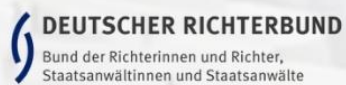


**REPORT
INTERNATIONAL MISSION OF JUDGES**

**OBSERVATION OF THE ELECTION
PROCESS FOR ATTORNEY GENERAL
AND THE STATE OF JUDICIAL
INDEPENDENCE IN GUATEMALA**



2026



This report was prepared by the International Association of Judges, the German Association of Judges / Deutscher Richterbund, the Norwegian Association of Judges / Den norske dommerforening, and the Swedish Association of Judges / Sveriges Domareförbund.

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1. Introduction, Mission Objectives, and Description of Activities.

From 23 to 27 March 2026, the International Mission of Judges (the Mission) conducted a visit to Guatemala. The Mission was composed of:

- **Dorota Zabłudowska**, Judge of the District Court of Gdańsk-Południe, Poland; Member of the Polish Association of Judges *Iustitia*; Vice-President of the Gdańsk branch; and Vice-President of the European Association of Judges and of the International Association of Judges;
- **Astrid Bode**, Judge of the Higher Regional Court of Naumburg, Saxony-Anhalt, Germany; and member of the German Association of Judges;
- **Hanna Werth**, Judge of the Administrative Court of Malmö, Sweden; and President of the Swedish Association of Judges; and,
- **Hans Petter Graver**, Professor in the Private Law Department of the University of Oslo, Norway; and serving as a delegate of the Norwegian Association of Judges.

The purpose of the visit was to observe the process for the election of the Attorney General in Guatemala, in light of international standards and best practices, including transparency, independence, merit and competence as key selection criteria, as well as access to information, citizen participation and accountability.

Over the course of five days, the Mission held meetings with magistrates of the Supreme Court of Justice; officials of the Guatemalan Bar Association; Guatemalan lawyers, including human rights defenders; judges of lower courts and first-instance judges from different jurisdictions and subject areas; indigenous authorities; and members of the diplomatic corps.

In these meetings, the Mission gathered information on three main issues: the election of the Attorney General; the state of judicial independence and its relationship to the rule of law; and the status of the judicial career in Guatemala.

2. Background and Context of Second-Level Elections in Guatemala in 2026

(Supreme Electoral Tribunal, Constitutional Court, and Public Prosecutor's Office)

The year 2026 is marked by significant second-level elections, including those for the Supreme Electoral Tribunal, the Constitutional Court, and the Public Prosecutor's Office, which are discussed below. The next Comptroller General of Accounts will also be elected (July–October 2026), an authority responsible for overseeing the proper execution of public expenditure. In addition, 2026 is a pre-electoral year, as general elections for President of the Republic, Congress, and local authorities for the following four-year term will be held between January and June 2027. These elections are particularly significant because in 2023, for the first time since the beginning of the democratic transition (1985), the will of the electorate was at risk of being undermined, as certain actors with institutional power, entrenched within the judicial system, attempted to disregard the results and prevent a peaceful transfer of power within the Executive Branch¹.

There are two main mechanisms for selecting public officials in Guatemala. On the one hand, general elections, held every four years, allow citizens to directly elect the President and Vice President, the 160 members of Congress, and the 340 municipal councils through universal suffrage. This mechanism reflects classic principles of direct democratic representation, whereby citizens determine the composition of the State's main political bodies.

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During the first half of 2026, the renewal cycles of three institutions essential to the rule of law coincided: the Supreme Electoral Tribunal, the Constitutional Court, and the Public Prosecutor's Office. The importance and status of each process are outlined below.

The Supreme Electoral Tribunal (TSE) is the highest electoral authority, responsible for organizing, overseeing, and ensuring transparency during general elections, as well as for the registration of political parties and candidates and the protection of the right to vote. It is composed of **five sitting magistrates and five alternates**, serving **six-year terms**, allowing them to oversee at least one full general election cycle.

