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### **El Salvador: Upcoming hearing of five community leaders and environmental rights defenders facing criminalization**

On 03 April 2024, the Integrated Judicial Center of San Salvador will hold a preliminary hearing on a case against human rights defenders **Alejandro Láinez García, Miguel Ángel Gámez, Pedro Rivas Láinez, Antonio Pacheco and Saul Rivas Ortega**. On 11 January 2023, the five human rights defenders were detained by state agents in connection to a murder of a woman that happened back in 1989. More than a year after their detention, the five human rights defenders are currently under house arrest, waiting for the preliminary hearing that will decide if there is enough evidence to initiate a trial against them.

[Alejandro Láinez García](#), [Miguel Ángel Gámez](#) and [Pedro Rivas Láinez](#) are human rights defenders and community leaders of Santa Marta, Cabañas, El Salvador. As a community leader, Alejandro Láinez García has actively worked in the recovery, promotion and conservation of the historical memory, the community identity and the protection of the common goods (water, land and environment) of the community, including the peaceful defence of their territory and the environment against the negative effects of metallic mining in the country. Miguel Ángel Gámez is a former Community Director and member of the *Asociación de Desarrollo Comunal - ADESCO* “Santa Marta”. He has actively worked in the management and promotion of the community’s infrastructure projects, as well as a defender of the common goods of the community, including the defence of the right to a healthy environment free of activities that may cause harm to it. Pedro Rivas Láinez is a member of the “Nueva Heroica Santa Marta” cooperative. He has actively worked to defend land rights and common goods of his community against the negative effects caused by metallic mining.

[Antonio Pacheco](#) is a human rights defender and the Executive Director of the [Asociación de Desarrollo Económico Social “Santa Marta” ADES \(Economic and Social Development “Santa Marta” Association\)](#), as well as a prominent voice in favour of the community development and the protection of the environment in the region. The human rights defender was one of the main advocates in the campaign for the prohibition of the metallic mining in El Salvador, in favour of the right to a healthy environment for the communities in the country. [Saúl Rivas Ortega](#) is a human rights defender and the legal adviser of ADES Santa Marta. He has actively worked as a human rights lawyer of the Santa Marta community, including the defence of the right to a healthy environment.

In the early morning of 11 January 2023, agents from the Public Prosecutor’s Office and police officers, with the support of military forces personnel, detained the three leaders of the Santa Marta community and the two representatives of ADES. The five human rights defenders were accused with no evidence of a murder committed in 1989, at the end of the Salvadoran civil war.

On 19 January 2023, the Peace Court of Victoria established a six months provisional detention in a penitentiary centre for the five human rights defenders. Following this decision, their relatives stated that they had no access to the detained until they were put under house arrest on 05 September, while the defence lawyer had no access to the human rights defenders from 07 March 2023 until they were taken to house arrest. In addition to the incommunicado detention, the families were also denied updated information regarding the condition of the defenders, while the defence lawyer only received notifications from the Court strictly related to the case against them.

Following the detention of the human rights defenders, defence lawyers for the human rights defenders filled requests in an attempt to close the case and release them from prison, including through a request for substitution of the detention to other measures. The defence claimed the

human rights defenders did not offer a flight risk as well as considerate that some of the detained suffered from chronic diseases. However, on 08 February 2023, the request for alternative measure was rejected. On 14 February 2023, the defence presented an appeal to this decision, which was also rejected. Throughout the process, reports by the Legal Medicine Institute were submitted to the Court, which stated that the health of the human rights defenders was delicate and ordered the authorities in prison to provide them with medical treatment. The human rights defenders were not granted appropriate medical treatment, and as a result, two of them were transferred to a hospital prison in March, one of them being decompensated due to a diabetes diagnosis and the other for having kidney complications. They remained there until they were put under house arrest in September.

