

DOSSIER 2

The Legal Fraud Against the PCV (+Appendixes)

August 2023

On the night of **Friday, August 11**, the Constitutional Chamber of the Supreme Court of Justice, by means of the infamous sentence N° 1160, finally ordered the **legal intervention** of the Communist Party of Venezuela (PCV), with the appointment of an *ad hoc* board made up of a group of people who do not belong to the ranks of our organization.

With this illegal and arbitrary sentence, the leadership of the Government-PSUV, using the apparatus of the Venezuelan bourgeois state, violated the right of political association of the membership of the PCV, and ignored the [PCV's XVI National Congress](#) held November 3-5, 2002.

Background

The PCV broke definitively with the government of Nicolas Maduro in 2020 as a consequence of the systematic breach by the government of the [PSUV-PCV Unitary Framework Agreement](#), signed on February 26, 2018; the definitive turn of the economic policy towards neoliberalism; and the increase of the persecution of workers' and popular struggles.

The "UNITARY FRAMEWORK AGREEMENT PSUV-PCV, to face the crisis of dependent and rentier capitalism in Venezuela with anti-imperialist, patriotic and popular political and socio-economic actions", was the condition established by the PCV's [XIV National Conference](#) held in February 2018 to offer the electoral support of the communists to the presidential candidacy of Nicolas Maduro for the elections of May of the same year. With this agreement, the PCV attempted a programmatic commitment to reverse the regressive labor policy and confront the economic crisis with revolutionary policies that would protect the rights of the working class and raise its leadership in the political struggle.

On August 20, 2018, a few months after the signing of this agreement, the government of President Nicolás Maduro announces its so-called "**Program for Recovery, Growth and Economic Prosperity**", giving the first demonstrations that the direction of government policy was going in the opposite direction of the **PSUV-PCV Unitary Framework Agreement**. With this program, he ratified the tendency towards a policy of **wage destruction** and the **dismantling of the workers' collective bargaining agreements** through [Memorandum N° 2792](#) issued by the Ministry of Labor.

The worsening of imperialist interference in the country, with the formation of the fictitious interim government in January 2019, and the deepening of the criminal illegal imperialist sanctions, influenced the PCV to maintain the political alliance with the PSUV-government in order to confront this strong onslaught of imperialism and the reactionary right wing. However, the situation changed when in the year 2020, the bourgeois leadership of the PSUV-Government, pressured by the effects of the criminal sanctions on its economic interests, began to make a **pact with the traditional bourgeoisie, the right wing parties and U.S. imperialism itself**, for the application of an economic adjustment tailored to the interests of the national and foreign capitalists.

Although the imperialist sanctions did not achieve their main objective: the change of government, they did manage to force a radical turn in the economic policy of the government of Nicolás Maduro. This turn of the PSUV leadership meant an absolute and definitive rupture of the government with the programmatic objectives of the PSUV-PCV Unitary Framework Agreement.

The economic adjustment of neoliberal content that the government has been applying since 2020 is a pact of elites between the two poles of the national bourgeoisie and the imperialist powers. Its purpose is to offer full guarantees to the investments of national and foreign capital, to the detriment of the social rights and labor conquests of the working people of the city and the countryside.

The neoliberal government-business-foreign monopolies pact is based on the following axes: liberalization and **dollarization of prices**; fiscal and **tax deregulation** for companies; beginning of a new process of **oil privatization**: Chevron case; destruction of **workers' wages and pensions** by means of income bonuses; reduction of public workers' wages via instructions from the public budget office; dismantling of workers' collective bargaining agreements; **elimination of social benefits** and workers' savings; **restriction of union and trade union freedoms**; Law of Special Economic Zones; Law of Foreign Investments and "Anti-blockade" Law, to favor capital; and the **criminalization and persecution of workers' struggles**.

Criminalization and persecution of workers' struggles

Naturally, the application of an anti-popular package generated a **sharpening of the class struggle** and **greater resistance** from the working class. The response of the government has been the selective persecution of union leaders with the aim of breaking up the struggles and sowing fear among the working masses. Hundreds of workers have been prosecuted and sentenced with false evidence and without respect for their fundamental rights.

The construction of a revolutionary alternative to the two poles of the disaster

In this new context, the PCV never ceased to [denounce the imperialist siege](#) on the country, the criminal imperialist sanctions and the [reactionary role of the sectors of the right wing](#) subordinated to the interests of U.S.-European imperialism.

