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## FEATURED Q&A

# Can Guatemala's Judicial Election Avoid Corruption?



Nominating commissions will select justices for the country's Supreme Court, pictured above, and appeals courts. // File Photo: Guatemalan Government.

**Q** Elections will be held on Oct. 12 in Guatemala for Supreme Court justices and for judges on the country's appeals courts. Nominating commissions that are made up of judges, lawyers and law school deans are to select candidates that are then sent to Congress for approval. In the past, the process has reportedly been tainted by corruption, including the creation of fake law schools established for the sole purpose of securing the right to play a role in the selection of judges. How clean will next month's judicial elections be? What safeguards are in place to guard against corruption? Will the process have sufficient monitoring after the Sept. 3 departure of the U.N.-backed International Commission Against Impunity in Guatemala, or CICIG?

**A** **Édgar Gutiérrez, former Guatemalan foreign minister:** "The Guatemalan Constitution in 1985 created the nominating commissions for magistrates as a new filter that, in theory, would be independent. Its purpose was for Congress to elect candidates previously qualified as suitable. These commissions are composed of academics from the country's universities, certified lawyers and magistrates of the Supreme Court and the appeals courts that exercise cross-control. Currently, the two commissions—the Supreme Court and the appeals court—are working on selecting judges among the hundreds of candidates who sent in their files. In October, the commissions are to send listings to Congress, although there is controversy over whether the task should be the responsibility of the current or the next legislature. As

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## TODAY'S NEWS

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## Power Grid Failure Causes Blackouts in Four Central American Nations

Millions of people in Honduras, El Salvador, Guatemala and Nicaragua were without power for several hours following an overload at a power substation.

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### BUSINESS

## SoftBank Leads Madeira Madeira Financing Round

Japan-based SoftBank led a \$110 million financing round for the Brazilian online home goods marketplace. Flybridge Capital and Light Street Capital also participated in the round.

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### POLITICAL

## Spain Frees Ex-Venezuelan General Wanted on U.S. Drug Charges

Spain's National Court ordered the release of Hugo Carvajal, a former leader of Venezuela's military intelligence directorate, denying a U.S. request to extradite him.

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Carvajal // File Photo: Hugo Carvajal via Creative Commons.

## POLITICAL NEWS

## Spain Frees Former Venezuelan General Wanted by U.S.

Spain's National Court ordered Hugo Carvajal, a former general also known as "El Pollo" who led Venezuela's military intelligence directorate, be released from jail on Monday, rejecting an extradition request from the United States on drug trafficking charges, El País reported.

**The United States is reportedly planning to appeal the decision.**

Carvajal, whom Spanish authorities arrested in April in Madrid on a U.S. federal indictment, had fled Venezuela on a fake passport after he publicly broke ties with Venezuelan President Nicolás Maduro, according to authorities. "I am innocent," Carvajal told reporters after being released on Monday, The Wall Street Journal reported. "I'm happy with the way things happened," he added. A source close to the case told The Wall Street Journal that the United States planned to appeal the decision.

Carvajal's case has been seen as an important indicator in relation to opposition leader Juan Guaidó's bid this year to convince Venezuela's military to turn on the Maduro government, promising amnesty for those who support him and the transition to democracy, according to the report. "Carvajal appeared to have fulfilled the criteria for individual amnesties that Guaidó and the U.S. talked about," Phil Gunson, a Caracas-based analyst for International Crisis Group, told The Wall Street Journal. "There was concern that if he had been extradited and prosecuted, that would have discouraged other people to go the same route," he added. Carvajal was one of former Venezuelan President Hugo Chávez's closest aides, serving as his head of military intelligence from 2004 to 2011.

## BUSINESS NEWS

## SoftBank Leads Financing Round for MadeiraMadeira

Japan-based SoftBank Group has led a new round of financing, worth \$110 million in total, for Brazilian online home goods marketplace MadeiraMadeira, Reuters reported today. SoftBank used its \$5 billion Latin America fund,

## NEWS BRIEFS

## Information on Potentially Every Ecuadorean Leaked in Massive Data Breach

In an unprecedented national data breach, the information of potentially the entire population of Ecuador has been leaked online, Internet security firm vpnMentor revealed on Monday, CNN reported. During a routine project, the digital security company found that information about more than 20 million people, including an estimated 7 million minors, was exposed in the leak. Ecuador's population totals about 16.5 million people, which means the additional several million may have included the information of deceased individuals, according to the country's state attorney general's office. It is unclear precisely how many Ecuadoreans have been affected.

