

Aurora Macro Strategies – Argentina Report, Fiscal Federalism Courtside, September 5, 2024

The Tearsheet

- The Senate held hearings for Milei’s Supreme Court nominees, which are pivotal for advancing his fiscal policies and implementing economic reforms.

Sep 11	August CPI
Sep 25	July economic activity estimator
Q4 2024	Plausible new IMF program
Oct 2025	Midterm elections
Q4 2027	Presidential elections
- We anticipate the nominees will gain approval in the Senate Judiciary Committee; however, the final Senate confirmation may face obstacles, necessitating further negotiations regarding other judicial appointments, including the attorney general.
- In Congress, Milei experienced two significant setbacks. Both Peronists and non-Peronists rejected his decree to increase the intelligence services budget and passed a law altering the pension formula. In response, Milei exercised his veto power for the first time.
- Milei continues to enjoy strong public support, popularity which appears sustainable for the near term despite growing public concerns about poverty and unemployment. His approval rating remains higher than for recent predecessors at comparable points in their terms – which is notable, particularly considering the substantial fiscal adjustments his government has already implemented.
- Sluggish economic recovery remains a key risk, but declining inflation is alleviating some of these concerns on the ground as wage recovery improves conditions for workers.

1. Awaiting confirmations

- Throughout August, the Senate held hearings for Milei’s Supreme Court nominees: Criminal Judge Ariel Lijo and academic Manuel García Mansilla. These nominations aim to fill two upcoming vacancies on the five-member Supreme Court, which will be left with only three sitting judges by December.
- These positions are crucial as the judiciary plays an increasingly significant role in shaping Argentina's policy direction. The Supreme Court may rule on matters impacting foreign direct investment (FDI), including the RIGI—a new regime offering incentives and guarantees for regulatory, fiscal, customs, and exchange rate stability for investment projects in energy and mining sectors, as well as dollarization.
- Manuel José García Mansilla is a legal academic and the Dean of the Law School at Universidad Austral. He has professional experience in the oil and gas industry and a background in public law, specializing in constitutional law and complex litigation. He has drawn particular scrutiny from the center-left for his conservative social views on abortion.
- Ariel Lijo is one of twelve Federal Judges handling federal corruption cases, often involving politicians. Lijo has indicted former Presidents Carlos Menem, Amado Boudou, and Cristina Fernández de Kirchner.
- Lijo’s nomination has sparked criticism from civil society and faces open opposition from former president Mauricio Macri, a key Milei ally if sometimes a contentious one. Other political factions have remained silent, most notably the Kirchnerite camp of Peronism.
- Sources are divided on how best to interpret this uncharacteristic silence. They may just be keeping their powder dry, but rumors abound of an agreement between Kirchnerism and

Milei regarding Lijo's appointment, albeit varying widely on what the president may have supposedly offered in return.

- During their hearings, both Lijo and García Mansilla addressed issues related to the RIGI. Lijo raised concerns that RIGI projects could threaten water resources, framing it as a human rights issue. He emphasized that while RIGI disputes go to international arbitration, national courts handle constitutional matters, suggesting some provisions could be unconstitutional. Mansilla echoed the need for strict environmental compliance, urging close review of RIGI-related projects affecting natural resources.
- On dollarization, Lijo underscored that the constitution protects the national currency, favoring Milei's "currency competition" approach over full dollarization. García Mansilla concurred, stating that a forced conversion of pesos to dollars would be unconstitutional. Both supported Milei's currency competition model.
- The government insists that both nominees must be confirmed together, warning that the process will be stalled if the Senate Judiciary Committee does not approve both candidates. If confirmed, the government plans to negotiate broader judicial reforms, including expanding the Supreme Court, appointing the Fiscal Attorney, and filling numerous federal judicial vacancies.
- In the Committee, the government's counterparts include Kirchnerite senators, members of the Unión Cívica Radical, and Peronists aligned with governors who have previously supported Milei on other legislative matters, such as his Minibus Bill (see our [June 11 Argentina Report](#)).
- We currently believe the government will secure the nine votes necessary to gain approval in the Senate Judiciary committee for the nominees.