But faced with an evident process of [negotiation and agreement](#) between the government-PSUV, the business class, the right wing parties and imperialism, the PCV deepened its policy of dissociation and proposed to advance in the construction of a workers' and popular alternative independent of the two poles of the pact of the elites. This policy has turned the PCV into an important factor in the processes of **regrouping and re-driving the massive workers' mobilizations** and struggles for decent wages and the reestablishment of the violated labor rights.

It is in this context of sharpening of the class struggle in the country, and of advances in the process of configuration of a workers' and popular alternative to the two bourgeois poles of polarization (PSUV - right-wing opposition), that the government of Nicolás Maduro is executing its plan of judicial intervention against the Communist Party of Venezuela.

The maneuver of the PSUV to assault the PCV

In order to justify the anti-democratic assault on the PCV, the leadership of the government-PSUV, carried out a strong campaign of **infamy** and **discredit** with the aim of criminalizing the political action of the PCV.

They began by attempting to link the PCV with the plans of imperialism, even accusing us of receiving financing from U.S. agencies. Finally, they ordered their laboratories and communications apparatus to intensify the media manipulation aimed at linking the PCV with extreme right wing groups. The judicial assault of the PCV takes place precisely in the midst of an intense defamatory campaign orchestrated from communications laboratories, which shows that it is a well-designed and articulated plan from the Government-PSUV, which continues to be executed.

They **tried to produce internal fractures** in view of the **XVI National Congress of the PCV** (November 2022); when they did not succeed, because the Congress deepened the positions of confrontation and rupture with the neo-liberal policies of the government and the oppositions, they passed to a new phase: they formed mercenary groups with militants of the PSUV and other groups related to the government, to create a false positive and an opinion matrix that presents the PCV as a divided and confrontational organization, which "justifies" the use of the Supreme Court of Justice to intervene, assault and usurp the legal status of the Communist Party.

Also part of the criminalization plan against the PCV are the application of **communication censorship**, the systematic attempts to [silence the voice of](#)

[the PCV deputy in the parliament](#), denying him the right to speak, and the **violation of the electoral rights** of the PCV through a policy of unjustified disqualification of its candidates in the regional elections of 2021.

Timeline of the legal fraud

On **July 10, 2023**, a group of people -non-members of the PCV- went to the Supreme Court of Justice to introduce a document of constitutional protection (writ of amparo) where they requested the legal intervention into the PCV and the appointment of an *ad hoc* leadership composed of the same petitioners, therefore nullifying the 16th National Congress of the PCV (appendix).

In view of this fact, the political leadership of the PCV, together with the team of lawyers, in the absence of formal notification from the Supreme Court, decided to anticipate the legal maneuver of the government and went to the Supreme Court to request information on the suit filed on July 10.

After repeated visits to the Supreme Court, the lawyers of the PCV could not gain access to the document introduced by the non-members of the party. It was not until July 20, ten days after the introduction of the writ of amparo by the mercenaries, that the lawyers of the Party were able to gain access to said document. This fact evidences the existence of a delaying maneuver to prevent the PCV from exercising its legitimate right to defense and due process.

Not being able to have timely access to the file in order to know the details and thus prepare the PCV's defense, the Political Bureau of the Central Committee decided to introduce its own writ of amparo to legally protect the Party from the action exercised by the mercenaries.

This writ was introduced on **July 19, 2023**, in which the PCV alerted the Supreme Court on the grounds of inadmissibility of the case filed on July 10, 2023 by the mercenaries (appendix) due to their absence of legal qualities to file any legal action in the name of the PCV as they do not belong to the ranks of the communist organization. Together with the document, the evidence demonstrating that these citizens are not militants of the PCV was introduced.

On **July 20, 2023**, after many visits and pressures, our lawyers managed to have access to the appeal presented by the mercenaries on July 10, 2023, which was registered under file number 2023-708.

On **July 27, 2023**, the lawyers of the PCV presented before the Supreme Court the defense brief (appendix), where the appeal presented by the mercenaries is dismantled in every line and multiple proofs are attached as annexes. In said document, the PCV alerted the Supreme Court and its Constitutional Chamber, that if the appeal filed by the mercenaries were admitted, they would be violating the grounds for inadmissibility established

in the [Organic Law of Amparo on Constitutional Rights and Guarantees](#) and therefore incurring in a serious inexcusable error of law by violating public order norms of a constitutional nature.

From **July 10 to August 11**, the legal team of the PCV carried out 16 actions before the Supreme Court, with writs, appeals for amparo, and presentation of evidence within the framework of the legal defense plan of the Party.

