevant part, that the Court's jurisdiction "comprises ... all matters specially provided for ... in treaties and conventions in force".

6. Ecuador and Mexico are also parties to the 1948 American Treaty on Pacific Settlement ('Pact of Bogotá' or 'Pact'). Pursuant to Article II of the Pact:

"... in the event that a controversy arises between two or more signatory states which, in the opinion of the parties, cannot be settled by direct negotiations through the usual diplomatic channels, the parties bind themselves to use the procedures established in the present Treaty, in the manner and under the conditions provided for in the following articles, or, alternatively, such special procedures as, in their opinion, will permit them to arrive at a solution."

Article XXXI of the Pact provides that:

"In conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the High Contracting Parties declare that they recognize, in relation to any other American State, the jurisdiction of the Court as compulsory ipso facto, without the necessity of any special agreement so long as the present Treaty is in force, in all disputes of a juridical nature that arise among them concerning:

- a) The interpretation of a treaty;
- b) Any question of international law;
- c) The existence of any fact which, if established, would constitute the breach of an international obligation;
- d) The nature or extent of the reparation to be made for the breach of an international obligation."

7. The only condition for the seisin of the Court under these provisions is, therefore, the existence of a legal dispute between High Contracting Parties that cannot be settled by direct negotiations¹. As shown below, this condition is met in the present case.

III. The Facts

8. Mr. Jorge David Glas Espinel, of Ecuadorean nationality, is an electrical engineer and politician, who served as Ecuador's Minister for Telecommunications and Information Society between 2009 and 2010, as Minister Coordinator of Strategic Sectors between 2010 and 2012, and as Vice-President of the Republic of Ecuador between 2013 and 2018. During and after his term of office as Vice-President, the Office of the Prosecutor General of Ecuador initiated criminal investigations and pressed charges for corruption offences committed by Mr. Glas while in office, which led to a series of criminal proceedings and convictions.

9. On 23 January 2018, Mr. Glas was found guilty of the offence of illicit association², pursuant to Article 370 of Ecuador's Criminal Code, in connection with the commission of the offences of, among others, embezzlement of public funds, bribery, illicit enrichment, trading in influence, and money-laundering ('*Caso Odebrecht*'). He was sentenced to six years in prison by Ecuador's National Court of Justice – the highest court in Ecuador's judicial system³. This conviction is final. It took place within the broader context of the *Odebrecht* corruption scandal, the largest transnational bribery scheme in Latin America involving at least 10 countries (including Mexico) and more than 780 million USD in bribes in connection with large-scale infrastructure projects. The uncovering of this scheme has given rise to several criminal investigations and proceedings in Latin America and beyond.

10. On 26 April 2020, Ecuador's National Court of Justice found Mr. Glas guilty of bribery pursuant to Articles 285 and 287 of Ecuador's Criminal Code (currently Article 280), and he

¹ *Dispute over the Status and Use of the Waters of the Silala River (Chile v. Bolivia)*, Judgment, I.C.J. Reports 2022, p. 634, para. 39; *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, Jurisdiction and Admissibility, I.C.J. Reports 1988, pp. 92-99, paras. 58-76.

² "Illicit association", under Ecuador's criminal law, means the association between two or more individuals with the aim of committing offences that are punishable by law. Association with the aim of committing offences leads to a deprivation of liberty of three to six years when the association had for its objective the commission of serious crimes and the participant in the association had a leading role.

³ National Court of Justice, Case no. 17721-2017-00222, judgment of 23 January 2018.

was sentenced to eight years in prison, this time in the context of a different corruption scandal, known as the *Sobornos* case (*‘Caso Sobornos’*)⁴. This second conviction, too, is final.

11. On 28 November 2022, Mr. Glas was temporarily released from prison⁵ following a request for precautionary measures, claiming health issues; that request was granted by a court of first instance in the Santo Domingo Canton in Ecuador. The court also determined that Mr. Glas had an obligation to appear once a week before the competent judicial authorities, and that he could not leave the country⁶. This temporary release was in effect until 28 February 2024, when the Constitutional Court of Ecuador determined that it had not been granted in conformity with Article 27 of Ecuador’s Organic Law on Constitutional Guarantees and Oversight⁷.

