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Nicaragua's Legislature Looks To Limit Presidential Powers; Aleman Could Rescue Bolanos

by LADB Staff

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The Nicaraguan Asamblea Nacional (AN) passed in November a series of constitutional reforms severely limiting presidential powers, arrogating, say critics, to itself prerogatives usually associated with the executive. The package of constitutional amendments passed with 74 of 91 votes. To pass into law, the reforms must be passed again in the 2005 legislature in January. This done, legislators would have the power to appoint government ministers, foreign ambassadors and diplomats, and other top executive officials who have to do with public services and property rights.

The congress would also have the power to fire these officials by means of a hearing at which it concluded the individual was not fulfilling responsibilities. It could then require that the president fire the official within three days. This is the second time the legislature has acted to alter the balance of powers in the 1987 Constitution.

In 2000, by the same vote count, it passed amendments modifying the powers of the judiciary, the electoral authority, and the Contraloria. The latest package provides for the creation of a Superintendencia de Servicios Publicos that would control water, electricity, and telecommunications and for an Instituto de la Propiedad Reformada Urbana y Rural. This last would handle claims on properties confiscated during the 1980s and land titles.

Much criticism

The reforms were met with horror within the executive and in other quarters. Managua Mayor Herty Lewites predicted "chaos," questioning how a divided legislature could possibly agree on appointments and firings. Lewites is a member of the opposition Frente Sandinista para la Liberacion Nacional (FSLN), the prime mover behind the reforms. President Enrique Bolanos took the matter simultaneously to the Corte Suprema de Justicia (CSJ) and to the Corte Centroamericana de Justicia (CCJ). Although based in Managua, the CCJ is international in scope. Nicaragua and El Salvador are its only members.

In January, the CCJ ruled that the congress should halt its approval of the reforms, prompting congressional president Carlos Noguera to petition the CSJ to rule on whether the international court had jurisdiction. In the congress, lawmakers said they would ignore the ruling in any event. The CCJ has no enforcement powers and its rulings are not binding. The CSJ returned a verdict favorable to the congress.

On Jan. 7, the state's highest tribunal held the international court's ruling without effect because recourse to national institutions had not been exhausted. The CSJ also ruled that, in institutional matters like this, cautionary measures do not exist in law; only the CSJ is competent to recognize

and resolve matters of competence between state powers. President simultaneously shops and conciliates Bolanos' next stop in his bid to retain power (see NotiCen, 2004-10-21) was the Organization of American States (OAS), a move that drew the ire of FSLN leader Daniel Ortega, who said he would seek the president's ouster if he once again reached beyond Nicaraguan borders for succor.

Nonetheless, on Jan. 11 OAS Permanent Council president Manuel Maria Caceres announced that the organization would keep a close eye on the situation and urged dialogue to settle the issue. That same day, Bolanos proposed "a national understanding" between the parties. He was apparently encouraged not only by the OAS urgings, but also by the Inter-American Development Bank (IDB), which froze a US\$15 million loan to the country, citing the gravity of the institutional conflict.

Said Bolanos, "As chief of state, I reiterate once more the necessity for us to start as soon as possible a national understanding in order to continue on the path of development that began three years ago [upon assumption of office]." Bolanos made that statement before the congress on the occasion of the installation of the new legislature and his annual report to the body. The "national understanding," if it occurs, will almost certainly have to get back to basics, and basic to the discussion is the situation of former President Arnaldo Aleman (1997-2001) and his 20-year sentence for corruption (see NotiCen, 2003-01-09).

That was the point made soon after Bolanos' speech by Vice President Jose Rizo. Rizo said that the way out of the crisis, pure and simple, would be amnesty for Aleman, currently serving his sentence in the comfort and privacy of his own home. Rizo, while recommending an "eventual pardon" for Aleman, also showed some solidarity with Bolanos by declaring publicly that he does not support ousting the president and denying that, in a recent meeting with Ortega, he made any deal to the contrary, even in view of the coalition relationship in the legislature between the FSLN and the faction of the Partido Liberal Constitucionalista (PLC) loyal to Aleman, of which Rizo is part.

Springing Aleman

An amnesty could be arranged: it would require 47 votes in the new congress, of which the PLC has 43. The FSLN has not come out for the arrangement, but Aleman and Ortega are on speaking terms. That eventuality aside, supporters of the reforms in the congress, and in all the other branches of the government except the executive, have planned a diplomatic initiative to explain the amendments to the international community, assuming they are ratified by this congress. These branches are well aware that Bolanos has support in the US, the OAS, the region, and wherever else there are institutions with an interest in maintaining the appearance of a powerful executive.

Asamblea Nacional president Rene Nunez, a member of the FSLN, said a commission would be named by representatives of the legislative, judicial, and electoral sectors, the Fiscalia General, and the Contraloria to launch a diplomatic offensive to explain the reforms and all matters pertaining to the current political situation. Nunez said the commission would also seek consensus with the executive in order not to breach constitutional order. It would also plan for the possibility of a declaration of a state of emergency, should Bolanos take that measure.

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