

**MEMO**  
**Panamanian Justice System Overview**  
June 30, 2020



## INTRODUCTION

BRG has conducted a thorough research regarding the main vulnerabilities and deficiencies plaguing the Panamanian Justice System and has identified several key high profile cases and opinions that raise concerns on whether this jurisdiction is ideal for conducting multi-million dollar commercial litigation procedures due the risks and vulnerabilities that will be displayed on this memo. Additionally, we also present a series of analysis excerpts that address the systemic vulnerabilities of the Panamanian Justice system that were conducted and issued by reputable non-profit organizations.

Finally, we recovered and summarized a client testimonial where he alleged that certain irregularities and corruption acts that happened in his legal proceeding in Panama involving public officials and high profile individuals.

### Overview of systemic vulnerabilities within the Panamanian Justice System identified by the Anti-Corruption Resource Centre (U4)

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This section presents key excerpts from an investigation regarding the systemic corruption risks in the Panamanian Judiciary that was published on the year 2014 by the Anti-Corruption Resource Centre (U4), which is a non-profit organization dedicated to the research of systemic corruption worldwide and is constituted by independent experts as well as partners such as Transparency International and several development agencies of European nations.<sup>12</sup>

#### *Judges Pay*

At the senior level, judicial salaries are considered adequate when compared with those of other public officials at similar levels. Indeed, Supreme Court judges are entitled to the same remuneration as ministers of state. At the lower court levels, there is an extreme pay differential between district court judges and superior court judges. District court judges earn less than administrative court personnel at the higher court levels. The pay issue has caused some district court judges to resign from the judiciary.

#### *Whistleblower protection*

There is no adequate law to protect whistleblowers within the judiciary and prosecution service, or indeed in any institution of the state.

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<sup>1</sup> Source: <https://www.u4.no/u4-partner-agencies>

<sup>2</sup> Source: <https://www.u4.no/publications/panama-overview-of-corruption-risks-in-the-judiciary-and-prosecution-service.pdf>

### *Weak powers to investigate corruption*

The law in Panama permits only the National Assembly to initiate corruption investigations against Supreme Court judges, and only Supreme Court judges may initiate investigations against members of the National Assembly. As the US State Department puts it, this encourages in effect a “non-aggression pact” between these two branches of government. In 2012 the “New Code of Criminal Procedure” was updated to include new articles shortening further the time period in which a prosecuting magistrate may investigate a member of the National Assembly who is accused of corrupt acts.

If investigations are not completed within the time period, the deadline for concluding an investigation may be deemed to have expired and the National Assembly member ceases to be investigated. In the latest OAS report on the implementation of the OAS Convention from September 2013, the OAS highlighted its concerns about the new rules and requested that the government of Panama investigate their effect on the success of investigations by prosecuting magistrates.

The staff of the Supreme Court are generally not skilled or sufficiently resourced to support investigations by the prosecuting magistrates. The OAS recommends they receive the necessary training and infrastructure to support the Court in its investigation of corrupt acts allegedly committed by members of the National Assembly. There is no functionally autonomous disciplinary body in the judiciary to oversee the investigation and discipline of judges. The OAS recommends such a body be established, “capable of conducting preventive, concurrent, and ex-post oversight of magistrates, judges and other officers of the judiciary”.

### *Political Interference in judicial nominations*

Nominations of Supreme Court judges by the president are typically made on the basis of personal and political considerations. Civil society has been blocked from participating in appointment processes and has strongly criticised the lack of transparency in appointment procedures, as well as the lack of information about proposed candidates (Due Process of Law Foundation 2007).

The top-down appointment system, whereby senior judges appoint judges in lower courts, not only enables the more senior judges to make appointments on the basis of political and personal considerations, but it also lends itself to undue interference by higher-level judges in lower-level cases in which they have no jurisdiction. The system of mayors appointing administrative judges or corregidores has been criticized since many corregidores are not legally trained and many have not completed secondary education. The courts overseen by the corregidores lack adequate procedural safeguards for defendants and, in practice, appeal procedures are non-existent. Corruption charges have also been leveled against some corregidores.