It is important to point out that throughout this process, the PCV was never formally notified through the regular channels of the Supreme Court of Justice. This represents a flagrant violation of due process.

The content of sentence 1160

On **August 11, 2023**, in the evening, the Supreme Court published a summary of the sentence No. 1160 on its web page, where it admits the case introduced by the non-member mercenaries of the PCV, and appoints an intervening *ad hoc* leadership composed of the same people.

An illegal and incorrect sentence, not only for violating the freedom of association of the legitimate members of the PCV, but also for **disregarding the constitutional guarantees and rights to defense and due process** that the PCV enjoys, and for setting the aberrant precedent of admitting a judicial intervention measure of a political organization based on a request formulated by persons who are not members of it.

1. Inadmissibility of the mercenaries' writ of amparo

The appeal for amparo filed by the mercenaries met all the requirements to be declared **inadmissible** by the Supreme Court of Justice:

(a) Due to the illegitimacy of non-members to attempt this recourse, i.e. they have no legal right to trigger the procedure.

Organic Law of Amparo on Constitutional Rights and Guarantees

Article 18.- "The request for amparo must express:

Subpoint 1: *The data concerning the identification of the aggrieved person and of the person acting on their behalf, and in this case with sufficient identification of the power conferred..."*

There is no record in the minutes of the file of the amparo introduced by the mercenaries, any document that identifies the plaintiffs of the amparo as members of the PCV. In this sense, there is no qualification or legal interest susceptible of judicial protection, however, the magistrate did not perform the pertinent analysis with rigor, she omitted the defense brief of the PCV, where the latter warned of the **lack of qualification** of the plaintiff to file the amparo and

warned the magistrate of the attempt to commit procedural fraud by the appellants (mercenaries).

(b) The lapse of time. The appellants (mercenaries) file the constitutional amparo suit once the time periods to do so had expired.

Organic Law of Amparo on Constitutional Rights and Guarantees

Article 6.- "The amparo action shall not be admitted:

Subpoint 4) *When the action or omission, act or resolution that violates the constitutional right or guarantee has been expressly or tacitly consented to, by the aggrieved party, unless they are violations that infringe public order or good customs.*

It shall be understood that there is express consent when the statute of limitations established in special laws has elapsed or, failing that, six (6) months after the violation or threat to the protected right.

Tacit consent is that which involves unequivocal signs of acceptance".

This subpoint 4 of Article 6 of the Amparo Law provides as time of expiration of the action six (6) months after the violation or threat to the protected right. In this case, it is observed in the judgment issued by the Supreme Court, in Title I, Grounds of the Amparo, that the date of the alleged violation of the right was "**That since 2016 the responsibility to convene the base structures was abandoned**", however, they attempt the amparo action 7 years later and there is no record in the file of any document used by the mercenaries of having claimed the alleged violated rights to the regular bodies as would be the report or communiqué addressed to some of the Party bodies as demanded by the Statutes of the PCV.

The non-compliance by the plaintiffs of the procedural requirement established in the Organic Law of Amparo on Constitutional Rights and Guarantees regarding the lapse of 6 months to file a legal action before the Constitutional Chamber of the Supreme Court of Justice constitutes a **serious and inexcusable error** on the part of the judge who finally sentenced in favor of the illegitimate plaintiffs, having been timely, responsibly and formally exposed by the PCV in its writings and legal actions of defense before the Supreme Court of Justice.

The real reason why the mercenaries do not act within the time limits established by law and do not present any evidence to corroborate the alleged violation of their participation rights by the Central Committee or Political Bureau of the CC, is because they are simply not members of the PCV.

2. The Supreme Court of Justice admits the amparo In Limine Litis (based on current litigation)

The proceeding **In Limine Litis** means that the process is only admitted based on mere law, that is to say, with respect to the current litigation and not to the facts. In this sense, the **oral and public hearing is discarded and the sentence is decided without opening the period of the counterpart for the corresponding trial.**

The amparo action should not have been admitted and even less **in limine litis**.

The same text of the sentence states in its introduction that the PCV introduced a defense and as such became part of the process.

Thus the sentence states:

Sentence 1160: *"On July 27, 2023, the alleged aggressor filed a writ of considerations.*

On July 31, 2023, the alleged aggressor requested that the present case be joined to file 2023-0751."

In this sense, there already exists, a party that contradicts the facts, with sufficient documentary evidence, for the process to be opened to oral and public trial, however, the magistrate disregarded the defense of the PCV, violating the right to due process established in Article 49 of the [National Constitution](#).