The selection of its magistrates is carried out through a two-stage, second-level election process: **a technical phase and a political phase**. The technical phase consists of the establishment of a **nominating commission**, as set forth in the Constitution and the

¹ European Union, Electoral Observation Mission. Final Report: Guatemala 2023. Available at: https://www.eeas.europa.eu/sites/default/files/documents/2023/EU%20EOM%20GT%202023%20FINAL%20REPORT%20SPANISH_0.pdf. Report by the Secretary General of the OAS, Luis Almagro, on recent developments affecting democratic governance and the rule of law in Guatemala, within the framework of the 2023-2024 transition process, Available at: https://www.oas.org/es/acerca/discurso_secretario_general.asp?sCodigo=23-0045

Electoral Law, composed of the Rector of the University of San Carlos of Guatemala; the Dean of its Faculty of Law; a representative appointed by the rectors of private universities; a representative of the law faculty deans of said universities, and a representative of the Guatemalan Bar Association (CANG). The Commission receives and evaluates applications, interviews candidates, and prepares a shortlist of 20 applicants. Within 30 days of its establishment, it submits this list to the **Congress** of the Republic for the political phase, where a minimum of 107 votes are required.

This process took place between 11 November 2025, when the call for applications was issued, and 10 March 2026, when Congress elected the five sitting magistrates and five alternate magistrates by a qualified majority. The elected sitting magistrates were Mario Velásquez, Roberto Morales, Rosa Rivera, Karin Romero, and Quelvin Jiménez; and the elected alternate magistrates were Giovanni Soto, Javier Puac, Alfredo Skinner-Klée, Sergio Pineda, and Joaquín Flores.

The Constitutional Court (CC) is the highest authority in matters of constitutional review in Guatemala, responsible for ensuring the supremacy of the Constitution and the protection of fundamental rights. It is composed of **five sitting magistrates and five alternates, each appointed by a different body**: the President of the Republic sitting in the Council of Ministers; the plenary of the Congress of the Republic; the plenary of the Supreme Court of Justice (CSJ); the Assembly of the Guatemalan Bar Association (CANG); and the University Governing Council of the University of San Carlos (USAC), each appointing a sitting magistrate and their respective alternate magistrate **for a five-year term**.

The system for appointing Constitutional Court magistrates consists of five parallel processes designed to ensure institutional pluralism and prevent the concentration of power. Although the internal procedures are not regulated by law, they generally include the review of applications, hearings, and verification of integrity and professional experience requirements.

This process took place between January and March 2026. The Court was composed as follows: Annabella Morfín and María Jocholá, appointed as sitting and alternate magistrates by the Executive Branch; Roberto Molina and Luis Rosales, by Congress; Dina Ochoa and Claudia Paniagua, by the Supreme Court of Justice; Astrid Lemus and Luis Bermejo, by the Guatemalan Bar Association (CANG); and Marisol Rivera and Juan José Pumay, by the University of San Carlos (USAC). The composition of the Constitutional Court reflects its significant political role, as it has functioned not only as the guardian of constitutional control and fundamental rights, but also as an arbiter between the branches of government.

The Public Prosecutor's Office (MP) is the institution responsible for criminal prosecution and for directing criminal investigations, operating with functional autonomy. Its highest authority is the **Attorney General who is also the** Head of the Public Prosecutor's Office and serves a **four-year term**. The Attorney General is elected through a second-level process similar to that of the Supreme Electoral Tribunal, involving both technical and political phases.

The **nominating commission** is composed of the President of the Supreme Court of Justice, who serves as the chair; law faculty deans nationwide; and the presidents of the board of directors and the ethics committee of the Guatemalan Bar Association (CANG).

The commission evaluates candidates' applications, reviewing their professional merits, level of integrity, and ethical conduct, and admitting or rejecting evidence submitted in their defense. It then prepares a **list of six candidates**, which is submitted to the **President of the Republic who then appoints the Attorney General**.

Between February and March 2026, the election of the Attorney General was marked by legal challenges and judicialization of the process, including constitutional appeals concerning the evaluation of merits and modifications to the scoring criteria², as well as public debate regarding the suitability of candidates. By the end of March 2026, the Commission had completed its technical work. Between 6 and 10 April, it conducted interviews with candidates for Attorney General, and will proceed to evaluate their applications. According to its official schedule, the Commission expects to finalize the shortlist of eligible candidates by 17 April and immediately submit it to the President of the Republic, Bernardo Arévalo.

