

The 'Sharpshooter' Targetting The Leaders Of The Fight Against Corruption In Guatemala

Increasingly, judges, prosecutors, journalists, lawyers and activists who exposed the rotten eddies of the Guatemalan system are prosecuted, imprisoned or, out of fear, go into exile. At the time, their work led presidents, vice presidents, ministers and other senior state officials to answer for mismanagement of public funds. Today, seven years after the so-called 'Guatemalan spring', the *Fundación Contra el Terrorismo* ['Foundation Against Terrorism'], which was created to defend military personnel accused of human rights violations, and whose president claims to be from the far right, is the main partner of this counteroffensive and boasts of putting those who confronted the corrupt elites of the Central American country up against the ropes.

"They, on their pages, they play bingo. They have photos of all of us and as they take someone out, they put an 'X' on them," said the lawyer Miguel Ángel Gálvez in an interview published in November in the Salvadoran digital newspaper *El Faro*, referring to a kind of bingo card with eight faces, marked with an 'X', and published on the Twitter of the president of the *Fundación Contra el Terrorismo* (FCT) of Guatemala, Ricardo Méndez Ruiz. All those marked have a role in common in the fight against corruption in Guatemala.

Gálvez achieved renown for being the judge of the notorious case of *La Línea*, which put retired General Otto Pérez Molina, president of the Central American country between 2012 and 2015, behind bars. In that last year, the massive demonstrations, due to the scandals and political corruption, known as 'the Guatemalan spring', led to his resignation. In the picture to which he refers (see example below), alongside others of his colleagues, two prosecutors, an assistant prosecutor, a magistrate and two judges, they appear with an 'X' on their faces. Also, the journalist José Rubén Zamora, former president of *elPeriódico*, a newspaper noted for its denunciations against corruption. In addition, also on that card is a lawyer who represented the International Commission Against Impunity in Guatemala (CICIG) in various trials, a United Nations mechanism that championed these cases, dissolved in 2019 by government decision.

In case there were any doubts about the message of the image, Méndez Ruiz accompanied the publication with the following text: "This is how the legal sharpshooters of the @FCTGuatemala work. A legal shot, a civilian death" [*Así trabajan los francotiradores legales de la @FCTGuatemala. Un disparo judicial, un muerto civil*"].

Like a bingo card

"They play bingo. They have photos of all of us and as they take someone out, they put an 'X' on them," Judge Miguel Ángel Gálvez said before resigning. On November 1, Ricardo Méndez Ruiz tweeted a photo of eight people with red 'X's on their faces.

The leader boasts of the success of the many cases that the organisation, over which he presides, has sponsored and that, today, has several of the 24 former members of the office of the Special Prosecutor Against Impunity (FECI), three lawyers from the extinct CICIG, six judges, and two former attorney generals, who have left the country, facing arrest warrants or criminal proceedings. In his communication style, the executive maintains a militaristic tone, something that marked his home life, since his father, who was also called Ricardo, was the commander of a military base where hundreds of human remains were found, in one of the bloodiest periods of the war in

Guatemala. The prosecutors in charge of said process did not manage to seek an arrest warrant, since he had died.

