

Timeline of events related to the rulings of the Constitutional Chamber of El Salvador on the constitutionality of the appointment of judges in 2006 and 2012 - and a brief account of prior political pressure on the Constitutional Chamber

2010 and 2011: Attacks on the Constitutional Chamber	
DATE	EVENT
July 29, 2010	<p>The Constitutional Chamber reached a decision on a case brought before it on the country's electoral system. The Court declared the electoral system unconstitutional because it did not allow for independent candidacies or direct votes to be cast for the candidate of the voter's preference. (One voted for the party, not the person.)</p> <p>Before the official notification of the decision (July 30, 2010), the substance of the decision was leaked to the Legislative Assembly. The Assembly gathered in an emergency session that same night (July 29, 2010) and approved a constitutional change that established that one can only run for office through political parties, going directly against what the Constitutional Chamber ordered on independent candidacies.</p>
March 30, 2011	<p>Nine judges of the Supreme Court filed a complaint against 'the four judges' (the judges who were appointed to the Constitutional Chamber in 2009) to the Attorney General's Office, alleging breach of duty and disobedience for hearing a case against the will of the other judges of the Supreme Court.</p> <p>The Attorney General's Office never investigated the case thoroughly, nor archived it.</p>
June 2, 2011	<p>The Legislative Assembly adopted, with waiver of procedures, Decree 743. Among other things, the decree states that constitutional decisions must be made <i>unanimously</i> by the members of the Constitutional Chamber. This requirement does not exist in any other court in the world.</p> <p>President Funes signed the decree that afternoon, and the decree was published in the Official Journal on the same day, in a space that had been reserved for it.</p>
June 7, 2011	<p>The Christian Democratic Party promoted a petition for the removal of the four judges of the Constitutional Chamber in the Legislative Assembly. Other political parties said that they would not support the dismissal, but the case was never archived by the Political Commission of the Legislative Assembly, leaving open the possibility of impeaching the judges.</p>
July 28, 2011	<p>The Legislative Assembly repealed Decree 743, after strong pressure from national and international sectors.</p>

2012: The Unconstitutionality of the Supreme Court Appointments of 2006 and 2012	
DATE	EVENT
June 5, 2012	<p>The Constitutional Chamber of the Supreme Court issued rulings 19-2012 and 23-2012. It declared unconstitutional the appointments of judges (and alternates) to the Supreme Court made in 2012 and in 2006 (Decrees 1070, 1071, 1072, 1073 and 1074 of 2012, and Decree 1041 of 2006), because, according to the Chamber, each Legislature may only elect judges once per period, and the Legislatures that made the appointments in 2006 and 2012 had already done it once (at the beginning of the legislative session). These 'second appointments' (at the end of their term) were thus unconstitutional. It also declared unconstitutional the transfer of the current president to another chamber, and consequently ordered his stay in the Constitutional Chamber until the end of his term of nine years. The Chamber ordered the current Legislature to elect judges and alternates for nine years (for the period which began on July 1, 2012) as well as judges and alternates of the 2006 appointment, to complete the period which expires on June 30, 2015.</p> <p>Moreover, the Constitutional Chamber provided guidance to the Legislative Assembly on how to proceed in future appointments: with complete transparency, providing access to information on the ongoing process to citizens, and gathering documentation that demonstrates the competency of the people it appoints as well as providing a motivation for why certain candidates were appointed.</p>
June 6, 2012	<p>Members of Congress of the FMLN party announced that the Legislative Assembly had two options: implement the decisions of the Chamber, or go to the Central American Court of Justice (CCJ).</p>
June 14, 2012	<p>The Political Committee of the Legislative Assembly issued a favorable opinion to bring the case to the CCJ. The Plenary of the Legislative Assembly adopted this decree with a majority of 50 votes (out of 84). However, the ARENA party requested that the Legislative Assembly abide by the rulings of the Constitutional Chamber.</p> <p>President Funes offered to be a mediator between the Legislative Assembly and the Chamber. However, he stated that he did not object to the Legislative Assembly taking the case to the CCJ.</p>
June 19, 2012	<p>A committee of the Legislative Assembly prepared to travel to Nicaragua to present the case to the CCJ.</p> <p>The NGO CREE (Coalition for Political and Electoral Reform) announced that it would appeal to the CCJ against the Legislative Assembly for refusing to comply with the rulings of the Constitutional Chamber.</p> <p>The Political Committee of the Assembly endorsed an investigation into</p>