## Client Testimonial – Indications of corruption within his legal proceedings

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Given the need to understand whether the particular case of Decuria involved corruption from members of the Justice System, BRG proceeded to ask Mr. Cortés whether he knew of the existence of such acts. He responded that the case was filled with irregularities and provided a recount of events that detailed the ones he was aware of. The following bullet points contain his translated statements:

- Mr. Cortés Lawyers, Marilena Cano, and Hector Vidal, informed him that the case prosecutor received up to four warnings to close the investigation from two high profile individuals: the former General Secretary of Morgan & Morgan (Panama's most influential law firm) Rolando Rodríguez and the former Attorney General of the Nation. The client expressed that he is sure this information is true given that the case prosecutor, Raquel Pinilla, has a very intimate relationship with his Lawyer, Marilena Cano, they both went to school together and lived in the same neighborhood.
- Mr. Cortés and his lawyer Wendy Echevers, personally met with Joaquin Porcell (deputy administrator of the Electoral Tribunal and brother of the former Attorney General Kenia Porcell) on the premises of the Electoral Tribunal to discuss his case. Subsequently, Kenia Porcell was informed of what was discussed in the meeting and invited Mrs. Echevers to meet with her, as well as with David Diaz (Deputy Secretary-General of the Public Ministry). Mr. Cortés knows this to be true because he accompanied Mrs. Echevers to the meeting, but did not participate directly, nor was he present in the meeting room.
- After the meeting was held, Mrs. Echevers explained that Kenia Porcell seemed to have detailed knowledge of his case, and was not able to conceal her understanding of it through an improvised political speech. After the meeting was held, Marilena Cano was summoned by a high-ranking prosecutor (Hector Vidal suspected his hidden intentions and accompanied her), in that meeting, the Public official threatened them of opening a formal investigation against their firms due to alleged acts of corruptions regarding the Decuria case. From that moment onwards, Cano and Pinilla's relationship was severely damaged.
- Mr. Cortés held a meeting with the former Attorney General Ana Matilde Gómez, she described the corrupt past of the General Secretary of the Public Ministry Rolando Rodríguez, and he perceived her to be visibly concerned regarding Kenia Porcell involvement in the Decuria case given that she previously worked for Rodríguez in the Public Ministry. At the meeting, all the suspicions that he had about the actions carried out by IPAL were evidenced, with Infante himself at the head, however, intermediate position lawyers of the firm were not aware.
- Decuria's civil proceeding against Scotiabank is blocked and hidden in the Supreme Court. Mr. Cortés explained that the Supreme Court is permeated by cronyism between the different lawyers of the main Panamanian firms. He was requested c. \$50,000 by his lawyers, Núñez e Infante, to bribe multiple ordinary judges and magistrates in the course of the proceeding regarding the trust created by Decuria.

- According to his lawyers, the pressures that the firm Morgan & Morgan were exerting on the court were significant, involving a high degree of influence peddling.
- Mr. Cortés explained that he met the person responsible of this case in Barcelona, the lawyer Jorge Núñez, and even he expressed that the case has been blocked, and spite of being extremely passionate of his profession, he practices it on the wrong country-

At this moment, we do not count with digital or documentary evidence of the allegations made by Mr. Cortés, however, his statement can prove to be useful when considering the next steps on the management of his legal case, and the possible transfer of it to Canada. Additionally, in the following section, we will develop a description of the irregular events that led to Kenia Porcell's resignation (Varelaleaks Scandal) as Attorney General of the Nation, which according to the client, was directly involved in blocking his case.

## High-profile cases and opinions regarding the current deficiencies of the Panamanian Justice System

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In this section, we will present translated and summarized versions of public critiques made by high-profile individuals and organizations regarding the Panamanian Justice System rulings, behaviors, news, and decisions.

