

PARAGUAY: THREATS AND DIFFICULTIES REMAIN

Executive Summary

Paraguay ranks as a country with “low restriction” and, with a score of 66.25/100, stays in the 8th position among the 22 countries surveyed by the Chapultepec Index. The legal system continues to be used as a tool to persecute investigative journalists. The Attorney’s General’s Office issued a prosecutorial instruction sheet intended to outline certain guidelines for criminal investigations in cases of attacks against journalists and media workers. Investigative journalists keep encountering serious obstacles and difficulties to access highly relevant public information.

Introduction

This report’s survey period encompasses part of the third and fourth year of Mario Abdo Benítez” administration. During this time, he was shaken by various political crises. In addition, during this survey period, Paraguay went through a municipal electoral process held on October 10, 2021 that resulted in the clear victory of the Colorado Party in most municipalities in the country despite numerous reports of alleged corruption. According to existing information, a court ruling permitted access to public information on municipal expenditures in the city of Asunción during the COVID-19 era, which led to these reports (*PDS Radio* and *TV Digital*, 2021; *Última Hora*, 2021).

Another topic of great interest in Paraguay had its onset in February 2022, when a major drug bust called “A Ultranza” (At Any Cost) was launched. The internationally-backed operation resulted in more than a hundred raids, seizures, arrest warrants and detentions that revealed an international organized crime scheme also involving Paraguayan congressmen (*infobae*, 2022).

On May 10, 2022, prosecutor against organized crime Marcelo Pecci was murdered in Colombia. Pecci was the leading investigator in the murder of journalist Leo Veras that occurred on February 12, 2020 (AS, 2022) and also took part of A Ultranza. Although the Attorney’s General’s Office has already formally charged the alleged perpetrator of Veras’ crime, there has been no progress in the oral and public trial (ABC Color, 2022).

The nation continues to be rated as one of the most corrupt countries in South America (*El Urbano*, 2022), and this perception worsened after the United States government labeled former president of the Republic Horacio Cartes as “significantly corrupt” for obstruction of a criminal investigation on influence peddling and involvement with terrorist organizations concerning several countries (U.S. Department of State, 2022).

During this period, there were once again acts of violence and attacks against journalists for reasons related to their professional work, although mostly by third parties not associated to any branch of government. Compared to the previous Index, there was a quantitative reduction. There were also some regulatory improvements.

In the international context, the decision of the Inter-American Court of Human Rights on the April 26, 1991 Santiago Leguizamón's murder is still pending, after the Paraguayan State acknowledged –on 18 August 2021– the international lawsuit filed by the Inter-American Commission on Human Rights (*República del Paraguay / Procuraduría General de la República*, 2021). However, no agreement between the State and the petitioners was reached on the reparation measures (*La Nación*, 2022).

Results Analysis: Some regulatory improvements and a reduction of cases of aggressions

Paraguay ranks as a country with “low restriction” and, with a score of 66.25/100, stays in the 8th position among the 22 countries surveyed by the Chapultepec Index; previously, the country had scored 69.14 in the Index. During the survey period, there were events of attacks and threats, mostly by unknown perpetrators. However, in comparison with the previous Index, a quantitative reduction was observed.

As to February 2020 Leo Veras' murder, the oral and public trial of the alleged perpetrator, who is ostensibly a member of the criminal group known as “*Primer Comando de la Capital*” (PCC), is still pending (*ABC Color*, 2022).

On the other hand, the Specialized Human Rights Unit from the Attorney General's Office published the F.A. DD. HH. Instruction Sheet. N° 01/2022 which is intended to “...set the guidelines for the investigation of criminal cases on alleged punishable acts against journalists and media workers during the exercise of their functions” (*Mesa para la Seguridad de Periodistas*, n.d.). However, the unit lacks the adequate institutional grounds and the human resources to deal with investigation work.

In a different context, the Working Group for the Safety of Journalists (*Mesa para la Seguridad de Periodistas*, MSP) has set up an Observatory on Violence against Journalists, based on the classification of the aggressions documented by the organization Southern Voices (*Voces del Sur*), with the cooperation of the Institute of Environmental Law and Economics (*Instituto de Derecho y Economía Ambiental*, IDEA) and Unesco (Working Group for the Safety of Journalists). It has also implemented a monitoring instrument for Sustainable Development Goals [*Objetivos de Desarrollo Sostenible* (ODS)] 16.10.1 and 16.10.2 (Working Group for the Safety of Journalists, n.d.).