12. Mr. Glas also pursued an action that requested early release from prison, having fulfilled a portion of his sentences in the *Odebrecht* and *Sobornos* cases. This request was denied on 28 December 2023 by a Special Court on Penitentiary Guarantees, which determined that the conditions for such release under Ecuadorean law were not met⁸. The Regional Court of Justice of Pichincha rejected an appeal of this decision by Mr. Glas on 7 March 2024. It confirmed the decision of the lower court and ordered that Mr. Glas be located and arrested so as to bring him back to prison⁹.

13. In early January 2024, in separate proceedings, the National Court of Justice ordered the pre-trial detention of Mr. Glas and other individuals suspected of embezzling public funds provided under the Law on Solidarity and Citizen Co-Responsibility for the Reconstruction and Reactivation of the Zones Affected by the Earthquake of 16 April 2016, in violation of

⁴ National Court of Justice, Case no. 17721-2019-00029G, judgment of 26 April 2020.

⁵ Mr. Glas had also been released for a short time on 10 April 2022 by a decision of a local judge. However, the decision ordering his release was annulled by a Regional Court because of lack of territorial jurisdiction of the local judge, and Mr. Glas was returned to prison (Court of Justice of the Province of Santa Elena, Case no. 24202202200017T, decision of 10 May 2022).

⁶ Criminal Judicial Unit, Santo Domingo Canton, Province of Santo Domingo de los Tsáchilas, Case no. 23281-2022-05925, decision of 28 November 2022.

⁷ Constitutional Court of Ecuador, Case no. 12-23-JC/24, judgment of 28 February 2024.

⁸ Special Court of Penitentiary Guarantees, Province of Pichincha, Case no. 17U06202300032G, decision of 28 December 2023.

⁹ Court of Justice of the Province of Pichincha, Case no. 17U06202300032G, judgment of 7 March 2024

Article 278 of Ecuador's Criminal Code (*'Caso Reconstrucción de Manabí'*). The National Court of Justice issued an order for the location and arrest of Mr. Glas¹⁰.

14. Mr. Glas also faces a criminal investigation in Ecuador on the basis of a complaint filed against him on 11 October 2023 by a former employee concerning gender violence (intimidation and psychological violence) while he was Vice-President¹¹. This investigation is ongoing and Mr. Glas is required to appear before the competent authorities to give his version of the facts.

15. In summary, as of December 2023, there were two final convictions against Mr. Glas under Ecuadorean criminal law for illicit association and bribery. In addition, he was subject to ongoing criminal proceedings for suspected embezzlement of public funds, and he faced a criminal investigation for gender violence. Although he was temporarily released from prison, he had an obligation to appear before the competent judicial authorities of Ecuador, he was prohibited from leaving the country, and arrest warrants were eventually re-issued against him. The criminal proceedings against Mr. Glas were conducted throughout several years and independently of the changes of Government.

16. It was against this background that, on 17 December 2023, Mr. Glas entered the Embassy of Mexico in Quito with the permission of the latter. Shortly afterwards, he requested that Mexico grant him "asylum" with a view to departing from Ecuador's territory. As will now be described, numerous diplomatic exchanges took place between Ecuador and Mexico thereafter. In those exchanges, Ecuador repeatedly requested Mexico to cooperate with Ecuador and to surrender Mr. Glas to its competent authorities, in order to enforce Ecuador's criminal law and to ensure compliance with the abovementioned judicial decisions and proceedings. Mexico denied all of Ecuador's requests.

17. Specifically, on 17 December 2023, the Ministry of Foreign Affairs of Ecuador, having learnt of the presence of Mr. Glas in the Embassy of Mexico, wrote to the latter requesting urgent cooperation by Mexican authorities on the matter. The Ministry moreover requested the Embassy to immediately invite Mr. Glas to leave the premises of the mission in order to comply

¹⁰ National Court of Justice, Case no. 17721-2019-00033G, decisions of 5 and 7 January 2024. An appeal against these orders was rejected on 21 February 2024.

