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Nicaragua Could Lose President

by LADB Staff

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The Contralaria General de la Republica (CGR) of Nicaragua has recommended that President Enrique Bolanos be impeached. Bolanos, said the CG, refused to provide information on the origin of money contributed to his electoral campaign in 2001 and, for that refusal, the legislature should initiate proceedings seeking his removal from office.

In a unanimous decision in early October, the Tribunal de Cuentas found that Bolanos bore administrative responsibility for failing to respond to a request for information regarding the provenance of campaign funds, and it fined him two-months' salary. In a document sent to the Asamblea Nacional (AN), the Contralaria contended that legal merit existed to require that Bolanos step down.

CGR director Juan Gutierrez explained the president did not supply the required data in a special audit to "verify the movements of income from restricted accounts and [to determine] electoral crimes." At issue were checks amounting to US\$326,000 drawn on an account from a Grand Cayman bank. Francisco Ramirez, one of five CGR comptrollers, said they had not been able to determine the amount of income to the Partido Liberal Constitucionalista (PLC), the official party, nor trace funds used in the campaign because "we didn't have the necessary information." The recommendation opens up a number of difficulties.

The Nicaraguan Constitution provides for the ouster of a president by a 2/3 majority vote of the AN for physical incapacity or treason, but does not prescribe the procedure. In the unicameral AN, 61 votes would be needed. Bolanos responded quickly, denying having committed any act of corruption. He incorporated his defense into a message to the nation on the presentation of the 2005 national budget, accusing his detractors, who include not only the opposition Frente Sandinista para la Liberacion Nacional, which holds the majority in the AN, but also the fraction of the PLC loyal to his nemesis, former President Arnoldo Aleman (1997-2002), who continues to exert influence from a jail cell (see NotiCen, 2004-01-17).

Referring to himself in the third person, the president said, "Enrique Bolanos has not committed acts of corruption no matter how much they want to soil me. I have answered the questions the Contralaria has put to me, but perhaps I haven't said what they wanted to hear, and I've only told the truth, not what they wanted." Three of the comptrollers are FSLN militants, the other two are PLC Arnoldistas.

OAS rescue attempt

Bolanos' government followed up, saying it would defend Bolanos by invoking the Democratic Charter of the Organization of American States (OAS). That organization is still in the throes of the resignation and subsequent house arrest on corruption charges of its own leader, Miguel Angel

Rodriguez (see NotiCen, 2004-10-14). Vice Chancellor Sergio Blandon released a statement saying that, if the campaign to unseat Bolanos continues, the OAS charter is an instrument of protection of democracy and of democratically elected governments. The statement claimed "all juridical support" for the president, as well as the support of the population that elected him in 2001 to a five-year term.

According to reports, the charter defense rests on Chapter IV of the document which deals with strengthening and preserving democratic institutionalism, specifically the text of Article 17, which reads, "When the government of a member state considers that its democratic institutional political process or its legitimate exercise of power is at risk, it can appeal to the secretary-general or the Permanent Council, to solicit assistance for the preservation of democratic institutionalism." Article 18 then authorizes that "the secretary-general or the Permanent Council can, with the prior consent of the affected government, order visits and other steps for the purpose of making an analysis of the situation." If that goes well, the secretary-general will then make a report to the Permanent Council that, in its turn, will make a collective evaluation leading to decisions directed at preservation of the government.

In practice, says international-law expert Mauricio Herdocia, the OAS is founded on the principle of promotion and consolidation of representative democracy respecting the principle of nonintervention. In the case of a rupture of the political process, if that is what the Nicaraguan case amounts to, the OAS establishes a series of "extremely strong" measures in accordance with the Democratic Clause of the Declaration of Quebec once it determines an irreversible situation in the affected country. Those measures would constitute an "insurmountable obstacle" to the country's participation in OAS activities, including the General Assembly.

Herdocia said, "The effects on the country are immense in the sense that the country would be immediately isolated internationally, outside the framework of the OAS, cloistered in a difficult situation, and for a country like Nicaragua, which depends on international cooperation in great measure, this would be extremely serious."

Judiciary on the sidelines

While the impetus for impeachment is the allegation of malfeasance or crime, within Nicaragua at the moment the issue is entirely a legislative affair. Judiciary authorities are keeping their distance. Fiscalia General de la Republica Julio Centeno Gomez has said that nothing so far has happened that would bring his institution into it. Although the Public Ministry two years ago accused Bolanos of electoral crimes, Centeno insisted, "We don't have a candle at this funeral. [The fines] are administrative sanctions that the Contraloria took on the basis of its Organic Law. We as Public Ministry don't comment on or analyze decisions of other public institutions; these debates are issues of other departments, not of ours."

The Contraloria sent notification of its resolution to the Public Ministry, Centeno acknowledged, but he stuck to the opinion that this was none of his business. For him, the CGR resolution was clear: It is the duty of the Asamblea Nacional to settle this matter and to the Treasury Ministry to deduct the two-month fine established in the resolution. Centeno went on to emphasize that there was no

judicial relationship between the resolution and the Public Ministry's previous accusations against the president.

But even without a second front opening on Bolanos' flank, there is little doubt that the political alignment in the AN between the opposition and his enemies within has enough votes to topple him. Constitutional basis solid There is also reason to assume that no constitutional impediment to the process exists. Legal expert Sergio Cuaresma of the Universidad Americana de Managua said the AN could declare Bolanos unfit to serve. "The legal door for declaring the president Bolanos incapacitated is open within the constitutional framework. The Asamblea Nacional, on the basis of national sovereignty, has all the constitutional power to declare a president incompetent."

The internal facts lining up as they do, Bolanos and his supporters' best hope lies outside the country. They appear to be getting some help from the OAS as a high-level mission arrived in Nicaragua on Oct. 18. OAS acting Secretary-General Luigi Einaudi and Permanent Council chairman Aristides Royo met with Bolanos soon after arriving and were scheduled to meet with Corte Suprema magistrates and civic leaders during a two-day stay. Bolanos also has support among regional leaders. An Oct. 16 meeting of Central American foreign ministers in El Salvador ended with a condemnation of "all those actions that attempt to destabilize the democratic process, governability, and the rule of law in any country of the region." The ministers had Nicaragua in their sights with the statement, which recognized "the valiant struggle undertaken by Enrique Bolanos Geyer against corruption and in favor of democracy in Nicaragua."

The ministers were meeting as the Sistema para la Integracion Centroamericana. Bolanos also found support in the recent remarks of Dan Fisk, US deputy assistant secretary of state for Western Hemisphere affairs, who promised to work with him "and all other democratic forces in Nicaragua to end corruption and bring prosperity to Nicaraguans."

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