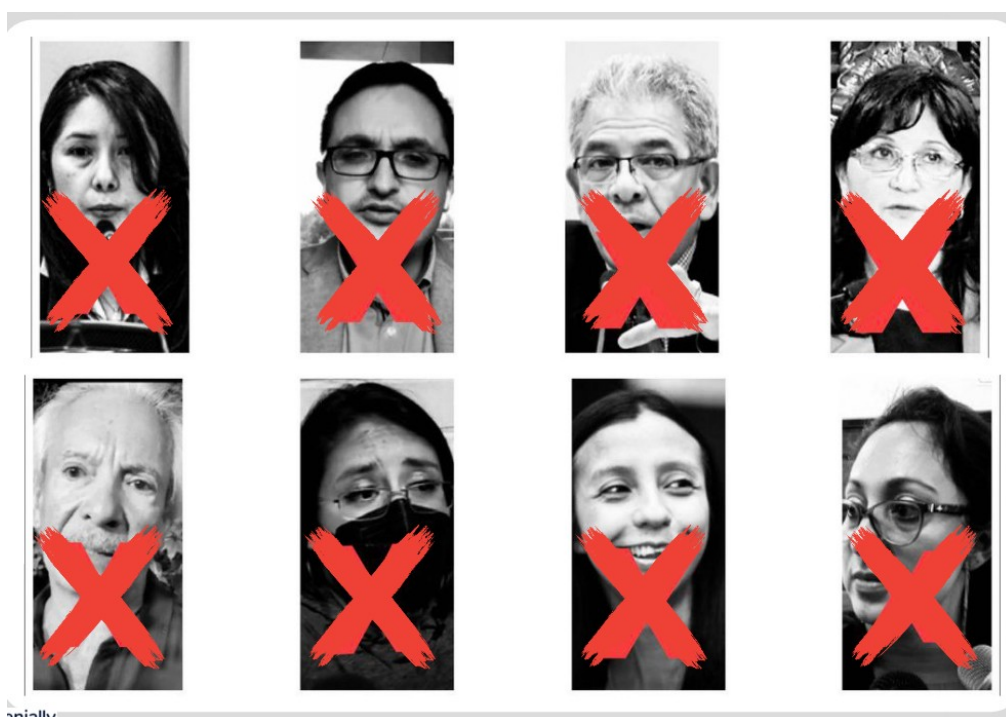


Image from the original article on the website of Agencia Ocote (<https://www.agenciaocote.com/blog/2022/12/06/el-francotirador/>)

"We use a military principle, that of surprise. We hit hard and forcefully," he told the Guatemalan media consortium *Guatemala Leaks* (Plaza Pública, Agencia Ocote, Ojoconmipisto, ConCriterio and No Ficción), and CONNECTAS, in an interview for this investigation, while arguing that the surprising success of his efforts in court are due to the fact that the current justice operation is not 'afraid' of a system that years before, in his opinion, was under pressure from the former CICIG and from human rights organisations.

Each time, the results obtained in the courts by the *Fundación Contra el Terrorismo* arouse more concern in different bodies. Internationally, one of the biggest alerts has been issued by the United States Department of State by including Méndez Ruiz in the so-called *Engel List*, which designates those foreigners whom the authorities of the country to the north consider are 'involved in acts of corruption, in the deterioration of democratic institutions or in the obstruction of anti-corruption investigations'. Far from being ashamed of this, the FCT director highlights it in his Twitter mini-profile like this: '*Included in the Engel list for defending our veterans. Entrepreneur. Right wing activist. President of the Fundación Contra el Terrorismo (FCT)*'.

In Guatemala, it is also viewed with suspicion. There was a time when the hearings and complaints of the FCT did not go forward. On social networks, the organisation and Méndez Ruiz were mocked. They were called '*in limine*', the legal term under which courts have rejected their claims in the past. It means 'from the outset' and when the Guatemalan courts or tribunals rejected the FCT's accusations from the beginning, they meant that the accusations were too spurious, political or illegitimate to them, for them to continue.

The same thing happened in the Public Prosecutor's Office [*Ministerio Público*] at that time. For example, in 2009, a first complaint by one of the FCT members against the lawyer Juan Francisco Sandoval, then an assistant prosecutor in the special unit that worked with the CICIG, was unsuccessful. One of his investigations brought to trial a group of military personnel accused of the

embezzlement of USD 60.3 million dollars in the Ministry of Defence that occurred between 2000 and 2003. Among those implicated was someone who, years later, signed the articles of incorporation of the FCT. "The complaint was so crazy, like everything they do," recalls Sandoval in an interview for this publication. The military member accused the then president of the republic, Álvaro Colom, the first lady, the attorney general, in addition to their secretaries, and him, as an assistant prosecutor, of an alleged plot to assassinate him. More precisely, according to the legal term used, he described it as an 'attempted extrajudicial execution'.