On 16 June 2023, the defence filled a petition of habeas corpus before the Constitutional Chamber of the Supreme Court of Justice, which was never resolved. On 17 June 2023, they submitted a petition before the Investigation Court of Sensuntepeque to set aside the process against the five human rights defenders on the basis of the National Reconciliation Law of 1992. The petition was rejected based on procedural grounds.

On 23 August 2023, a hearing to review the pre-trial detention ordered by the Criminal Chamber of Cojutepeque took place, and it was decided that should be granted house arrest as a substitutive measure to prison, in addition to receiving a medical consultation. On the early morning of 05 September 2023, the five human rights defenders were finally transported to their houses. It is at this moment when the families and defence lawyer could finally take notice of the delicate health state of the human rights defenders. The defence has reported that the police has not complied with the judicial order to take the human rights defenders to their medical consultation, which has slowed the recovery process of the defenders for the damage caused by the reportedly poor conditions in prison, such as poor diet, lack of water and medication, overcrowding, lack of hygiene, among other conditions.

On 25 October 2023, the legal defence submitted to the Investigation Court of Sensuntepeque a petition to completely dismiss the case. This petition was rejected and an appeal was filed before the Criminal Chamber of Cojutepeque. On 5 December 2023, the Chamber rejected the appeal. More than a year after their detention, the five human rights defenders are still under house arrest, waiting for the preliminary hearing on the process against them.

This situation has gained the attention of the United Nations Special Rapporteur on Human Rights Defenders, who [in March of 2023 requested to the Salvadoran State information related to the situation of the five defenders](#), as well as shared her concern about the misuse of criminal law against human rights defenders with the aim to intimidate and restrict their defence work, with emphasis on the environmental defenders against the adverse effects of mining. Subsequently, [in September, the Special Rapporteur on the Situation of Human Rights Defenders spoke again about the case](#), requesting the release of the five defenders.

For decades, Salvadorian human rights defenders accompanied and mobilised communities who were negatively impacted by mining projects, as these high-scale projects exacerbated existing problems, exploiting water resources that were vital for local communities and further polluting their territories. Human rights defenders who oppose these types of projects are among those most at risk. Despite this, environmental defenders in El Salvador celebrated a long fought victory when, on 29 March 2017, the government unanimously approved a law to ban metal mining.

The Santa Marta community and ADES are among those who have actively worked for the defence of their community territory against the human rights implications of metallic mining, contributing through their work to the approval of the Law that Prohibits Metallic Mining in El Salvador in 2017. Despite this law, the Salvadoran government is looking to reactivate projects, which is reflected in recent reform efforts made at an administrative and legislative level aiming to include metallic mining as an economic activity. As a result, the Santa Marta community and ADES members started to reorganize their peaceful community efforts to challenge these developments.

Front Line Defenders expresses its concern at the misuse of criminal law against the human rights defenders. Front Line Defenders believes they are being held as a reprisal for their legitimate work in defence of the environment and their community territory, in an attempt to refrain them in their work, particularly in relation to mining. Environmental defenders, specially the ones fighting against

the negative effects of mining in El Salvador, have been living in a high risk situation, many of them being threatened, attacked and even killed. Front Line Defenders remains concerned at the lack of judicial safeguards in El Salvador since the start of the state of emergency in March 2022, which continues to be renewed to this day, as this increases the risks facing human rights defenders in the country, limiting the exercise of their rights.

**Front Line Defenders urges the authorities in El Salvador to:**

1. Immediately drop all charges against human rights defenders Alejandro Laínez García, Miguel Ángel Gámez, Pedro Rivas Laínez, Antonio Pacheco and Saul Rivas Ortega as it is believed that they are solely motivated by their legitimate and peaceful work in defence of human rights;
2. Guarantee the physical and mental health of human rights defenders Alejandro Laínez García, Miguel Ángel Gámez, Pedro Rivas Laínez, Antonio Pacheco and Saul Rivas Ortega;
3. Ensure that all human rights defenders in El Salvador are able to conduct their peaceful and legitimate activities without undue restrictions and without fear of harassment, threats or retaliation, including judicial harassment against them.

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