	<p>the legality of the appointment of the President of the Supreme Court, Belarmino Jaime, and Judge Rodolfo González - both members of the Constitutional Chamber – thus opening the way for their possible removal by the Assembly.</p>
June 20, 2012	<p>The CCJ received the application submitted by the representatives of the Legislative Assembly of El Salvador. They were accompanied by 33 journalists who were invited by the Assembly and whose expenses were fully paid for by the Legislative Assembly.</p>
June 21, 2012	<p>The CCJ admitted the case submitted by the Assembly, and immediately issued an injunction suspending the effects of the judgments of the Constitutional Chamber.</p> <p>The Assembly adopted the suggestion made by its Political Commission and creates a special commission to investigate the legality of the appointment of the President of the Supreme Court, Belarmino Jaime, and Judge Rodolfo González - both members of the Constitutional Chamber.</p> <p>The human rights organization FESPAD (Foundation for the Study and Application of the Law) published an opinion in favor of the Legislative Assembly abiding by the judgments of the Constitutional Chamber, which also contains an analysis of the decisions of the Chamber on the constitutionality of the appointment of judges of the Supreme Court in 2006 and 2012.</p>
June 25, 2012	<p>The Constitutional Chamber issued resolutions that declared the decision issued on June 21 by the CCJ, which had the effect of suspending the effects of the judgments of the Constitutional Chamber, unconstitutional and therefore inapplicable. The Chamber reiterated its order that the Legislative Assembly give effect to its judgments issued on June 5.</p>
June 27, 2012	<p>Members of the Legislative Assembly called upon the elected judges of the selection process of 2012 to assume their positions as of July 1 and argue that the Constitutional Chamber cannot disobey the CCJ.</p> <p>The Legislative Assembly refused to receive the notification from the Constitutional Court on its resolutions (from June 25) to supersede the decisions made by the CCJ. The Assembly argued that such a decision must be adopted by the Plenary of the Supreme Court and not by the Constitutional Chamber.</p>
June 28, 2012	<p>President Funes spoke publicly on the matter, stating that the decisions of the CCJ must be adhered to.</p> <p>The military announced that it will not intervene in this issue (contrary to</p>

	<p>what some have suggested). It clarified, however, that it receives orders from the executive branch.</p>
June 29, 2012	<p>The Assembly issued Decree 43 of 2012, which was signed by President Funes the same day. The decree took away power from the President of the Supreme Court by authorizing that any judge may convene a plenary meeting of the Supreme Court (and not just the President of the Supreme Court), and that the presence the President of the Supreme Court during such session is not required. This decree was intended to facilitate the inauguration of the judges elected in 2012.</p>
July 1, 2012	<p>With police presence and support of some unions, the judges elected in 2012 took office, ignoring the ruling of the Constitutional Chamber that declared unconstitutional their appointment.</p>
July 2, 2012	<p>Various organizations related to academia and the private sector, united in the Network for Judicial Independence, issued a statement demanding that the Legislative Assembly comply with the judgments of the Constitutional Chamber and stated that they oppose the procedure before the CCJ.</p>
July 3, 2012	<p>The Attorney General opened an investigation against eight members of the Legislative Assembly for contempt of the Constitutional Chamber's judicial decisions.</p> <p>The political party ARENA suggested going to the Organization of American States (OAS) and the United Nations (UN) to find a solution to the conflict between the Assembly and the Constitutional Chamber. Meanwhile, the Human Rights Prosecutor (the Ombudsman) of El Salvador contemplated the possibility of requesting the UN to create a commission to mediate this matter.</p> <p>The CCJ declared inadmissible the lawsuits from the organizations Salvadoran Social Initiative for Democracy (ISD) and the Coalition for Political and Electoral Reform (CREE), against the Legislative Assembly, arguing that the organizations are not part of the process between the Constitutional Chamber and the Legislative Assembly and that it already decided to stay the effects of Constitutional Chamber's rulings.</p> <p>María Silvia Guillén, alternate judge from El Salvador to the Central American Court of Justice, resigned on the grounds that the CCJ erroneously accepted jurisdiction to hear the case by the Legislative Assembly, considering it a dangerous precedent for the region.</p>
July 5, 2012	<p>The Legislative Assembly convened to discuss the judgments of the Constitutional Chamber. There were statements for and against compliance by members of different political parties.</p>

