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FEATURED Q&A

Are Colombia's Courts Capable of Keeping the Peace?



Colombia's Supreme Court last week freed former FARC rebel leader Seuxis Hernández, also known as Jesús Santrich, who is wanted on cocaine trafficking charges in the United States. // File Photo: Colombian Government.

Q Colombia's Supreme Court on May 29 freed former Colombian rebel leader Seuxis Hernández, also known as Jesús Santrich, from prison on the grounds that he is protected by parliamentary immunity as a member of Colombia's Congress. The ruling followed Hernández's rearrest on new evidence after he was freed by the Special Jurisdiction for Peace, a court established by Colombia's 2016 peace accords with the FARC rebels. The decision by the special court, known by its initials JEP, to release Hernández led the country's attorney general and his deputy to resign in protest. What does the magistrates' decision to free Hernández say about the JEP court? What are the implications of Hernández's release by the Supreme Court, and how will the case affect relations with the United States, where Hernández is wanted on cocaine trafficking charges?

A Gimena Sánchez-Garzoli, director for the Andes at the Washington Office on Latin America: "The recent judicial saga whereby different judicial bodies arrested, then released, then rearrested and then rereleased former FARC rebel Jesús Santrich hits at issues that go to the heart of the political polarization that exists between the pro-peace and anti-peace camps in Colombia. For the anti-peace camp, the allegations against Santrich are proof that the FARC used peace as a cover to continue with and get away with crimes. For the pro-peace camp, these allegations and actions of the attorney general are viewed as an effort to sabotage peace. There is strong disagreement between the judicial bodies as to the merits of the allegations. It has

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TODAY'S NEWS

ECONOMIC

U.S. Tightens Restrictions on Travel to Cuba

The Trump administration tightened restrictions on Americans' travel to Cuba, banning cruise ships from going to the island and also prohibiting "people-to-people" visits.

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POLITICAL

Mexico Detaining More Migrants Amid Pressure From U.S.: Report

Mexico is reportedly detaining a greater number of migrants amid pressure from the White House. In May, Mexican authorities apprehended approximately 23,600 unauthorized migrants.

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ECONOMIC

Brazilian Banks' Profits 'Excessive': Economy Minister

Brazilian banks are accumulating "excessive" profits, and there should be more competition in the sector, said Economy Minister Paulo Guedes.

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Guedes // File Photo: Brazilian Government.

ECONOMIC NEWS

U.S. Tightens Restrictions on Travel to Cuba

The administration of U.S. President Donald Trump on Tuesday tightened restrictions on Americans' travel to Cuba, banning cruises, private yachts and fishing vessels from stopping in Cuba, The New York Times reported. The new restrictions, which take effect today, also ban "people-to-people" trips to the communist island unless they were booked before today. The new measures prohibit the most common way Americans have traveled to Cuba since 2016, when then-President Barack Obama opened relations with the Caribbean nation. In the first four months of this year, 142,721 Americans traveled to Cuba on cruise ships, as compared to the 114,832 who went there by plane, The New York Times reported. The figures do not include Cuban-Americans who traveled to Cuba to visit family members. The new rules also ban private flights from the United States to Cuba, but they do not ban

commercial flights to the island, The Wall Street Journal reported. "Cuba continues to play a destabilizing role in the Western Hemisphere, providing a communist foothold in the region and propping up U.S. adversaries in places like Venezuela and Nicaragua by fomenting instability, undermining the rule of law and suppressing democratic processes,"

Cuba continues to play a destabilizing role in the Western Hemisphere..."

— Steven Mnuchin

Treasury Secretary Steven Mnuchin said in a statement, The New York Times reported. In a tweet, Cuban Foreign Minister Bruno Rodríguez condemned the Trump administration's move. "I strongly reject new sanctions announced by #US vs. #Cuba which further restrict #US citizens' travels to Cuba, aimed at suffocating the economy & harming the living standards of Cubans in order to forcefully obtain political concessions," he said. [Editor's note: See [Q&A](#) on Cuba's economy in the May 23 issue of the Advisor.]