### *Varelaleaks*

This section of the report analyzes some of the information published in the recent “Varelaleaks” scandal, initiated on November 5, 2019, by an anonymous website, which consisted of the uploading of the entire private Whatsapp chat history (for the years 2017 and 2018) of the former Panamanian President Juan Carlos Varela. Given the magnitude of the information that was leaked, media outlets are still in the process of analyzing it and deciphering its hidden implications. However, there have already been significant findings regarding the irregular way in which the former President addressed the Attorney General, Members of the Supreme Court, Foreign Political Leaders, Business Magnates, and Journalists, in most cases involving corruption, influence peddling, and disregard for the independence of Panamanian Institutions.

### **Resignation of Attorney General Kenia Porcell**

On December 10, barely a month after the Varelaleaks scandal broke out, the former Attorney General appointed under the Juan Carlos Varela government, Kenia Porcell, announced her resignation, becoming effective on January 1, 2020. The consensus that BRG has observed by political and judicial experts, is that her resignation is a direct consequence of the leaks. There are many analyzed fragments published on news portals regarding the conversations that Kenia Porcell held

with the former president Varela, BRG has selected, summarized and translated some that could be considered relevant for the purposes of this document.

- They shared reflections, joys, frustrations, and on several occasions, Porcell asked Varela for favors. "Civil society attacks against you hurt me," Varela told the prosecutor on one occasion when she was questioned by the agreement agreed with the Mecos company, in the case of Blue Apple corruption. On another occasion, the attorney general recommends Varela whom she could veto in the nominations for a magistrate of the Supreme Court of Justice. In this case, she warns against taking into account the lawyer Samuel Quintero, because she was her defense lawyer, and "she is in the Odebrecht case."
- The collaboration agreement signed between the Public Ministry and the Odebrecht bribe payment confession also formed part of extensive conversations between the two branches of government. "They gave me more time to investigate Odebrecht," Porcell informed Varela, leaving in writing that the agreements, relationships with banks, and structural investigations "all these are issues that I always consult and validate with you." Varela would not skimp on letting Porcell know his claims and complaints regarding the coverage that the media made for those years. That was a topic where they shared the same vision. On one occasion, Porcell would have said to Varela: "divide the media, you are the only one who can."<sup>3</sup>
- Among the favors is one that Porcell would have asked Varela on May 9, 2018, to intercede in the National Bank (Government-owned financial institution) in order for the entity to give him a loan that his sister (Oris Porcell) requested at the Plaza Edison branch for the purchase of a \$ 120,000 house in the Montelimar neighborhood, in La Chorrera district. Porcell warned that her sister had difficulty meeting the bank's requirements because "in his youth, she had a bad head with her financial responsibilities, but today everything has changed." Her concern was that the houses in that neighborhood were rapidly being occupied, and it would mean that she would not get another one at that price if she did not act soon.

Varela responded that he would see to it that this loan was approved. On June 2, 2018, attorney Porcell tells Varela that her sister's loan was not approved and the president forwarded the answer that the National Bank Manager gave him about that case, which was: "President: just so that you can be calm. The mortgage loan was not rejected. We retired it to make an adjustment that will benefit the client and strengthen the guarantee against a personal loan that she additionally requested. This week the process will conclude". Regarding the loan, the Varela reaffirmed to Porcell: "That has to be resolved" and then "I cannot accept [that] an instruction of mine is not followed."

<sup>3</sup> Source: [https://www.prensa.com/impresapanorama/Varela-leaks-politica-poder-traves-chat\\_0\\_5436206373.html](https://www.prensa.com/impresapanorama/Varela-leaks-politica-poder-traves-chat_0_5436206373.html)

The newportal ensegundos conducted registry verifications of the real estate property in question and confirmed that it was registered under the name of Oris Porcell, and the purchase amount matches what was mentioned in the Whatsapp chats.<sup>4</sup>

### **Conversations with Law Firm Partner Eduardo Valle**

In order to evidence how Panamanian Justice System can be irregularly influenced by the power of the executive as well as by the main Panamanian law firms, we present the following paragraphs, which were summarized based on an article published by La Prensa newspaper, where they described the former president's relationship with a prominent lawyer in Panamá Eduardo Valle through the chats held between them.

