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Supreme Court Could be Staffed by September

by LADB Staff

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The newly installed Ecuadorian government of Alfredo Palacio is making preparations for the selection of a new Corte Suprema de Justicia (CSJ). In July, the government opened a window for candidates to enroll for consideration, with over three hundred takers registering prior to the July 26 deadline. Representatives from the UN and the Organization of American States (OAS) are overseeing the process. Current estimates from the committee setting up the court say that the CSJ could be functional again by late September.

Judicial branch has been "headless" since December

The highest court of the Ecuadoran judiciary has been inoperative since December 2004 when then President Lucio Gutierrez (2003-2005) dissolved the body, saying it was too politicized. Protests against the move and against his government led to Gutierrez’s downfall when the parliament removed him for abandoning his office on April 20 of this year (see NotiSur, 2005-01-07, 2005-04-22).

Although Gutierrez set up a new court, the removed justices declared themselves to be a CSJ in exile, and many government figures held that the new court had been installed illegally. Gutierrez, in a last-ditch bid to save his flailing presidency, fired the new court in April and there has been no top court in Ecuador since that ouster.

The legislature has determined that the new court will still have 31 members. The current government has rejected setting up a transitional court. The CSJ will be made up of ten tribunals, or "salas," with three magistrates in each: three penal tribunals, three civil and mercantile tribunals, two social and labor tribunals, one for administrative law, and one for prosecutions.

The process to form the CSJ originally received a budget of US$400,000, but committee spokespeople said that they would need more. The cost of publishing announcements in newspapers and contracting auditors, they said, would tally more than that budget. The committee has asked the Judicial Council and Economy Ministry to increase the budget by US$150,000 to US$200,000.

Potential private consultants are asking for between US$22,400 and US$347,000 to review applications. The committee has not yet chosen the company it will contract for the auditing process. More than 300 applicants applied to the Comite Calificador (review committee), with nearly half waiting until the last minute on July 26 to submit their applications. The four committee members have eight days after the deadline to review the application packets to make sure the candidates have met all formal requirements.

Auditors will be a key part of that review, with applications reaching as many as 200 pages. Afterward, the commissioners will publish a list of candidates who met all requirements in the
country's main newspapers. There follows a 15-day period in which people may file documented challenges against various candidates.

Challengers will also be required to argue their objections. Those who are not disqualified in the challenge process will receive a committee review according to a points system, with the highest-scoring 31 candidates rising to the court. Committee member Rosendo Lopez says that the court may be in operation by the third week of September. All applicants must have a doctorate in law, be between 45 and 75 years of age, and must not have served as an active member of any party or movement's leadership within the past five years.

The UN has sent observers to monitor the CSJ election process, and Jose Miguel Insulza, the newly named head of the OAS, met with most of Ecuador's top governmental figures and representatives of civil-society groups to discuss the court during the week of July 25-29. The Comunidad de Naciones Andinas (CAN) has also sent observers, as have other international groups, with some 8,000 observers arriving from different nongovernmental organizations (NGOs).

"It is not possible to speak of complete normality when one branch [of government] is headless and there is no CSJ," said Insulza in a press interview. He sees the December 2004 removal of the court as a deviation from constitutional rule in Ecuador and the current formation of a new court as a transparent process to regain constitutionality.

Women seek better representation in court

The presence of female candidates at the offices of the Comite Calificador drew press attention in July. Ecuadoran women are calling for greater representation in the new court, although only 26 applied by end of the deadline and the four-member committee has only one female representative, Ketty Romolreux.

Among the female candidates are Ana Abril, Ruth Seni, Lida Pazmino, Estela Jaramillo, Daysi Aveiga, and Patricia Parra. Some of the other candidates include members of previous courts, including the one that Gutierrez removed. Human rights and women's groups have also been calling for an equitable process in the formation of the court that would include a significant number of female justices in the CSJ.

Solanda Goyes, of the Fundacion Equidad, said there were not enough women who met the basic point-system requirements that the committee had set. For that reason, said Goyes, "We ask that women be evaluated in a manner separate from the men." The Asociacion de Mujeres Abogadas, headed by former attorney general Mariana Yepez, supported that call.

Goyes, speaking for the Asamblea de Mujeres, pointed to an "excluding spirit" in the proceedings as the group delivered an analysis to the Comite Calificador on July 13, arguing that the evaluation system favored male candidates. For example, said Goyes, those who had held high office in a federal prosecutorial or tribunal agency received one to three points, positions that historically have been almost exclusively occupied by men.
Goyes' group also disagreed with the four points given for each year of professional practice after the 15-year minimum that the rules required. "Women began to arrive in the universities in large numbers at the end of the 1980s," she said. "There are few women lawyers who have many years of professional practice."

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