Constitution of the Bolivarian Republic of Venezuela

Article 49. *Due process shall apply to all judicial and administrative proceedings; consequently:*

3. Every person has the right to be heard in any kind of proceeding, with due guarantees and within the legally determined reasonable time, by a competent, independent and impartial tribunal previously established. Anyone who does not speak Spanish or cannot communicate verbally has the right to an interpreter.

The same magistrate stated in the sentence, "**the intervening parties must inescapably be heard**", however, she deliberately omitted the defense of the PCV.

Thus, in an incorrect manner, she concluded that it is not necessary to initiate an evidentiary debate and the discharge of evidence, and determines that the elements contained in the appeal presented by the acting party (the mercenaries) are sufficient to make a definitive decision.

The text of the infamous judgment No. 1160 states:

Sentence 1160: *"Now then, **the Chamber specifies that the present case deals exclusively with a mere point of law -since from the records of the file there is no need for an evidentiary debate-**, that is, on the existence of an injury of a constitutional order to the political rights of the members of the Communist Party of Venezuela (PCV), **since what is stated in the petition for amparo and the content of the minutes of the file filed by the plaintiff constitute sufficient elements for the Chamber to immediately rule on the merits of the present controversy, given that the parties and third parties involved would not contribute anything new if a contradictory hearing were to be opened through an oral hearing. Thus declared."***

3. A serious legal precedent is established that grants recognition of rights to people lacking legality and legitimacy

On the basis of this arbitrary and illegal procedure, the Supreme Court decided **incredibly** to appoint an *ad hoc* leadership made up of **non-members of the PCV** to be in charge of "organizing the internal democratic processes that guarantee the rights to political participation of the associates".

This is what the sentence states:

Sentence 1160: *"FOURTH: APPOINTS AD HOC BOARD OF DIRECTORS of management of the organization so that in accordance with its bylaws and the Constitution of the Bolivarian Republic of Venezuela it organizes the internal democratic processes that guarantee the rights to political participation of the associates. For such purpose, the following persons are appointed:*

Henry Parra, identified with identity card number 5,025,372, as President of the political organization Communist Party of Venezuela (PCV).

Sixto Rodríguez, identified with identity card number 3.323.768, as General Secretary of the political organization Communist Party of Venezuela (PCV).

Griseldys Herrera, identified with identity card number 13.475.410, as secretary of organization of the Communist Party of Venezuela (PCV).

Carlos Figueroa, identified with identity card number 16.087.670, as secretary of administration and finances of the political organization Communist Party of Venezuela (PCV).

Zoilo Aristegui, identified with identity card number 11.776.796, as secretary of ideology of the political organization Communist Party of Venezuela (PCV).

Johan Coraspe, identified with identification card number 16.807.045, as secretary of agitation and propaganda of the political organization Communist Party of Venezuela (PCV).

Robinson García, identified with identity card number 17.291.324, as secretary for the agrarian and peasant worker of the political organization Communist Party of Venezuela (PCV)".

In the appendix we leave for your information a detailed description of each one of these persons appointed by the Supreme Court as Ad Hoc Board of the PCV, where we demonstrate that they are not militants of the PCV, and almost all of them are proven members of the PSUV, and of other organizations related to the government.

This arbitrary decision to hand over the legal personality of the PCV to an ad hoc leadership made up of non-members of the PCV, with the supposed purpose of organizing the internal democratic life of the party, not only **ignores the members of the Central Committee of the PCV elected by the 16th National Congress**, but also all the leadership and grassroots structures of the PCV in all the states of the country. At this moment, this ad hoc leadership, by mandate of the Supreme Court, is forming regional leaderships also made up of persons outside the PCV in the states.

It is thus evident that this is a plan to destroy the Communist Party of Venezuela.

4. A decision has been made on the basis of a flagrant lie

Another aberration contained in sentence No. 1160 is the statement that the PCV does not convene its base organizations and has not held a National Congress since 2016. That is to say, it ignores the realization of the 15th National Congress of the PCV held in June 2017, the 14th National Conference of the PCV of February 2018, the 15th National Conference of April-May 2021, the 16th National Congress of the PCV in November 2022, and the multiple branch, local and regional conferences held by the Party bodies throughout that period.

The defense of the PCV presented in its documents shows the evidence of all these National Congresses and Conferences which denies what was stated in sentence N° 1160, consigning to the file in reference the documents endorsed by the National Electoral Council (CNE), instance to which we are obliged to inform of our internal processes.

