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Supreme Court Judges Face Impeachment

by LADB Staff

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The Paraguayan Chamber of Deputies has begun the process to hold impeachment trials for four members of the nation's corruption-tainted Corte Suprema de Justicia (CSJ). The resignation of two justices hastened the process of overhauling the court, even as the lower house considered the accusations against four of the seven remaining magistrates.

On Oct. 21, Sen. Carlos Filizzola, former mayor of Asuncion and leader of the opposition Partido Pais Solidario (PPS), said that opposition leaders and the president were meeting to reach an agreement on the reform of the court. He said one sticking point was the number of justices who would face impeachment. The governing Partido Colorado (Asociacion Nacional Republicana, ANR) which has been in power since 1954 wanted no more than four removed. The opposition PPS, Partido Liberal Radical Autentico (PLRA), Patria Querida (PQ), Encuentro Nacional (EN), and Partido Union Nacional de Ciudadanos Eticos (PUNACE) said that, if they could not remove all nine, at least six should go.

On Oct. 24, President Nicanor Duarte who took office Aug. 15 pledging to wage an all-out fight against corruption and his Partido Colorado lawmakers agreed with the opposition to impeach six of the nine CSJ justices. Partido Colorado president Herminio Caceres said Duarte's aim was to "unify the disparate stances on this question held by the various political sectors."

In a press conference, Filizzola said it was a historic moment in the effort to reform the judiciary. "We are talking about six ministers out of a court of nine," he said. "It is a task that has required much effort, and you see the case of Argentina, to give a close-by example, they began with one and today they are on the third minister (see NotiSur, 2003-10- 31." Filizzola said the vacancies would be filled through a selection process carried out by the Consejo de la Magistratura, and the impeachment process would begin in the lower house, as stipulated in the Constitution.

Vice President Luis Castiglioni said the justices facing impeachment included Jeronimo Irala Burgos, Carlos Fernandez Gadea, Raul Sapena Brugada, Felipe Santiago Paredes, CSJ president Bonifacio Rios Avalos, and Luis Lezcano Claude. Duarte and the opposition parties agreed that justices Wildo Rienzi, Antonio Fretes, and Victor Nunez the last three judges named to the CSJ would not be submitted to an impeachment process. All three have ties to the Partido Colorado.

Justices resign to avoid impeachment

Justices Irala and Sapena handed in their resignations Oct. 27 to avoid the political trial. Sapena presented his resignation to CSJ president Rios Avalos, who is also facing impeachment. In his letter, Sapena said that "the list of [CSJ justices] to be submitted to an impeachment process was made public. Although several people involved in the negotiations said they would give us the

chance to exercise our right to defense, we must take into consideration that our removal has been repeatedly mentioned in other statements."

Sapena said he was resigning "with peace and without rancor." He said, given the political nature of the process, it was quite possible that he would be unable to mount a successful defense since "evidently the politicians are considering other factors and not just the legal ones," leaving him no alternative but to resign.

Irala, who is in ill health, presented his resignation through his lawyer, Daniel Mendoca, in a short note addressed to the head of the Senate. The resignations were a surprise. "There were no signs that they were coming," said Jorge Seall, a law professor at the Universidad Nacional in Asuncion and the Universidad Catolica. "I have the highest esteem for Irala, and I doubt that any evidence of improper conduct would have been found. Although he might have committed some omissions, they would have mainly been a consequence of his increasingly poor health."

Seall went on to say, "Those who should be on the list of the magistrates to be tried are not on it" a reference to Nunez and Fretes, two justices named to the court in what he described as "unfortunate appointments." He said, "They are from the core of the Argana faction" of the Partido Colorado, "and they lack the professional qualifications to occupy such an important post." Until now, CSJ justices have been named on the basis of an agreement among the principal political parties with each party's quota determined by its strength in Congress.

Following the resignations, the CSJ held a special session and declared both posts vacant. The Consejo de la Magistratura will now have to issue a call for applicants to fill the two positions.

Accusation against CSJ and against justices

The accusation against the four justices, which was presented in the lower house on Nov. 3 and formally accepted Nov. 5, states that the CSJ "has violated the Constitution and the nation's laws, violated the principle of the separation and balance of powers, abused its power by exercising it in an arbitrary manner that runs counter to the legal order, and damaged the state of law and weakened the country's democratic institutions."

The four magistrates, who are facing more than 20 separate charges, are being investigated by the public prosecutor's office. Among the charges they face are usurping constitutional powers reserved for the legislature, perverting the course of justice, engaging in criminal association, extortion, money laundering, forgery of false public documents, trafficking of influences, and illicit enrichment.

Court's image has deteriorated in recent years "In the past two years, the court's image has sharply deteriorated because of a string of scandals in which the magistrates have been implicated," analyst Rodney Smidbauer, a lawyer and journalist, told Inter Press Service.

After Vice President Luis Maria Argana's March 1999 assassination and the massive public protests that followed, leading to the resignation of then President Raul Cubas Grau (1998-1999), the CSJ ruled in April 1999 that then president of Congress Luis Gonzalez Macchi was to complete Cubas Grau's term, which ended in August 2003 (see NotiSur, 1999-03-26, 1999-04-09, 1999-05-21). But a number of jurists said the Constitution clearly stipulates that early elections must be held when the country is left with neither a president nor a vice president.

The Paraguayan daily ABC Color reported that members of the CSJ were also accused of taking possession of an airplane seized in a drug-trafficking operation in June 2002, apparently for their own use.

An attorney general's office report said the court's action was illegal. In a controversial ruling in May 2000, the CSJ justices declared themselves "unremovable," a decision legal experts said violated the Constitution. In February 2003, the justices adopted a resolution giving themselves a monthly bonus of nearly US\$800.

Process now underway

The next step in the process took place Nov. 5 when the Chamber of Deputies held a special session to officially accept the petition, which will now go to the constitutional affairs commission. The commission's decision will be submitted to a plenary session of the lower house, where 54 votes, a two-thirds majority of the 80-seat chamber, is needed for the impeachment trials to go ahead.

"In this case, the Chamber of Deputies becomes the accusing party. Once the petition is approved, the process goes to the Senate, where the impeachment will take place," said Deputy Rafael Filizzola, Pais Solidario leader in the lower house. As the lower house met in special session to formally accept the impeachment petition, deputies had to deal with a new problem.

Partido Colorado Deputy Julio Colman accused Deputy Gustavo Mussi of PUNACE, the party founded by former Gen. Lino Oviedo, of offering him US\$5,000 to vote against removing justices Fernandez Gadea and Santiago Paredes. Deputies called for an investigation into the allegations. "A committee will be formed because the issue is very serious," said PQ Deputy Hector Lacognata. "Most of all, [it is serious] because it not only affects individuals who eventually could be involved but also the image of the chamber at this decisive moment."

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