	<p>The organizations Social Initiative for Democracy (ISD) and the Coalition for Political and Electoral Reform (CREE) announced that they will appeal to international bodies like the UN and the OAS to demand that the Legislative Assembly finally comply with the rulings of the Constitutional Chamber that ordered the re-election for the judges originally elected in 2006 and 2012.</p>
July 6, 2012	<p>As part of the dialogue initiated by the political parties, “<i>Comité Agenda País</i>” was created to find a solution to the institutional crisis.</p> <p>The President of the Legislative Assembly made a public statement in which he stated that 'you cannot let four judges decide the fate of the country'. In addition, he referred to the Constitutional Chamber as an arbitrary court that is dependent on the orders of the political party ARENA.</p>
July 8, 2012	<p>The Catholic Church made a statement about the crisis in El Salvador, recommending that the situation be resolved within the country and not before international bodies.</p>
July 9, 2012	<p>The President of the Legislative Assembly reacted negatively on a proposal presented to solve the crisis, in which it was suggested that the Legislative Assembly retract the case presented before the Central American Court of Justice. The President of the Assembly rejected the proposal, because, he stated, recourse was had to the Central American Court precisely in search of justice.</p> <p>The National Judiciary Council (<i>Consejo Nacional de la Judicatura</i>) asserted that if the candidate lists of the 2006 selection process for the Supreme Court were used again, this would violate the Constitution. According to this institution, the candidate lists are now out-of-date, which would constitute an important obstacle to the compliance with the judgments from the Constitutional Chamber.</p>
July 10, 2012	<p>The Constitutional Chamber’s ruling that the selection of the Attorney General in 2012 is unconstitutional deepened the differences between the Chamber and the Legislative Assembly. The political party FMLN claimed that they would not be respecting this decision of the Chamber either.</p> <p>One of the Salvadoran judges of the Central American Court of Justice excused himself from the case brought before the Court by the Salvadoran Legislative Assembly.</p>
July 11, 2012	<p>The President of the Legislative Assembly stated that he would analyze if the Constitutional Chamber’s ruling that the selection of the Attorney</p>

	<p>General in 2012 was unconstitutional, would also be brought before the Central American Court of Justice.</p> <p>The US Ambassador to El Salvador called upon the Legislative Assembly and the Constitutional Chamber to find a way to solve the crisis that would contribute to the strengthening of the Salvadoran democracy and its institutions.</p> <p>The Vice-President of the Central American Court of Justice reiterated that the Court has jurisdiction over the case presented to it by the Legislative Assembly. At the same time, a forum on the role of the Court in the framework of regional communal law was organized in El Salvador. A considerable number of members of the Legislative Assembly assisted the event.</p> <p>Civil society organizations organized a march in support of the Constitution and its institutions, calling for the implementation of the Constitutional Chambers' judgments. A large number of sympathizers of the political party ARENA participated.</p>
<p>July 12, 2012</p>	<p>The US Department of States qualified the crisis in El Salvador as serious, and reiterated that this is an issue that needs to be resolved by the Salvadoran people.</p> <p>The Legislative Assembly refused to receive the notification of the Constitutional Chamber's decision declaring the selection of the Attorney General in 2012 unconstitutional.</p> <p>Spokespeople from the political party FMLN accused the party ARENA of stimulating the organization of marches and social protests in pursuit of the destabilization of the country's institutions. ARENA, in turn, alleged that the intention of members of FMLN is to occupy the Supreme Court of Justice and (illegally) install the next president of the Court.</p>
<p>July 13, 2012</p>	<p>The US Ambassador to El Salvador held meetings with the President of the Constitutional Chamber of the Supreme Court and with the President of the Legislative Assembly. However, she maintained that she is not mediating between these institutions.</p> <p>The Secretary General of the Organization of American States (OAS), José Miguel Insulza, visited El Salvador. He ruled out that the OAS would take any action as regards the institutional crisis in El Salvador, and maintained that this is a Salvadoran domestic issue.</p>
<p>July 14, 2012</p>	<p>Several members of the US Senate Foreign Relations Committee indicated their interest in adopting a common statement on the issues in El Salvador.</p>