² One of the constitutional appeals was filed by attorneys Edgar Ortiz and Gregorio Saavedra, who challenged the scoring matrix that had been initially approved. They stated that it allocated a total of 100 points across categories such as academic background, professional experience, and the interview, but criticized the fact that 50 of those 100 points depended on years of professional practice, which were only counted from the eleventh year onward. They further noted that the scoring matrix effectively required candidates for the position of Attorney General to have at least 24 years of professional practice in order to obtain the maximum score of 50 points. For this reason, on 26 February, the Constitutional Court admitted the appeal for consideration and requested information from the nominating commission in order to rule on the provisional relief within case file No. 1599-2026, Clerk 12 of the Constitutional Court.

3. International Standards

The principle of independence of the judiciary is recognized in several international instruments. Such provisions reflect the widespread agreement on the general notion that the independence and impartiality of the judiciary are vital to the existence of the rule of law and to the protection of human rights. The UN has expressed this through the General Assembly's adoption of the Basic Principles on the Independence of the Judiciary, U.N.Doc. A/CONF.121/22/Rev.1, at 59 (1985), as well as in similar guidelines regarding the role of lawyers and prosecutors. The General Assembly has subsequently adopted procedures for the implementation of these principles (Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary, G.A. Res. 44/162, Dec. 15, 1989).

The Principles assert that members of the judiciary shall be individuals of integrity and ability, with appropriate legal training or qualifications. Methods of judicial selection shall safeguard against judicial appointments based on improper motives. Finally, discrimination of any kind during the selection of judges is prohibited, except that a requirement that the candidate be a national of the country shall not be considered discriminatory.

According to the International Institute for Democracy and Electoral Assistance (International IDEA), there are four methods for judicial appointment: (a) single-body appointment mechanisms; (b) professional appointments; (c) cooperative appointment mechanisms; and (d) representative appointment mechanisms. A small minority of jurisdictions, chiefly within the United States, select judges by means of popular elections.

Although there is not one "correct" procedure for the appointment or election of judges, their selection must be based solely on their professional qualifications and personal integrity. The UN Principles also explicitly prohibit the use of factors such as race, color, sex, religion, political or other opinion, national or social origin, property, or birth in the selection of judges.

According to international standards, prosecutors may be organized independently or as part of, or subordinate to, the government. In both cases, however, prosecutors must remain free from political pressure and be autonomous in their decision making. The Guidelines on the Role of Prosecutors, adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, state that persons selected as prosecutors shall be individuals of integrity and ability, with appropriate training and qualifications.

States shall ensure that selection criteria for prosecutors embody safeguards against appointments based on partiality or prejudice, excluding any discrimination against a person on the grounds of race, color, sex, language, religion, political or other opinion, national, social or ethnic origin, property, birth, economic or other status, except that it shall not be considered discriminatory to require a candidate for prosecutorial office to be a national of the country concerned.

4. Main Observations by the Mission

a. Participation of Independent Judges

The Mission identified several structural elements affecting judicial independence and the effective participation of judges within the judicial career system in second-level election processes.

First, although the legal framework — including Article 60 of the Law of the Judicial Branch³ — recognizes judicial independence, multiple stakeholders reported a perceived lack of institutional support from the State for exercising judicial functions.

A structural distinction was observed between the pathways to the judicial career and to magistrate-level positions. Access to the judicial career through competitive examinations is a significant safeguard at entry levels; however, the transition to magistrate-level positions is subject to technical-political processes, particularly through nominating commissions and subsequent decisions by the Congress of the Republic. While this model may incorporate safeguards against corruption, it also introduces the risk that judicial careers may be subject to political considerations, potentially undermining merit-based advancement and independence.

The Mission further observed that the **complete renewal of the higher courts every five years** may negatively affect institutional stability and the continuity of jurisprudence, creating incentives for politicization. Similarly, the practice of periodic evaluations that determine whether judges remain in office may be perceived as a practice that infringes the principle of security of tenure, particularly where such evaluations are not strictly linked to disciplinary procedures conducted with appropriate safeguards.

Additionally, concerns were raised regarding both **formal and de facto barriers** limiting the participation of judges within the judicial career system in selection processes. These include the potential for restrictive interpretations of professional experience criteria by nominating committees, as well as the perception that evaluations in promotion processes are not strictly technical in nature.