¹¹ Investigation no. 170101823101641.

with his obligation to appear before the competent judicial authorities of Ecuador. The Ministry also asked the Embassy to explain the reasons why Mr. Glas was present in the premises of the mission, noting that it was evident that granting asylum to Mr. Glas would not be lawful¹².

18. The Embassy of Mexico responded on 18 December 2023, confirming that Mr. Glas had entered the premises of the mission on 17 December 2023 and had requested “protection”. The Embassy indicated that Mr. Glas was present in the premises as a “guest”, and that it would consider a request for asylum in conformity with the Caracas Convention should Mr. Glas formally make such a request. It also requested Ecuador to provide information about the legal situation of Mr. Glas¹³.

19. The Ministry of Foreign Affairs of Ecuador responded on 20 December 2023, stating that it would provide the information requested by the Embassy. It further indicated that there was no basis for a grant of asylum pursuant to the Caracas Convention¹⁴.

20. On 21 and 31 December 2023, the Ministry of Foreign Affairs of Ecuador transmitted to the Embassy of Mexico detailed information regarding the criminal proceedings against Mr. Glas, which had been provided by the National Court of Justice, the Ministry of the Interior, and the Office of the Prosecutor General¹⁵. The Ministry of Foreign Affairs transmitted further information to the Embassy of Mexico on 10 January 2024¹⁶.

21. On 28 January 2024, the Embassy of Mexico informed the Ministry of Foreign Affairs of Ecuador that Mr. Glas was still present in the Embassy, and that Mexico was evaluating an

¹² Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-CGG-2023-0004-N, 17 December 2023 (Annex 1).

¹³ Embassy of Mexico in Quito, Note Verbale no. ecu02431, 18 December 2023 (Annex 2).

¹⁴ Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-CGG-2023-0005-N, 20 December 2023 (Annex 3).

¹⁵ Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-CGG-2023-0006-N, 21 December 2024, annexing a communication from the Office of the Prosecutor General dated 20 December 2023 (Annex 4); Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-CGG-2023-0008-N, 21 December 2023, annexing a communication of the National Court of Justice dated 20 December 2023 (Annex 5); Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH/MREMH/2023/0044/N, 31 December 2023, annexing a report by the Ministry of Interior dated 30 December 2023 (Annex 6).

¹⁶ Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-DAJIMH-2024-0009-N, 10 January 2024 (Annex 7).

asylum request by Mr. Glas¹⁷. Ecuador responded the next day, recalling that it had already provided relevant information concerning the corruption offences for which Mr. Glas was prosecuted and convicted, and indicating that a grant of asylum by Mexico would be unlawful under, among others, the Charter of the United Nations, the Caracas Convention, the Inter-American Convention against Corruption, and the Merida Convention. Ecuador requested once more that Mr. Glas be asked to leave the Embassy so that he could be submitted to Ecuador's judicial authorities, with all the guarantees of due process¹⁸.

22. On 29 February 2024, the Ministry of Foreign Affairs of Ecuador reiterated that granting asylum to Mr. Glas would be contrary to international law and noted that there was a warrant for his arrest. It also requested the Embassy's consent so that the Ecuadorean police could enter the Embassy to take custody of Mr. Glas and ensure compliance with the arrest warrant¹⁹.

23. On 6 March 2024, the Embassy of Mexico transmitted to the Ministry of Foreign Affairs of Ecuador a note verbale from Mexico's Foreign Ministry dated 4 March 2024²⁰. In this note, Mexico denied Ecuador's request for consent for the police to enter the Embassy to take custody of Mr. Glas, and stated that the Mexican Government continued studying an asylum request. The Foreign Ministry also indicated that such request had been made on "17 December 2023" (contrary to what the Embassy had said on 18 December), and set out certain views in relation to the institution of asylum. The Ministry proposed sending a special mission to Ecuador to discuss the matter further.

