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High Court Allows President to Veto Budget, Then Allows Override

by LADB Staff
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In a confusing turn of events, Mexico's high court (Suprema Corte de Justicia de la Nacion, SCJN) upheld the right of President Vicente Fox to veto the budget but a week later amended that ruling to allow Congress to override the president's veto by a two-thirds majority. The court's initial ruling, by a narrow 6-5 margin, had threatened to weaken the power of the legislative branch to make the final determinations on the budget. The decision, announced May 12, only upheld Fox's right to veto the budget.

The move created strong concerns among members of Congress who feared that the decision would weaken the constitutional mandate that reserves the final budget decisions for the legislative branch. "I do not agree with the ruling of the court because the Constitution gives the legislative branch the exclusive right to approve the budget," said Deputy David Jimenez of the former governing Partido Revolucionario Institucional (PRI). "There was no reason for the executive to even become involved in the final decision."

A handful of dissenters like Deputy Emilio Zabadua Gonzalez of the center-left Partido de la Revolucion Democratica (PRD) came out publicly in support of the president's right to a veto. "I will not resign from the PRD," Zabadua told reporters after critics said he should change party affiliation.

Congressional leaders said they would accept the SCJN ruling but also held out hope that a follow-up decision would turn out in their favor. "The [court's] decision is regrettable," said PRD congressional leader Pablo Gomez Alvarez. "At the same time, we are encouraged that five justices opted in a dignified and valiant manner to break away from the old tradition of allowing the president to dictate the decisions of the court."

While the court awarded the right to a veto to the president, justices still had to rule on another matter brought to the courts by Fox: whether the final budget should be considered a spending order that the executive branch must carry out, as the Chamber of Deputies asserted, or whether the budget represents an authorization for the executive branch to spend money in accordance with its own proposals.

In a 7-4 vote, the justices decided that the budget was a spending order for the executive branch, effectively watering down the initial ruling that gave Fox the right to a veto. Justices reconciled their latest decision, issued on May 17, by stipulating that Fox's vetoes could only be overturned by a two-thirds majority.
Court wanted to keep judicial branch out of budget process

Justice Guillermo Ortiz Mayagoitia said an overriding concern for the SCJN was to ensure clarity in the roles of the executive and legislative branches. Otherwise, the matter could potentially come back to the SCJN every year. "There would not be any legal way [to keep the issue from returning to the courts]," Ortiz Mayagoitia told the Mexico City daily newspaper La Jornada a day before the vote.

A day later, Justice Jose Ramon Cossio Diaz said the judicial branch did not want to become a major player in the budget process each year. "The court doesn't want to replace the role of political institutions and determine whether there should be more spending on agriculture, health, or education," Cossio said.

In its latest ruling, the SCJN ordered Congress to schedule a special session this summer to vote on whether to accept the "observations" offered by the president. Fox originally sent Congress a budget of 1.74 trillion pesos (US$158.9 billion) for calendar year 2005, based on a conservative forecast of US $23 per barrel for Mexican oil exports. The Congress, led by the opposition Partido Revolucionario Institucional (PRI) and Partido de la Revolucion Democratica (PRD), made many changes to that budget on the premise that a higher projection of US$27 per barrel was reasonable. Based on that higher price, the lower house revised the budget upwards to 1.818 trillion pesos (US$166 billion).

The budget approved by the Congress increased federal allocations for state governments and boosted funds for health, education, road construction, and other projects. The Congress partially offset increased expenditures in these areas by reducing funds for the Secretaria de Gobernacion (SEGOB) and other government agencies (see SourceMex, 2004-11-10). Mexican oil-export prices have actually been much higher than the projections this year, averaging close to US$35 per barrel in the first quarter of the year.

The Mexico City-based consulting company Consultores Internacionales is now projecting a conservative average oil-export price of US$33 for Mexico, which would leave Mexico with US$4.6 billion in revenues above earlier projections. Fox refused to accept the changes by the legislators and returned the budget to the Congress with "observations." This sparked an acrimonious debate between the president and the lower house, which threatened to go past the constitutionally mandated deadline of Dec. 31 for a budget to be in place.