2. The view from courtside

- The ultimate composition of the Supreme Court will be crucial for Milei's fiscal policy, which remains the lynchpin to his administration's goal of combating inflation.
- The Court holds jurisdiction over any disputes between the national government and Argentina's provinces, and their docket currently has 30 claims, from 16 provinces, against the national government – totaling ~ \$1 billion USD.
- These disputes, both inherited and newly emerging, primarily revolve around the distribution of co-participated fiscal resources. In the past, the government's track record with allocating discretionary funds has often proven divisive politically – sparking accusations of fiscal favoritism, particularly under recent Peronist administrations.
- The Supreme Court could also be a decisive voice in Milei's proposed tax revenue-sharing reform, one of the ten points of his [Principles of the New Argentine Economic Order](#).
- Scant details are known about this new scheme, but it is suggested that it would seek to reverse the current revenue structure, initially placing the greatest tax burden on municipalities, then shifting it up to the provinces, and finally to the federal government.
- This could be accomplished without changing the constitution but would still require absolute majorities in both legislative houses, plus approval from the provinces.
- During the Senate hearings, García Mansilla came out against a strict interpretation of these requirements. Stating that a necessary reworking of the fiscal resource sharing framework had been stalled for 30 years due to "a misconception" that unanimous provincial consent

was required, he argued instead that a “special majority” could suffice if political conditions were to otherwise align.

- For his part, Lijo remarked that while the judiciary is not tasked with resolving this issue, the Supreme Court could actively help facilitate political negotiations by helping political parties come to an agreement.
- The differing views echo the ongoing conflict over fiscal resources between the national government and the Buenos Aires city government specifically, pitting Milei and Jorge Macri, the province’s current governor and the former president’s cousin.
- The dispute centers on the restitution of co-participation funds to Buenos Aires City, which were cut during Alberto Fernández’s term. He reduced the city’s share from 2.95% to 1.40%, reallocating the 1.55% difference to Buenos Aires Province, governed by Axel Kicillof.
- Before this change, co-participated funds made up 25% of the City’s income; since September 2020, they account for just 11%. The Supreme Court previously ruled in favor of Buenos Aires City, but the Fernández administration did not comply with the ruling and simultaneously pursued impeachment proceedings against the entire Supreme Court.
- Milei has inherited this issue. The Supreme Court has convened hearings between the two jurisdictions to negotiate a payment plan, though disagreements persist.
- In a meeting between Economy Minister Luis Caputo and Jorge Macri, an agreement was reached to restore the 2.95% share, with daily transfers starting August 1st. However, there remains disagreement over the methodology, as Caputo is paying the 1.55% difference weekly as “discretionary transfers,” a method Buenos Aires City rejects, arguing that these transfers could be suspended or canceled by the Executive at any time.
- Given the ongoing Supreme Court nomination process, no immediate rulings are expected on the claims brought by Buenos Aires City and the provinces against the national government.
- This aligns with the Court’s strategic approach to Milei’s government more generally. While it has often been critical of particular policies – such as Supreme Court President Rosatti proactively coming out against full dollarization during the election – it has yet to rule against him formally.
- The Court may be factoring in Milei’s current relative popularity and momentum when considering whether to issue rulings against him – minimizing the risk of institutional clashes over obstructionism as have recently proliferated elsewhere in the region (Mexico, Brazil, Colombia, Panama etc.)