24. By a note verbale of 12 March 2024, the Ministry of Foreign Affairs of Ecuador asked the Embassy of Mexico whether Mr. Glas was still present in its premises²¹. The Embassy replied affirmatively on 13 March²².

¹⁷ Embassy of Mexico in Quito, Note Verbale no. ecu00182, 28 January 2024 (Annex 8).

¹⁸ Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-DAJIMH-2024-0042-N, 29 January 2024 (Annex 9).

¹⁹ Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH/MREMH/2024/0035/N, 29 February 2024 (Annex 10).

²⁰ Embassy of Mexico in Quito, Note Verbale no. ecu00498, 6 March 2024, annexing Note n. SRE/283/2024, 4 March 2024 (Annex 11).

²¹ Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH/MREMH/2024/0039/N, 12 March 2024 (Annex 12).

²² Embassy of Mexico in Quito, Note Verbale no. ecu00554, 13 March 2024 (Annex 13).

25. On 19 March 2024, Ecuador responded to the note verbale from Mexico's Foreign Ministry of 4 March, providing further information regarding the legal situation of Mr. Glas and reiterating that a grant of asylum would be an obstruction of justice and unlawful under international law. Ecuador recalled the importance of respecting, *inter alia*, the principle of non-interference in the internal affairs of other States, the Montevideo Convention, the Caracas Convention, the Inter-American Convention against Corruption, and the Merida Convention²³. Furthermore, Ecuador reaffirmed that it was open to dialogue on the matter and agreed to the dispatch of a special mission by Mexico.

26. A meeting between representatives of both States took place in Quito on 21 March 2024. During this meeting, Ecuador emphasized that the crimes for which Mr. Glas was prosecuted and convicted were "common offenses" within the meaning of Article III of the Caracas Convention, and that the threshold for establishing political persecution under that provision was high ("clearly of a political nature"). Ecuador also recalled Mexico's obligations under Article 41 of the Vienna Convention on Diplomatic Relations and the anti-corruption conventions. It was agreed that Ecuador would provide to Mexico further information concerning the legal situation of Mr. Glas.

27. On 4 April 2024, Ecuador declared the Ambassador of Mexico *persona non grata* pursuant to Article 9 of the Vienna Convention on Diplomatic Relations. The Ambassador was granted 72 hours to leave the country²⁴. This decision was made following a number of baseless statements by the President of Mexico calling into question the legitimacy of the presidential elections in Ecuador held in August and October 2023, and grossly mischaracterizing the murder of a presidential candidate in the context of one of the most violent internal armed conflicts that Ecuador has faced in its history²⁵. Ecuador considered these statements unacceptable and an interference by Mexico in its internal affairs.

²³ Ministry of Foreign Affairs and Human Mobility of Ecuador, Notes Verbales nos. MREMH/MREMH/2024/0041/N and MREMH/MREMH2/2024/0040/N, 19 March 2024 (Annex 14). The Embassy of Ecuador in Mexico City transmitted this information to the Foreign Ministry of Mexico once more in Note Verbale no. 4-2-53/2024, 25 March 2024 (Annex 15).

²⁴ Ministry of Foreign Affairs and Human Mobility of Ecuador, Notes Verbales nos. MREMH/MREMH/2024/0045/N and MREMH/MREMH/2024/0044/N, 5 and 4 April 2024 (Annex 16); Ministry of Foreign Affairs and Human Mobility of Ecuador, Press Release, 4 April 2024 (Annex 17).

²⁵ Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-VRE-2024-0009-N, 3 April 2024 (Annex 18).

28. One day later, on 5 April 2024, and before Ecuador could provide Mexico with further information concerning the legal situation of Mr. Glas as agreed during the 21 March meeting in Quito, the Ministry of Foreign Affairs of Mexico stated in a press release that, after a “thorough analysis”, it decided to grant “political asylum” to Mr. Glas, invoking the Caracas Convention. The Ministry further announced that it would request from Ecuadorean authorities that Mr. Glas be granted safe conduct so that he could be removed from Ecuador’s territory²⁶. Mexico’s purported grant of “political asylum” to Mr. Glas was not communicated to the Ministry of Foreign Affairs of Ecuador through official diplomatic channels.