With regard to **judicial associations**, the Mission noted specific concerns regarding limitations faced by certain organizations, particularly those actively engaged in the defense of judicial independence.

Finally, multiple testimonies pointed to a climate of fear affecting justice operators. Reports included threats, criminal proceedings used to target individuals and, in some cases, the forced exile of judges, including at least four members of the Board of Directors of the Guatemalan Association of Judges for Integrity (AGJI), which may have a chilling effect on the independent exercise of judicial functions.

³ Article 60 of the Law of the Judicial Branch: Judges and magistrates who consider their independence to be threatened or interfered with shall inform the Supreme Court of Justice and report the facts to the competent court in order to initiate the appropriate proceedings, without prejudice to taking strictly necessary measures to ensure the administration of justice and restore legal order.

b. Model for Second-Level Elections in Guatemala

The Mission found that the model for second-level elections in Guatemala faces significant challenges stemming from the interaction of normative, institutional, and contextual factors.

Several stakeholders noted that the **model is highly politicized**, whereby technical and political bodies responsible for selection may be subject to external and internal pressures that hinder fully objective and independent decision-making.

In this context, the Mission observed that, while the processes generally comply with formal requirements — including timelines and transparency mechanisms — there are concerns regarding the effective use of objective criteria for assessing the capacity, suitability, and integrity of candidates. Under Guatemalan law, these are essential requirements for nomination to and the exercise of senior positions. The mere public nature of proceedings does not, in itself, ensure effective transparency.

Some individuals consulted also raised concerns about the possible influence of informal dynamics on the outcomes of these processes. While the Mission did not have sufficient evidence to conclusively corroborate these assertions, it did identify a widespread climate of distrust toward both the selection mechanisms and the actors involved, which undermines confidence in the justice system.

It was further noted that various sectors — including civil society, academia, the media, and the international community — demonstrate a high level of interest in these processes and recognize their importance for the rule of law. However, this interest does not necessarily translate into increased public confidence.

The Mission also received information regarding recent experiences within institutions such as the Guatemalan Bar Association (CANG)⁴ and the University of San Carlos (USAC), where internal electoral processes reportedly produced outcomes perceived as more representative. Nevertheless, subsequent difficulties in taking office were also reported, reflecting ongoing tensions within the system.

Finally, it was noted that some qualified candidates may choose not to participate in these processes due to a perceived lack of objectivity and fear of potential reprisals, thereby limiting both competition and the overall quality of applications.

c. Election of the Attorney General and Head of the Public Prosecutor's Office

The Mission focused its analysis on the standards and conditions governing the selection process, rather than on individual candidates, in line with its observation mandate.

Stakeholders expressed concerns regarding the performance of the Public Prosecutor's Office in recent years, including perceptions of institutional decline, reduced specialization in certain prosecutorial units, and questions regarding the effectiveness of criminal

⁴ OAS Special Mission in Guatemala Expresses Concern over Attempts to Block the Inauguration of Constitutional Court Magistrates, March 2026. Available at: https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-032/26

prosecution. Potential impacts were also noted in relation to anti-corruption efforts, the protection of human rights, and public confidence in the justice system.⁵

In this context, the Mission emphasizes that the selection of the Attorney General and Head of the Public Prosecutor's Office is of strategic importance for rebuilding institutional trust and strengthening the rule of law.

i. Profile of the Attorney General

In accordance with international standards, the person appointed to this position must demonstrate independence, integrity, technical competence, and a commitment to human rights. It is also essential that the appointee possess the capacity to lead institutional strengthening efforts, promote the prosecutorial career, and ensure the functional autonomy of the Public Prosecutor's Office.

ii. Objective Evaluation of Candidates

The Mission identified risks related to the evaluation mechanisms used in the selection process, including examinations, interviews, public input, and scoring tables.

In particular, concerns were raised regarding the clarity and consistency of evaluation criteria, as well as the handling of information provided by members of the public concerning candidates. Predictability and transparency in these mechanisms are essential to ensuring the legitimacy of the process.

iii. Risks Arising from Judicialization of the Process

The Mission also observed risks arising from judicialization of the selection process, by means of legal actions that could affect the proper conduct of the process. While access to justice is a fundamental right, its strategic use may interfere with the independence and normal functioning of said process.

