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Constitutional Court Gives President Otto Pérez Molina’s Impeachment Green Light

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On July 1, Guatemala’s Corte Constitucional Court (CC) rejected two appeals lodged on behalf of President Otto Pérez Molina that attempted to block an attempt to impeach him and strip him of his prosecutorial immunity, a move that could pave the way for him to face trial for corruption.

The CC’s final ruling comes after the appeals court temporarily halted the impeachment process, leaving Pérez Molina’s fate in doubt.

Pérez Molina’s impeachment saga began on June 11, when the Corte Suprema de Justicia (CSJ) gave Congress the green light to decide whether he should be stripped of his prosecutorial immunity, after Deputy Amílcar Pop Ac, of the indigenous Winaq party, filed a complaint arguing that there are sufficient grounds to prosecute Pérez Molina on corruption charges. Since doing so, the deputy claims he has been subjected to death threats.

Two days later, an extraordinary congressional hearing was held to elect a five-member commission to analyze Deputy Pop’s arguments. Following the procedure established under Guatemalan law, each member of the house was assigned a number, and two members of Congress were asked to draw five random numbers from a raffle.

The five selected members are: Baudilio Hichos López, Hugo Fernando García Gudiel, and Juan Armando Chuy Chanchavac from Libertad Democrática Renovada (LIDER), independent Deputy Mario Santiago Linares, and Hugo Morán Tobar from Compromiso, Renovación y Orden (CREO). Several of these deputies have a tainted track record, which could hinder the credibility of the commission.

The commission faced intense pressure from civil society organizations, to the extent that a group of protesters linked arms outside Congress, forming a human chain that blocked the main exit to the building. They were adamant that the commission should set a precise date for the delivery of its verdict.

"Guatemala woke up and now it’s demanding justice," read a homemade placard held by one of the protesters. As Deputy Jaime Martínez Loaiza exited the building and tried to worm his way through the crowd, protesters yelled: "Go back and do your job!" After a brief scuffle, Martínez managed to break free and hastily headed towards the parking lot.

Adding a dramatic touch to the course of events, Baudilio Hichos López and other members of the newly appointed commission claimed anonymous sources were threatening to kill them and their family members if they didn’t recommend stripping Pérez Molina of his immunity.

On June 18, the CC temporarily upheld an appeal lodged by lawyer Karen Fischer on behalf of President Pérez Molina that blocked an attempt to impeach him and strip him of his prosecutorial immunity, a move that could pave the way for him to face trial for corruption. A second appeal was also lodged by Pérez Molina.
Two days later, some 500 people gathered in Guatemala City's main square, chanting: "Don't mess with Guatemalans!" Protesters, who have been calling for Pérez Molina’s resignation for the past month and a half, were furious with the court’s verdict. "No to immunity. No one should be granted immunity," read one homemade placard.

Pérez Molina’s fate in the hands of five deputies
Now that the CC has finally resolved to reject both appeals, Pérez Molina’s fate once again lies in the hands of the five-member commission appointed by Congress to decide whether there are sufficient grounds to impeach him.

If the commission decides Pérez Molina ought to be stripped of his immunity, Congress would have to vote on whether to accept its recommendation.

Pérez Molina’s party, the Partido Patriota (PP), holds 35 of the 158 seats in the legislature, or around one-fifth. In the wake of the recent corruption scandals, many PP deputies switched their party allegiance to LIDER, which now has 62 of the 158 seats in Congress and is leading the polls. Nevertheless, the PP is expected to seek an agreement with LIDER to secure a favorable outcome for the president.

If Congress votes in favor of stripping Pérez Molina of his immunity, a criminal court must then decide whether he is unfit for office and should face trial. If that were to happen, newly appointed Vice President Alejandro Maldonado Aguirre would automatically be appointed president until a new president takes office in January 2016.

Pérez Molina refuses to step down
Pérez Molina is accused of involvement in two major corruption scandals: a massive customs-fraud network known as La Linea that involved a number of top government officials (NotiCen, April 23, 2015), and corruption charges involving a US$14.5 million dialysis contract granted by the Instituto Guatemalteco de Seguridad Social (IGSS).

Among the most potentially incriminating pieces of evidence are telephone conversations recorded by the UN-supported Comisión Internacional contra la Impunidad en Guatemala (CICIG) as part of the investigation into the La Linea case (NotiCen, May 28, 2015) that contain references to "the president."

More damaging evidence could emerge as Francisco Javier Ortiz Arriaga, known as Teniente Jerez, one of the ringleaders of La Linea, is seeking to be included in a witness-protection program in exchange for providing detailed information of how the customs fraud structure operated and exactly who was involved.

Roxana Baldetti, the vice president who was forced to resign on May 8, has been banned from leaving the country. Her US visa has been revoked, her bank accounts and those of her husband have been frozen, and her properties have been searched by police as part of the ongoing investigation. A number of telephone recordings contain references to "La Dos" (number two), "La R," and "La Señora."

Although he faces intense pressure from civil society to step down, Pérez Molina is adamantly he will not resign. "I will remain in my position; I was constitutionally appointed and I will face this (CICIG’s investigation into the case)," he said in an interview with CNN on June 

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