29. The Ministry of Foreign Affairs of Ecuador, in a press release of 5 April, condemned the announced decision to grant to Mr. Glas “political asylum” as contrary to the asylum conventions, as well as an abuse by Mexico of the privileges and immunities conferred by the Vienna Convention on Diplomatic Relations²⁷.

30. That same day, the Embassy of Mexico was requested once more to surrender Mr. Glas or to allow the Ecuadorean police to enter the premises of the mission to arrest him. The Embassy denied these requests and, in the light of imminent risk that Mr. Glas would be removed by Mexico from Ecuador’s territory, the police proceeded to his arrest.

31. On 6 April 2024, the Ministry of Foreign Affairs of Ecuador issued a public statement noting, among others, that Mr. Glas could in no way be considered a victim of political persecution, and that it was clear from Article 1 of the Montevideo Convention and Article III of the Caracas Convention that asylum cannot be lawfully granted to individuals prosecuted or convicted for ordinary crimes; that Mexico had obstructed Ecuador’s judicial system and contravened the principle of non-interference in the internal affairs of other States; that Mexico was in breach its obligations under Article 41 of the Vienna Convention on Diplomatic Relations; and that Mexico had to fulfil its obligations under the Inter-American Convention against Corruption and the Merida Convention²⁸.

²⁶ Ministry of Foreign Affairs of Mexico, Press Release No. 126, 5 April 2024 (Annex 19).

²⁷ Ministry of Foreign Affairs and Human Mobility of Ecuador, Press Release, 5 April 2024 (Annex 20).

²⁸ Ministry of Foreign Affairs and Human Mobility of Ecuador, Press Release, 6 April 2024 (Annex 21).

32. The arrest of Mr. Glas by the Ecuadorean police gave rise to a protest by Mexico, which broke off diplomatic relations with Ecuador on 6 April 2024 and announced the immediate departure of its diplomatic personnel²⁹. Mexico further announced that the premises of its diplomatic mission “will remain closed indefinitely”³⁰.

33. On 10 April 2024, the Permanent Council of the Organization of American States adopted a resolution that, *inter alia*, called on all States to respect the inviolability of diplomatic premises and personnel; reaffirmed the duty of persons enjoying privileges and immunities to respect the laws and regulations of the receiving State and not to interfere in the internal affairs of that State, as well as the obligation not to use the premises of diplomatic missions in any manner incompatible with the functions of the mission; and recognized “the obligation of States Parties to the Convention on Diplomatic Asylum of 1954 to respect it in its entirety”³¹.

34. The resolution of the Permanent Council also “urge[d] Ecuador and Mexico to initiate a dialogue and take immediate steps, in accordance with international law, to resolve this serious matter in a constructive manner”³². However, rather than pursue such a dialogue, on the very next day Mexico proceeded to institute proceedings against Ecuador before the Court, alleging violations of the Vienna Convention on Diplomatic Relations and certain other rules of international law³³.

²⁹ Ministry of Foreign Affairs of Mexico, Press Release No. 128, 6 April 2024 (**Annex 22**); Ministry of Foreign Affairs of Mexico, Note Verbale no. SRE/423/2024, 6 April 2024 (**Annex 23**).

³⁰ Ministry of Foreign Affairs of Mexico, Press Release No. 129, 6 April 2024 (**Annex 24**).

³¹ OAS Permanent Council, Resolution 1253 (2484/24), 10 April 2024, eighth preambular paragraph and operative paragraphs 3, 5 and 6 (**Annex 25**). Mexico was absent when the Permanent Council adopted the resolution. Ecuador voted against the resolution because of its paragraph 1, condemning “the intrusion into the premises of the Embassy of Mexico in Ecuador and the acts of violence against the well-being and dignity of the diplomatic personnel of the mission”. Ecuador stated its recognition of and respect for the principles reflected in the resolution, but the resolution had not expressly condemned Mexico for its multiple violations of rules and principles of international law, including Article 41 of the Vienna Convention on Diplomatic Relations, Article III of the Caracas Convention, Article 1 of the Montevideo Convention, the Inter-American Convention against Corruption, and the Merida Convention.

