

# MESOAMERICA

Volume 25, Number 11, November 2006

---



## GUATEMALA

### **Bancafé Intervened**

On 20 Oct, Guatemala's Monetary Board (MB) suspended operations of the country's fourth-largest bank, Bancafé, due to irregularities. The action has affected more than a million account holders and has brought to light political corruption, political scandals and conspiracy theories.

According to the MB, Bancafé started having problems a year ago, when Refco, a US brokerage firm in which Bancafé had invested \$204 million, went bankrupt. The MB said that it closed Bancafé's doors because of its failure to complete a regularization plan that the MB gave them in Sep. The irregularities included illegally investing more than 15% of its assets (which in Aug topped \$1 billion) into its off-shore affiliate, Bancafé International; authorizing an overdraft of \$5.5 million to Valores e Inversiones del País, S.A. (VIPASA), a business belonging to major Bancafé shareholders; and extending a \$3.9 million non-secured loan to shareholder José Fernández who invested that amount into VIPASA. The Supreme Court denied a motion by Bancafé shareholders to reverse the closure.

The Deposit Insurance Fund (DIF) guarantees Guatemalan bank accounts up to about \$2,630 each. However, three other banks, Banrural, Reformador and Agromercantil have assumed responsibility for Bancafé accounts and in turn will receive funds from the DIF and from the liquidation of Bancafé. After a week of repeated delays, account holders were able to access their funds, but not without obstacles. They were required to go to the office where they had originally opened their accounts and were limited to withdrawals of about \$660 at a time. Account holders began lining up at 4:00 a.m. on 27 Oct, and some waited in line for 12 hours before they reached a teller.

Those who have accounts in Bancafé International have not been able to access their funds because that bank's headquarters is located in Barbados, and its accounts are not protected by the DIF. However, because it is part of Bancafé's financial group, Bancafé International also was intervened. On 30 Oct, hundreds of depositors staged protests in front of Bancafé International offices in Guatemala, demanding their money. What will happen to off-shore accounts remains to be seen.

The case of Bancafé is not straightforward. *Inforpress Centro America* has reported that the MB has been aware of irregularities in Bancafé for a year, and that the timing of the closure may have had political motives. According to the journal, the MB had been waiting for an appropriate buyer for the

bank, but local banks successfully blocked transnational bidders to avoid competition, so the MB was finally pressed to intervene. The National Credit Mortgage Bank invested \$32.9 million into Bancafé last year, a loan of unprecedented size to a private bank, and a move that critics say kept Bancafé afloat throughout the past year. *Inforpress* also identified alliances between members of the MB, the Superintendent of Banks and Guatemalan President Oscar Berger, and reported that Berger met with major media representatives and asked them to downplay the political implications of the case.

So far, the individual who has taken the greatest fall in the Bancafé upheaval is Eduardo González, Bancafé's largest shareholder and a member of Berger's political party, the Grand National Alliance (GANA). The Public Ministry on 31 Oct initiated legal proceedings against González and 16 other representatives of Bancafé and its associates, Bancafé International, VIPASA and VIPASA International. Those under investigation could face 5 to 10 years in prison for intermediary financial crimes and are under orders not to leave the country. González, until recently, was the leading GANA choice for the presidential primaries (Berger is not eligible for re-election). On 5 Nov, González resigned from his candidacy, saying that his priority right now is to do "everything humanly possible" to see that off-shore account holders recover their money.

Guatemala will be paying for the Bancafé crisis for the next 26 years, which is the term of a \$75 million World Bank loan that will bolster DIF to cover Bancafé accounts. In the short-term, an estimated 63,000 workers, mostly in the factory sector, will see delays getting their paychecks, which are drawn on Bancafé accounts.

### **Reparations to Civil War Victims Stalled**

The National Reparations Program (NRP), which came to life out of recommendations by the UN Truth Commission, has distributed more than \$2 million to civil-war survivors since Dec '05, but a recent study by the Human Rights Attorney's office (PDH) estimates that only a fraction of victims have been compensated. The closure of Bancafé has brought to a halt the already crawling bureaucracy due to the fact that much of the organization's resources were invested in that bank.