Additionally, concerns were raised regarding potential situations involving pressure or intimidation affecting both members of the nomination commission and candidates, as well as the risk that final decisions may not include proper assessments of candidates' suitability and integrity.

d. Perspectives of Indigenous Peoples' Authorities

The Mission recognizes the fundamental role played by Indigenous authorities in defending the democratic order, particularly in recent contexts. Their active participation in civic processes and their interest in influencing the election of justice system authorities through the submission of proposals and observations were highlighted.

Regarding access to justice, the Mission identified specific barriers particularly affecting Indigenous peoples, including linguistic, geographical, and institutional obstacles, which contribute to a perception of mistrust toward the justice system.

⁵ Stakeholders referred to the study conducted by INECIP and Alianza por las Reformas, "Effectiveness or Impunity? Performance of the Public Prosecutor's Office during the Administration of Consuelo Porras, 2018-2025, Guatemala 2025." Available at: <https://inecip.org/publicaciones/eficacia-o-impunidad-el-desempeno-del-ministerio-publico-durante-la-gestion-de-consuelo-porras-2018-2025/>

Finally, challenges were noted regarding the participation of indigenous professionals in the selection processes, linked to structural inequalities in accessing higher education and their underrepresentation in higher courts.

5. Conclusions

In the course of its mandate, and following meetings with various stakeholders and sectors of the Guatemalan justice system, the Mission concludes:

Regarding Judicial Independence:

- There is a rupture within the judicial career system, particularly in the transition from the judicial career to magistrate-level positions, as judges must undergo a technical-political phase that may subject their decisions to political scrutiny.
- The subjection of judges to constant performance evaluations, and the requirement that they be confirmed in office every five years undermines judicial independence, as it affects the principles of stability in office and security of tenure, which are fundamental requirements to ensure legal certainty and security in decision-making.
- The full, simultaneous renewal every five years of the Court of Appeals and the Supreme Court of Justice leads to instability within the judicial system.
- Reports were received regarding attacks, threats, and the use of criminal proceedings to target independent judges on account of their rulings. Some have been forced into exile.
- There are limitations on the judges' right to freedom of association where attacks against members of associations that actively defend judicial independence are tolerated. This is the case of the AGJI, as at least four members of its Board of Directors have been forced into exile, while others remain in Guatemala but have been subject to administrative or criminal complaints.

As for second-level election processes in Guatemala, the Mission concludes that they take place in a context marked by **tensions between the regulatory framework and its practical implementation**. In this regard, a high degree of politicization is perceived surrounding the issue. Furthermore, information was received indicating that the bodies responsible for conducting these processes formally comply with the deadlines and procedural requirements; however, this does not necessarily translate into greater openness and transparency.

In relation to the election of the Attorney General and Head of the Public Prosecutor's Office, concerns have been raised among the Guatemalan public, particularly due to doubts regarding the profile and the methodology for objectively assessing the qualifications of the most suitable candidate for the position, as well as the perception that some members of the commission may fear being targeted through criminal proceedings for exercising their functions.

Finally, the Mission notes that Indigenous authorities have demonstrated an active commitment to the defense of democracy in Guatemala, despite adverse conditions affecting access to justice for Indigenous peoples, as well as structural social inequalities that limit the participation of Indigenous professionals in second-level election processes.

6. Recommendations

1. Strengthen the judicial career system, ensuring promotion mechanisms based on objective, transparent and merit-based criteria.
2. Review the second-level election model with the purpose of reducing the scope for discretion and strengthening the independence of the selection bodies.
3. Guarantee security of tenure for judges, ensuring that evaluations or removals are carried out in accordance with disciplinary proceedings that fully respect due process.
4. Improve the mechanisms for evaluating candidates, ensuring clear, consistent, and transparent criteria.
5. Prevent the inappropriate use of judicial proceedings in selection processes, promoting the proper use of legal remedies.
6. Strengthen the Public Prosecutor's Office, promoting its autonomy, the prosecutorial career, and technical specialization.
7. Ensure safe conditions for justice operators, protecting them from any form of intimidation, threats, or retaliation.
8. Promote the inclusion and participation of Indigenous peoples, removing structural barriers and ensuring access to justice for all.
9. Strengthen effective transparency, ensuring that selection bodies provide reasoned decisions.



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