³² *Ibid.*, para. 7.

³³ Application instituting proceedings containing a request for provisional measures, filed in the Registry of the Court by Mexico on 11 April 2024.

IV. The Legal Grounds for Ecuador's Claims

35. By its abovementioned acts and omissions, Mexico has committed serious violations of rights owed under international law to Ecuador, thus engaging Mexico's international responsibility.

36. By sheltering Mr. Glas in the premises of its diplomatic mission in Quito and refusing to surrender him to the competent authorities of Ecuador, Mexico has breached Article 41 of the Vienna Convention on Diplomatic Relations, which provides, in its relevant part:

"1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

...

3. The premises of the mission must not be used in any manner incompatible with the functions of the mission as laid down in the present Convention or by other rules of general international law or by any special agreements in force between the sending and the receiving State".

37. Using an embassy to shield a local national who had been convicted by competent courts (and was being further prosecuted) for corruption offences, and against whom there were valid arrest warrants, is a clear violation of these provisions, as it contravenes the duty of Mexico's diplomats to respect the laws and regulations of Ecuador and their duty not to interfere in the internal affairs of Ecuador. Moreover, such use of the Embassy of Mexico is incompatible with its functions, as specified in the Vienna Convention on Diplomatic Relations and under general international law, and with additional obligations of Mexico *vis-à-vis* Ecuador under international law.

38. Mexico is also in breach of the Montevideo Convention and the Caracas Convention. Article 1 of the Montevideo Convention provides:

"It shall not be lawful for the States to grant asylum in legations, warships, military camps, or airships to those accused of common offenses who may have been duly prosecuted or who may have been sentenced by ordinary courts of justice, nor to deserters of land or sea forces.

The persons referred to in the preceding paragraph who find refuge in some of the above-mentioned places shall be surrendered as soon as possible as requested by the local government”.

Similarly, Article III of the Caracas Convention stipulates that:

“It is not lawful to grant asylum to persons who, at the time of requesting it, are under indictment or on trial for common offenses or have been convicted by competent regular courts and have not served the respective sentence, nor to deserters from land, sea, and air forces, save when the acts giving rise to the request for asylum, whatever the case may be, are clearly of a political nature.

Persons included in the foregoing paragraph who *de facto* enter a place that is suitable as an asylum shall be invited to leave or, as the case may be, shall be surrendered to the local authorities, who may not try them for political offenses committed prior to the time of the surrender.”

39. The “asylum” that Mexico purported to grant to Mr. Glas is contrary to these and other provisions of the Vienna Convention on Diplomatic Relations and the asylum conventions. Mr. Glas has never been subjected to political persecution in Ecuador. As noted above, he has been convicted in Ecuador for corruption offences (illicit association and bribery) and is being prosecuted for a corruption offence (embezzlement of public funds), which constitute “common offenses” within the meaning of the two asylum conventions. The criminal proceedings against Mr. Glas are in line with Ecuador’s strong commitment to the fight against corruption, and in conformity with its obligations under the Inter-American Convention against Corruption and the Merida Convention.

40. Mexico’s obstruction of Ecuador’s judicial system and law enforcement by shielding Mr. Glas, refusing to surrender him, and purporting to grant him “asylum” with a view to removing him from Ecuador’s territory constitutes a serious breach of the principles of sovereign equality, territorial integrity, and non-intervention protected by the Charter of the United Nations, the Charter of the Organization of American States, and customary international law.

41. Specifically, Article 2 of the Charter of the United Nations reaffirms the principles of sovereign equality and territorial integrity, of which the principle of non-intervention is a

corollary³⁴. The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations ('Friendly Relations Declaration')³⁵, which both interprets the Charter and reflects customary international law, indicates that "no State ... has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other State", and that "all ... forms of interference or attempted threats against the personality of the State ... are in violation of international law".

