

FACTSHEET: THE MOLINA THEISSEN CASE

The trial of five retired senior Guatemalan military officers is set to begin on March 1, 2018 before a High Risk Court in Guatemala City. They face charges of crimes against humanity for the illegal detention, torture, and rape of Emma Guadalupe Molina Theissen, and the enforced disappearance of her 14-year old brother, Marco Antonio Molina Theissen in 1981.

- The case poses a test of Guatemala’s willingness and ability to try individuals who until their arrests were widely considered to be untouchable. Benedicto Lucas García is the former head of the Army High Command and brother of one of Guatemala’s most ruthless dictators. In a recorded interview days before his January 2016 arrest, he bragged of the leading role he played in the election campaign of current President Jimmy Morales. Defendant Manuel Antonio Callejas y Callejas is the former director of intelligence of the Army’s High Command, and widely alleged to be the leader of the dangerous *La Cofradía* criminal organization. The trial comes as President Morales—himself under investigation for corruption—has sought to force the removal of the head of the UN-backed International Commission Against Impunity in Guatemala (CICIG). It also comes as powerful interests associated with former military regimes have sought to manipulate the nomination process for Guatemala’s next attorney general, due to be appointed by Morales in May 2018.
- The Guatemalan state officially acknowledged responsibility for grave crimes against members of the Molina Theissen family in 2000. This trial, coming some 36 years after the underlying events, will determine whether anyone is held to criminal account for their suffering.
- Following the landmark Sepur Zarco sexual violence case, the trial will further explore the role of sexual and gender-based violence during the conflict.
- As the case comes to trial, Guatemala will be fulfilling [rulings and recommendations](#) from the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights.

The Case

The prosecution case relates to events that took place between September 26 and October 6, 1981. During this time, the Guatemalan army was implementing a counterinsurgency strategy based on the Doctrine of National Security. According to prosecutors, under this doctrine, the army considered Emma Guadalupe Molina Theissen to be an “internal enemy”, and someone with information of value to military intelligence. She was a militant of the Patriotic Worker Youth (*Juventud Patriótica del Trabajo*). Prosecutors allege that the army illegally detained Emma Molina Theissen at a military checkpoint in Quetzaltenango on September 27, 1981, and

brought her to Military Zone No. 17, where she was interrogated, sexually assaulted, and tortured. Prosecutors say that the accused knowingly permitted soldiers under the influence of alcohol to enter the room where Emma Gaudalupe was being detained and shackled, where they used physical and psychological violence to sexually violate her outside of interrogation sessions. They also allegedly permitted soldiers to use physical and psychological violence to sexually violate her during interrogation sessions. She escaped from the base nine days after her detention. The day following her escape, October 6, armed men raided her parent's home in Guatemala City. Not finding her there, they beat her mother and abducted her 14-year-old brother, Marco Antonio Molina Theissen, who has not been seen since.

The five accused are: Benedicto Lucas García, former head of the Army's High Command; Manuel Antonio Callejas y Callejas, the former head of intelligence for the Army High Command; Francisco Luis Gordillo Martínez, former infantry colonel and commander of Military Zone No. 17 at the time of the alleged crimes; Edilberto Letona Linares, former colonel and deputy commander of Military Zone No. 17; and Hugo Ramiro Zaldaña Rojas, a former major and then-lieutenant colonel in the Guatemalan army and former intelligence official (S-2) of Military Zone No. 17. Each of the accused faces multiple charges alleging direct or indirect responsibility for the underlying crimes. They were arrested on January 6, 2016 on the orders of Guatemala's Attorney General's Office. Each has pleaded not guilty to the charges.

Pre-Trial Hearings

Four months after the defendants' arrests in January 2016, Guatemala's Supreme Court of Justice transferred the case to High Risk Court "C". Between August 2016 and July 2017, the court held several hearings to determine whether there was sufficient evidence to proceed to trial, and then what evidence would be admissible in the case. During this phase, prosecutors also successfully applied to charge [Benedicto Lucas García](#) in the case. (He had initially been arrested only in relation to the CREOMPAZ grave crimes case.)

Prosecutors presented a wide range of evidence, including information on the context and alleged specific actions of the accused. The prosecution case rests on military and other official documents, eyewitness testimony, expert reports, and the testimony of expert witnesses. Counsel for the Molina Theissen family, participating as a civil party, expressed agreement with the case assembled by the Attorney General's Office and underscored the importance of jurisprudence on the case from the Inter-American Court of Human Rights.

Defense counsel for the five accused variously argued for the application of amnesty provisions, denied their clients' participation in or knowledge of the underlying crimes, argued that there were no underlying crimes, claimed that the Attorney General's Office had manipulated evidence, and asserted that the charges were politically motivated.

Pre-trial Judge Víctor Herrera Ríos ruled in March 2017 that there was [sufficient evidence](#) to proceed to trial. In July 2017 he [rejected all defense efforts](#) to challenge the admissibility of evidence, and also rejected a last-minute prosecution attempt to introduce new evidence. Beginning March 1, the three-judge trial chamber of High Risk Court "C" will hear the case, with Judge Pablo Xitumul de Paz presiding. The other judges are Judge Eva Marina Recinos Vásquez, and Judge Elvis David Hernández Domínguez.

CONTACT INFO

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