- On December 10, 2015, then-President Juan Carlos Varela appointed two magistrates of the Supreme Court of Justice (CSJ): Ángela Russo in the First Civil Chamber; and Cecilio Cedalise in the Third Chamber of the Administrative Litigation.
- Alleged WhatsApp conversations between Varela and lawyer Eduardo Valle, leaked by the Varelaleaks website, expose Varela's discomfort over Cedalise and Russo's decisions in the Supreme Court.
- According to the chats, Eduardo Valle, a partner in the Mendoza, Arias, Valle, and Castillo law firm (and a friend of the President), was the person who recommended Varela appoint Cedalise in court.
- "I am going to speak to him hard at home. He is a magistrate thanks to me," Valle told Varela on August 29, 2017. At that time, the now ex-president was already complaining about Cedalise's performance, and Valle was taking responsibility for him. "He will come to my house because, I don't want to touch anything on the phone. Give me the specific cases (that the presidents need addressing), he responds to us and no one else. I believe that the problem has been one of communication" said the lawyer. "It's not like that. It is corruption" replied Varela, who, incidentally, would take the opportunity to recriminate Angela Russo's actions. "La Russo knocked down Finmeccanica and Riegos de Tonosí."
- On November 23 of that same year, the affairs of the Supreme Court were discussed in dialogues of Varela and Valle. The Executive was responsible for appointing two new magistrates and the President said: ¿Castillo for the Court. Even if it's four years?<sup>5</sup>
- The alleged proposal was accompanied by other incentives. "We make a package for him and the firm. The rabi (rabiblancos – a term used to refer to the members of the traditional Panamanian economic and political elite) would be very grateful. We can close three to four large clients to support you", Varela wrote.

<sup>4</sup> Source: <https://ensegundos.com.pa/2019/11/06/porcell-pedia-favores-personales-a-varela-como-un-prestamo-del-banco-nacional-para-su-hermana/>

<sup>5</sup> Former President Varela is referring to Rubén Castillo, another partner of Mendoza, Arias Valle and Castillo law firm.



- Valle would have answered: "Damn that would be wonderful. But you have to make a very good package. Rubén is the best lawyer after me. Him leaving would leave a significant gap in the firm".<sup>6</sup>

### **Conversation and favors between Varela and Magistrate Prado**

In this section, we selected a summary of conversations held between the former President Varela and the Supreme Court Magistrate Ayú Prado, which were initially reported by La Estrella de Panamá newspaper on December 4, 2019.

- In the Varelaleaks.com there is a conversation between the magistrate Ayú Prado, president of the Judicial Branch, and Varela, in which the former updates the president in advance on the situation of some high-profile cases in the Judicial Branch, bonds, arrests provisionals, convictions, and sentences in high profile cases.
- In early February 2017, magistrate Ayú Prado informed Varela of a hearing in which an alleged criminal was released on the charge of murder. The magistrate explained "The Public Ministry did not request evidence but intervened when the Defense presented theirs. The victims of the attempted murder were defended by the lawyer Holanda Polo...and the Public Ministry did not oppose or do anything", "It looked very strange" Varela responds, "The most agile process (in the courts) is that of this man who is so sought after, and now is free," he complained.
- In April, Ayú Prado spoke to him about the situation in the case of diethylene glycol mass poisoning (which caused c. 800 deaths due to adulterated medicines distributed by the State-owned social security institution): "I think you should not find out through the media or the networks, 11 people were called to trial in the case" Ayú Prado's report is complete, it gives an account of the rulings, the convicts, the convictions of each, in which instances they occurred and which magistrates agreed with the convictions. Varela thanked him for the information and commented that the Jewish community was 'uneasy about the Gateño thing', probably referring to Teófilo Gateño Hafeitz, one of those convicted in the case. "(but) I have to respect (the court decision)" concluded the former president.<sup>7</sup>
- On March 19, 2017, Ayú Prado wrote to Varela asking for a favor of intervening on behalf of him before the Institute of National Aqueducts and Sewers because he had problems with the supply of water in his apartment, Prado proceeded to forwards a series of request wrote by his wife, imploring the president to help them because they did not know who else to ask for help anymore. <sup>8</sup>

