

LEGAL SYSTEM OF GUATEMALA

From a centralized view of the state (1965 Constitution), there has been an evolution to the current supreme legal framework of the Republic of Guatemala in Central America (the 1985 Constitution), which enshrines “the primacy of the human person as the subject and purpose of social order” (Preamble), as a response to humanist trends of thought.

Guatemala has a republican, democratic, and representative form of government (Article 140 of the Political Constitution). It follows the classical model of the separation of powers, whereby the people delegate their sovereignty to the following branches: Legislature (unicameral) composed of deputies elected by nontransferable universal suffrage for a renewable period of four years (Articles 157 to 172). Executive, composed of a President of the Republic and a Vice President, elected for a non-extendable period of four years by the nontransferable votes of the citizenry. The president appoints his ministers, vice ministers, and secretaries (Articles 182 to 202). Judiciary, with a Supreme Court of Justice elected by the Congress of the Republic, from a shortlist prepared by a Nominations Committee composed of lawyers, law-school deans, and judge-electors (Articles 203 to 222).

A number of oversight bodies exist, including: The Office of the Comptroller General of Accounts, the mandate of which is to oversee revenues, expenditures, and, in general, all financial interests of state agencies, municipalities, decentralized and autonomous entities, and any person receiving funds from the state or making public collections (Articles 232 to 236 of the Political Constitution); the Public Prosecution Service (*Ministerio Público*), responsible for prosecuting offenses on behalf of the state (Article 251); and the Office of the Attorney General of the Nation, the function of which is to advise and consult with state organs and entities, and to represent the state (Article 252).

The new constitutional model introduced three new mechanisms for exercising legal and political control over the state’s actions. The first of these is the Supreme Electoral Tribunal, responsible for all matters relating to the right to vote, political rights, political organizations, electoral authorities and agencies, and the electoral process (Article 223 of the Political Constitution); the Constitutional Court, a permanent court, the basic function of which is to uphold the constitutional order (Article 268 to 272); and the Attorney for Human Rights (Ombudsman), as a commissioner of the Congress of the Republic, responsible for defending basic freedoms (Articles 274 to 275).

In terms of its administrative division, the Republic’s territory is divided into departments and these, in turn, into municipalities; however, the right to adopt other forms of administrative subdivisions, in accordance with economic, social, and cultural criteria, exists (Article 224 of the Political Constitution). As an operational body, the National Council for Urban and Rural Development serves to organize and coordinate public administration and it has offices in each department and region of the Republic (Articles 225 and 226).

One of the state’s guiding principles is its recognition of municipal autonomy, with municipalities responsible for, *inter alia*: (a) electing their own authorities, (b) obtaining and allocating their resources, and (c) taking charge of local public services, organizing the territory under their jurisdiction, and pursuing their own goals.

Finally, as regards the financial and tax regimes: the Congress of the Republic has the power to decree taxes, duties, and special contributions (Article 239 of the Political Constitution). “Social justice” is also the foundation of the Republic’s economic and social regime, whereunder the state is obliged to direct the national economy to make good use of natural resources and human

potential, to increase wealth, and to achieve full employment and the equitable distribution of national income (Article 118).