

CURACAO PARLIAMENTARY MAJORITY SEEKS PROTECTION OF THE EUROPEAN COURT OF HUMAN RIGHTS

WILLEMSTAD, CURAÇAO, March 26, 2017 /EINPresswire.com/ -- Willemstad (Curaçao) 25 March 2017: Last Friday 24th February, a group of MP of the Dutch Caribbean Island, Curacao, have applied to the European Court of Human Rights in Strasbourg (France), seeking the annulment of the recent decision to dissolve the Parliament of Curacao after less than 5 months after the general election of 5 October 2016. At the same time they have also requested the Court to indicate interim measures pursuant to Article 39 of the Rules of the Court. The case is registered under No. 23105/17. If allowed, that would mean that the snap elections scheduled for 28 April 2017 would be suspended until the Court rules on the merits of the complaint.

General elections were held in Curacao on 5 October 2016. The elected members were seated effective 2 November 2016 for a period that would end on 2 November 2020. However, on 12 February 2017, i.e. less than four (4) months into the tenure, the Parliament of Curacao, called "Staten", was dissolved effective 11 May 2017, leading to snap elections being scheduled for 28 April 2017. This decision was taken after a coalition party (Pueblo Soberano) withdrew its support from the Cabinet. Simultaneously, a new coalition-majority was formed and formally declared to the Governor of Curacao, who is the local representative of the Dutch Monarch. The coalition Cabinet that was sworn in on 23 December 2016 lost its majority in less than 57 days. Instead of allowing the new majority to form a Cabinet to govern for the remaining 3.5 years of the parliamentary cycle, the government that no longer enjoyed a majority support moved to dissolve the parliament that was elected less than five (5) months before.

The Staten held a debate on 3 March 2017 with the Prime Minister of Curacao, regarding the propriety and the legality of the use of the power to dissolve parliament in the circumstances of the case. On the question of whether there existed any legal means within the Kingdom of the Netherlands to reverse the decision, he responded negatively. Consequently, the Cabinet ignored the resolution adopted by the Staten on 3 March 2017 after the debate, in which the Cabinet was summoned to rescind the decision because of violation of Article 3 of the First Protocol to the European Convention of Human Rights. The Governor of Curacao also declined to submit the decision to dissolve the parliament to higher supervision because of the breach of Article 3 of the First Protocol to the Convention. Finally, Staten's appeal to the Government of the Kingdom of the Netherlands was summarily dismissed on 17 March 2017.

Absent any effective remedy available within the Kingdom of the Netherlands to challenge the decision to reduce their parliamentary tenure to slightly more than six (6) months rather than four (4) years, the Applicants, who together form the majority in the 21 seats Staten, hereby apply to the Court to vindicate their right protected by Article 3 of the First Protocol to the Convention. They submit that the decision to curtail the tenure of the Staten in this way infringes the requirement in the provision ensuring that elections must be held at "reasonable intervals". According to the MP's, the decision to limit their term to hardly seven (7) months, deprives them from both their active and passive right to vote, as it denies them any meaningful enjoyment of the result of the elections held on 5 October 2016. In their view, if permitted, that would undermine the concept of democratic

government proclaimed in the preamble of the Convention, because it would mean that the executive would be allowed to ignore the parliamentary majority and dissolve the Staten ad libidum whenever it no longer enjoys its support, irrespective how recent general elections were held. To allow this, so the Applicants submit, would mean that they would be denied the have an effective opportunity to enjoy the rights the Convention protects.

Technical Note: The Kingdom of the Netherlands is a federation comprised by four juxtaposed countries: Aruba, Curacao, the Netherlands and Sint Maarten. Except for a the very limited areas (foreign affairs, defence and nationality) reserved for the government of the federation, i.e. the Government of the Kingdom, each of the constituent countries are autonomous in respect of their legislation, adjudication and the administration of their internal matters. Accordingly, the legislatures of the countries possess the plenitude of legislative powers common to other national parliaments, although the powers of the Parliament of the Netherlands are severely qualified by the process of European integration. In each of the countries, general elections are held every four years to elect the members of parliament. The constitutions of the respective countries permit an exception to the foregoing, by allowing the executive branch to dissolve the parliament when this is deemed necessary to resolve an impasse with the parliament that cannot be resolved by other means. The decision to dissolve the parliament, when understood as the best practice in a particular circumstance, is taken after formal consultation in a public debate.

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