<sup>6</sup> Source: [https://www.prensa.com/imprensa/panorama/Cedalise-fallos-poder-firmas-abogados\\_0\\_5442205797.html](https://www.prensa.com/imprensa/panorama/Cedalise-fallos-poder-firmas-abogados_0_5442205797.html)

<sup>7</sup> Source: <https://www.laestrella.com.pa/nacional/191204/191210-191203-injerencia-varela-corte-suprema-justicia>

<sup>8</sup> Source: <https://focopanama.com/magistrado-ayu-prado-en-los-varelaleaks-favores-e-informacion-privilegiada/>



## *Rosa María Britton - Odebrecht*

On January 28, 2018, the internationally renowned Panamanian writer, Rosa María Britton, confessed discouraged that in Panama justice has come to nothing with the Odebrecht scandal, unlike other poorer countries.

"It is not only corruption that overwhelms, but the lack of justice. Justice in Panama does not work," said Britton in an interview with Acan-Efe, noting that in addition to the judges and magistrates, a large part of the fault lies with the lawyers. She stated that "we are drowning in lawyers" since there are more than 26 thousand who bring delay ongoing corruption cases through obscure legal resources, while in the Judicial Branch "there are judges who are not sufficiently trained" to impart justice.

"So justice here is zero, the Supreme Court of Justice (CSJ) is a disgrace. The president of this highest justice corporation, José Ayú Prado, spends his life on a plane. What impudence is that, who has seen that before?" she added.

All this makes her think that the cases related to the Odebrecht bribes in Panama "have already died", and that the new corruption scandal called "Blue Apple", of payment of bribes for 40 million dollars and that involves more of half a dozen construction companies, "now will perish" as well. He stressed that in the Dominican Republic, "a country that is so poor, they have already finished (processing those related to) Odebrecht; in Ecuador, they put in jail their vice president (Jorga Glas), in Colombia, there have been measures too."

And here in Panama "we have not done anything, nor we know anything from the people above (those involved) because they can hide everything," said Britton, multiple time winner of the Ricardo Miró National Prize for Literature in the categories of novel (1982, 1984, 1991), short story (1986) and theater (1986, 1987 and 1994).<sup>9</sup>

## *Janio Lescure - Supreme Court Briberies*

On September 14, 2019, the newspaper La Prensa published an investigative article detailing the alleged existence of a bribery system within senior members of the Panamanian Courts of Justice.

Janio Lescure, the Panamanian lawyer who was the subject of a covert operation in Spain organized by intelligence officers from the Black Cube company - hired by a Panamanian businessman - revealed that he had paid \$ 500,000 to a brother-in-law of former magistrate Oydén Ortega Durán, in payment for a ruling that favored one of his clients.

<sup>9</sup> Source: <https://www.laestrella.com.pa/nacional/politica/180128/rosa-maria-panama-britton-justicia>

However, his version is denied, both by his client - the rector of Columbus University, Joaquín Villar-García - as well as by Ortega himself, who categorically denied having received a penny for any of his decisions.

Ortega participated in a judgment that favored Villar-García, after a higher court ordered the opening of a criminal case against him for the crime of aggravated fraud. This would be the second time that Ortega is accused of selling rulings. The first time was a few years ago when a businessman named César Alvarado Taylor said he had paid a son of the then magistrate about \$ 40,000 in bribes to rule in his favor in an appeal.

