

INTERNATIONAL MISSION OF JUDGES

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

From 23 to 27 March 2026, constituted as the International Mission of Judges (the Mission), we were in Guatemala **Dorota Zabłudowska**, Judge of the District Court of Gdańsk-Południe, Poland, Vice President of the International Association of Judges; **Astrid Bode**, Judge of the Higher Regional Court of Naumburg, Saxony-Anhalt, Germany, Member of the Board of the German Judges' Association; **Hanna Werth**, Judge of the Administrative Court of Malmö, Sweden, President of the Swedish Judges' Association; and **Hans Petter Graver**, Professor of the Department of Private Law at the University of Oslo, Norway, representing the Norwegian Judges' Association.

The objective of the visit was to observe the election process for the Attorney General of Guatemala under the parameters of international standards and best practices in the field, including transparency, independence, merit and competence as fundamental selection criteria, as well as access to information, citizen's participation and accountability.

For four days, we interviewed with directors of the Association of Lawyers and Notaries of Guatemala; Guatemalan lawyers, including human rights defenders; justices of the peace and judges of first instance of different matters and jurisdictions; indigenous authorities and members of the diplomatic corps. In each dialogue we collected observations on three main aspects: the election of the Attorney General, the situation of Judicial Independence and the status of the Judicial Career in Guatemala.

Election of Attorney General and Head of Public Prosecutions

The members of the Mission observe that the process has been public according to the law, but has been criticized for lack of sufficient transparency. There are claims that citizens do not feel adequately informed about the work of the Nominating Commission, especially on issues such as criteria for the preparation of the graduation table and receipt of citizen indications, many of which were rejected without due justification.

We also note that the criteria for grading the candidates have been established after the call for applications was made. This could, in practice, strategically serve to exclude certain profiles that exercise specific functions within the legal profession.

We also note that some commissioners and candidates within the election process feel threatened or insecure, mainly of being criminalized for their participation.

For all of the above, we recommend that the Nominating Commission be forceful in the evaluation of professional and academic merits and in the assessment of the honorability of the applicants. The

criteria used to measure the above must be pre-established, clear, objective and the same for all, without arbitrarily excluding or favouring any specific profile.

We recommend that the Nominating Commission reaffirm citizens' confidence in the justice system, acting transparently, facilitating participation and debate, publicly and abundantly motivating each of its decisions.

We urge the Nominating Commission so that all representative sectors of the population have equal access to the nominating commission under equal conditions to be elected.

Finally, we recommend that the competent authorities protect the nominating commissioners and the aspirants, so that they are not criminalized in the framework of their participation in the current second-degree election.

Judicial independence and judicial career

Interviewees repeatedly pointed to two factors that may be a challenge to judicial independence. The first is the annual evaluation and five-year constitutional renewal of the judiciary, in charge of the Supreme Court of Justice, which, it is claimed, can lead to arbitrary transfers of jurisdiction. The second factor, the model of political election of magistrates of the Courts of Appeal, which do not sufficiently ensure that appointments are based on merit and not extraneous considerations.

In view of the above, we recall that there are international standards on judicial independence, starting with the stability and irremovability of judges, the objective evaluation of judicial performance and the right to an effective legal remedy in the event of transfer without consent or dismissal, where decisions affecting them can be reviewed.

Concluding comments

The Mission would like to emphasise that entry and promotion within the judicial career must be transparent, based solely on merit and, should not be based on political considerations that are not open to public scrutiny. Likewise, all aspects related to the judicial career must be transparent, the debate and the decisions taken must be public and duly motivated and accessible to the public. It is also of importance to the trust in the judiciary in all levels of society that it reflects the participation of all social sectors on equal terms.

The aforementioned aspects will be further developed in a report that we as a Mission will be preparing over the next few weeks, in the hope that they will constitute an important contribution to Guatemala.

Guatemala, March 27, 2026