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Decision Endangers Social Programs

by LADB Staff

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A ruling from Costa Rica's Constitutional Court may endanger the budgets of several social programs, particularly those directed toward children, technical education, and senior citizens. The May 22 ruling allows the government to disregard laws mandating that fixed percentages of the budget be destined for specific programs. The court has not published the rationale for its decision.

Forty-three laws mandate percentage-based appropriations for programs ranging from child protection and road and housing construction to education and environmental projects. In practice, former administrations have often bypassed these laws and submitted budgets that included less money than the percentage indicated. Several programs filed suit against the Treasury Ministry claiming that they were entitled to additional money.

On three previous occasions, the court ruled in favor of the programs. In May 2001, the court ordered the treasury to release US\$39 million to the Patronato Nacional de la Infancia (National Childhood Foundation, PANI), US\$1.1 million to professional technical colleges, and US\$14 million to other programs. Money assigned to specific programs represents almost 15% of the total budget. In the budget for fiscal year 2002, the amount is more than US\$392 million. However, if the allocations had adhered to the letter of the law, this figure would have reached US\$570 million, or about 22% of the total budget.

Ruling will leave financing to executive branch

In an attempt to stave off court-ordered readjustments of government budgets, then treasury minister Leonel Baruch sent a proposal to Congress that would eliminate the governmental obligation to assign percentage-based sums to specific programs. Despite its earlier rulings in favor of the programs, the Constitutional Court denied a motion of unconstitutionality brought by the Centro Nacional de Estudios de Educacion y Capacitacion Cooperativa (National Center for Cooperative Education and Training Studies, CENECOOP). The lawsuit sought disbursement of CENECOOP's percentage-based allocation. The May 22 ruling is a victory for the current government, which is attempting to reduce the budget deficit.

A commission of former treasury ministers convened in August 2001 to look for solutions to the budget deficit. The commission estimated that continued payment to these programs at the percentages mandated by law would increase the budget deficit from 3.9% of GDP in 2002 to 7% in 2003. Some representatives of the current administration say the ruling will give much more flexibility to the Treasury Ministry in managing budget allocations. Nevertheless, the increased flexibility will not solve budget problems, said Baruch.

Other elements such as pensions, salaries, interest payments, and tax revenue also require adjustments, he said. "The decision of the Constitutional Court gives us breathing space. But I hope this will not delay financial reforms," said Federico Vargas, another former treasury minister who sat on the commission. Even within the administration of President Abel Pacheco, there is discord about what the ruling means for the budget, with some ministers arguing that the government should continue disbursing the traditional percentages.

Maria Lorena Lopez, vice minister of public works and transportation, said the National Council of Public Roads has financial obligations for road repair in 2003. She said she would ask the Treasury Ministry to assign the entirety of the legally prescribed percentage to municipalities for the departmental network of roads. The National Mortgage Bank for Housing receives 33% of the money from the Family Assignment Program for housing loans. By law, 3% of the nation's total budget should go to the program, but the 3% was not included in this year budget.

Housing Minister Helio Fallas said that he hoped to keep receiving the required sum and that he would look for other sources of financing to help middle-class people buy their own homes.

Former bank president criticizes decision

Jorge Guardia, former Central Bank president, said the decision "pulled the rug out from under" the legislative assembly, turning it into a secondary player. "The resolution of the CENECOOP's lawsuit gave an abysmal twist to budgetary jurisprudence, freeing the Treasury Ministry from its obligation of disbursing resources to specific destinations," said Guardia. "From now on, the [assembly] deputies will have to stay in the background." Guardia said the ruling cut off assignments to specific programs and made it unnecessary for Congress to pass budget laws.

The ruling also dissipated the sense of urgency created by the commission of former treasury ministers, which had viewed the matter with a sense of crisis. Guardia said he thought the executive branch should not be able to ignore the law "even if it is difficult, mistaken, or the executive branch does not like it." He said ministers had used their resources for other activities when their obligation was to include the percentage-based allotments in their budgets and, if necessary, reduce other programs in their jurisdiction. "The court, instead of boxing the [ministers'] ears for not fulfilling their obligations, as it had done in its previous decisions, gave them free license," he said. "We have seen ministers skimp on money for the PANI while increasing bureaucracy or wasting millions on coarse propaganda to polish their image."

Baruch said the state no longer had enough resources to fulfill its legal obligations, and Congress had approved specific budget allocations without providing the necessary resources. Jose Merino, former deputy of the opposition Partido Fuerza Democratica (PFD), pointed out that taxes on the production and consumption of cigarettes and liquor were created specifically to finance social programs related to children and senior citizens. "The Treasury Ministry collects the tax but doesn't disburse the full payment," he said. Merino said taxes earmarked for specific programs should be carefully evaluated, but it is unjust to eliminate them all "with one sweep of the hand." "Many of these taxes are democratic responses of the Legislative Assembly to the failure of the executive branch to respond to the needs of certain social sectors," he said.

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