NEWS BRIEFS

New Tariffs on Mexican Goods 'Likely' to Take Effect Next Week: Trump

Tariffs on all Mexican goods coming into the United States will "likely" go into effect on June 10 despite high-level meetings among both countries' officials in Washington this week, U.S. President Donald Trump said Tuesday, Politico reported. "We will probably be talking during the time that the tariffs are on," he added. Mexican Foreign Minister Marcelo Ebrard is scheduled to meet with Secretary of State Mike Pompeo today in an effort to persuade the U.S. administration to scrap its plans to impose a 5 percent tariff on all Mexican imports.

Venezuela's Oil Exports Continue to Fall in May

Venezuelan state oil company PDVSA's exports dropped again in May following a deadline for customers to drive down purchases in order to comply with U.S. sanctions against the firm, Reuters reported Tuesday. Oil exports were down 17 percent last month, as compared to the previous month, to 874,5000 barrels per day, in large part due to difficulty in finding new customers for upgraded crude that used to go to U.S. refiners, according to documents from PDVSA and Refinitiv Eikon data.

Argentina's Supreme Court Upholds Glacier Protection Law

Argentina's Supreme Court on Tuesday upheld the country's law to protect glaciers, ruling against Barrick Gold Corp., which had challenged the law, the Associated Press reported. The Canadian gold miner had argued that the 2010 law, which broadly defines glaciers, might affect its projects in some areas. However, the court ruled that Barrick had not proven that the law caused the company any damages. The company operates the Pascua-Lama mine and Veladero mine in Argentina.

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become a rallying cry for both those who wish to dismantle the peace's transitional justice mechanism and those who defend the peace and its transitional system. It is difficult to know the validity of the evidence when the U.S. Department of Justice refuses to provide it, a position U.S. Ambassador Kevin Whitaker has staunchly defended in the press. The United States has invested a lot to strengthen Colombia's judicial system to help the country achieve peace. While imperfect, the peace has demobilized thousands of fighters, decreased violence and given hope to millions who seek to heal from the conflict. Insisting on extradition, whether the merits are there or not, undermines Colombia's judicial system. Extraditing a player in the peace process without extremely clear evidence that they committed the crimes

they are accused of will destabilize the peace."

A **Maria Velez de Berliner, managing director at RTG-Red Team Group, Inc.:** "The Special Jurisdiction for Peace (JEP)'s initial freeing of Hernández confirmed a majority of Colombians' belief: that the JEP is a sellout to FARC high court and was created to exonerate demobilized FARC leaders, reinserted militias and sundry criminals. The FARC's 2016 agreement with the Colombian government enshrined the JEP into Colombia's Constitution. Therefore, the JEP can be amended or voided only through a constitutional convention whose convening appears doubtful. The Supreme Court's subsequent freeing of Hernández, claiming he has

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Brazilian Banks Seeing ‘Excessive’ Profits: Guedes

Brazilian banks are accumulating “excessive” profits, Economy Minister Paulo Guedes said Tuesday as he called for more competition in the country to end what he called the cartels that dominate many of its major sectors, Reuters reported. In testimony to the lower house Finance and Taxation Committee, Guedes said a lack of competition in sectors such as banking, oil and postal services were holding back Brazil’s economic growth potential. “Banks’ profits are huge, they are really excessive,” he said. “And you know why? There are five, six [banks],” he added, *Folha de S.Paulo* reported. “We need competition, competition is good.” Brazil’s top five banks hold 82 percent of total banking assets, according to Brazil’s central bank, citing figures from the Bank for International Settlements. That is a higher level of concentration than all other major emerging countries, including India, China, South Korea, Mexico and Singapore, Reuters reported. Guedes also said he wants to accelerate the banking privatization process. However, he added that President Jair Bolsonaro doesn’t share his desire for aggressive privatization, though he told lawmakers that the president is beginning to agree with him more, the wire service reported. [Editor’s note: See related [Q&A](#) in the April 25-May 8 issue of the Financial Services Advisor.]

POLITICAL NEWS

Mexico Detaining More Migrants Amid U.S. Pressure: Report

Mexico is detaining more migrants amid pressure from the Trump administration to significantly curb the number of people crossing the U.S.-Mexico border to enter the United States, *The Washington Post* reported Tuesday.

THE DIALOGUE CONTINUES

Has Trump Gone Too Far With New Tariffs on Mexico?