This is what is stated textually in the sentence in section I on the Grounds of the Amparo:

Sentence 1160: *"That since 2016 the responsibility to convene the grassroots organizations was abandoned. That, at the same time, the corresponding congress of the organization has not been held."*

Then it points out:

Sentence 1160: *"In this regard, it is on record that citizen Oscar Figuera, in his capacity as Secretary General of the Central Committee of the Political Bureau of the Communist Party of Venezuela (PCV), **has omitted to convene the grassroots bodies, as well as has avoided holding the congresses of the organization preventing the militancy from acting in accordance with the statutes and more importantly, exercising the leadership of the organization in violation of the principle of alternation** that informs the right of political association by imperative of the aforementioned Article 67 of the Constitution of the Bolivarian Republic of Venezuela."*

5. The sentence denies the constitutional right that all Venezuelans have to continuous reelection in elected positions

The incoherent and inconsistent argument alleged by the magistrate, now converted into legislation of the Supreme Court, denies the **constitutional right of all Venezuelan men and women to continuous reelection**, which applies to all freely elected positions and whose insertion was established in the first constitutional amendment that has since then allowed reelection in numerous public offices, including the Presidency of the Bolivarian Republic of Venezuela.

The Constitutional Chamber of the Supreme Court justified its infamous intervention alleging the violation of an alleged principle of "**alternation**". They qualify the permanence for several terms of Comrade Oscar Figuera as Secretary General of the CC-PCV, and of other comrades re-elected for several terms as members of the Central Committee of the PCV, as a violation of an alleged principle of alternation which, according to their interpretation, undermines the internal democracy of the organizations.

Such situation -says the sentence-

Sentence 1160: *"imposes on this Chamber the duty to appoint an ad hoc directive in order to reestablish the right to association and participation of all the members of the organization".*

It is incomprehensible how the Constitutional Chamber of the highest court of the Bolivarian Republic of Venezuela ignores not only the constitutional rights that allow each organization to establish its own rules to govern its internal life (a fundamental principle of freedom of association), but also olympically ignores the existence of a [Constitutional rule approved by referendum in February 2009](#), which establishes the right to immediate and continuous reelection in elected positions.

Ruling No. 1160 goes so far as to qualify this reelection of comrades in the Central Committee as a "fascist practice". In their determination to assault the PCV, they commit the outrage of qualifying the constitutional amendment of February 2009, which allows the continuous reelection in positions, as a norm that facilitates "fascist processes".

This is what the sentence textually states:

Sentence 1160: *"In effect, the so-called alternation or intermittence in the exercise of the right of association is a guarantee on the democratic character of political organizations and constitutes an antidote to the fascist processes of attachment, veneration and obedience to whoever takes the position of undisputed and necessary leader in an organization."*

**As can be easily evidenced,
we are facing a gigantic legal fraud**

Ruling N°1160 openly contradicts legal and constitutional rights, it is contradictory and incongruent with the Venezuelan legal system, and therefore it is an unconstitutional, illegal and inapplicable ruling.

With the persecution and assault of the PCV, the democratic right of the Venezuelan working class to independent political organization is violated, it is denied the possibility of participating with its own electoral candidates for the presidential elections of 2024 and parliamentary elections of 2025, and it is prevented from having its own political Party, through which to carry out its legitimate struggles for political, social, labor, economic, cultural and democratic rights against the Venezuelan capitalist State.

This illegal sentence also opens the legal way to the usurpation of the goods and properties of the Party, and to the political persecution of the legitimate members and leaders of the PCV.

It is a brutal and flagrant attack by the Venezuelan bourgeois state against the political and democratic freedoms of the Venezuelan communist membership and working class.

APPENDIXES

(scan the QR to see the appendixes)



1. **Writ of constitutional amparo introduced by the mercenaries (Spanish)**
2. **Writ of constitutional amparo attempted by the PCV in response to the threat of legal intervention (Spanish)**
3. **Judicial defense to the writ of amparo introduced by the legal and legitimate leadership of the PCV elected in the XVI National Congress (Spanish)**
4. **Sentence no. 1160 from the Constitutional Chamber of the Supreme Court which consummated the legal intervention of the PCV (Spanish)**
5. **PCV documentation given in to the National Electoral Council (Spanish)**
6. **Profiles of the mercenaries who make up the ad hoc leadership named by the Supreme Court**
7. **Other evidence which confirms the responsibility of the high ranks of the PSUV in the managing of the assault on the PCV**