Janio Lescure described having a "commercial" relationship with Ortega and alleged that he was being hunted by ex-Israeli intelligence agents belonging to a private Israeli investigative company - Black Cube - hired by a Panamanian businessman who, precisely, feels himself a victim of the Judgment auctions that reigns in the Panamanian Judicial Branch, as he had already revealed.

But what was bad for some, was good business for others. Janio Lescure, as a letter of introduction to potential Russian clients, boasted in Spain of his contacts and influences in the Panamanian Judicial Branch.

To prove his point, he told alleged Russian businessmen - who were actually undercover private investigators - a story of a not-so-long-ago "criminal case" in which he had personally intervened.

- "They wanted to put him in jail," said Lescure, referring to a certain Villar.
- "It is a case so that you have an idea," said the lawyer to the supposed Russian businessman, "and you laugh. In that amparo [of constitutional guarantees] I saved not only his skin [Villar], but his daughter [... who] was also involved. "
- And how much do these things cost? He was interrupted. Lescure was beginning to take a few moments to explain himself, but again the investigator intervened: "From what I have heard, [the then magistrate Oydén] Ortega is a very important key actor."
- "Yes, yes," replied Lescure, [...] I know that [Oydén Ortega] is my friend [...] because I have a ruling by the Supreme Court favorable to me, where in fact, they removed Dr. Villar, Joaquín Villar-García of a very delicate criminal case he had, through an appeal for constitutional guarantees. And I got that from Dr. Villar, therefore ... he is indebted to me. "
- 'It costed us half a million'

- In debt, "for Ortega?" They asked him. "For Ortega," he replied, "[...] Villar is very indebted to me [...]," Lescure replied.
- Then he threw the grenade: "I used Ortega [...] for this case [...] And eight of the magistrates wrote this: things are fine. [Only] one thinks that it is not good [...], but I won".
- Lescure left no doubt as to how he obtained the sentence. It was because of his "connections with Ortega".
- But, again, the researcher insisted: "How much did this cost the father and the daughter? ... Lescure tried to translate from English: "I mean, how much can it cost? " "No," the Israelis corrected him, "how much did it cost?" Lescure went on the fly and tried to encrypt his answer ... "It cost us half [...] half a million."

The lawyer was not bluffing. The constitutional guarantees claim for which he claimed to have paid "half a million" was brought by his firm –Lescure Bufete– and "won" with the presentation by the then magistrate Ortega. The ruling –as he said– had only one vote against, that of magistrate Jerónimo Mejía. Everything fitted, even, in that his defendant was going to be put in jail.

The client Lescure was talking about was Joaquín Villar-García, rector and president of the Board of Directors of Columbus University, where Lescure, at the time, was a professor of the virtual chair "History of Law".<sup>10</sup>

### *Former President Ricardo Martinelli – Illegal Wiretapping case management*

On November 26, 2018, the newspaper La Estrella de Panama published a note detailing the complaints made by the former president of Panamá, Ricardo Martinelli, regarding how the justice system had managed the proceedings filed against him regarding alleged wiretapping, explaining that the courts had colluded with his political opponents, mainly the then-president Juan Carlos Varela.

Former Panamanian President Ricardo Martinelli assured that "there is no justice in Panama", after a judge of Guarantees decided to send him to oral and public trial for a cause of alleged illegal wiretapping during his term (2009-2014), for which He faces a 21-year sentence.

"There is no justice in Panama," the 66-year-old former president shouted when he was led out of the courtroom at the headquarters of the Supreme Court of Justice (CSJ) during a diligence recess,

<sup>10</sup> Source: [https://www.prensa.com/imprensa/panorama/Lescure-aseguro-soborno-exmagistrado\\_0\\_5388211171.html](https://www.prensa.com/imprensa/panorama/Lescure-aseguro-soborno-exmagistrado_0_5388211171.html)

in which the judge of Guarantees, Magistrate Jerónimo Mejía established the tentative date for his trial.