Q U.S. President Donald Trump announced last week that he would impose new tariffs that could rise as high as 25 percent on all of Mexico’s exports to the United States unless Mexico “substantially stops” the flow of migrants coming to the United States. What effect will the tariffs have on the economies of both countries, and how has the private sector reacted? Will the duties, which Trump announced less than two weeks after the United States reached a deal with Mexico and Canada to eliminate steel and aluminum tariffs, derail the pending ratification of the USMCA trade accord? What other developments could affect the USMCA’s ratification? Will the USMCA be ratified during Trump’s current term in office?

A Nicolás Mariscal, member of the Advisor board and chairman of Grupo Marhnos in Mexico City: “The mere announcement by President Donald Trump of new tariffs on all Mexican exports to the United States, beginning June 10, has already had an impact on both economies by affecting the exchange rate. If the plan comes into effect, the tariffs will be paid not only by Mexican exporters, but also by families in both countries, without addressing the immigra-

tion problems at the border. Any obstacle to trade across the U.S.-Mexico border will have a cascading effect on employment, investment and growth in both countries. Last year, imported goods to the United States from Mexico amounted to \$346.5 billion. A 5 percent tariff would result in a potential tax increase on American businesses and consumers of \$17 billion. In case the tariffs reach the ceiling of 25 percent, that number could increase to \$86 billion. The announcement came on the day the United States-Mexico-Canada Agreement (USMCA) was submitted to Congress, and it should not be perceived as a coincidence. The threats could definitely harm the process to approve the USMCA. Even if one of the signatories withdraws from the existing North American Free Trade Agreement, Mexican exporters would face an average tariff of less than 5 percent, which is where Trump’s threat begins. A worse scenario would likely oblige Mexico to reconsider the passing of USMCA or delay it until the situation is resolved. The possibility of a trade war no longer seems far-fetched.”

EDITOR’S NOTE: The comment above is a continuation of the [Q&A](#) published in the Monday’s issue of the Advisor.

Mexican authorities apprehended approximately 23,600 unauthorized migrants last month, more than double the number detained in the same month last year, according to Mexico’s migration agency. It is also an increase from the 20,500 migrants detained in April and the 12,700 apprehended in March. So far this year, Mexico has stopped more than 75,000 migrants, mostly coming from Guatemala, Honduras and El Salvador, up from 54,000 in the same period last year. Mexican President

Andrés Manuel López Obrador had initially cut back on deportations and apprehensions, instead focusing on the root causes of migration, such as poverty and lack of development. However, tension with the United States has built up since then, with U.S. President Donald Trump declaring a national emergency at the U.S.-Mexico border in February. Last week, Trump said he would impose new tariffs on all Mexican goods if Mexico does not do more to stop migrants from entering the United States.

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parliamentary immunity, was expected; this court enjoys the same derision and distrust that the JEP has. Both courts' decisions mean Colombia lacks a judicial system that most Colombians can trust and rely upon. The country has a judicial system that both courts and the FARC have turned into a laughing stock. Consequently, a majority of Colombians are looking to the United States as the judge of last resort. They hope the Drug Enforcement Administration (DEA) covertly whisks Hernández out of Colombia to be tried in the United States. That is unless, true to Colombia's violent history, Hernández comes across an accidental 'loose bullet,' as has happened to more than 500 civic leaders and 187 demobilized FARC members assassinated in Colombia since December 2016. Other than any covert action by the DEA to extract Hernández from Colombia to justice in the United States, it remains to be seen what the United States will tangibly do, except for public statements of disapproval and the threatened decertification of Colombia for its failure to 'stem the flow of drugs into the United States.' What remains unchanged is that both decisions to free Hernández have dealt a mortal blow to the scant confidence that few Colombians had in their judicial system. Justifiably so."

A César Caballero, manager at Cifras & Conceptos in Bogotá: "The Supreme Court's decision is another example of the real division of power that exists in Colombia. It does not mean that Jesús Santrich will be declared innocent or guilty, but rather that the authority to which he must answer is the Supreme Court. At this moment, three different high-level courts have ruled in favor of him: the Consejo de Estado, which granted his congressional immunity; the JEP, which rejected his extradition; and now the Supreme Court, whose ruling set him free. One important aspect of this legal debate is the way in which the probes against Santrich were conducted. Some argue that there were no legal grounds. However, the attorney general's office has presented new evidence to support its case against the former guerrilla leader. For the Colombia-U.S. relationship, it is clear that his case is at the top of the U.S. agenda, so there will be a continuous effort to send him to United States. That, if it occurs, will not happen in the short term but could take the rest of this year."

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