Rather than risk violating the Constitution, Fox agreed to sign the congressional version of the budget with reservations. He then turned the matter over to the high court (see SourceMex, 2004-12-15). The fairly long period the court took to make the decision left some of the budget in limbo. In February, as the court was still deliberating on the Fox request, the SCJN ordered the administration to temporarily freeze 6.5 billion pesos (US$593 million) of federal budget transfers to states that legislators implemented.

Under the ruling, the Fox government was required to set such funds aside pending the final SCJN decision. "[The spending freeze is designed] to prevent these funds from being used for
something else and to ensure that they will be available for execution as the court determines," Justice Margarita Luna Ramos told reporters at that time.

**Congress proposes judicial reforms**

The court's decision to accept the president's case added to the ill will some members of Congress have had toward the judicial branch, which they said has a history of tilting unfavorably toward the executive. This led to a series of proposals to reform the court, none of which prospered.

In the first proposal, a handful of legislators called for impeachment of Justices Jose de Jesus Gudino Pelayo and Sergio Salvador Aguirre Anguiano, the two justices who made the final decision to allow the president's case to reach the SCJN. Legislators reasoned that the SCJN decision was not necessary because the Constitution clearly spells out the right of the Congress to determine the budget.

A second proposal, put forth by deputies from the PRI, PRD, and Partido del Trabajo (PT), called for creating a separate constitutional court that would only hear cases involving disputes between the executive and legislative branches. Calling the plan "absurd," Deputy Francisco Barrio, who was floor leader for the center-right Partido Accion Nacional (PAN) when the proposal surfaced in January, said the SCJN is already competent to deal with these cases. "These types of disputes do not come up frequently enough to justify the creation of another judicial organ," Barrio added.

In a third instance, some legislators also pushed for an amendment to Article 96 of the Mexican Constitution that would turn the SCJN into an elected body, with justices limited to serving one six-year term. Under current practice, the Senate chooses justices from a list of names submitted by the president. The president selects the nominees to present to the Senate from a list drafted by the sitting SCJN justices. The process went smoothly for the last two justices selected for the court, Sergio Valls and Margarita Luna Ramos (see SourceMex, 2004-02-25 and 2004-11-03).

The Congress has also taken some initiative with proposals aimed at avoiding disputes with the executive branch. In the wake of the decision to grant Fox veto power, deputies offered a compromise that would allow the president to view changes to the budget prior to its approval. This process was intended to prevent the courts from having to interfere in the budget process each year. "This creates a formal, transparent, and constructive instrument of collaboration between both branches of government," said PRI Deputy Angel Buendia. [Note: Peso-dollar conversions in this article are based on the Interbank rate in effect on May 18, reported at 10.95 pesos per US $1.00] (Sources: Bloomberg news service, 02/18/05; The Financial Times-London, 04/21/05; Reuters, 05/03/05; La Crisis, 01/10/05, 01/13/05, 02/01/05, 02/03/05, 02/04/05, 05/10/05, 05/13/05, 05/16/05; E-Once Noticias, 05/16/05; Agencia de noticias Proceso, 01/07/05, 04/25/05, 05/10/05, 05/12/05, 05/17/05; Spanish news service EFE, 05/04/05, 05/12/05, 05/17/05; El Sol de Mexico, 05/17/05; Notimex, 01/04/05, 04/26/05, 04/27/05, 05/12/05, 05/16/05, 05/17/05, 05/18/05; La Jornada, 01/05/05, 01/08/05, 01/20/05, 01/27/05, 02/02/05, 03/31/05, 04/26/05, 05/10/05, 05/09-13/05, 05/17/05, 05/18/05; El Universal, 01/05/05, 01/10/05, 01/13/05, 02/02/05, 04/26/05, 04/27/05, 05/09-11/05, 05/13/05, 05/17/05, 05/18/05; La Cronica de Hoy, 01/05/05, 01/12/05, 01/17/05, 02/04/05, 05/05/05, 05/10/05, 05/11/05, 05/13/05, 05/17/05, 05/18/05; The Herald-Mexico City, 01/08/05, 05/13/05, 05/18/05; El Financiero, 01/12/05, 02/02/05, 02/04/05, 05/13/05, 05/18/05)