42. The preamble to the Charter of the Organization of American States refers to the sovereign equality of its Member States, while Article 1 indicates that the nature and purpose of the Charter is to defend their sovereignty, territorial integrity, and independence. Article 3(e) of the OAS Charter provides that every State "has the duty to abstain from intervening in the affairs of another State". Article 19 further stipulates that "[n]o State ... has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other State".

43. In the *Asylum* case, the Court made it clear that:

"In the case of diplomatic asylum, the refugee is within the territory of the State where the offence was committed. A decision to grant diplomatic asylum involves a derogation from the sovereignty of that State. It withdraws the offender from the jurisdiction of the territorial State and constitutes an intervention in matters which are exclusively within the competence of that State. Such a derogation from territorial sovereignty cannot be recognized unless its legal basis is established in each particular case."³⁶

44. Mexico's decision to grant "asylum" to Mr. Glas, contrary to the provisions of the Vienna Convention on Diplomatic Relations, the Montevideo Convention, and the Caracas Convention, was a derogation from the sovereignty of Ecuador and an unlawful intervention in matters falling exclusively within the competence of Ecuador.

³⁴ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, I.C.J. Reports 1986, p. 105, para. 202.

³⁵ UN General Assembly resolution 2625 (XXV), 24 October 1970.

³⁶ *Colombian-Peruvian Asylum Case, Judgment of November 20th, 1950: I.C.J. Reports 1950*, pp. 274-275.

45. Moreover, by refusing to surrender Mr. Glass to the competent authorities of Ecuador despite the latter's repeated requests, Mexico failed to cooperate on anti-corruption matters as required by the Inter-American Convention against the Corruption and the Merida Convention. Article XIV(1) of the Inter-American Convention provides that:

"In accordance with their domestic laws and applicable treaties, the States Parties shall afford one another the widest measure of mutual assistance by processing requests from authorities that, in conformity with their domestic laws, have the power to investigate or prosecute the acts of corruption described in this Convention, to obtain evidence and take other necessary action to facilitate legal proceedings and measures regarding the investigation or prosecution of acts of corruption".

46. Article 46, paragraph 1, of the Merida Convention similarly provides that "States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention". Article 48, paragraph 1, further stipulates that "States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. ...".

47. Mexico's refusal to cooperate in the departure of Mr. Glas from its Embassy, and its decision to grant "asylum" to Mr. Glas with a view to removing him from Ecuador's territory, violated its obligations under the Inter-American Convention and the Merida Convention to cooperate in Ecuador's law enforcement and judicial proceedings against Mr. Glas for offenses covered by those conventions.

48. Finally, by its Head of State making false and injurious statements calling into question the legitimacy of the elections in Ecuador, Mexico has breached the principle of non-interference in the internal affairs of other States. This is an affront against the democratic institutions of Ecuador and Ecuador's inalienable right to choose its political system, and is contrary to the Charter of the United Nations, the Charter of the Organization of American States, other related instruments, and customary international law.

V. The Relief Sought

49. The Republic of Ecuador respectfully requests the Court to:

(a) Adjudge and declare that the United Mexican States by, *inter alia*, allowing the prolonged presence of Mr. Glas in the premises of its diplomatic mission in Quito; refusing to surrender Mr. Glas to the competent Ecuadorean authorities; purporting to grant Mr. Glas “asylum” with a view to removing him from Ecuadorean territory; and obstructing Ecuador’s judicial system and criminal law enforcement:

- (i) Has breached its obligations to respect the laws and regulations of the receiving State, not to interfere with the internal affairs of the receiving State, and not to use the premises of the mission in a manner inconsistent with the functions of the mission, pursuant to Article 41 of the Vienna Convention on Diplomatic Relations of 1961;
- (ii) Has breached, among others, its obligations not to grant asylum to persons who are under indictment or on trial for common offenses or have been convicted by competent regular courts, and to surrender them to local authorities, pursuant to Article III of the Convention on Diplomatic Asylum of 1954 and Article 1 of the Convention on Political Asylum of 1933;
- (iii) Has violated principles of sovereign equality, territorial integrity, and non-intervention in the internal affairs of other States under the Charter of the United Nations, the Charter of the Organization of American States, and customary international law; and
- (iv) Has breached its obligation to cooperate on anti-corruption matters pursuant to Article XIV of the 1996 Inter-American Convention against Corruption and Articles 43, 46 and 48 of the 2003 United Nations Convention against Corruption.