Today Sandoval, now a former prosecutor, is in exile in the United States with four arrest warrants against him, three of these filed by the *Fundación Contra el Terrorismo*. His career, however, showed high prominence and, in 2015, he became head of the Special Prosecutor's Office Against Impunity [*La Fiscalía Especial Contra la Impunidad - FECI*] in Guatemala. This was the key year when, together with the CICIG, the FECI led the anti-corruption processes with the greatest impact in the country's history. The list includes, in addition to former president Otto Pérez Molina and his vice president, Roxana Baldetti (both imprisoned and she already sentenced), ministers, judges and members of Congress. Some submitted to shortened processes or, under the law of acceptance of charges, yielded in court, while others have resisted and have initiated processes and suits against prosecutors and judges who investigated them.

How did an organisation whose origin was the defence of the military go on to denounce justice operators? "From the fight for the defence of our veterans, we diverted towards other fields where we had to go because we had to counterbalance other organisations headed by the Myrna Mack Foundation [*Fundación Myrna Mack*] (a renowned Human Rights organisation) and somehow we have achieved it", he points out.

Méndez Ruiz claims that he is not driven by "any feeling of revenge, hatred, or revenge against anyone." Even so, in the same interview, he vehemently asserts that his motto is "we do not forget, we do not forgive and we do not reconcile." He even maintains that the selection of the accused is not based on any 'selective justice', for which the FCT criticised the CICIG. For him, there is no persecution against anyone, but they choose the most relevant cases and do not include other people because filing a complaint 'takes time', 'it's complicated' and the foundation 'cannot cope'.

When asked if his messages on social networks can be understood as intimidating or threatening, his answer is that each person can interpret them in different ways.

Threats and Warnings

'Prisoner or fugitive'. Members of the Fundación Contra el Terrorismo publish daily on their networks threats and warnings of persecution against judges and officials of the Guatemalan Judicial Branch, 'from magistrates to caretakers'. They have even issued warnings against congressional deputies and magistrates of the Supreme Electoral Tribunal.

Today he says that the board of directors of the *Fundación Contra el Terrorismo* is made up of five *kaibiles* (an elite force with extreme training in the Guatemalan Army), a reserve lieutenant and himself, and that on a day-to-day basis it is only him, a lawyer and a secretary who work the cases.

He claims that the expenses are borne by him and by Raúl Falla, the lawyer filing the suits. "Because of that we're agile," he explains. He denies receiving financing from businessmen, but affirms that in private meetings, some show him their support. Asked if he could name any, he says he'd rather not.

This investigation illustrates how the FCT went from presenting cases that were initially rejected by the courts, to becoming an entity whose complaints are filed in record time in the prosecutor's offices and courts - the charge against the detained former president of *elPeriódico* was put together in 72 hours. Those accused end up either in jail or in exile.

It also accounts for how access to public information, once free-flowing, now faces numerous obstacles from the Public Prosecutor's Office and the Judiciary, where they deny requests on the

grounds that it is data that only the parties can know or, after much perseverance, they provide answers with incomplete information.

One origin, another end

The *Fundación Contra el Terrorismo* was created on July 5, 2013, a few weeks after the High Risk Court 'A' sentenced General José Efraín Ríos Montt, head of state in 1982-1983. The judges sentenced him to 80 years in prison for the genocide of the Mayan Ixil ethnic group in the early 1980s. This ruling was annulled ten days later due to procedural errors. During the process, and although the FCT had not been legally constituted, it published notices rejecting the trial in the pages of *elPeriódico*.

The main objective of the nascent association was to defend military personnel accused of crimes committed during the almost 40 years of war in Guatemala. But today it appears as a complainant or plaintiff - accuser - in at least two dozen judicial processes against officials who investigated and prosecuted cases of corruption that reached up to the highest authorities in the country as well as major businessmen. The exact number of complaints that it has initiated is difficult to specify in the public records and the Foundation itself says it does not have the number at hand.

