

# Reporters Without Borders

<http://www.rsf.org/ecuador-supreme-court-hearing-expected-to-15-02-2012,41888.html>

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Americas - Ecuador

Presidential pardon

## Will President Correa's pardon erase a year of controversy and polarization?

27 February 2012

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President Rafael Correa's legal battle with the daily *El Universo* and its representatives ended today with a presidential pardon. In a televised address Correa said he was "pardoning the defendants and cancelling a sentence they had deserved."

He also announced that he was dropping his libel case against the two authors of a book about his brother, entitled "[El Gran Hermano](#)" (The Big Brother), who were already ordered by a court to pay him two million dollars in damages.

"President Correa has acted wisely in these two cases by deciding to dispense with sanctions that would have had terrible consequences for freedom of expression," Reporters Without Borders said. "We would like to think that, as he said today, he never wanted to send anyone to prison. Was it nonetheless necessary, in the *El Universo* case, to await such a dramatic judicial conclusion before opting for leniency?"

"A year of legal proceedings unfortunately fuelled the controversy and polarization. We hope that the climate will improve as a result of the presidential pardon and that media offences will soon be decriminalized. This outcome will hopefully also encourage certain media to measure their words before publishing or broadcasting. They were partly to blame and we have said so from the start. Such charged words as 'dictator' and 'crime against humanity' cannot be uttered lightly. Real critical debate should prevail over insults, abuse and intransigence."

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### 16.02.12 - *El Universo* verdict a devastating setback for freedom of expression

Ecuador's National Court of Justice in Quito yesterday upheld the sentences imposed by lower courts against the newspaper *El Universo* and three of its representatives in a libel case brought by President Rafael Correa.

No further legal avenues are available to prevent **Carlos, César** and **Nicolás Pérez**, respectively director and deputy directors of the newspaper, from serving three-year prison sentences and its publishing company from having to pay 40 million dollars in compensation to President Correa.

Lawyers for *El Universo* said they would apply to the Inter-American Commission on Human Rights.

"The consequences of this decision have implications far beyond the *El Universo* case. The National Court of Justice has rubber-stamped a licence for self-censorship which could well have repercussions on other media organizations in the future, whatever their politics and whatever kind

of government is in place,” Reporters Without Borders said.

“Although Rafael Correa brought a case as a private individual and not as head of state, it is difficult not to see such an excessive penalty as a return to ‘lèse-majesté’, which does not tally with the principles of the rule of law, which require a democratically elected government to accept criticism, however scathing and unjust.

“Polarisation can only get worse, to the point where it might undermine the debate on the new communication law, some of whose provisions we find laudable.

“It’s a mess.”

While the *El Universo* representatives, or at least one of them - César et Nicolás Pérez are currently in Miami - is in detention, the press freedom organization is unable to accept the [invitation from the Ecuadorean government](#) to take part in a forum on freedom of information.

The violent scenes outside the court while the hearing was taking place, during which *El Universo* photographer **Diógenes Baldeón** and cameraman **Romel Iza** of the *RTU* television were attacked, illustrate the extent to which opinion is polarised among Ecuadorean society. We condemn these assaults, for which activists of the ruling Alianza País party were believed to be responsible.

These incidents show that the conditions for the proceedings to take place in a calm atmosphere did not exist.

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### **15.02.12 - Supreme court hearing expected to close final chapter in *El Universo* case**

The National Court of Justice is due to rule today on the possible reversal of an appeal ruling in the criminal libel case brought against the newspaper [El Universo](#) by President Rafael Correa. Reporters Without Borders believes this to be a defining moment for editorial freedom.

Ecuador’s highest court was asked to rule on the conduct of the case, but not the basis of the original judgment, and it will also have the final say on the validity of the three-year prison sentences imposed on the newspaper’s director **Carlos Pérez**, and his two brothers and deputy publishers, **César** and **Nicolás Pérez**. They were also ordered to pay 40 million dollars in libel damages to Correa.

Columnist **Emilio Palacio**, whose comments prompted the president’s original libel suit, challenged the verdict but his application had already been rejected. His case therefore will not be included in the new hearing

“Should opinions, even the most defamatory in nature, be punished so harshly?” asked Reporters Without Borders.

“The decision of the National Court of Justice will finally provide a response to the only question that matters, in our view. While acknowledging from the outset the comments made against President Rafael Correa in the columns of *El Universo* were extreme in character, we fear that the final chapter in this long legal battle will play havoc with the right to self-expression and threaten the survival of a media organization, in contravention of the American Convention on Human Rights, to which Ecuador is a signatory.

“Once again we call for press offences to be decriminalized, supported by precedent elsewhere in South America. We believe that, should *El Universo* be found guilty in this way, it would endanger the creation of a desirable consensus around the new communication law. Such a consensus has also been weakened by the [“El Gran Hermano”](#) case.”

Besides raising such concerns, the National Court of Justice hearing has been gripped by a new controversy at its very core. After a fruitless attempt to have three of the nine judges removed, the *El Universo* defence team cast doubt on the competence of the prosecution counsel, Gutemberg Vera.

On the basis of written testimony by a judge, Mónica Encalada, published yesterday in the newspaper *El Comercio*, a lawyer for the newspaper, Joffre Campaña, maintained that the judgment against *El Universo* and its representatives was in fact drawn up by the president's counsel himself.

"Reporters Without Borders observes the necessary caution in the face of allegations which, although belated, could cast doubt on the independence and authority of the court.

"This new development must nonetheless be taken into account at the hearing so that its authenticity and reliability may be examined," the organization said.

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#### **Other images**



JPEG - 43.4 kb  
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