(b) Adjudge and declare, moreover, that by making through its Head of State false and injurious statements calling into question the legitimacy of the 2023 elections in

Ecuador, the United Mexican States has violated the principle of non-intervention in the internal affairs of other States under the Charter of the United Nations, the Charter of the Organization of American States, other related instruments, and customary international law.

- (c) Adjudge and declare the legal consequences for the United Mexican States arising from its internationally wrongful acts.

VI. Judge *Ad Hoc*

50. In accordance with the provisions of Article 31(3) of the Statute of the Court and Article 35(1) of the Rules of Court, Ecuador gives notice of its intention to exercise its right to choose a judge *ad hoc*.

VII. Reservation of Rights

51. The Republic of Ecuador reserves the right to revise, supplement, or amend this Application, as well as the legal grounds invoked and the relief requested.

VIII. Designation of Agent

52. The Republic of Ecuador has designated the undersigned as its Agent for the purpose of these proceedings. All communications relating to this case should be sent to the Embassy of the Republic of Ecuador in The Hague (Koninginnegracht 84. 2514 AJ, Den Haag).

The Hague, 29 April 2024

H.E. Andrés Terán Parral
Agent of the Republic of Ecuador

Certification

The Applicant certifies that the documents attached by way of annexes are true copies of the originals thereof and that all the translations of annexes submitted herewith are, to the best of its knowledge and belief, a true and correct rendering of the text in the original language.

H.E. Andrés Terán Parral
Agent of the Republic of Ecuador

List of Annexes

- Annex 1** Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-CGG-2023-0004-N, 17 December 2023
- Annex 2** Embassy of Mexico in Quito, Note Verbale no. ecu02431, 18 December 2023
- Annex 3** Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-CGG-2023-0005-N, 20 December 2023
- Annex 4** Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-CGG-2023-0006-N, 21 December 2024, annexing a communication from the Office of the Prosecutor General dated 20 December 2023
- Annex 5** Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-CGG-2023-0008-N, 21 December 2023, annexing a communication of the National Court of Justice dated 20 December 2023
- Annex 6** Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH/MREMH/2023/0044-N, 31 December 2023, annexing a report by the Ministry of Interior dated 30 December 2023
- Annex 7** Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-DAJIMH-2024-0009-N, 10 January 2024
- Annex 8** Embassy of Mexico in Quito, Note Verbale no. ecu00182, 28 January 2024
- Annex 9** Ministry of Foreign Affairs and Human Mobility of Ecuador, Note Verbale no. MREMH-DAJIMH-2024-0042-N, 29 January 2024
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- Annex 11** Embassy of Mexico in Quito, Note Verbale no. ecu00498, 6 March 2024, annexing Note n. SRE/283/2024, 4 March 2024
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- Annex 13** Embassy of Mexico in Quito, Note Verbale no. ecu00554, 13 March 2024
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- Annex 15** Embassy of Ecuador in Mexico City, Note Verbale no. 4-2-53/2024, 25 March 2024

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- Annex 17** Ministry of Foreign Affairs and Human Mobility of Ecuador, Press Release, 4 April 2024
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- Annex 22** Ministry of Foreign Affairs of Mexico, Press Release No. 128, 6 April 2024
- Annex 23** Ministry of Foreign Affairs of Mexico, Note Verbale no. SRE/423/2024, 6 April 2024
- Annex 24** Ministry of Foreign Affairs of Mexico, Press Release No. 129, 6 April 2024
- Annex 25** OAS Permanent Council, Resolution 1253 (2484/24), 10 April 2024