

LEGAL SYSTEM OF PARAGUAY

On June 20, 1992, a National Constituent Convention approved and enacted a new National Constitution. Article 1 of this charter establishes that “The Republic of Paraguay is forever free and independent. It is a single, indivisible, and decentralized Social State of law as established by this Constitution and the laws. The Republic of Paraguay shall adopt for its government representative, participatory, and pluralistic democracy, founded on recognition of human dignity.”

Judicial Branch

Article 247 of the Paraguayan Constitution stipulates that “the Judicial Branch is the custodian of this Constitution, which it interprets, carries out, and enforces. The administration of justice is entrusted to the Judicial Branch, exercised by the Supreme Court, by the courts of appeals, and by the trial courts in the manner established by this Constitution and by law.” Article 256 of the Constitution establishes that “all judicial decisions must be based on this Constitution and the law. People are free to criticize rulings.”

The Constitution also establishes that “the independence of the Judicial Branch is guaranteed,” and it provides that “those who threaten the independence of the Judicial Branch and its judges, shall be ineligible to hold any public post for five consecutive years, in addition to any punishments established by law.”

According to Article 249 of the Constitution, the Judicial Branch enjoys budgetary autonomy and its budget must be approved by Congress. It is also established that the General National Budget shall allocate “no less than three percent of the budget of the central administration” to the Judicial Branch.

Members of the Supreme Court are designated by the Senate, with the Constitutional endorsement of the Executive Branch and after a candidate vetting process and proposals of lists of three candidates by the Judiciary Council. The Supreme Court then designates the members of the courts of appeals and trial courts throughout the country, based on lists of three candidates proposed by the Judiciary Council. Article 261 of the Constitution establishes that “Supreme

Court Justices may only be removed through a political trial. They will leave office once they reach 75 years of age.” Additionally, Article 252 establishes the following:

Judges may not be removed in terms of post, location, or rank during the term in which they were appointed to serve. They cannot be transferred or promoted without prior, express consent. They are appointed for five year periods, starting with the appointment.

Judges that are confirmed in their posts for two periods following their initial selection, cannot be removed from the post until they reach the age limit established for members of the Supreme Court.

Article 259 of the Constitution establishes, among others, the following powers and responsibilities of the Supreme Court: conduct oversight of all agencies of the Judicial Branch and serve as the only jurisdictional level to decide upon conflicts of jurisdiction and competence, according to the law; hear and rule on ordinary appeals determined by law; serve as the original jurisdictional level to hear and rule upon *habeas corpus* matters, without prejudice to the competence of other judges or courts; hear and rule upon Constitutional appeals; hear and rule on cassation appeals, as established by law; preventively suspend judges that are on trial, on its own initiative or at the request of the Judges’ Trial Board by a simple majority vote of its active members, until a final decision is made in the case; supervise detention and penitentiary centers; and hear jurisdictional disputes between the national Executive Branch and the departmental governments, and between those governments and the municipalities.

The Public Ministry

According to Article 266 of the Constitution, the Public Ministry represents society before the jurisdictional bodies of the State, and enjoys functional and administrative autonomy in the fulfillment of its duties and powers. This function is performed by the General State Prosecutor and the prosecuting agents, as determined by law.

The General State Prosecutor is designated by the Executive Branch from a list of three candidates proposed by the Judiciary Council and endorsed by the Senate. He remains in office for five years and may be re-elected. His primary duties and powers are established in Article

268 of the Constitution: “ensure respect for Constitutional rights and freedoms; initiate criminal trials to defend the government and society, the environment, and other diffuse interests, as well as the rights of indigenous peoples; initiate criminal actions in cases that do not require the intervention of private parties, without prejudice to the fact that the judge or court may proceed on their own initiative, when so determined by law; and gather information on public officials to improve fulfillment of their duties.”