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In the first session dealing with the mensalão case, technically, Penal Case 470, the Brazilian Supreme Court (STF) voted 9 to 2 to handle the case as a whole, that is, all 38 defendants together, rejecting a motion by a defense lawyer to split the case into two parts with most of it going to a lower court.

In fact, the STF had already decided against dismembering Ação Penal 470 on three different occasions since 2006.

The lawyer, Márcio Thomaz Bastos, a former minister of Justice, who is defending a former bank manager, asked why the case was being tried before the Supreme Court when only three of the defendants, as federal deputies, had a right to privileged criminal venue. The three members of the Chamber of Deputies are: Pedro Henry (PP-MT), João Paulo Cunha (PT-SP) and Valdemar Costa Neto (PR-SP).

Bastos then raised a legal question: he pointedly referred to the fact that the accused in Brazil effectively have a right to be tried twice; that is, they have a right to appeal a conviction. In the Supreme Court, complained Bastos, there was no way to appeal a decision.

At that point, the country's chief prosecutor ("procurador-geral da República") Roberto Gurgel, expressed his opinion that the case should not be divided into parts. After that, a heated discussion took place between associate justices Joaquim Barbosa ("redator") and Ricardo Lewandowski ("revisor") on the subject with Barbosa closing by saying:

"There is no reason to go through this again, I think it is actually irresponsible to return to a discussion of this matter."

Even so, Lewandowski then presented a long argument in favor of dividing the case. The next associate justice to vote was Rosa Weber who declared that the STF simply could not return to endless discussion of a matter that had been decided in the past.

Justices Cesar Peluso, Gilmar Mendes, Luiz Fux, Antonio Dias Toffoli, Carmen Lucia Celso de Mello and the Chief Justice, Carlos Ayres Britto, all voted with Barbosa and Weber against dismembering.

The only justice to join Lewandowski in voting for sending part of the case to a lower court was Marco Aurélio Mello, who did so calling the right to due process the backbone of the legal system.

Time is an important factor in this trial. Not only with regard to statutes of limitations for what happened in the past, but also because of future deadlines that loom on the horizon and could have serious consequences.

Brazil's famously relaxed attitude toward most things contrasts sharply with some surprisingly rigid rules and regulations that pop up from time to time. One of them is a strict mandatory retirement age for Supreme Court justices. They are out when they reach 70 - no ifs, buts or maybes.

Associate justice Cezar Peluso faces mandatory retirement at the beginning of September when he turns 70. Under normal circumstances, as the trial will last until the end of September, Peluso would not be able to present his opinion (vote) because of another rigid rule that determines the order in which the justices vote (Peluso is seventh).

However, there is a loophole. In the STF rules it is permitted for a justice to vote beforehand (Peluso could jump the line and move to third place). But even then, there are problems. It is not known what the mechanics of the voting process will be because the case is so complicated with so many defendants and so many possible sentences.

For example, it is possible the justices will vote on the whole case at once; on the other hand,

they could vote on parts of it. In the latter case, with the justices following a rigid voting sequence, once again it is possible Peluso will not be able to participate.

A final problem for Peluso is that it will almost certainly be very difficult for him to participate in what is known as the deliberation/definition phase when sentencing takes place if any defendants are found guilty.

Besides Peluso, the mandatory retirement rule threatens the participation of the Chief Justice, Carlos Ayres Britto, if the trial goes into the month of November.

If Peluso and Britto leave the court there are no rules about when they have to be substituted; that is, when president Dilma Rousseff has to nominate someone and when the Senate has to approve the nomination.

A different matter is the 2012 midterm election that will be taking place at the same time as the mensalão trial. The first round of voting takes place on October 7 and, if necessary, runoff elections on October 28.

At stake in these elections are city government (mayor and council seats). Defense lawyers have unsuccessfully attempted to have the trial postponed until after the elections.

Out of the 38 defendants only one, federal deputy João Paulo Cunha (PT of São Paulo) is running for office, mayor of the city of Osasco in the greater metropolitan region of São Paulo.

From 2003 to 2005 he was president of the Chamber of Deputies. In April 2006, after the mensalão scandal became public, the Chamber of Deputies voted not to expel him and later that year voters in São Paulo returned him to the Chamber of Deputies.

One other defendant, Professor Luizinho (Luiz Carlos da Silva), formerly a federal deputy, is a campaign manager for Carlos Grana who is a PT candidate for mayor of Santo André, also in

the greater São Paulo region).

Then there is the statute of limitations - or rather, statutes of limitations - because the defendants are accused of committing up to seven different crimes and at this point Brazil's culture of impunity comes into play.

As lesser crimes have a shorter statute of limitations, the result is that if defendants are found guilty of conspiracy ("formação de quadrilha"), active and passive corruption ("corrupção ativa e passiva"), peculation ("peculação") or tax evasion ("evasão de divisas") and given minimum sentences they could simply walk because the statute of limitations on these crimes ran out in August 2011.

However, anyone found guilty of the more serious crimes of fraudulent management in a financial institution (embezzlement) and money laundering could still go to jail.

The routine at the Brazilian Supreme Court has undergone some significant changes for the judgment of Penal Case 470, the mensalão.

For the first time, a whole case has been put into digital form. Justice Joaquim Barbosa, who organized the case, wanted to avoid having delays due to paperwork by attorneys in a case that runs to over 50,000 pages.

Also, due to the large number of defendants, 38 of them, the court has changed its schedule and added more sessions. Between August 3 and August 14, the court will be in session daily for five hours to hear all the defense lawyers (each defendant gets an hour). On August 15, the justices will begin reading their opinions in three sessions each week.

Beyond the Supreme Court there have been changes in the times and days that sessions take place at the National Justice Council (CNJ) and the Superior Electoral Court (TSE), where Supreme Court justices also sit.

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