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## Supreme Court Decision Allows Creation of Independent Unions in Mexico

by LADB Staff

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In a decision that could further erode the influence of the country's official labor unions, Mexico's highest court (Suprema Corte de Justicia de la Nacion, SCJN) ruled that state workers have the right to form independent unions or not to join any labor organization. The labor organization affected by the ruling, the Federacion de Sindicatos de Trabajadores al Servicio del Estado (FSTSE), has already announced plans to take action against the decision.

In the ruling, the SCJN cited Article 123 of the Mexican Constitution, which states that union membership cannot be a condition of employment. If the ruling holds, government workers will no longer be required automatically to become members of unions affiliated with the FSTSE.

The SCJN ruling also addresses some complaints lodged by the International Labor Organization (ILO), which had accused the Mexican government and the government-sanctioned Congreso del Trabajo (CT) and Confederacion de Trabajadores de Mexico (CTM) of violating the rights of workers by imposing restrictions on their union affiliation.

### *Decision could set precedent for other workers*

While the SCJN decision applies only to government workers, the ruling has set a precedent for labor organizations in other sectors to present a similar challenge. If this occurs, the FSTSE and its parent organizations the CT and CTM could further lose their grip on the Mexican labor movement.

The CTM, CT, and member organizations have been close allies of the governing Partido Revolucionario Institucional (PRI), which has dominated Mexican politics for 70 years. On the same day that the SCJN handed down its decision, FSTSE leader Joel Ayala offered the blanket support of 1.5 million members of the organization to Interior Secretary Francisco Labastida, who is seeking the nomination to represent the PRI in the 2000 presidential election. The CT and CTM started to lose some influence when disgruntled members announced their intention to form the rival labor organization Union Nacional de Trabajadores (UNT) in late 1997 (see SourceMex, 1997-11-26).

As expected, labor leaders Leonardo Rodriguez Alcaine of the CTM-CT and Ayala of the FSTSE immediately condemned the SCJN ruling as a dangerous move that could "gut the structure of the labor union." Ayala, who is also a PRI federal deputy, said the FSTSE plans to seek legislative means to overturn the decision. "This decision could provoke confrontations among workers who are employed in the same government agency," said Ayala. He said the SCJN was swayed by "ultraconservative" business leaders, who are seeking to weaken the labor movement. "We will take other kinds of action to overturn [the ruling], such as protest marches or the right to strike."

For his part, CT vice president Enrique Aguilar Borrego accused the SCJN of "taking too active a role" in crafting Mexico's labor agenda in recent months, including a ruling that allows 20 foreign

companies to suspend profit-sharing distributions to workers. "Unfortunately, the SCJN's last three rulings tend to favor the employers," said Aguilar.

The FSTSE received support from an unlikely source, UNT leader Francisco Hernandez Juarez, who echoed Ayala's concerns about the implications for business owners to unduly influence workers. "The UNT's leadership will seek counsel from a team of labor lawyers to analyze the court's decision and the possibility of participating in an appeal," said Hernandez Juarez. "Under the circumstances dictated by the court, employers would have a free hand to do whatever they want with their work force."

Labor lawyers Arturo Alcalde Justiniani of the Asociacion Nacional de Abogados Democraticos (ANAD) and Hector Barba, who works closely with the UNT, both expressed some reservations about the court decision, which they said could be used by employers to push workers not to affiliate with any union. But Alcalde also said the court decision has some merits because it eliminates the requirement that workers join a government-sanctioned union. "I support the concept of a single union for a work place," said Alcalde. "But membership in such a union has to be voluntary and not decreed from above, because this is not unity, it is corporativism."

### *Ruling spurs creation of new unions*

Still, labor analysts said the SCJN ruling will only have an impact in the near term on the FSTSE, which comprises 88 member unions representing different entities in the federal government. Immediately after the ruling, Ana Maria Arellano announced she was breaking away from the Frente Nacional de Trabajadores de la Salud to lead a new health-workers union that will initially include 3,000 members.

Similarly, air-traffic controllers and employees at the government's statistics agency (Instituto Nacional de Estadisticas, Geografia e Informatica, INEGI) said the ruling frees them to formalize dissident unions that had been formed previously but not legally recognized. The air-traffic controllers had been required to join the union that represents workers at the Secretaria de Comunicaciones y Transportes (SCT). While some workers were taking steps to celebrate their new freedom to form independent unions, employees at the Secretaria del Medio Ambiente, Recursos Naturales y Pesca (SEMARNAP) complained about harassment from leaders of the official union and employers.

The SEMARNAP workers said managers at the federal agency have refused to recognize their new union, the Sindicato Democratico de Trabajadores. "We believe that the freedom to choose a union is an irrevocable constitutional right," said the union statement. "The voices opposing this important court decision are the same ones who have in the past attempted to paralyze the labor movement." (Sources: Spanish news service EFE, 05/12/99; Associated Press, 05/12/99, 05/13/99; Novedades, 05/13/99, 05/14/99; Proceso, 05/16/99; Excelsior, 05/12/99, 05/13/99, 05/17/99; La Jornada, 05/12-14/99, 05/18/99; El Economista, 05/13/99, 05/14/99, 05/17/99, 05/18/99; El Universal, 05/13/99, 05/16/99, 05/18/99, 05/18/99; El Diario de Yucatan, 05/19/99)

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