On the environments: Civil society as a key factor to benefit access to information

According to the experts consulted, in respect to the “degree of unfavorable influence”, the Legislative environment scores 2.04 for slight influence; the Judicial environment 2.89 for moderate influence (it is the most influential of the three environments); and the Executive scores 2.55, for a moderate influence.

During this period, civil society played a positive role in the signing into law of Act No. 6,919, which adjusts the regulatory framework of the sworn declaration of assets and revenue that government officials must submit when taking and leaving office. This act enshrined the public nature of these documents, after suffering a series of attempts by the political establishment at

obstructing the public disclosure of these data and the efforts to decriminalize its misinterpretation (IDEA, 2022; *Última Hora*, 2022).

Alternatively, the criminal trial against media outlet *ABC Color* journalist Juan Carlos Lezcano and director Natalia Zuccolillo for defamation, slander and libel was scheduled to be held in August 2022. The criminal regulatory framework continues to allow this kind of trials to be filed against investigative journalists, resulting in measures of self-censorship.

Realm A: Regulatory improvements for better access to information

This realm records an influence of 14.4/23.0, revealing an increase in relation to the 2020-2021 Index (11.4/23.0). This ranks it closer to the 2019-2020 Index levels (14.20/23.0).

From a 1-to-10 scale, the Legislative environment is perceived with slight influence of 2.33; the Judicial environment with moderate influence of 3.50; and the Executive environment with slight influence of 2.42.

Although certain political factions sought to restrict access to information on the government officials' sworn declaration of assets and revenue relying on deficient legislative proposals, an act formalizing its publication was finally signed into law. It is expected that the total and automatic release of the information kept in those documents will contribute to exposing and moving ahead in cases of corruption. No other measures by the Legislative and/or Executive Branch with the tendency to inhibit the free circulation of information and opinions were recorded.

Alternatively, in Paraguay, high-rank public officials would often block users critical of their administration on social media.

Regarding the Information Flow from the Media sub-realm, it scores 6.5/11.0. A slight increase is observed compared to the 2020-2021 Index (5.1/11.0).

In relation to the Citizen's Free Speech sub-realm, the consulted experts rated it 8.0/12.0. There is a slight increase (6.3/12.0) compared to the previous measurement (2020-2021 Index).

In the context of the right to public information access, data from the Unified Public Information Portal (*Portal Unificado de Información Pública*) show that there still remains a slight trend in the use of this right. From August 2020/August 2021, there were a total of 11,126 recorded requests. Of these, 72.8% received a favorable response. During the period covered by this report, 13,146 requests representing 74.5% of favorable responses were recorded. For the remaining cases there was silence, untimely responses, unattended or attended out of time reassessments, absence of information, among others (*Portal Unificado de Información Pública*, unsourced). When it comes to the quality of the responses in terms of access to information, a negative pattern continues: there are serious difficulties when accessing relevant information to verify data during journalistic investigations.

During the this report's surveyed period, some legal actions were filed with the purpose of obtaining public information. According to data from the Supreme Court of Justice website (*Corte Suprema de Justicia - Poder Judicial*, unsourced), between August 2021 and August 2022, at least 19 court cases were filed in order to obtain access to public information. This represents a slight decrease with respect to the number of cases filed in the 2020-2021 period (namely, 24

cases). As mentioned above, considering the total number of non-compliance cases, access to justice remains a rare thing.

It stands out among the registered court cases the order of protection by journalist Juan Carlos Lezcano Flecha against the Comptroller General of the Republic ruling that all the administration officials' sworn declarations of assets and revenue filed by the Comptroller General of the Republic be made public (Final Ruling 1 of January 6, 2022, Criminal Court of Guarantees Specialized in Economic Crimes of the Second Round in the Capital). Regarding the aforementioned act, these documents are expected to be issued into the framework of the active transparency policy.

On September 29, 2021, the Constitutional Chamber of the Supreme Court of Justice overruled a case on unconstitutionality filed by a group of journalists against court rulings preventing access to public information on the decisions by the Paraguayan advisors on issues dealt with by the Board of the Binational Itaipu (*Última Hora*, 2021). In May 2022, this group appealed to the Inter-American Court of Human Rights (IACHR) (*ABC Color*, 2022).

Realm B: A moderately favorable context for journalism remains in place

Paraguay continues to show a moderately favorable context for the free exercise of journalism. This realm scores 8.0/10.0, which reveals a slight increase in relation to the 2020-2021 Index (6.9/10). Within the this report's surveyed period, no situation of Government-encouraged restriction to the free exercise of journalism was recorded; however, some attacks, mostly by unknown third parties, were documented.