Visibly affected, the former head of state, who was provisionally detained in a minimum-security prison, complained that the Panamanian authorities supposedly did not even let him go to the cardiologist and that they want to "kill" him.

Martinelli returned to assure that the then Panamanian president, Juan Carlos Varela, had manipulated the case against him.<sup>11</sup>

### *Juan Manuel Díaz – Inefficient and slow case management*

On May 22, 2017, Juan Manuel Díaz, a Panamanian lawyer, published a report in the newspaper La Prensa, describing the dire situation ailing the Panamanian Justice System with regards to their efficiency (or lack thereof) managing the legal proceedings. He also compiled testimonials from renowned legal experts in the country.

The effectiveness of the justice administration system is questioned by trial lawyers and civil society organizations, who describe as serious the slowness with which this State body processes appeals and complaints, to the point that they warn that the citizen's fundamental rights are being affected.

Trial attorney Carlos Herrera Morán assured that the resolution of fundamental resources, such as habeas corpus, has become a real torture for users of the justice administration system. He also said that the slowness with which the processes in the courts are resolved is inconceivable. "Waiting between three and four months for a habeas corpus involving a person who is detained, perhaps without any type of responsibility, is unfair, especially because of the dangers that exist in prisons," he commented. He alleged that the same situation is lived under the protection of guarantees or unconstitutional claims, which can take up to years.

In this sense, former prosecutor Rolando Rodríguez Chong considered that the delay in processing is also affected by an increasing number of proceedings and resources that reach the courts, and yet the number of officials remains the same throughout time.

Sources of the Court confirmed that only in the cases involving habeas corpus (which according to the Political Constitution must be processed with priority to other pending cases), usually its resolution takes three months when it is a simple case and without major complexities. The sources detailed that some habeas corpus cases have taken up to a year to resolve.

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<sup>11</sup> Source: <https://www.laestrella.com.pa/nacional/politica/181126/hay-grita-panama-justicia>

Alianza Ciudadana Pro Justicia has analyzed the situation of the administration of justice since 2004 and concludes that the resolution of cases is too slow, whether at the level of judges, magistrates of higher courts or magistrates of the Court. Carlos Lee, a member of that organization, assured that since their last report (issued in 2015) the situation has not changed and that the increase in criminal proceedings has led to a total collapse. Lee assures due to the judicial delays, about 80% of the population that is deprived of liberty is currently awaiting trial.

A report by the United Nations Development Program on the situation of justice in Panama, prepared in 2016, indicated that there is a deficient system of recruitment of judges, which lacks scientific rigor, as it is merely reactive to job vacancies. It indicates that the selection process is impregnated with subjectivity and even inequality, with tests and interviews that are not later taken into account for the selection process. The report also noted that formal job postings in the Judicial Branch have been suspended since 2005, and that of 1,606 career positions, 642 are interim.

Ricardo Fuller, a former assistant to the magistrates of the Court, revealed that, despite these recommendations, there is currently no method to evaluate the effectiveness of the judges.<sup>12</sup>

## Final remark

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After presenting in this memo a general picture of some of the main vulnerabilities inherent to the Panamanian Justice System, as well as some high profile cases and testimonials, we consider that the high corruption, low efficiency and lack of training observed in the last decade is substantial enough to make Panama **not ideal** for complex commercial litigation procedures involving multi-million dollar compensations and reclamations, especially when the economic dimensions between the potential parties is significant.

Finally, the irregular practices that were described on the client's testimony on the Decuria proceeding seem to match, in nature, the kind of messages and decisions contained within the chat history of the former president Varela, which directly involved the Attorney General of Nation, Powerful private lawyers and members of the Supreme Court.

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<sup>12</sup> Source: [https://www.prensa.com/imprensa/panorama/Justicia-lenta-evaluacion\\_0\\_4762023874.html](https://www.prensa.com/imprensa/panorama/Justicia-lenta-evaluacion_0_4762023874.html)