## Power Grid Failure Causes Blackouts in Four Central American Countries

A failure in Central America's electric grid left millions of people across four countries without electricity for several hours on Monday, the Associated Press reported. The entire territory of Honduras was affected, with an official at the country's state electric company saying an overload at a substation on the Caribbean coast caused the blackout. Residents of El Salvador, Guatemala and Nicaragua also experienced partial outages.

## Colombia's Government Sets Renewable Quota on Power Distributors

Power firms operating in Colombia's wholesale energy market must have at least 10 percent of the electricity they distribute come from renewable sources, according to a resolution published on the Ministry of Energy and Mines' website, PV Magazine reported Monday. The obligation will be applied annually starting in 2022.

## FEATURED Q&amp;A / Continued from page 1

is known, the weak link in the rule of law is the courts' compositions, since they are a result of dark negotiations between political mafias, professionals and businessmen. Obviously, controlling the courts guarantees impunity. Civil society's battle is to contribute to the formation of an independent judicial power. But pessimism reigns, because these five-year elections occur in a context of state capture. After the powerful impact of the work of CICIG (which President Jimmy Morales canceled this month) led untouchable networks to court, the 'corrupt pact' (which dominates the current Congress) has undertaken desperate efforts to co-opt

the commissions. But I am not so pessimistic. The moderated groups this time are a relative majority in the commissions and can nominate a good number of suitable candidates."



**Ursula Indacochea, director of the Judicial Independence Program at the Due Process of Law Foundation (DPLF):**

"Unfortunately, the situation looks the same or worse than in 2014. Although many international human rights organizations issued recommendations to introduce safeguards that prevent undue influences and corruption

**Continued on page 4**

which was established in March, for the financing. Since then, SoftBank has used the fund for investments in various sectors, including banking, real estate and delivery services, the wire service reported. Flybridge Capital, which has existing investments in MadeiraMadeira, and Light Street Capital also participated in the Brazilian company's latest financing round. MadeiraMadeira said it will use the new financing to invest in customer services, technology and logistics. By selling furniture



Scandian // File Photo: LinkedIn.

without maintaining an inventory, MadeiraMadeira aims to keep capital costs to a minimum. The company's customers order from its online site, but the orders go directly to furniture manufacturers, which fulfill the purchases. The company's chief executive and co-founder, Daniel Scandian, told Reuters that the company wants to concentrate its investments in Brazil but also plans to expand to other countries in Latin America. MadeiraMadeira previously raised \$38.8 million in three previous rounds of financing.

## ECONOMIC NEWS

### Argentina Offers Subsidy to Oil Firms to Offset Price Freeze

The Argentine government will offer oil companies and oil-producing provinces a subsidy to help offset the consequences of a government-imposed fuel price freeze, according to an official bulletin published Monday, local financial newspaper *Ámbito* reported. The subsidy of 116.10 pesos, or about \$2.06 on Monday morning, applies to

## THE DIALOGUE CONTINUES

### Can Latin American Producers Contain the Banana Fungus?

**Q** **A fungus known as Panama TR4 disease, which has devastated banana plantations in southeast Asia for the past three decades, has reached Latin America, where two-thirds of the global banana trade originates. The arrival of the fungus, which does not affect humans but causes infected plants to stop producing fruit, has raised alarm in Ecuador and Colombia, as well as in Central America. How big of a threat is the disease to Latin America's banana production, and how can its spread be contained? What measures are being taken to prepare for the potential expansion of the fungus' reach, and how can farmers and exporters protect themselves? Which countries' economies would be most affected, and what implications could it have for the global banana trade?**