	<p>Senators Richard Lugar (R-IN) and Marco Rubio (R-FL), members of the Committee were said to be compiling information.</p> <p>Members of unions of judicial employees came together at the Supreme Court to support mr. Ovidio Bonilla in taking possession of his envisaged position as the new President of the Salvadoran Supreme Court.</p>
July 15, 2012	<p>The union members remained their presence outside the Supreme Court of Justice.</p> <p>It was considered that the dialogue between the political parties that was initiated last week in order to solve the institutional crisis in the country, has failed.</p> <p>Salvadoran President Funes considered that the only way out of the crisis is political. He reiterated that the decision of the Central American Court of Justice needs to be followed.</p>
July 16, 2012	<p>Florentín Meléndez, First Vice President of the Supreme Court under Belarmino Jaime, took office as the President of the Supreme Court. Since the mandate of Belarmino Jaime as President of the Supreme Court was not renewed and no new president has been appointed legally, it is argued, the presidency of the Supreme Court automatically corresponds to the First Vice President.</p> <p>Nevertheless, Mr. Ovidio Bonilla also took office as President of the Supreme Court. The group of union members that accompanied him, brought a locksmith to open the doors to the Plenary Room, in order for the first meeting of the Plenary with Bonilla as President, could take place.</p> <p>Belarmino Jaime, former President of the Supreme Court, who continues as a judge on the Court, asserted that he will not assist any Plenary meetings until the judicial decisions of the Constitutional Chamber are implemented.</p>
July 17, 2012	<p>Senators Robert Menendez (D-NJ) and Marco Rubio (R-FL) issued a press release expressing deep concern about the ongoing institutional crisis in El Salvador, and urge the Obama Administration to engage at the highest levels of the Salvadoran government to gain a quick resolution to this crisis. The senators suggested that if concrete measures to restore the Salvadoran constitutional and institutional order are not implemented quickly, the US suspend any considerations of a second Millennium Challenge Corporation compact, immediately terminate any US technical assistance in the framework of the Partnership for Growth, and review and deny applications for visa by Salvadoran individuals engaged in or facilitating the ongoing unconstitutional order.</p>

<p>July 18, 2012</p>	<p>Two chambers of the Supreme Court of El Salvador begin a dispute, the first of its kind since the crisis began. The Constitutional Chamber sent a habeas corpus case to the Administrative Chamber, because it considered the matter to be of the latter chamber's competence. However, the latter rejected this referral by the Constitutional Chamber, stating that its members considered that the Constitutional Chamber has disintegrated.</p> <p>Some lower-ranking judges began to make public statements in which they claim not to recognize Ovidio Bonilla as the President of the Supreme Court because his appointment was illegal. In addition, the Association of Magistrates and Judges of El Salvador announced that its board is considering whether or not to recognize Ovidio Bonilla as President of the Supreme Court.</p>
<p>July 19, 2012</p>	<p>The United States Ambassador to El Salvador, Mari Carmen Aponte, said that the President of the United States, Barack Obama, will evaluate the economic aid that El Salvador receives. The Ambassador stated that the July 17, 2012, press release from U.S. Senators Menendez and Rubio is of great importance to the U.S. government.</p> <p>The FMLN political party spokesperson said that the President, Mauricio Funes, supports the new President of the Supreme Court, Ovidio Bonilla. President Funes supported the legitimacy of the judges elected in 2012 on his radio program, asserting that the same legislature may choose judges twice. In the same program he dismissed the decision handed down by the Constitutional Chamber, stating that it is "flawed."</p> <p>The National Association of Private Enterprise (ANEP) announced that it withdrew itself from the Social Economic Committee (CES) of El Salvador (created by the President to encourage economic development), because it believed that the CES is led by a "coup regime with political interests."</p>
<p>July 20, 2012</p>	<p>The Attorney General's Office requested that "the Courts" work "in parallel," that is, that the judges whose appointments have been declared illegal refrain from signing court orders. In this regard, the Attorney General considered that such events could constitute crimes because the judges are working illegally.</p> <p>The President of the Legislative Assembly, Sigfrido Reyes, traveled to Managua for the commemoration of the anniversary of the Sandinista revolution. However, it is alleged that Reyes also met with judges of the Central American Court of Justice. At the same time, it was announced that the probationary period, a term of ten days, was opened for the lawsuit filed by the Legislative Assembly in the CCJ.</p>
<p>July 23, 2012</p>	<p>The editors of several Salvadorian newspapers criticized the position taken</p>

by President Funes, claiming that while he states that he is not taking sides in the controversy, he is nonetheless supporting the decisions of the Central American Court of Justice. They also criticized the inaction of the Executive with respect to the unconscionable occupation of the Supreme Court by unions on July 16th.

President Funes called upon political party representatives to open a new dialogue in order to solve the institutional crisis.

The Assembly Commission set-up to investigate the legality of the 2009 election of judges concluded that several rules were violated, which would lead to the 2009 election decree being declared illegal. (This would affect the appointment of the four judges currently serving on the Constitutional Chamber, and one judge in the Civil Chamber.) In particular, the Assembly notes that the 2009 election was made in spite of the judicial ruling by the Constitutional Chamber that ordered that the National Judicial Council fill the vacancies on the list of candidates for the Supreme Court with names of judges.

President Funes announced that he will send delegates to Washington to defend his government, and to disprove the allegations that have accused his government as a "coup." Foreign Minister Hugo Martínez led the delegation.

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