The founders of the FCT are Ricardo Méndez Ruiz, son of the Minister of the Interior during the Ríos Montt government, Captain Óscar Platero Trabanino, military official Mario Avalos Mejía, Colonel Carlos Alvarado Palomo, Colonel Luis Ecaterino Estrada Valenzuela, lawyer and second lieutenant of reserves Raúl Amilcar Falla Ovalle, and Édgar Danilo Ruiz Morales, graduate of the 81st class/year of the *Escuela Politécnica* [Military Academy].

Estrada Valenzuela was named in the case of the theft of funds from the Ministry of Defence for more than USD 60.3 million dollars between 2000 and 2003. Also included in this judicial process was Moisés Galindo, the lawyer who registered the Foundation and who first accused Juan Francisco Sandoval of trying to assassinate him. Galindo is also awaiting trial on a money laundering accusation made in 2017.

Meanwhile, Platero, who was an intelligence and counter-intelligence agent during the internal armed conflict, was appointed Deputy Director of Intelligence in November 2015 during the government of Alejandro Maldonado Aguirre, but was dismissed a few days later due to criticism received by the acting president. Social organisations pointed out that he was an extreme character, opposed to the CICIG, and neither the president, nor anyone, wanted to contradict civil society at that time, much less see themselves as opposed to the international commission.

Of the seven founders, Méndez Ruiz is the only one who does not have a military rank.

In June 1982, when he was 22 years old and studying veterinary medicine at the state University of San Carlos, an institution that was seen by the military as a communist refuge, he was kidnapped by the guerrillas. His father was the Minister of the Interior (June 1982-June 1983) of the dictator José Efraín Ríos Montt. There was no ransom paid, rather the demand to exchange the university student for captured guerrillas and the publication of press releases. He was released two months later.

In November 2011, 29 years after the kidnapping occurred, Méndez Ruiz filed a lawsuit against 26 people whom he pointed out as responsible for the act. Among these are Ricardo Rosales Román, one of the leaders of the Guatemalan guerrilla. He added journalists, in addition to human rights activists.

When the rule was 'no'

During the first years of the *Fundación Contra el Terrorismo*, the usual thing was that the complaints or requests for pretrial proceedings [*antejuicio*] were rejected from the moment they entered the justice institutions. Although the statistical data does not make it possible to know precisely the

number of times this occurred, the news published by different media offer a parameter of the quality of these raised requests.

In turn, according to the *Antejudio Visible* website, which compiles these complaints and which was created by a civil society organisation that checks the justice system, between 2016 and 2018 the Supreme Court of Justice did not process any of the 22 requests of pretrial that Méndez Ruiz, as president of the FCT, raised against officials such as Miguel Ángel Gálvez, former attorney general Thelma Aldana, and former magistrate Gloria Porras, all now in exile in the United States.

So much rejection led Méndez Ruiz to complain on his Twitter account about the magistrates of the Supreme Court of Justice. He pointed out that they covered for the magistrates of the Constitutional Court. In the interview for this investigation, he maintains that the latter institution was controlled by Gloria Porras.

The cases of the *Fundación Contra el Terrorismo* advanced after the appointment of Consuelo Porras as Attorney General in 2018, the departure of the CICIG in 2019, and the change of the Constitutional Court. She was appointed to that position by then-President Jimmy Morales.

A change of luck

The complaints and preliminary trials initiated by the Fundación Contra el Terrorismo (FCT) did not prosper in the first years: they were rejected from the outset by the judicial authorities. But the fate of their requests changed during the administration of Consuelo Porras as Attorney General and after the departure of the CICIG and the new formation of the Constitutional Court.

Méndez Ruiz's liking for Consuelo Porras became evident in 2022, during the attorney general's re-election process. Porras was about to be excluded when the FCT denounced the seven commissioners who did not give her their vote because they did not consider her suitable for a new period at the head of the Public Prosecutor's Office.

Guatemala Leaks requested an interview with the attorney general and her spokesman, Juan Luis Pantaleón, requested to know the subject to be discussed. After the explanation, there was no reply.