**A** **Emerson Aguirre Medina, president of the Banana Producers Association of Colombia (Augura):** "On Augura's part, we remain committed to the control and prevention of the spread of the Tropical Race 4 Fusarium (TR4) fungus identified in La Guajira. President Duque's recent announcement of the agreement that will be signed between the Colombian Agricultural Institute (ICA) and the unions is good news. Augura signed

a deal for more than 4.5 billion pesos, of which the union will contribute about 1.37 billion pesos. Undoubtedly, resources are needed to monitor, isolate and prevent the spread of the fungus to other countries in the region. Augura has called on the banana sector to continue working on monitoring and isolating the fungus. We reiterate that the disease is a fungus that attacks the plant, and not the fruit. Therefore, its consumption does not present a risk to people's health or to exports. Colombia ranks fifth in exports in the world. Other countries have been living with the fungus for some years and continue to export with quality and economic growth. The union, through its Banana Research Center (CENIBANANO), has trained the entire banana sector—that is, more than 22,600 people in 741 banana farms in Urabá and Magdalena. Likewise, Augura, together with ICA, performs monitoring and follow-up of the nearly 37,000 hectares that Augura members represent. It is everyone's responsibility to avoid the spread to other areas of the country."

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**EDITOR'S NOTE: The comment above is a continuation of the Q&A published in the Sept. 6 issue of the Advisor.**

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each barrel of oil delivered to the market in September, the government said. Additionally, it will offer some 2.017 pesos per ton to biofuel producers. Last month, President Mauricio Macri's administration announced a series of measures aimed at alleviating the country's economic recession, including fixing fuel prices for 90 days to protect consumers. "To sustain the level of activity and employment and protect the consumer during this exceptional period, it is appropriate to mitigate the impact that the [fuel price freeze] generated in the oil

producing companies as well as in the biofuel producing companies," the Energy Secretariat said in the bulletin. Even with the subsidy, the price per barrel remains below the international price, especially after U.S. Gulf Coast cash crude grades were up on Monday after attacks on Saudi Arabian oil sites over the weekend affected about 5 percent of global oil supplies, the wire service reported. State-controlled oil company YPF had previously said it was facing "unprecedented" challenges amid the fuel price cap and the country's financial crisis.

## FEATURED Q&amp;A / Continued from page 2

in appointments, the rules of the election of the courts remain the same. One of the worst aspects of this election is that some members of the nominating commissions are, at the same time, candidates to be elected to the courts. This situation generates a clear conflict of interest, because it will condition their votes. The composition of the nominating commissions is also questionable, because the presence of deans from universities that were created only to have a place and a vote in this election affects the total number of commissioners and can even compromise the validity of the election. Additionally, the process has been carried out in a hurried way, apparently to ensure that it is this Congress that determines who is elected to the courts. The clearest evidence is the elimination of the interview stage. No candidate will be interviewed by the nominating commissions, which will directly affect the ability of the citizens to monitor the process and control the applicants' qualifications. This is a formula that authoritarian governments in Latin America know well and use: before leaving power, they place loyal individuals on the courts, to guarantee impunity. We really hope this is not the case, but to date, we see elements that go in that direction."

**A** **Édgar Villanueva, executive director of the U.S.-Guatemala Business Council:** "The U.S.-Guatemala Business Council (USG-BC) believes that respect for the rule of law is paramount to foster a more prosperous, just and secure Guatemala. Therefore, the election of magistrates to the Supreme Court and the appeals courts is of great importance. This is why several groups, including the private sector, have been monitoring the process and stressing its challenges, shortcomings and impor-

tance not only for Guatemala, but also for the United States. Hence, the USG-BC has addressed this issue in meetings with policymakers in Washington, and we have insisted that attention to this election is critical to achieve the bilateral relationship's shared objectives. The members of the USG-BC have experienced the impact that courts

“**The election is an opportunity to come together and generate the tools and reforms needed to strengthen our justice system...**”

— **Édgar Villanueva**

can have on investment, on Guatemala's economic growth and on the possibility of job creation. Therefore, since the process of electing magistrates to the Supreme Court and appeals courts will be taking place in a similar setting as past elections and with the same challenges, the USG-BC strongly believes that the nominating commission must work free from external pressures. Additionally, it should prioritize selecting independent magistrates who abide by the rule of law and understand how important their job is for creating an environment that is conducive to greater prosperity for all. Also, we believe that the election is an opportunity to come together and generate the tools and reforms needed to strengthen our justice system to achieve fair, professional and accountable judges and magistrates. This will contribute to a better Guatemala."

*The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at [gkuleta@thedialogue.org](mailto:gkuleta@thedialogue.org).*

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