3. Milei vetos like a Corleone

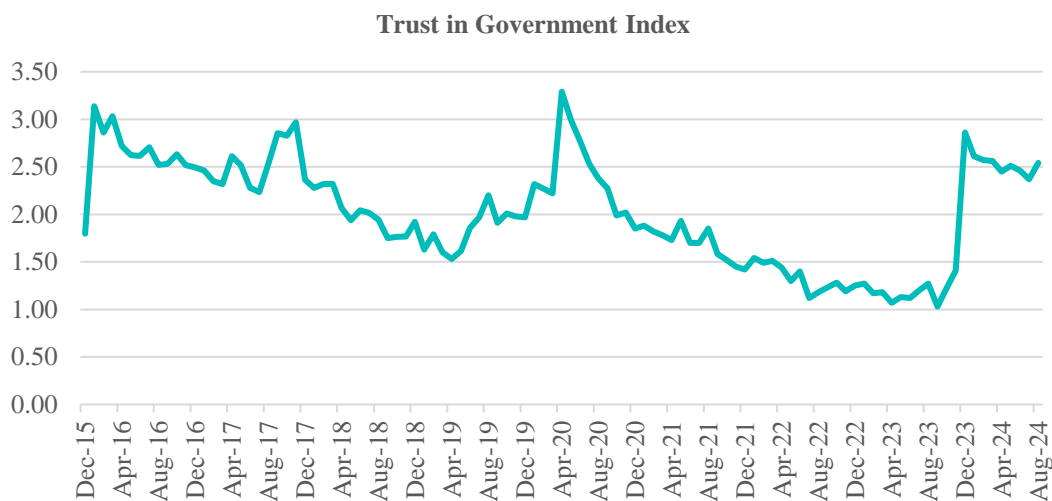
- In the Chamber of Deputies, opposition lawmakers across the Peronist/non-Peronists divide recently joined forces to reject a Milei decree increasing the intelligence services budget. Were the Senate to follow suit the decree would be invalidated, although we consider this unlikely so long as Mauricio Macri and his senate bench remain on board.
- Although the rejection won’t retroactively nullify the decree, as most of the funds have already been spent, the vote holds political significance, underscoring Milei’s allies breaking ranks on a sensitive issue like intelligence services.
- In the Senate, a similar coalition of Peronists and non-Peronists passed a law modifying the pension formula, which is expected to impact the fiscal surplus by about 1% of GDP in 2024

and 1.2% in 2025. This vote notably passed with a two-thirds majority, sufficient to override a presidential veto.

- Milei vetoed the bill, further escalating political tensions with the non-Peronist bloc, particularly with the PRO party, led by former president Mauricio Macri.
- Interestingly, Macri supported Milei's veto, stressing the need for balanced public finances. This contrasts with the fact that senators from his own party backed the bill, suggesting either a misalignment with Macri or, more likely, a strategic move to apply pressure on Milei.
- These tensions are expected, given the Peronists' strong opposition role. The non-Peronist vote should also be seen in the context of negotiations for the 2025 midterm elections, where a potential alliance between Milei and this political faction is being considered.
- Regarding the conflict with Macri, it might be resolved if an agreement is reached on a lawsuit over public funds between the national government and the City of Buenos Aires. Protecting Buenos Aires's interests is crucial for the Macri family, but such a resolution seems unlikely in the near term, as the Supreme Court is not expected to rule on the issue soon.
- The veto can be overridden if both chambers of Congress achieve a two-thirds majority. The bill will return to the originating chamber, in this case, the Chamber of Deputies.
- Milei has already mobilized his congressmen and reached out to PRO members to secure enough votes to block any effort to override his veto.

4. Argentina hearts Milei

- Recent polls show that trust in Milei's administration currently remains unusually robust after nine months on the job.
- As measured by the Trust in Government Index (TGI), his current support surpasses both Macri's and Alberto Fernández's at similar points in their terms (by 0.79% and 6.7% respectively.)
- Milei's approval has likewise shown considerably more stability and resilience, with a narrower range of fluctuation, compared to the initial months of the Macri and Fernández administrations.



- This increase is notable, given the fiscal adjustment implemented, amounting to 5.6% of GDP in the first half of 2024, the most significant in the past 64 years.
- Within the components of the TGI, "*ability to solve the country's problems*" is where Milei scores the highest, with a rating of 3.03 points in August, reflecting a 5.6% increase from the previous month.
- Recent surveys also reveal that inflation is no longer the primary concern among Argentine citizens. Instead, unemployment and poverty are emerging as more pressing issues, which could impact public perception of the country's problems and, consequently, Milei's performance in the TGI.
- Given these conditions, and assuming inflation continues to decline, formal workers are likely to face a lower risk of layoffs. However, informal workers — 42% of the workforce — could see concerns over job stability exacerbated. experience growing concerns about job stability.

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