However, the use of criminal law continues to be a tool to prevent the free investigation of issues of public interest.

The Legislative environment was perceived with a slight influence (2.17); the Judicial environment, 4.33; and the Executive environment 3.76. Both realms presented with moderate influence.

During the period surveyed, no presumptions against media independence were documented, although there are still high levels of media concentration. Also, there were no records of a pattern of actions affecting plurality and the protection of confidential sources. Nevertheless, there are isolated cases of prosecutorial requests to directors of media preservation or data, or the summoning of journalists as witnesses in criminal court proceedings.

Realm C: Unpunished violence, a persisting pattern

According to the experts, the Violence and Impunity realm scored 23.7/42.0, with a small decrease compared to the 2020-2021 Index (28.7/42.0). The Protection sub-realm scored 1.8/5.0; Persecution, 1.8/7.5; Impunity, 1.3/8.5; Recorded Violence, 18.9/21.0.

Data from the table on the attacks against journalists reveal a total of six assaults, which represents a decrease in comparison with the previous Index (15 in total). Of the attacks

registered during this period, three were committed by unknown perpetrators, two by third parties, and one by the government.

As already stated in the previous report, concerns that the violations remain unpunished are a constant. As to the murders of journalists, only Pablo Medina's October 16, 2014 murder case reached the stage of conviction for its mastermind.

As mentioned above, some progress was made regarding the Attorney's General Office with the implementation of an instructive sheet aimed at investigating attacks against journalists and media outlets. Although it lacks the necessary institutional framework, the Working Group for the Safety of Journalists has also supported different actions focusing on creating tools for prevention and ongoing training for workers from the Judiciary.

During the period surveyed, the influence of the three environments has increased to become "moderate". From a 1-to-10 scale, the Legislative environment scored 3.67, the Judicial environment 3.72, and the Executive environment 4.11.

Realm D: No change as for actions to avoid concentration.

This realm displays a score of 20.0/25.0. The Direct Control sub-realm scored 12.0/16.0, while Indirect Control scored 8.0/9.0. Paraguay continues to show high levels of media concentration, which directly impacts independence of the media and journalists. However, there is a trend toward the opening of alternative media and information platforms.

Conclusions

The climate for freedom of expression in Paraguay remains moderately favorable. In general, the country has a regulatory framework that allows unrestricted exercise of freedom of expression and the right to access public information. However, there are still legal provisions in force permitting the use of criminal law against investigative journalists, while summoning journalists as witnesses is common. As a result, self-censorship runs among those freelancers who do not earn enough to do their job not fearing potential judicial harassment. On the other hand, social media have allowed to open alternative media and support freelancing journalists, a scenario that fosters the plurality of media and the sources of information.

Although it means an important advance the Working Group for the Safety of Journalists depends on the determination of its members to a great extent. As long as there is no structural formalization, adequate budget, mechanism for the election of members, definition of responsibilities, and so on, the protective measures, early warnings, and judicial cooperation will be insufficient and have little political and legal effect. Although this institution has pushed for the discussion of a law for the protection of journalists, no major progress has been made regarding its treatment in Congress. This situation diminishes the political importance of improving the regulatory framework. As an institution quite questioned by the public opinion, the Attorney's General Office, which is also part of the Working Group, has had some progress about

investigation protocols, but at the same time it lacks the institutional grounds to achieve better results.

Similarly, a positive situation continues to be observed through the absence of legislative dispositions obstructing the free exercise of journalism; however, there have been negative results in the judicial system for obtaining public information. The reliance on this right continues to grow slightly, but access to justice remains a very rare thing. The country's municipalities have the highest levels of non-compliance. Mario Abdo Benítez's administration characterizes itself for its secrecy on matters of high public interest.

Civil society and investigative journalism keep pushing for greater levels of transparency and access to public information from different spaces. With the assistance of civil society, there have been records of good practices by the Working Group for the Safety of Journalists, such as the implementation of an observatory on violence against journalists, which is also linked to ODSs 16.10.1 and 16.10.2. This will allow keeping statistics data up to date and generate early warnings about potential instances of violence.

Although cases of violence and/or aggressions against journalists are fewer during this period, certain regions in the country are still considered silenced zones, where organized crime rules and media persons doing their job are continually threatened. This situation opens the door to the continuation of patterns of impunity. The Attorney General's Office lacks the strength to adequately address this situation.

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