The magistrates that make up the Supreme Court that rejected, *in limine*, most of the legal processes presented by the *Fundación Contra el Terrorismo* are the same ones that were appointed, in 2014, by an alliance between the Patriot Party [*Partido Patriota*] and the opposition Renewed Democratic Freedom Party [*LIDER*], whose founders and leaders, Otto Pérez Molina and Manuel Baldizón, are imprisoned due to proceedings from the CICIG and the FECI.

These are the same ones who remain in office three years later [than their five year term] due to the lack of an election by the Congress of the Republic and which has now processed all the claims presented by the FCT. The departure of CICIG in 2019 and, later, that of Juan Francisco Sandoval in 2021, are the events that distinguish one period from the other.

Guatemala Leaks asked the communication team of the Supreme Court of Justice for an interview or pronouncement on the change of criteria in the cases of the *Fundación Contra el Terrorismo*, but no response was received.

Méndez Ruiz says that he believes that one of the reasons the Supreme Court justices now accept their cases is that they are no longer 'afraid' of Iván Velásquez, the last head of CICIG.

"Before, they were not independent because if you acted contrary to his interests, what happened to Judge Blanca Stalling would happen to you," he says.

That magistrate, captured wearing a wig and dark glasses, had been prosecuted for the crime of influence peddling, but the charge was withdrawn after a series of challenges and after the dissolution of CICIG. The public servant was singled out after meeting, in her office, with the judge who was in charge of the case against her son.

The judge denounced her after that meeting.

Another aspect that, in the opinion of Méndez Ruiz, was beneficial for their processes to move forward was the change in the Constitutional Court that occurred in April 2021, when President Alejandro Giammattei and his allies from Congress, the Bar Association, and the the Supreme Court of Justice managed to elect kindred magistrates and avoid the re-election of Gloria Porras.

Secrecy and a crime based on evidence

The cases in which the *Fundación Contra el Terrorismo* is a plaintiff are marked by murkiness and little evidence. Several processes demonstrate this, including that of the journalist José Rubén Zamora, today in prison.

Blackmail is one of the crimes for which they accuse the journalist, until recently president of *elPeriódico*. The Prosecutor's Office, and the organisation that was created to defend the military, base their accusation on the testimony of Ronald García Navarajo, one of those accused by the former FECI and CICIG in a money laundering trial.

Navarajo was an executive of the *Banco de los Trabajadores*, the bank with the sixth largest assets in the country. According to a report in *Plaza Pública*, since he was prosecuted, the banker asked for the Prosecutor's Office to accept him as a cooperating defendant so as to accuse other people in exchange for the return of four million dollars that were confiscated.

Navarajo assured the Prosecutor's Office that the journalist intended to blackmail him in exchange for not publishing information about the cases in which he was involved. The video recordings, the audio, and the \$39,473 of the alleged blackmail were delivered by Navarajo himself to the prosecutors.


Both the journalist, and his family, and his co-workers claim that the arrest is a reprisal for revealing corruption in the government of the current president of the republic, Alejandro Giammattei. However, the FCT maintains that the arrest has nothing to do with his performance as a journalist and that it responds to his conduct as a businessman.

When asked why he has not been able to get over the war, Méndez Ruiz points out that the FCT emerged to counteract the leftist organisations that were suing the military and that they had to be told to stop the persecution. "Like the fights at school, if they start them, now let them do their best", he said.

Méndez Ruiz announces an upcoming preliminary hearing against Judge Yassmin Barrios, who was a member of the first court that ruled that the Ríos Montt government committed genocide against the Ixil people in Guatemala. "I do not exercise any feeling of revenge, hatred, nor reprisals against anyone. I try, indeed succeed, not to put my emotions into the work of the Foundation. I bet that the same thing will happen with her as with judge Miguel Ángel Gálvez."



PLAZA PÚBLICA

 No-Ficción


OCOTE

 ojoconmipisto.com
Periodismo de transparencia

 CRITERIO

Translated by Kevin O'Dell

