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## Senate Elects Jose Fernando Franco as New Supreme Court Justice

by LADB Staff

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In mid-December, the Mexican Senate overwhelmingly elected Jose Fernando Franco Gonzalez-Salas to a 15-year term on the high court (Suprema Corte de Justicia de la Nacion, SCJN), replacing retired justice Juan Diaz Romero. The 11 members of the SCJN followed the Senate's vote by electing Guillermo Ortiz Mayagoitia to a four-year term as chief justice, replacing Mariano Azuela.

The two moves ensure that the direction of the high court will remain basically unchanged in coming years. Some critics, particularly the center-left Partido de la Revolucion Democratica (PRD), have questioned the independence of the judicial branch, from the SCJN and some federal district courts to the federal electoral court (Tribunal Electoral del Poder Judicial de la Federacion, TEPJF). The PRD charged the courts, including former SCJN chief justice Azuela, of conspiring with ex-President Vicente Fox to orchestrate the failed ouster of then mayor Andres Manuel Lopez Obrador in 2004 (see SourceMex, 2004-05-06 and 2004-09-29).

Lopez Obrador, who went on to represent a coalition of center-left parties in the 2006 presidential election, also questioned the TEPJF's independence in refusing to conduct a vote-by-vote recount after official results gave rival Felipe Calderon a very narrow victory (see SourceMex, 2006-07-12 and 2006-08-30).

### *PRD raises concerns about Franco's stance on labor*

As expected, the PRD expressed opposition to Franco, who is a jurist by training but has little recent judicial experience. Franco, who received a law degree from the Instituto Tecnologico Autonomo de Mexico (ITAM), was deputy labor secretary during the Fox administration and also served in a high-level capacity in the Secretaria de Gobernacion (SEGOB). He was a legal adviser for ex-President Carlos Salinas de Gortari (1988-1994). His previous judicial experience was as head of the Tribunal Electoral, the predecessor of the TEPJF.

The PRD did not focus its criticisms on Franco's lack of judicial experience but rather on his positions as second in command at the Secretaria del Trabajo y Prevision Social (STPS), which they said were contrary to the stance of the labor sector. The PRD also took issue with Franco's open endorsement of the TEPJF's decision not to order a vote-by-vote recount, said the Mexico City daily newspaper La Jornada.

The PRD actually had little influence in the selection of the candidates to replace Diaz Romero. Under the Mexican Constitution, the executive compiles the list that is presented to the Senate. In this case, former President Fox and then President-elect Calderon compiled the list of three candidates, all with ties to the governing Partido Accion Nacional (PAN), to submit to the Senate for consideration. The candidates, which also included legal scholars Rafael Estrada Samano and Maria Teresa Herrera Tello, were all deemed acceptable to the PRI.

The Mexico City daily newspaper El Universal said the PRI and the PAN also worked closely to find a mutually acceptable candidate in 2004, resulting in the selection of Justice Sergio Valls Hernandez (see SourceMex, 2004-11-03). Valls at one time represented the PRI in the Chamber of Deputies and also served as party president in Chiapas. Franco received overwhelming support in the Senate, obtaining 94 votes, compared with three for Herrera Tello and two for Estrada Samano.

The PRI and the PAN came out solidly in support of Franco. The PRD's executive council (comite ejecutivo nacional, CEN) had requested that its Senate delegation abstain from voting but promised to respect the decision of those members who decided to participate in the vote. In the end, 15 of the 26 PRD senators voted in favor of Franco, while the other 11 presented blank ballots. Senators from the Partido del Trabajo (PT) and Partido Convergencia por la Democracia (PCD), which had formed a center-left coalition with the PRD, also voted to support Franco.

Responding to the PRD criticisms that his positions at the STPS were anti-labor, Franco pledged to uphold the rights of workers. "I have [supported the labor sector] all my life and will continue to do so within the framework of the Constitution and the federal labor act (Ley Federal del Trabajo)," Franco said at his swearing-in ceremony.

### *New Chief Justice Guillermo Ortiz also draws criticism*

While there were some divisions in the PRD on whether to support Franco, the party was not as ambiguous in its criticism of the court for elevating Ortiz Mayagoitia to chief justice.

All in all, six SCJN members initially announced their intention to seek the position of chief justice, including Ortiz Mayagoitia, Valls, Sergio Aguirre Anguiano, Juan Silva Meza, Olga Sanchez Cordero, and Jose de Jesus Gudino. In the end, the election came down to a race between "conservative" Ortiz Mayagoitia and "progressive" Silva Meza, said analysts. The PRD delegation in the Chamber of Deputies said Ortiz Mayagoitia would continue the policies begun under Azuela, which involved a "de facto alliance" between the executive and the judicial branches.

PRD senators expressed similar sentiments, noting that the judiciary is the least transparent of the three branches of government. "Given [Ortiz Mayagoitia's] recent positions, I don't expect much independence from the court," said PRD Sen. Leonel Godoy, who is working with counterparts Alejandro Gonzalez Alcocer of the PAN and Melquiades Morales of the PRI to promote a comprehensive reform in the judicial branch. Some political observers concurred with the PRD. "Justice Guillermo Ortiz Mayagoitia offered a conservative proposal that assumes no changes in the structure of the bodies that he will preside," said syndicated columnist Miguel Angel Granados Chapa.

Despite the PRD's opposition, however, most other parties fully endorsed Ortiz Mayagoitia's ascent to the top position in the high court. "He will guarantee efficiency in the administration of justice," said Deputy Jose Manuel del Rio Virgen, a member of the Partido Convergencia por la Democracia (PCD). [Sources: [www.scjn.gov.mx](http://www.scjn.gov.mx); [www.wikipedia.org](http://www.wikipedia.org); El Financiero, La Cronica de Hoy, Infosel Financiero, 12/13/06; El Ecomomista, 12/05/06, 12/13/06, 12/15/06; El Universal, 11/17/06, 11/30/06, 12/05/06, 12/13/06, 01/02/07; Reforma, Notimex, 01/02/06; La Jornada, 12/04/06, 12/13/06,

01/03/07; Excelsior, 12/04/06, 12/05/06, 12/11/06, 12/13/06, 01/03/07; Milenio Diario, 12/05/06, 12/13/06,  
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