In their '99 report, the UN Truth Commission, also known as the Historical Clarification Commission (CEH), identified 42,275 named victims of Guatemala's 36-year civil war, which ended in '96. Of those victims, 83% were Mayans. The report urged the government not only to provide economic reparations to victims and their families, but also to provide measures to restore land to the families, to provide psychological rehabilitation and to restore dignity through moral or symbolic acts.

Although the Truth Commission emphasized that the national reparations program should be created through a legislative process, the NRP was instead formed in '03 by a government decree. Retired Gen. José Efraín Ríos-Montt, who ruled Guatemala during '82-'83 and who is wanted by the National Court of Spain for war crimes, was president of Congress when the NRP was formed. He negotiated the program's development with the Multi-Institutional Commission for Peace and Harmony, and the word "genocide" and specific mention of sexual violence were omitted from the final agreement. Ríos-Montt approved funding for the program, but refused to give the NRP autonomy from the government, an agreement the commission sought in order to avoid corruption.

On 21 Sep this year, the Congressional Peace and Mine-Clearing Commission initiated a bill to recreate the NRP as an autonomous agency. This comes as critics cite the inefficiency of the current body. A study released in late Oct by the PDH showed that 10,145 people have presented claims to the organization but only 623 survivors, about 7.5% of the total number of victims, have received

compensation. Survivors must navigate a range of paperwork, procedures and changing criteria in order to file their claims.

Rosalina Tuyac, president of the National Reparations Commission (NRC), which carries out the work of the NRP, said that she has reservations about the Peace Commission's proposal, and that she worries that instead of moving the process forward more quickly, it could cause further delays.

According to Tuyac, since Oct '04, the NRC has deposited \$11.8 million in Bancafé, which was recently shut down by the Monetary Board, but the bank assured the NRC that the funds were guaranteed. The NRP's reparation payments are on hold indefinitely until its funds can be transferred to a new financial institution, and employees salaries will be affected as well.

### **Rios-Montt Extradition Blocked; Others to be Prosecuted**

On 6 Nov, the Guatemalan Fifth Tribunal announced its decision to deny a Spanish judge's 7 July order for the international capture and extradition of former Guatemalan dictator Rios-Montt. The court agreed to carry out the orders for six other former military and police officials. All are charged with responsibility for the burning the Spanish Embassy in Guatemala City on 31 Jan '80, in which 37 people died (Vol. 25, No. 7).

The decision follows two events that occurred on 27 Oct. The European Parliament passed a resolution in support of the Spanish judge's orders and urged Guatemala to arrest and extradite Rios Montt, former Gen. Oscar Mejía, former Defense Minister Angel Guevara, former army official Benedicto Lucas García, former National Police Director Germán Chipina, former Governance Minister Donaldo Alvarez and former Police Chief Pedro García. The late Romeo Lucas García, who was president from '78-'82, was included in the original order, as well.

Meanwhile, in Guatemala, nearly four months after the extradition orders were issued, the Ministry of Foreign Relations sent the matter to the Supreme Court. On 31 Oct, however, Supreme Court President Eliú Higueros announced that the arrest warrant had to be reviewed by another legal body, the Fifth Tribunal.

The Fifth Tribunal judges decided that the Spanish investigation did not contain enough information to implicate Rios-Montt or the deceased ex-president Lucas García. The Fifth Tribunal charged the other defendants with terrorism, homicide and kidnapping, although the Spanish capture order also included the crime of genocide, noting that most of the massacres that occurred during the civil war took place under Rios-Montt's leadership.

### **Mexico Agrees to Extradite Ex-President Portillo**

Mexico's Secretariat of Foreign Relations has finally set in motion Guatemala's '05 request for the extradition of ex-President Alfonso Portillo ('00-'04) on charges of embezzlement (Vol. 25, No.7). Foreign Minister Luis Ernesto Derbez signed the order on 31 Oct, commenting that the request was based on "very solid arguments."

Guatemala's Public Ministry requested that Portillo be held in preventive custody during the appeals process and hearing. Although Portillo has not been arrested, the Mexican government announced on 2 Nov that Portillo's whereabouts were known, that he was obliged to check-in with a judge every week, and that migration officials had been alerted to prevent Portillo from leaving the country.

However, on 4 Nov, a Mexican judge suspended the extradition proceedings while the court reviews the extradition order based on Portillo's lawyer's claim that it is illegal.

—*Honna Veerkamp*